

Approval

Page 1 of 1

Project Information

Project Nbr: PMT-3380857

Title: No-Plan - Nonresidential/Multifamily -
Electrical:14555/El Camino RealProject Mgr: DBCS-Project
Management - Cynthia
Chong

(619)446-5121

CChongpelayo@sandiego.gov

Approval Information

Approval Nbr: PMT-3380857

Type: No-Plan -
Nonresidential/Multifamily -
Electrical

Status: Issued

Issued: 11/17/2025

Issued By:

Issued To: Surf Sports

Completed:

Completed By:

Expiration Date: 05/16/2026

Owner Occupied: ☐

Extension Qty:

Extended By:

Cancel Reason:

Overridden: ☐

Precancel Status:

Scope:

Land Doc Type:

Recorded Map No:

Recorded Date:

Job Location

Address

14555 El Camino Real, San Diego, CA

Assessor Parcel

760-146-0700

DescriptionNo-Plan - Nonresidential/Multifamily -
Electrical:14555/El Camino RealAssessor Parcel

760-146-0700

Fee

Commercial School Charge:

School Charge:

Residential School Charge:

Fee Worksheet

Fee	Quantity	Unit	Category
Circuits 50-200 Amps	2.00	EA	ISSUANCE

Farst, Heide

From: Reisch, Kevin
Sent: Friday, November 14, 2025 10:24 AM
To: Goodman, Jenny; Bibler, Christina; Farst, Heide
Cc: Baldwin, Nicholas; Contreras, Lucy
Subject: RE: Letter for Performance Lab attorney client privileged communication

Hi, Jenny. Based on the information relayed in your email, I agree that the City's written consent is required for the Performance Lab use. The City can choose whether to document the consent in a letter signed by all affected parties or in the more formal type of consent. Where the City is seeking to clarify certain points or impose certain conditions as described in your email, we normally would recommend using a more formal written consent.

From: Goodman, Jenny <JGoodman@sandiego.gov>
Sent: Friday, November 14, 2025 8:40 AM
To: Bibler, Christina <CBibler@sandiego.gov>; Farst, Heide <HFarst@sandiego.gov>
Cc: Baldwin, Nicholas <NBaldwin@sandiego.gov>; Contreras, Lucy <LuContreras@sandiego.gov>; Reisch, Kevin <KReisch@sandiego.gov>
Subject: Re: Letter for Performance Lab attorney client privileged communication

I'm looping in Kevin Reisch for this issue as I am not sure if a letter approval is sufficient for this consent. Previously, when the City gave its consent for the Wave Sublease, it provided the attached document which is obviously more formal. The Wave consent involved a sublease of a much larger area along with offices, locker rooms, fencing, etc. while the Performance Lab use is much less involved and is a "joint venture" as opposed to a sublease (at least according to Surf).

I have some questions still about the relationship between Surf and the Performance Lab entity they set up. I think the link that is missing is the relationship between Surf and Pioneer. Surf describes Pioneer as being a parent company, but I can't find any information about that. Therefore, the proposed use seems to be not a joint venture between Surf and Spellman Performance Labs, but instead a joint venture between Pioneer and Spellman which is at least a one off from the lessee. I think we need to make sure we have these connections sorted out.

Here are some general thoughts as well about the City's consent in relation to the lease:

4.2: Lessee shall not grant any license or **other right or appurtenant privilege** to the premises, or permit any other person, except Lessee's employees, agents, guests and subtenants, to use or occupy the premises or any part of the premises without City's prior consent in each instance.

The Performance Lab use is at least an appurtenant privilege or right that should have required the City's prior consent. Surf claimed that because it was a joint venture, it didn't fall under this provision. But since the joint venture is not between Surf, I don't think this is a valid argument. Moreover, even if it was a Surf joint venture, it's still an appurtenant privilege to use a portion of the premises. (Note that the membership agreement that Surf provided showing Pioneer Sports as a 51% member of the joint venture with Spellman Performance Labs shows that the contributing capital by Pioneer Sports is use of the fields). Surf has said repeatedly this is not a sublease and Pioneer Sports is not an employee. The

question then is whether the Performance Lab could be considered an agent or guest to take them out of the need for consent. I don't believe under the facts provided, that either of those labels applies to the use proposed. Additionally, even if those labels applied, section 1.3.5 of the lease states that Lessee's guests, invitees, agents and contractors shall be notified that any and all use of the Premises is at the discretion of the City and subject to reasonable conditions. Thus, City's consent, no matter what the nature of the relationship between Surf and the Performance Lab entity, was required.

3.1.2.2: Gross Revenues includes field, stall or arena rental revenue.

While it does not appear that Surf is charging "field rental" for the use of this area, the contributing capital to the joint venture is use of the fields. Thus, I think a reasonable interpretation of this provision is that any revenue Surf generates from the use of the field for the Performance Lab should be considered within the definition of gross revenue in the lease subject to percentage rent obligations. Therefore, the City should receive 10% of Surf's share of any revenue and that should be made clear in any consent given.

8.2: No improvements or alterations without City's written approval.

Surf installed fencing around the area designated for the Performance Lab training that excludes the public from using this area. Surf is entitled to designate up to 10% of the premises for its exclusive use so that is not necessarily an issue. Also, Surf placed a shipping container to use for storage and as an office for the Performance Lab. The fencing and the container likely are "improvements" that should have required the City's written approval.

8.9: Lessee may order and install utilities subject to obtaining all necessary approvals and permits.

When Surf fenced off the area for the Performance Lab, it also relocated an electrical box to provide power to the storage container/office it placed. Surf initially said that their contractor said no permit was required but could not provide any information from its contractor which supports that assertion. I have previously advised Surf that they needed to inquire at DSD whether a permit should have been obtained. I believe Heide made an inquiry to DSD who stated that a permit should have been obtained. A condition of any consent should be proof that either a permit was not required or an after the fact permit approval from DSD.

The Performance Lab designated area is very minor compared to the overall leasehold premises and is within an area that Surf has designated as within its exclusive use. Any consent should be conditioned upon providing proof that the electrical work is permitted or allowed and should also be subject to the 10% percentage rent payment due to the City.

Lastly, one of the complaints from the public is the use of music during the small group training. Although I have personally been at the site when training has been occurring and could hardly hear the music from the parking lot, we could consider conditioning approval on no amplified music (e.g. No external speakers) to eliminate this source of contention with the neighbors. Also, I went with my investigator to the sidewalk in front of the home of the main complainer of noise, Polly Wheatley, and was prepared to take decibel measurements of the "noise" from the Performance Lab but we literally could not hear the music from the field while standing in front of her house. So not sure this is a "real" issue but if you think it appropriate, we should include any restrictions on noise in the consent as well.

Kevin, given the above, do you think we need to have a "formal" consent or is a letter consent sufficient? A letter consent can still include some of the conditions (e.g. 10% rent, electrical permit, noise) so we would need to rework the proposed letter. Let me know your thoughts.

