

OPERATING AGREEMENT
OF
PICKLEBALL AT RIVERWALK MANAGECO, LLC

June 10, 2024

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**OPERATING AGREEMENT
OF
PICKLEBALL AT RIVERWALK MANAGECO, LLC**

This Operating Agreement of PICKLEBALL AT RIVERWALK MANAGECO, LLC, an Arizona limited liability company (the “Company”), is entered into as of June 10, 2024 by and among the Initial Member and each other Person who after the date hereof becomes a Member and becomes a party to this Agreement in accordance with its terms.

**ARTICLE I
ORGANIZATION AND FILING**

1.1 Organization and Filing. The Company has been formed pursuant to the Act, effective upon the filing of the Articles of Organization for the Company with the Arizona Secretary of State. The Member shall execute and acknowledge any and all certificates and instruments and do all filing, recording, and other acts as may be necessary or appropriate to comply with the requirements of the Act relating to the formation, operation, and maintenance of the Company in accordance with the terms of this Agreement

1.2 General Definitions. The following terms, when appearing in this Agreement with initial letters capitalized, shall have the following meanings:

“Act” means the Arizona Limited Liability Company Act, Title 29, Chapter 7, of Arizona Revised Statutes, as amended from time to time.

“Agreement” means this Operating Agreement, as executed and as it may be amended, modified, supplemented or restated from time to time, in accordance with the provisions hereof.

“Capital Contribution” means the amount of money and the fair market value of other property or services contributed to the capital of the Company pursuant to this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Company” has the meaning set forth in the opening paragraph of this Agreement.

“Initial Member” has the meaning set forth in the term Member.

“Interest” in the Company means a limited liability company interest in the Company, including the economic rights to share in distributions of cash and other property from the Company pursuant to the Act and this Agreement.

“Joinder Agreement” has the meaning set forth in Section 7.1.

“Member” means (a) each Person identified on the Members Schedule as of the date hereof as a Member and who has executed this Agreement or a counterpart thereof (each, an “Initial Member”); and (b) each Person who is hereafter admitted as an additional or substitute Member in accordance with the terms of this Agreement and the Act, each in its capacity as a

member of the Company. If at any time the Company has multiple Members, any reference in this Agreement to a Member shall be read to refer to all Members.

“Members Schedule” has the meaning set forth in Section 6.2(a). A copy of the Members Schedule as of the execution of this Agreement is attached hereto as Schedule A.

“Net Available Cash Flow” means, with respect to any period, the Company’s gross cash receipts derived from any source whatsoever (not including Capital Contributions and refundable deposits until no longer refundable), reduced by the portion thereof used to pay or establish reasonable reserves for all Company expenses, debt payments and accrued interest (including principal and interest payments on loans made to the Company by the Member or any other Person), contingencies, and proposed acquisitions, as determined by the Member. “Net Available Cash Flow” shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances.

“Percentage Interest” of the Member means the percentage indicated for the Member in Section 2.5 hereof.

“Person” means an individual, partnership, corporation, trust, limited liability company, joint stock company, unincorporated association, joint venture or other entity or a governmental body.

“Successor in Interest” means any Person that succeeds to the ownership of the Member’s Interest and that has not been admitted as a member of the Company.

“Withdrawal Event” means the occurrence of any of the following events:

(a) if the Member ceases to be a member of the Company on account of the transfer of all of its Interest in the Company;

(b) if the Member does any of the following: (i) makes an assignment for the benefit of its creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated as bankrupt or insolvent; (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or rule; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in a bankruptcy, insolvency, reorganization or similar proceeding; or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Member or of all or any substantial part of its property; or

(c) the filing of a certificate of dissolution or its equivalent for the Member or revocation of its charter.

ARTICLE II PURPOSE AND TERM

2.1 Name. The name of the Company shall be “Pickleball at Riverwalk ManageCo, LLC” or such other name as the Member from time to time shall select.

2.2 Registered Agent. The name and address of the registered agent for service of process for the Company in the State of Arizona is Corporation Service Company located at 8825 N. 23rd Avenue, Suite 100, Phoenix, Arizona 85021, or such other place as the Member from time to time shall determine.

2.3 Company Purposes and Powers. The business purpose of the Company shall be to transact any lawful business as may be authorized under the Act. Without limiting the foregoing, the Company shall be engaged in the business of managing Pickleball at Riverwalk FundCo, LLC, a Delaware limited liability company (“FundCo”), Pickleball at Riverwalk Opportunity Zone Fund, LLC, Pickleball at Riverwalk Fund, LLC, Pickleball at Riverwalk MezzCo, LLC and Pickleball at Riverwalk HoldCo, LLC.

2.4 Term. The term of the Company commenced on the filing of its Articles of Organization and shall not expire except in accordance with the provisions of ARTICLE VIII or in accordance with the Act. The existence of the Company as a separate legal entity shall continue until cancellation of the Articles of Organization as provided in the Act.

2.5 Percentage Interest. The Member’s Percentage Interest is as set forth in the Company records. Subject to the written approval of the Member, the Company may issue additional limited liability company interests to one or more other Persons in exchange for Capital Contributions to the Company. In such event, this Agreement shall be amended and restated to provide for the respective rights and obligations of the Member and such additional members of the Company.

ARTICLE III CAPITAL CONTRIBUTIONS

3.1 No Additional Capital Contributions Required. The Member shall not be required to contribute any additional capital to the Company. The Member may make Capital Contributions at such times and in such amounts as the Member, in its sole and absolute discretion, considers to be in its interest.

3.2 Member's Limited Liability. Except as required by law, the Member shall not be liable for the debts, liabilities, contracts or any other obligations of the Company beyond the Capital Contribution(s) made by the Member under this Agreement.

3.3 Loans. The Member may, at any time, make or cause a loan to be made to the Company in any amount and upon such terms as the Company and the Member may agree.

ARTICLE IV DISTRIBUTIONS

4.1 Amount and Time of Distributions. The Company shall distribute to the Member the Net Available Cash Flow of the Company for each fiscal year at the end of each fiscal year, or more or less frequently as the Member may deem appropriate.

4.2 Limitation Upon Distributions. Notwithstanding Section 4.1 above, no distribution shall be declared and paid unless (i) after the distribution is made, the assets of the

Company are in excess of all liabilities of the Company, (ii) such distribution shall not violate the Act or other applicable law, and (iii) such distribution shall not violate any restrictions contained within any agreements evidencing loans made to the Company by any Person.

ARTICLE V TAX TREATMENT

5.1 Tax Treatment. The Company shall be treated as a disregarded entity for US federal income tax purposes. The Member shall not take any action inconsistent with the express intent of the parties hereto.

ARTICLE VI MANAGEMENT

6.1 Management.

(a) The business and affairs of the Company shall be managed exclusively by the Member. The Member shall direct, manage, and control the business of the Company to the best of its ability and, unless otherwise provided in this Agreement, shall have full and complete authority, power, and discretion to make any and all decisions and to do any and all things that the Member shall deem to be reasonably required to accomplish the business and objectives of the Company in performing their duties under this Agreement. The Member shall act in good faith and in a manner that the Member reasonably believes to be in the best interests of the Company and the Member.

(b) The Member shall have the authority to act unilaterally and make decisions on behalf of the Company, including the authority to take any of the following actions:

- (i) Amend the Company's Articles of Organization or this Agreement;
- (ii) Issue and sell additional limited liability company interests in the Company;
- (iii) Admit additional or substitute Members;
- (iv) Approve a transfer of the Member's Interest;
- (v) Merge the Company with or consolidate the Company with any other entity, or otherwise cause the Company to participate in any reorganization with any other entity;
- (vi) Dissolve the Company; and
- (vii) Prior to the dissolution of the Company, sell or otherwise dispose all or substantially all of the property of the Company.

(c) The Member may designate one or more persons to be an officer of the Company, or to otherwise have signature authority over one or more matters identified by the

Company. Any such individual or officer designated by the Member shall have such title, and such rights, powers and duties of a manager of the Company, as the Member may specifically designate to them, and shall serve at the pleasure of the Member. Any officer may be removed at any time, with or without cause, by the Member and his or her replacement may be selected and approved by the Member at the time of or subsequent to such removal. Notwithstanding the foregoing, no officer of the Company may take any actions in Section 6.1(b) without the consent of the Member.

6.2 Records. At the expense of the Company, the Member shall maintain the following records at the Company's registered office:

(a) a schedule of all Members reflecting the full name and last known business or mailing address of the Members (the "Members Schedule"), which shall be updated from time to time to reflect any issuance or transfer of an Interest;

(b) a copy of the Articles of Organization of the Company and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

(c) copies of the Company's currently effective written Operating Agreement and all amendments thereto, copies of any prior written Operating Agreement no longer in effect, and copies of any writings permitted or required with respect to the Member's obligation to contribute cash, property, or services;

(d) copies of financial statements of the Company, if any, for the three most recent years;

(e) minutes of every meeting of the Member; and

(f) any written consents obtained from the Member for actions taken by the Member without a meeting.