Thanks.

Jenny K. Goodman

Senior Lead Deputy City Attorney

Land Use, Writs & Appeals Unit

Office of the San Diego City Attorney

1200 Third Avenue, Suite 1100

San Diego, CA 92101

Phone (619) 533-5822

(Please note that email is the best way to contact me.)

jgoodman@sandiego.gov

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From: Bibler, Christina <CBibler@sandiego.gov>

Sent: Thursday, November 13, 2025 9:37 AM

To: Farst, Heide <HFarst@sandiego.gov>; Goodman, Jenny <JGoodman@sandiego.gov>

Cc: Baldwin, Nicholas <NBaldwin@sandiego.gov>; Contreras, Lucy <LuContreras@sandiego.gov>

Subject: Letter for Performance Lab

Good morning, Heide,

Can you send me your draft response prepared for the Performance Lab consent at Surf for my review today? Did they send organizational charts and proof to show the legal relationship between Surf and the Performance Lab?

Jenny indicated she would be happy to review but I'd like to get this out this week if possible.

Thanks,

Christina Bibler
Director, Economic Development
City of San Diego
1200 Third Avenue, Suite 1400
San Diego, CA 92101
Cbibler@sandiego.gov
Direct (619) 236-6421

From: Jonathan Muenkel
To: Farst, Heidi
Cc: Baldwin, Nicholas
Subject: [EXTERNAL] Re: Filling In For Heidi - Document Request - Performance Lab Consent
Date: Monday, November 17, 2025 12:17:57 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[Surf Sports - 3rd A&R Operating Agreement - Surf Cup Sports, LLC \(executed 10-16-2023\).pdf](#)

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

Hi Heidi

See answers in red below.

- Please provide the corporate structure showing the relationship between Surf and Pioneer Sports.

Surf Sports, LLC is a wholly-owned subsidiary of Pioneer Sports and Entertainment, LLC

- Surf previously stated Pioneer is a "parent company." Can you provide documentation confirming that corporate relationship?

See attached 3rd Amended and Restated Operating Agreement for Surf Sports, LLC showing Pioneer Sports and Entertainment, LLC as the only Member (i.e., Parent of Surf).

- If Pioneer Sports is not a parent company, please clarify the exact relationship (affiliate, related entity, separate company with shared ownership, etc.)

Pioneer is the parent company to Surf per above.

- Please provide the executed joint venture agreement.

There is no Joint Venture Agreement. The parties formed the "joint venture" by creating a new entity - Pioneer Sports Performance, LLC - and then sharing equity ownership of that entity.

- Please provide a detailed description of the financial structure of the joint venture, including how revenues are generated and distributed.

Revenues of Pioneer Sports Performance are generated through fees paid by youth athletes who wish to use the performance and strength training services of PSP, and that are held at the Surf Sports Park in the back field area. To date there has been no distribution of revenues; rather PSP is utilizing any and all revenue to pay for its operating expenses (e.g., employee salaries).

Sincerely



JONATHAN MUENKEL
General Counsel
Tel. (646) 265-9904
jonathan@pioneersports.com
PioneerSports.com

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From: "Farst, Heide" <HFarst@sandiego.gov>

Date: Monday, November 17, 2025 at 11:55 AM

To: Jonathan Muenkel <jonathan@pioneersports.com>

Cc: "Baldwin, Nicholas" <NBaldwin@sandiego.gov>

Subject: RE: Filling In For Heide - Document Request - Performance Lab Consent

Hi Jonathan,

Thank you for providing documentation for no plan, electrical permit. I am just confirming a few items on the permit and will let you know if anything else is needed.

In the meantime, a few more questions have been asked.

- Please provide the corporate structure showing the relationship between Surf and Pioneer Sports.

From: Jonathan Muenkel
To: Baldwin, Nicholas
Cc: Farst, Heide
Subject: [EXTERNAL] Re: Filling In For Heide - Document Request - Performance Lab Consent
Date: Thursday, November 13, 2025 4:32:53 PM
Attachments: [image001.png](#)
[image002.png](#)
[B3177-7791.pdf](#)
[Pioneer Sports Performance, LLC - Operating Agreement \(1-1-25\) Redacted.pdf](#)

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Got it.

See attached:

1. Out-of-State Entity Registration filed with California Secretary of State on 11/7/24 and signed by Jeremý McDónald (Manager of Pioneer Sports Performance, LLC and CEO of Surf).

2. Pioneer Sports Performance, LLC Operating Agreement, showing:

- a. Management by a 3 person Management Board, with Pioneer Sports and Entertainment, LLC (Surf's parent), selecting 1 Manager (Paragraph 6.2);
- b. Signature Page (page 26) – showing Pioneer Sports and Entertainment as a Member/Owner, along with our business partners, Spellman Performance LLC and Spellman Scholarships.
- c. Exhibit B (page 28) – Showing ownership interests in company and with Pioneer as a 51% owner.

Sincerely



JONATHAN MUENKEL

General Counsel

Tel. (646) 265-9904

jonathan@pioneersports.com

PioneerSports.com

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original message.

From: "Baldwin, Nicholas" <NBaldwin@sandiego.gov>
Date: Thursday, November 13, 2025 at 12:34 PM
To: Jonathan Muenkel <jonathan@pioneersports.com>
Subject: RE: Filling In For Heide - Document Request - Performance Lab Consent

Hi Jonathan,

Thanks for getting back to me! I believe the things we are looking for are:

- organizational charts
- proof to show the legal relationship between Surf and the Performance Lab

Nick Baldwin, MSRE

he/him/his - [Why do pronouns matter?](#)

Program Manager – Lease Administration
Economic Development | Real Estate
City of San Diego
1200 Third Avenue, Suite 1400
San Diego, CA 92101
(619) 977-6234 (direct)
nbaldwin@sandiego.gov

From: Jonathan Muenkel <jonathan@pioneersports.com>
Sent: Thursday, November 13, 2025 12:26 PM
To: Baldwin, Nicholas <NBaldwin@sandiego.gov>
Subject: [EXTERNAL] Re: Filling In For Heide - Document Request - Performance Lab Consent

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Hi Nick

I never received an email from Heidi on this so I don't know what you need but would be happy to try and provide if you can add more color.

Sincerely

JONATHAN MUENKEL
General Counsel



Tel. (646) 265-9904
jonathan@pioneersports.com
PioneerSports.com

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From: "Baldwin, Nicholas" <NBaldwin@sandiego.gov>
Date: Thursday, November 13, 2025 at 11:11 AM
To: "jonathan@pioneersports.com" <jonathan@pioneersports.com>
Subject: Filling In For Heide - Document Request - Performance Lab Consent

Good Morning Jonathan,

My name is Nick Baldwin and I work closely with Heide Farst at the City. I believe she reached out to you today regarding some documents that she needed for the upcoming Performance Lab Consent. She unfortunately had a medical issue pop up and I have been asked to get this completed on her behalf. Would you be able to send what you were going to send to her to me?

Feel free to give me a call on my cell (listed below) if you have any questions. Sorry if the request is a little vague as I am getting caught up in real time as well.

Nick Baldwin, MSRE

he/him/his - Why do pronouns matter?

Program Manager - Lease Administration

Economic Development | Real Estate

City of San Diego

1200 Third Avenue, Suite 1400

San Diego, CA 92101

(619) 977-6234 (direct)

nbaldwin@sandiego.gov

**THIRD AMENDED AND RESTATED
OPERATING AGREEMENT
FOR
SURF CUP SPORTS, LLC**

THIS THIRD AMENDED AND RESTATED OPERATING AGREEMENT (this "Agreement") is made and entered into October 16, 2023 (the "Effective Date") by **PIONEER SPORTS AND ENTERTAINMENT, LLC**, a Florida limited liability company (the "Member"), to govern the operation and management of the California limited liability company known as **SURF CUP SPORTS, LLC** (the "Company").

WITNESSETH:

WHEREAS, Articles of Organization (the "Articles") were filed on the April 15, 2013 with the office of the California Secretary of State in order to form the Company as a California limited liability company pursuant to the provisions of the Act and the Company's then-members executed and adopted an operating agreement;

WHEREAS, the Member entered into a Second Amended and Restated Operating Agreement ("**Original Agreement**") dated December 20, 2022 in order to set forth the terms and conditions that would regulate and govern the operating and management of the Company and regulate and govern the respective rights and obligations of the Member with respect to the Company; and

WHEREAS, the Member now desire to enter into this Agreement to entirely replace the Original Agreement, in order to amend and restate any prior operating agreement of the Company in its entirety and set forth the terms and conditions that will regulate and govern the operation and management of the Company and regulate and govern the rights and obligations of the Member with respect to the Company.

NOW, THEREFORE, in consideration of the foregoing, which shall be deemed to be incorporated as an integral part of this Agreement and not mere recitals hereto, the Member hereby sets forth as follows:

ARTICLE 1
DEFINITIONS

As used herein, the following terms shall have the following meanings:

1.1 "Act" shall mean the California Revised Uniform Limited Liability Company Act, codified in the California Corporations Code, Section 17701 et seq., as the same may be amended from time to time.

1.2 **"Affiliate"** shall mean, with respect to a Person, any Person directly or indirectly controlling, controlled by, or under common control with such Person, including without limitation any member, manager, director, or officer of such Person and any direct or indirect beneficial owner of any equity interest in such Person.

1.3 **"Agreement"** shall have the meaning ascribed thereto in the introductory paragraph.

1.4 **"Articles"** shall have the meaning ascribed thereto in the recitals.

1.5 **"Capital Contributions"** shall mean, with respect to the Member, the aggregate cash and other property that is contributed to the Company by such Member pursuant to Article 3.

1.6 **"Code"** shall mean the Internal Revenue Code of 1986, as amended from time to time. All references herein to specific sections of the Code shall be deemed to refer also to any corresponding provisions of any succeeding law.

1.7 **"Company"** shall have the meaning ascribed thereto in the introductory paragraph.

1.8 **"Manager"** shall mean the Person(s) named as the manager(s) in this Agreement and thereafter the Person(s) elected from time to time by the Member to serve as Manager(s) in accordance with Article 7.

1.9 **"Member"** shall have the meaning ascribed thereto in the introductory paragraph.

1.10 **"Percentage Interest"** shall mean the interest of a member in the Company expressed as a percentage. The Percentage Interest in the Company owned by the Member shall be 100%.

1.11 **"Person"** shall mean a natural person, corporation, trust, partnership, limited liability company, joint venture, association or other business or other legal entity.

Terms defined in other provisions of this Agreement that are not also defined in this Article 1 shall have the meanings defined or specified elsewhere in this Agreement.

ARTICLE 2

THE COMPANY

2.1 **Name.** The name of the Company shall be **"Surf Cup Sports, LLC"** or such other name as may be selected by the Manager from time to time.

2.2 Registered Office, Registered Agent. The registered office of the Company shall be located 4640 Admiralty Way, 5th Floor, Marina del Rey, CA 90292, and the registered agent of the Company at such office shall be Corporate Creations Network, Inc. The Manager shall have the right to change such registered office and such registered agent from time to time.

2.3 Principal Office. The principal office of the Company shall be located at 2037 Park Dale Lane, Encinitas, California 92024. The Manager shall have the right to change such principal office from time to time.

2.4 Business Purposes of the Company. The purpose for which the Company is organized is for transacting any and all lawful business for which a limited liability company may be organized under the laws of the State of California.

ARTICLE 3 **CAPITAL CONTRIBUTIONS**

3.1 Capital Contribution. The Member has contributed to the Company cash or other property for its 100% Percentage Interest in the Company.

3.2 Additional Capital Contributions. The Member may make additional capital contributions to the Company as the Member deems appropriate.

ARTICLE 4 **DISTRIBUTIONS**

All cash of the Company available for distribution shall be distributed to the Member at such times and in such amounts as the Manager may determine in the Manager's sole discretion.

ARTICLE 5 **ALLOCATIONS**

All items of income, gain, loss, deduction and credit of the Company shall be allocated to the Member.

ARTICLE 6 **TAXATION – DISREGARDED ENTITY**

Notwithstanding anything contained herein to the contrary, the Company shall be disregarded as an entity separate from the Member for federal and state income tax purposes unless and until the Manager causes the Company to file an election under the Code to be treated for tax purposes as an entity other than a disregarded entity.

ARTICLE 7

MANAGEMENT

7.1 Management of the Company. Management of the business of, and any and all decisions relating to, the Company shall be wholly vested in the Manager, who may exercise all such powers of the Company and do all such lawful acts and things as are not by law or this Agreement directed or required to be exercised or done only by the Member.

7.2 Tenure and Qualification. The Member hereby agrees that there will be one (1) Manager. The Manager will be Pioneer Capital Group, LLC, a Florida limited liability company. The Manager shall hold office until the Manager resigns or is removed by the Member. It shall not be necessary for a Manager to be a Member.

7.3 Removal. A Manager may be removed by the affirmative vote of the Member with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person removed. This provision shall not be subject to change by the Manager.

7.4 Vacancies. Any vacancy occurring in the Manager position may be filled by the affirmative vote of the Member. A Manager elected to fill a vacancy shall be elected for the unexpired term of such Manager's predecessor in office.

7.5 Officers. The Manager may appoint a President, a Vice President, a Treasurer and a Secretary, as well as such other officers as the Manager shall deem appropriate, such officers to have those duties and responsibilities as may be authorized from time to time by the Manager. Each officer shall hold office until such officer's successor shall have been duly appointed and shall have qualified, unless such officer sooner dies, resigns or is removed by the Manager. The appointment of an officer does not itself create contract rights.