6.3 Tax Returns and Fiscal Year. The Company shall file such income tax or informational returns as are required by state or federal law. The fiscal year of the Company shall be the same as the fiscal year of the Member.

6.4 Exculpation of the Member. Any act or the failure to do any act by the Member, any former member of the Company (to the extent occurring while the same was serving in such role), or any officer appointed by the Member, or, if the Member is not an individual, any stockholder, officer, director, member, manager or employee of such Member, the effect of which results in loss or damage to the Company, shall not give rise to any liability to the Company, the Member, or any former member of the Company if done in good faith to promote the best interest of the Company or if done pursuant to advice of independent legal counsel, accountants or other experts selected, engaged or retained by the Company with reasonable care. The preceding sentence shall not relieve any Person of liability for gross negligence, bad faith, fraud or misappropriation of Company assets.

6.5 Indemnification of Members and Officers; Insurance. The Company shall fully indemnify the Member, any former member of the Company, and any officer appointed by the Member, or, if the Member is not an individual, any stockholder, officer, director, member, manager or employee of such Member to the same and fullest extent permitted by applicable law in effect on the date hereof and to such greater extent as applicable law may hereinafter from time to time permit. The Company shall also have the power to purchase and maintain insurance on behalf of the Member and any officer appointed by the Member against any liability asserted against any such Person and incurred by such Person in any such capacity or arising out of his, her or its status as the Member or an officer of the Company, whether or not the Company would have the power to indemnify such Person against such liability under the provisions of this Section 6.5 or applicable law. The rights granted under this Section 6.5 shall not be affected by, and shall survive, any dissolution or termination of the Company. In addition, such rights shall not be deemed to be exclusive of any other rights that the Member or an officer of the Company may have under any agreement, as a matter of law, in equity or otherwise.

6.6 Compensation and Expenses. The Member and any officer appointed by the Member shall be entitled to such compensation for services as may be determined by the Member and are also entitled to reimbursement by the Company for reasonable and necessary out-of-pocket expenses incurred by them on behalf of the Company.

6.7 Meetings. The Member shall have meetings in such number and at such frequency as the Member deems necessary to address significant transactions of the Company. Any action required or permitted to be taken at any meeting may be taken without a meeting if written consent setting forth the action to be taken is signed by the Member to approve such action.

ARTICLE VII ADMISSIONS, TRANSFERS, AND WITHDRAWALS

7.1 Admission of Member. The Member is admitted to the Company as a member of the Company effective upon the formation of the Company and shall continue as a member of the Company upon its execution of this Agreement. Except as otherwise provided in this Agreement, no Person, including a Successor in Interest, shall be admitted as a Member of the Company after the date of this Agreement without the written consent or approval of the Member at the time of such admission, regardless of whether such Person has acquired an Interest in the Company from the Member or from the Company as an original issuance. Upon admission, such Person shall execute a counterpart of this Agreement pursuant to which it shall assume in writing any and all obligations associated with its Interest (“Joinder Agreement”).

7.2 Rights of Successor in Interest. A Successor in Interest shall not have or enjoy any right to participate in the management of the Company or any other rights of a member under the Act or this Agreement, unless and until such Successor in Interest is admitted as a member pursuant to Section 7.1 or Section 8.1.

7.3 Right to Resign. Subject to the restrictions imposed by Section 8.1, the Member may resign from the Company at any time by mailing or delivering a written notice of resignation to the Company.

7.4 Restrictions on Transfers. No interest of the Company may be sold, assigned, transferred, exchanged, mortgaged, pledged, granted, hypothecated, or otherwise disposed of without the written consent of the Member.

7.5 Rights of Assignee. The purchaser or other transferee of all or any part of the Member's Interest in the Company shall have only the right to receive the distributions and allocations of taxable income or loss to which the Member would have been entitled under this Agreement with respect to the transferred Interest and shall not have or enjoy any right to participate in the management of the Company or to receive any financial information or reports relating to the Company or any other rights of a member under the Act or this Agreement, unless and until the purchaser or transferee is admitted as a member pursuant to Section 7.1.