7.6 Time Devoted to Business. Each Manager shall devote such time to the business of the Company as the Manager, in the Manager's discretion, deems necessary for the efficient operation of the Company's business.

7.7 Exculpation. Any act or omission of a Manager, the effect of which may cause or result in loss or damage to the Company or the Member, if done in good faith to promote the best interests of the Company, shall not subject such Manager to any liability to the Member.

ARTICLE 8

ADMISSION OF ADDITIONAL MEMBERS

The Manager, in its discretion, may admit any Person acceptable to the Manager as a new Member of this Company and issue a Percentage Interest to such new Member for such consideration as the Manager deems appropriate.

ARTICLE 9
TRANSFER OF MEMBERSHIP RIGHTS

The Member may sell, assign, pledge, or otherwise encumber or transfer all or any part of its interest in the Company to any Person upon consent of the Manager.

ARTICLE 10
LIMITATION OF LIABILITY

No Member, Manager and/or officer shall have any personal liability whatsoever to the Company or to its Members or creditors for any of the Company's debts, liabilities, or obligations except as expressly provided in this Agreement, under the Act, or by separate written agreement of the Member, Manager or officer. No Member, Manager and/or officer shall be liable to the Company or any Member for any loss resulting from any action or inaction by a Member, Manager and/or officer, provided that such action or inaction was taken in good faith and does not constitute willful misconduct or gross negligence.

ARTICLE 11
INDEMNIFICATION

In any threatened, pending, or completed action, suit, or proceeding (including an action by or in the right of the Company) to which a Member, Manager and/or officer was or is a party or is threatened to be made a party and where that threatened, pending, or completed action, suit, or proceeding involves an alleged cause of action for damages arising from activities pertaining to the management and disposition of the Company properties and business, the Company shall indemnify (to the maximum extent permitted by law) the Member, Manager and/or officer against expenses, including attorney fees, judgments, and amounts paid in settlement, that the Member, Manager and/or officer actually and reasonably incurs in connection with the action, suit, or proceeding. To qualify for indemnification, the Member, Manager and/or officer must have acted in good faith and in a manner the Member, Manager and/or officer reasonably believed to be in or not opposed to the Company's best interests. The Member's, Manager's and/or officer's conduct must not have constituted fraud, gross negligence, material breach of this Agreement, willful or wanton misconduct, the receipt of a financial benefit to which the Member, Manager and/or officer is not entitled, or a breach of any fiduciary obligation to the Company. The termination of any action, suit, or proceeding by settlement shall not, by itself, create a presumption that the Member, Manager and/or officer did not act in good faith and in a manner that the Member, Manager and/or officer reasonably believed to be in or not opposed to the Company's best interests. Any indemnification shall be made from Company assets only.

ARTICLE 12
AMENDMENT

Unless otherwise required by the Act, an amendment to this Agreement or the Articles shall become effective only at such time as it has been approved in writing by the Manager.

ARTICLE 13
DISSOLUTION AND TERMINATION

13.1 Events of Dissolution. The Company shall continue until dissolved by:

13.1.1. an election to dissolve the Company made by the Manager;

13.1.2 any event which makes it unlawful for the business of the Company to be carried on by the Member; or

13.1.3 any other event causing a dissolution of a limited liability company under the Act.

13.2 Liquidation. Upon dissolution of the Company, the Manager shall act as liquidator to wind up the Company. The liquidator shall have full power and authority to sell, assign and encumber any or all of the Company's assets and to wind up and liquidate the Company's affairs in an orderly and prudent manner. The liquidator shall distribute all proceeds from the liquidation of the Company in the following order of priority:

13.2.1 to the payment of all debts, taxes, obligations and other liabilities of the Company (including any loans to the Company made by the Member) and the necessary expenses of liquidation; where there is a contingent debt, obligation or liability, a reserve shall be set up to meet such contingency, and if and when the contingency shall cease to exist, the monies, if any, in the reserve shall be distributed as herein provided for in this Section; and

13.2.2 to the Member.

13.3 Termination of Company. Upon completion of the winding up, liquidation and distribution of the Company's assets, the Company shall be deemed terminated. After the termination of the Company, the Manager may cause a certificate of cancellation to be executed and filed with the California Secretary of State. The Manager shall have the authority to distribute any property of the Company discovered after the dissolution and termination, transfer real estate, and take such other action as may be necessary on behalf of and in the name of the Company.

ARTICLE 14
BOOKS, RECORDS AND ACCOUNTING PERIOD

A copy of this Agreement and any other records required to be maintained by the Act shall be maintained at the principal office of the Company or at such other place as the Manager from time to time may select. The Company shall keep accurate books and records of the operation of the Company which shall reflect all transactions and be appropriate and adequate for the Company's business and for carrying out the provisions of this Agreement. The books shall be kept on such method of accounting as the Manager shall select. The Company's accounting period shall end on December 31.

ARTICLE 15
MISCELLANEOUS

15.1 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the undersigned and its successors and permitted assigns.

15.2 Construction Principles. Words in any gender shall be deemed to include any other gender. The singular shall be deemed to include the plural and vice versa. The captions, headings and titles in this Agreement are solely for convenience and reference and shall in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision hereof.

15.3 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to agreements made and to be performed in California.

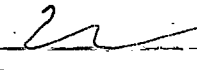
15.4 Severability. If any provision or part of any provision of this Agreement shall be invalid or unenforceable in any respect, such provision or part of any provision shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provision or the remaining provisions of this Agreement.

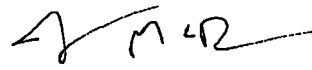
[signature page to follow]

IN WITNESS WHEREOF, the undersigned has executed this Agreement to be effective as of the date first written above.

PIONEER SPORTS AND ENTERTAINMENT,
LLC

By: Pioneer Capital Group, LLC, its Manager

By: 
Christopher P. Miller, Manager

By: 
Jeremy McDonald, Manager

By: 
Drew Brees, Manager

**PIONEER SPORTS PERFORMANCE, LLC
OPERATING AGREEMENT**

THIS OPERATING AGREEMENT is made and entered into effective as of the 1st of January day of December, 2025 (the “**Effective Date**”), by and among the undersigned Members, to govern the operation and management of **PIONEER SPORTS PERFORMANCE, LLC**, a Florida limited liability company (the “**Company**”).

W I T N E S S E T H:

WHEREAS, Articles of Organization (the “**Articles**”) were filed on November 6, 2024 with the office of the Department of State of the State of Florida in order to form the Company as a Florida limited liability company pursuant to the provisions of the Act; and

WHEREAS, the Members desire to enter into this Agreement in order to set forth the terms and conditions that will regulate and govern the operation and management of the Company and regulate and govern the respective rights and obligations of the Members with respect to the Company.

NOW, THEREFORE, in consideration of the foregoing, which shall be deemed to be incorporated as an integral part of this Agreement and not mere recitals hereto, and the mutual covenants and agreements contained herein, the Members (for themselves and their respective successors and assigns) hereby agree as follows:

**ARTICLE 1
DEFINITIONS**

As used herein, the following terms and phrases shall have the following meanings:

1.1 “**Act**” shall mean Chapter 605, Florida Statutes, the Florida Revised Limited Liability Company Act, as amended from time to time, or any other statute of similar import.

1.2 “**Adjusted Capital Account Deficit**” shall mean, with respect to any Member, the deficit balance, if any, in such Member’s Capital Account as of the end of a fiscal year of the Company, after being adjusted for this purpose as follows:

1.2.1 the Capital Account shall be increased to reflect the amounts, if any, that such Member is obligated to restore to the Company under any provisions of this Agreement or is deemed to be obligated to restore pursuant to Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and

1.2.2 the Capital Account shall be reduced to reflect any items described in Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Regulations.

This definition is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

1.1. **"Affiliate"** shall mean, with respect to a Person, any Person directly or indirectly controlling, controlled by, or under common control with such Person, including, without limitation, any member, manager, director, or officer of such Person and any direct or indirect beneficial owner of any equity interest in such Person. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of greater than fifty percent (50%) of the voting securities of such Person, by contract or otherwise.

1.2. **"Agreement"** shall mean this Operating Agreement, as amended from time to time.

1.3. **"Articles"** shall have the meaning ascribed thereto in the recitals.

1.4. **"Book Value"** shall mean, with respect to any Company property, the Company's adjusted basis for federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treasury Regulation Section 1.704-1(b)(2)(iv) (provided that, in the case of permitted adjustments, the Company chooses to make such adjustments); provided that the Book Value of any asset contributed to the Company shall be equal to the agreed fair market value of the contributed asset on the date of contribution and the Book Value of any asset distributed by the Company to a Member shall be equal to the agreed fair market value of the distributed asset on the date of distribution.

1.5. **"Capital Account"** shall mean an individual account that shall be maintained for each Member; such account shall be credited with the amount of a Member's actual cash contributions and the agreed fair market value of any other property (less any liabilities assumed in connection with the contribution or to which the property is subject) contributed to the Company and any Net Profit (and other items of income and gain) allocated to such Member hereunder, and shall be reduced by any Net Loss (and other items of loss and expense), the amount of any cash distributions and the agreed fair market value of any property (less any liabilities assumed in connection with the distribution or to which the property is subject) allocated or distributed to such Member hereunder. Each Member's Capital Account shall be further maintained and adjusted in accordance with the Code and the Regulations, including any adjustments to capital accounts required by the Regulations issued under Code Section 704(b) and any adjustments to the allocation of profits and losses resulting from an audit by the Internal Revenue Service.

1.6. **"Capital Contributions"** shall mean with respect to each Member the aggregate cash and other property (net of liabilities assumed by the Company in connection with such property contribution and liabilities to which any such contributed property is subject upon contribution) that is contributed to the Company by such Member.

1.7. **"Capital Transaction"** shall mean the sale, exchange, foreclosure, insurance award, condemnation, easement sale or other similar transaction, all with respect to assets of the Company (and/or the assets of any entity in which the Company owns an interest) that customarily would be treated as a capital event.

1.8. **"Cash Flow"** shall mean with respect to any period during which the Company is in existence (1) the total gross receipts collected by the Company, including, without limitation, Capital Contributions in the form of cash and any and all other receipts, but excluding the proceeds from any Capital Transaction or any Refinancing and deposits held in escrow by the Company (unless forfeited to the Company) less (2) all operating expenditures of the Company in conducting its business (regardless of whether such expenses, liabilities and obligations are actual or contingent), including, without limitation, payments of principal and interest on Company loans and loans secured by Company assets, real estate taxes, utility payments, salaries of employees of the Company, accounting fees, capital expenditures, and reasonable reserves established from time to time, in such amounts and for such purposes as the Management Board by unanimous consent shall determine, but excluding expenses and liabilities payable upon or in connection with or from the proceeds of any Capital Transaction or Refinancing.

1.9. **"Cause Event"** shall have the meaning ascribed thereto in Section 9.2.3.

1.10. **"Code"** shall mean the Internal Revenue Code of 1986, as amended from time to time. All references herein to specific sections of the Code shall be deemed to refer also to any corresponding provisions of any succeeding law.

1.11. **"Company"** shall have the meaning ascribed thereto in the introductory paragraph of this Agreement.

1.12. **"Effective Date"** shall have the meaning ascribed thereto in the introductory paragraph of this Agreement.

1.13. **"Facility"** shall have the meaning ascribed thereto in Exhibit A, number 2.

1.14. **"Former Member"** shall have the meaning ascribed thereto in Section 12.3.7.

1.15. **"Improvements"** shall have the meaning ascribed thereto in Exhibit A, number 2.

1.16. **"Management Board"** shall have the meaning ascribed thereto in Section 6.2.

1.17. **"Member(s)"** shall mean each Person holding a Percentage Interest in the Company from time to time.

1.18. **"Member Loans"** shall have the meaning ascribed thereto in Section 3.4.

1.19. **"Net Profit" or "Net Loss,"** as the case may be, of the Company for each fiscal year shall be an amount equal to the Company's taxable income or taxable loss for such year under Code Section 703(a) and Section 1.703-1 of the Regulations (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), but with the following adjustments:

1.19.1 any tax-exempt income, as described in Code Section 705(a)(1)(B), of the Company for such year, not otherwise taken into account in computing Net Profit or Net Loss shall be added to such taxable income or taxable loss;

1.19.2 any expenditures of the Company described in Code Section 705(a)(2)(B) for such year, including any items treated under Section 1.704-1(b)(2)(iv)(i) of the Regulations as items described in Code Section 705(a)(2)(B), not otherwise taken into account in computing Net Profit or Net Loss shall be subtracted from such taxable income or taxable loss;

1.19.3 gain or loss from the sale or exchange of property subject to the provisions of Code Section 704(c) shall be taken into account in determining such taxable income or taxable loss only to the extent that such would exist if the book value of the property were substituted for the adjusted tax basis thereof and as otherwise provided in Section 4.2; and

1.19.4 any items that are specially allocated pursuant to Sections 4.3 or 4.5 shall not be taken into account in computing such taxable income or taxable loss; and

1.19.5 such taxable income or taxable loss shall be adjusted by any and all other adjustments required in order to maintain Capital Account balances in compliance with the Regulations issued under Code Section 704(b) any adjustments resulting from an audit by the Internal Revenue Service.

1.20 "Nonrecourse Deductions" shall have the meaning ascribed thereto in Section 1.704-2(b)(1) of the Regulations.

1.21 "Partnership Minimum Gain" shall have the meaning ascribed thereto in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

1.22 "Partner Nonrecourse Debt" shall have the meaning ascribed thereto in Section 1.704-2(b)(4) of the Regulations.