ARTICLE VIII LIQUIDATION AND WINDING UP

8.1 Dissolution. Except as otherwise provided in this Section 8.1, the Company shall not dissolve upon a Withdrawal Event with respect to the Member or upon the bankruptcy of the Company. If there remains no member after any such Withdrawal Event, the Successor in Interest may (in his, her, or its discretion) become a member of the Company upon giving to the Company written notice of its election to become a member within ninety (90) days thereafter, in which event the Company shall continue. The Company shall dissolve and commence winding up only upon the first to occur of (i) a written election to dissolve by the Member, (ii) an entry of judicial dissolution pursuant to the Act, (iii) an administration dissolution under the Act, or (iv) a failure of the Successor in Interest to elect to become a member of the Company pursuant to the preceding sentence of this Section 8.1.

8.2 Liquidation, Winding Up and Distribution of Assets. The Member (or a liquidating trustee or agent appointed by the Member or Successor in Interest in the absence of the Member) shall, upon dissolution of the Company, proceed to liquidate the Company's assets and properties, discharge the Company's obligations, and wind up the Company's business and affairs as promptly as is consistent with obtaining the fair value thereof. The proceeds of liquidation of the Company's assets, to the extent sufficient therefor, shall be applied and distributed (to the extent permitted by applicable law) in the following order:

(a) first, to the satisfaction of creditors of the Company (whether by payment or the reasonable provision for payment thereof), in the order of priority as required by applicable law, including to establishing a reserve for contingent, conditional and unmatured liabilities to be distributed at the time and in the manner as the Member determines in its reasonable discretion; and

(b) thereafter, to the Member.

8.3 Certificate of Cancellation. When all the remaining property and assets have been applied and distributed in accordance with Section 8.2, the Member (or a liquidating trustee or agent appointed by the Member or Successor in Interest) shall cause a Certificate of Cancellation to be filed with the Arizona Secretary of State in accordance with the Act.

ARTICLE IX MISCELLANEOUS

9.1 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Arizona without regard to conflicts-of-laws principles that would require the application of any other law.

9.2 Entire Agreement. This Agreement constitutes the entire and final agreement among the parties hereto with respect to the subject matter hereof, and supersedes and replaces all prior agreements (including any prior operating agreement), understandings, commitments, communications and representations made among the parties hereto, whether written or oral, with respect to the subject matter hereof.

9.3 Notices. Notices may be delivered either by private messenger service or by mail. Any notice or document required or permitted hereunder to the Member shall be in writing and shall be deemed to be given on the date received by the Member; provided, however, that all notices and documents mailed to the Member in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Member at its respective address as shown in the records of the Company, shall be deemed to have been received five days after mailing.

9.4 Severability. If any provision of this Agreement shall be conclusively determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby.

9.5 Binding Effect. Except as otherwise provided herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, personal representatives, successors and assigns.

9.6 Construction. The headings of Articles and Sections in this Agreement are provided for convenience only and shall not affect the construction or interpretation of any provision hereof. Any reference herein to an "Article" or "Section" means the corresponding Article or Section of this Agreement. References herein to any gender includes the other gender and the neuter, as applicable. References herein to the singular number include the plural number and vice versa. The words "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof or any Schedule attached hereto. When used in this Agreement, the word "including" (and with correlative meaning "include" and "includes") means including without limiting the generality of any description preceding such term, and shall be deemed to be followed by the words "without limitation".

9.7 No Third Party Rights. This Agreement is intended to create enforceable rights between the parties hereto only, and creates no rights in, or obligations to, any other Person whatsoever.

9.8 Amendments. This Agreement may be amended only by a written instrument signed by the Member. Notwithstanding the foregoing, updates or amendments to the Members Schedule following any new issuance, redemption, repurchase or transfer of an Interest made in accordance with this Agreement and if permitted pursuant to this Agreement, may be made by the

Member without the consent of or execution by the Member and shall not constitute an amendment to this Agreement.


9.9 Execution of Agreement. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original copy and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

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IN WITNESS WHEREOF, the parties hereto have executed this Operating Agreement of PICKLEBALL AT RIVERWALK MANAGECO, LLC as of the date first written above.

Member:

CALIBER SERVICES, LLC
an Arizona limited liability company

By: 
Name: John C. Loeffler II
Its: Authorized Person

MEMBERS SCHEDULE

CALIBER SERVICES, LLC
8901 E. Mountain View Road, Suite 150
Scottsdale, Arizona 85258

100% membership interest