1.23 "Partner Nonrecourse Debt Minimum Gain" shall have the meaning ascribed thereto in Section 1.704-2(i)(2) of the Regulations.

1.24 "Partner Nonrecourse Deductions" shall have the meaning ascribed thereto in Section 1.704-2(i)(1) of the Regulations.

1.25 "Partnership Representative" shall have the meaning ascribed thereto in Section 12.3.2.

1.26 "Percentage Interest" shall mean, with respect to any Member, such Member's membership interest in the Company expressed as a percentage of the membership interests of all Members of the Company. The Percentage Interests of each Member is set forth on Exhibit A attached hereto.

1.27 "Permanent Disability" shall have the meaning ascribed thereto in Section 9.2.1.

1.28 "Person" shall mean a natural person, corporation, limited liability company, trust, partnership, joint venture, association or other legal entity.

1.29 "PSE" shall mean Member, Pioneer Sports and Entertainment, LLC.

1.30 "Proceeding" shall have the meaning ascribed thereto in Section 9.2.2.

1.31 "Refinancing" shall mean the refinancing of any debt of the Company or any debt secured by assets of the Company.

1.32 "Regulations" shall mean the Income Tax Regulations promulgated under the Code, as such Regulations may be amended from time to time. All references herein to specific sections of the Regulations shall be deemed to refer also to any corresponding provisions of succeeding Regulations.

1.33 "Regulatory Allocations" shall have the meaning ascribed thereto in Section 4.5.

1.34 "Retained Percentage Interest" shall have the meaning ascribed thereto in Section 9.2.2.

1.35 "Services" shall have the meaning ascribed thereto in Exhibit A, number 1.

1.36 "Spellman" shall mean Member, Spellman Performance LLC.

1.37 "Transfer" shall have the meaning ascribed thereto in Section 9.1.

Terms defined in other provisions of this Agreement that are not also defined in this Article 1 shall have the meanings defined or specified elsewhere in this Agreement.

ARTICLE 2 THE COMPANY

2.1 **Name.** The name of the Company shall be "Pioneer Sports Performance, LLC" or such other name as may be unanimously selected by the Management Board from time to time. The Company may also operate under a fictitious "doing-business-as" name as may be unanimously selected by the Management Board from time to time.

2.2 **Registered Office, Registered Agent.** The registered office of the Company shall be located at 101 E. Kennedy Blvd., Suite 2700, Tampa Florida 33602, and the registered agent of the Company at such office shall be TK Registered Agent, Inc. The Management Board shall have the right to change such registered office and such registered agent from time to time.

2.3 **Principal Place of Business.** The location of the principal place of business of the Company shall be 446 W. Plant Street, Winter Garden, Florida 34777, or such other place as the Management Board from time to time may select.

2.4 **Purpose and Scope.** The purpose for which the Company is organized is for transacting any and all lawful business for which a limited liability company may be organized under the laws of the State of Florida.

2.5 **Additional Governing Provisions of Company.** In addition to the terms and conditions of this Agreement, the provisions listed in Exhibit A (attached hereto) shall govern the operation and management of the Company as agreed by the Members.

ARTICLE 3 CAPITAL CONTRIBUTIONS

3.1 Capital Contributions.

3.1.1 Capital Contributions. Each Member's Percentage Interest, received in exchange for his, her, or its initial Capital Contribution, is set forth on the table attached hereto as Exhibit B, which is incorporated herein by reference, and subject to dilution.

3.1.2 Additional Capital Contributions. No additional Capital Contributions shall be required by a Member except upon the unanimous consent of the Management Board, and no Member shall have an obligation to contribute capital in order to restore a negative Capital Account balance.

3.2 Interest. Unless otherwise unanimously agreed upon by the Management Board, no Member shall receive interest on Capital Contributions or otherwise with respect to such Member's Capital Account.

3.3 Return of Capital. No Member shall have the right to withdraw any part of the Member's Capital Account or any Capital Contributions except as expressly provided in this Agreement. No Member shall be entitled to a return of any Capital Contributions in any form other than cash unless otherwise unanimously agreed to by the Management Board.

3.4 Member Loans. The Members shall be permitted to make loans to the Company ("Member Loans"). The amount of such Member Loans shall be treated as Company indebtedness and not as a Capital Contribution and shall be repaid on such terms and conditions as shall be negotiated by the Members. Member Loans shall not increase the Percentage Interest of the lending Member unless unanimously agreed to by the Management Board.

ARTICLE 4 PROFITS AND LOSSES

4.1 General Rule. Except as otherwise prohibited by the Code and Treasury Regulations, Net Profits and Net Losses for any taxable year, shall, subject to first making any allocations required to be made under Section 4.3, Section 4.4.2 and Section 4.5, be allocated among the Members in such a manner that, as of the end of such taxable year, the sum of (i) the Capital Account of each Member, (ii) such Member's share of Partnership Minimum Gain (as determined according to Treasury Regulation Section 1.704-2(g) immediately prior to the hypothetical sale of assets described below) and (iii) such Member's Partner Nonrecourse Debt Minimum Gain (as determined in Treasury Regulation Section 1.704-2(i)(3) immediately prior to the hypothetical sale of assets described below) shall be equal to the respective net amounts, positive or negative, which would be distributed to them or for which they would be liable to the Company under the Act, determined as if the Company were to (x) liquidate all of the assets of the Company for an amount equal to their Book Value, (y) satisfy all liabilities of the Company according to their terms (limited with respect to each "nonrecourse liability" (as defined in Section of 1.704-2(b)(3) of the Regulations) of the Company to the Book Values of the Company's assets

securing such liability) and (z) distribute the Company's proceeds of liquidation pursuant to Section 13.3.2.

4.2 Contribution of Property - Code Section 704(c). Except as otherwise stated in this Agreement (including its Exhibits), in accordance with Code Section 704(c) and the Regulations thereunder and Section 1.704-1(b)(2)(iv)(f)(4) of the Regulations, income, gain, loss and deduction with respect to (i) any property contributed to the capital of the Company and (ii) any Company property whose "book value" (as determined for purposes of maintaining Capital Accounts under the rules set forth in Regulations Section 1.704-1(b)(2)(iv)) is adjusted, pursuant to the unanimous approval of the Management Board, under Section 1.704-1(b)(2)(iv)(f) of the Regulations upon the occurrence of an event set forth in Section 1.704-1(b)(2)(iv)(f)(5) of the Regulations, shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market value at the time of contribution. Any elections or other decisions relating to such allocations shall be made unanimously by the Management Board in any manner that reasonably reflects the purpose and intention of this Agreement; provided, however, that the Company shall use the "traditional method" described in Section 1.704-3(b) of the Regulations to make such allocations unless another method permitted under Section 1.704-3 of the Regulations is selected unanimously by the Management Board. Allocations pursuant to this Section 4.2 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profit, Net Loss or other items or distributions pursuant to any provision of this Agreement.

4.3 Special Allocations. Notwithstanding the provisions of Sections 4.1 or 4.2, the following special allocations shall be made in the following order:

4.3.1 Except as otherwise provided in Section 1.704-2(f) of the Regulations, if there is a net decrease in Partnership Minimum Gain during any Company fiscal year, then each Member shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent years) in an amount equal to that Member's share of the net decrease in Partnership Minimum Gain. Allocations pursuant to the previous sentence shall be made in accordance with Section 1.704-2(f)(6) of the Regulations. This Section 4.3.1 is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

4.3.2 If there is a net decrease in Partner Nonrecourse Debt Minimum Gain attributable to a Partner Nonrecourse Debt during any Company fiscal year, then each Member who has a share of that Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt as of the beginning of each fiscal year shall, to the extent required by Section 1.704-2(i)(4) of the Regulations, be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) equal to that Member's share of the net decrease in Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt. Allocations pursuant to the previous sentence shall be made in accordance with Section 1.704-2(i)(4) of the Regulations. This Section 4.3.2 is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

4.3.3 Nonrecourse Deductions for any fiscal year shall be allocated to the Members in proportion to their respective Percentage Interests.

4.3.4 Partner Nonrecourse Deductions for any fiscal year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable, in accordance with Section 1.704-2(i)(1) of the Regulations.

4.3.5 If any Member unexpectedly receives any adjustments, allocations or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, then items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 4.3.5 shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 4 have been tentatively made as if this Section 4.3.5 were not in the Agreement. This Section 4.3.5 is intended to constitute a "qualified income offset" within the meaning of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

4.3.6 If any Member has a deficit Capital Account at the end of any fiscal year of the Company that is in excess of the sum of the amount such Member is obligated to restore pursuant to the provisions of this Agreement and the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations, then each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 4.3.6 shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article 4 have been tentatively made as if Section 4.3.5 and this Section 4.3.6 were not in the Agreement.

4.4 Section 754 Adjustments.

4.4.1 In the event of a valid Transfer of all or any part of a Member's Percentage Interest in the Company, the Company shall, at the request of the transferee, file an election pursuant to Code Section 754 and adjust the basis of the Company's assets under Code Section 743. The transferor or transferee of a Percentage Interest shall pay all costs of preparing and filing all instruments or documents necessary to effectuate such election if made and accompanying basis adjustments under Section 743. In the event that a distribution of any of the Company's property is made in the manner provided in Code Section 734, then, upon the request of any Member, the Company shall file an election under Code Section 754. The Company shall pay all costs of preparing and filing all instruments or documents necessary to effectuate such elections if made and accompanying basis adjustments under Section 734. Except insofar as such an election pursuant to the aforesaid sections has been made, the determination of Net Profit, Net Loss, taxable income, tax loss or Cash Flow shall be made as provided in this Agreement. Each Member agrees to furnish the Company with all information necessary to give effect to such election.

4.4.2 Any adjustment to the tax basis of any Company asset pursuant to Code Sections 734(b) or 743(b) that is required to be taken into account in determining Capital Accounts pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations shall be treated as an item of gain (if the adjustment is an increase) or loss (if the adjustment is a decrease) and such gain or loss shall be allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Regulation.

4.5 Curative Allocations. The allocations set forth in Section 4.3 (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations that are made be offset either with other Regulatory Allocations or with special allocations pursuant to this Section 4.5. Therefore, notwithstanding any other provision of this Article 4 (other than the Regulatory Allocations), the Members shall make such offsetting special allocations in whatever manner the Management Board by unanimous consent shall determine appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of this Agreement and all Company items were allocated pursuant to Section 4.1. In exercising their discretion under this Section 4.5, the Members shall take into account future Regulatory Allocations under Sections 4.3.1 and 4.3.2 that, although not yet made, are likely to offset other Regulatory Allocations previously made under this Section 4.5.

4.6 Other Allocation Rules.

4.6.1 For purposes of determining the Net Profit, Net Loss or any other items allocable to any period, Net Profit, Net Loss and any such other items shall be determined on a daily, monthly or other basis, as determined by the Members using any permissible method under Code Section 706 and the Regulations thereunder; provided however, in the event of a Transfer of Percentage Interests during any period made in compliance with this

Agreement, Net Profits, Net Losses and other items of income, gain, loss, and deduction of the Company attributable to such Percentage Interests for such period shall be determined using the interim closing of the books method.

4.6.2 Except as otherwise provided in this Agreement, all items of Company income, gain, loss and deduction, and any other allocations not otherwise provided for, shall be divided among the Members in the same proportions as they share Net Profit or Net Loss, as the case may be, for the fiscal year.

4.6.3 In determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Section 1.752-3(a)(3) of the Regulations, the Members' interests in Company profits are in proportion to their respective Percentage Interests.

4.6.4 To the extent permitted by Section 1.704-2(h)(3) of the Regulations, the Members shall endeavor to treat distributions as having been made from the proceeds of a "nonrecourse liability" (as that term is defined in Section 1.704-2(b)(3) of the Regulations) or a Partner Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Member.

4.6.5 After taking into account all allocations over the duration of the Company, it is anticipated that such allocations will have substantial economic effect or shall be made in accordance with the Members' "interests" in the Company (within the meaning of Section 1.704-1(b)(3) of the Regulations) and shall satisfy the requirements of Regulations Section 1.704-1(b). If the Company does not have sufficient funds to distribute an amount equal to each Member's Capital Account pursuant to Section 13.3 upon liquidation, Net Profit or Net Loss for the fiscal year in which the Company is dissolved (or prior years as otherwise unanimously determined by Management Board) may be allocated among the Members in such a manner as to, to the extent possible, satisfy the requirements of Treasury Regulations 1.704-1(b).

ARTICLE 5 DISTRIBUTIONS

5.1 **Cash Flow Distributions.** Cash Flow shall be distributed at such times and in such manner as unanimously determined by the Management Board ; provided, however, any distribution that is made pursuant to this section shall be made to the Members in proportion to their respective Percentage Interests.

5.2 **Capital Transaction and Refinancing Distributions.** Net proceeds from a Capital Transaction or Refinancing (excluding in each instance expenses and liabilities payable upon or in connection with or from the proceeds of such Capital Transaction or Refinancing) shall be distributed at such times and in such manner as unanimously determined by the Management Board; provided, however, any distribution that is made pursuant to this Section 5.2 shall be made to the Members in proportion to their respective Percentage Interests.

5.3. **Tax Distributions.** Notwithstanding Section 5.1 and Section 5.2, the Company shall distribute to each Member on an annual basis, if legally available, an amount equal to the product of (i) the highest combined marginal federal and state income tax rate imposed on the ordinary income of individuals, who are residents of the State of California, multiplied by (ii) the amount of the Company's actual Net Profit, if any, as determined for federal income tax purposes that was allocated to such Member for such year in accordance with Article 4. The calculation of the amount of tax distributions to a Member shall take into account distributions previously made with respect to the applicable fiscal year to such Member pursuant to Section 5.1, Section 5.2 and Section 13.3, and shall be a nonrefundable credit against, and shall reduce, amounts otherwise subsequently distributable to such Member pursuant to Section 5.1, Section 5.2 or Section 13.3.

ARTICLE 6 MANAGEMENT

6.1. **Management of the Company.** Management of the Company's business shall be wholly vested in the Management Board (as defined below), who may exercise all such powers of the Company and do all such lawful acts and things as are not by law or this Agreement directed or required to be exercised or done only by the Members.

6.2. **Management Board.** All of the Company's business affairs shall be managed by a three (3) person board (the "Management Board"). Member PSE shall appoint one (1) person to the Management Board, and Member Spellman shall appoint two (2) people to the Management Board. Each person on the Management Board shall serve on the Management Board until such time as they are removed by the appointing entity, for a Cause Event, or resign. In the event a person is removed by the appointing entity for a Cause Event or any reason, or the person resigns, that appointing entity shall immediately appoint a new person to sit on the Management Board. The initial Management Board shall be as listed in Exhibit A attached hereto (and as amended from time-to-time), with the voting power within the Management Board as further described therein.

6.3. Action by Management Board.

6.3.1. **Actions Requiring Simple Majority.** Other than as listed in Section 6.3.2 immediately below, , any and all actions taken by the Management Board shall be by simple majority (i.e., > 50%), with each Manager having one (1) vote.

6.3.2. **Actions Requiring Unanimous Vote.** The following actions cannot be taken by the Company within a unanimous affirmative vote of the Management Board:

- (i) approval of Company's annual budget;
- (ii) approval of any unbudgeted Company expenses;
- (iii) any and all compensation provided to Company employee's or independent contractors, and any increases to such compensation;
- (iv) usage and programming at the Facility (as defined herein);

- (v) revenue share between the Members of Company for Services provided by Company;
- (vi) issuance of any press releases, marketing and/or advertising by Company; and
- (vii) approval of all contracts or agreements with third-parties.
- (viii) take any action in contravention of the terms of this Agreement;
- (ix) admit a new Member (except pursuant to a transfer permitted pursuant to this Agreement);
- (x) issue or sell any membership interests in the Company;
- (xi) redeem, purchase or acquire any outstanding membership interests in the Company (except pursuant to the terms of this Agreement);
- (xii) alter any of the rights, preferences or privileges of the membership interests in the Company;
- (xiii) cause the Company to merge or consolidate with any Person, convert into another entity, liquidate, dissolve, or engage in any recapitalization, reorganization, exclusive license or sale of all or substantially all of the Company's assets, or any other transaction resulting in a sale of the Company;
- (xiv) sell assets of the Company, other than in the ordinary course of business;
- (xv) execute or deliver any general assignment for the benefit of the creditors of the Company, or otherwise initiate any insolvency or bankruptcy proceedings for the Company;
- (xvi) enter into any transaction between the Company and a Member or any affiliate of a Member;
- (xvii) establish or acquire any joint venture with another Person;
- (xviii) create, incur, or assume indebtedness, guarantee any indebtedness of any Person, or prepay any principal amount of or interest on any indebtedness, other than with respect to trade credit incurred in the ordinary course of business;
- (xix) acquire assets or equity interests of any other person, other than in the ordinary course of business;
- (xx) increase compensation for key personnel;
- (xxi) establish, terminate or modify any employee benefit plan;
- (xxii) pledge or grant liens on assets of the Company;
- (xxiii) settle any lawsuit or proceeding which settlement requires a payment by or to the Company;
- (xxiv) materially change the character of the business of the Company;
- (xxv) dissolve or liquidate the Company; or
- (xxvi) agree or commit to any of the foregoing.

6.4 **Officers.** The Management Board, by unanimous consent, may appoint a President, a Vice President, a Treasurer and a Secretary, as well as such other officers as the Members shall deem necessary or desirable to carry on the business of the Company; and may delegate to such officers such power and authority as the Members deem desirable, including the responsibility for day-to-day operations and business activities of the Company. Each officer shall

hold office until such officer's successor shall have been designated by the Members or until their earlier death, resignation or removal. Any officer may resign at any time upon written notice to the Company. Any officer may be removed by the Members at any time, with or without cause. A vacancy in any office occurring because of death, resignation or removal, or otherwise, may but need not be filled by the Members. The appointment of an officer does not itself create contract rights.

6.5 **Fiduciary Duties.** Each Member acknowledges that all discretionary and administrative powers of a Member under this Agreement shall be considered as requiring effectuation in a fiduciary manner (including good faith and fair dealing), and this duty is owed to the Company and all other Members. It is the intent that this general fiduciary obligation replace all of the specific fiduciary duties listed in the Act, including Section 605.04091. Therefore, to the extent possible the specific fiduciary duties for a Member listed in the Act, including Section 605.04091, are waived and replaced with the first sentence of this paragraph. To the extent that, under the Act, the law of agency, or common law or any other law or at equity, a Member, assignee, manager, or officer of the Company has duties or obligations to the Company or to a Member, assignee, manager or other Person who is a party to this Agreement, that Member, assignee, manager, or officer of the Company shall not be liable to the Company or to any such other Member, assignee, manager, or Person for its good faith reliance on this Agreement.

ARTICLE 7 MEETINGS OF MEMBERS

7.1 **Annual, Regular and Special Meetings.** An annual meeting of the Members may be held each calendar year and the transaction of such proper business as may come before the meeting; the exact date and place of the meeting, if any, to be established by the Members from time to time (in the Members' sole discretion). Regular meetings of the Members may be held without notice at such time and at such place, if any, as shall be determined from time to time by the Members (in the Members' sole discretion). Special meetings shall be held as the Members and the Members determine appropriate. If all of the Members shall meet at any time and place and consent to the holding of the meeting at such time and place, then such meeting shall be valid without call or notice, and at such meeting any lawful action may be taken. The Members shall permit any or all Members to participate in or conduct the meeting through the use of any means of communication by which all Members participating may simultaneously hear and be heard by each other during the meeting.

7.2 **Notice of Annual and Special Meetings.** Written notice stating the place, day and hour of any annual or special meeting and the purpose or purposes for which the annual or special meeting is called shall be delivered not less than ten (10) nor more than fifty (50) days before the date of such annual or special meeting.

7.3 **Manner of Acting.** Unless otherwise expressly provided herein, by the Act, or by the Articles, in connection with any matter to be determined by the Members, the affirmative vote of Members holding a Required Interest of the Members (i.e., supermajority) shall be the act of the Members.

7.4 **Informal Action by Members.** Any action required or permitted to be taken by the Members under any provisions of law, the Articles or this Agreement may be taken without a meeting if Members holding a Required Interest of the Members (unless the vote of a greater or lesser proportion or number is otherwise required by the Act, by the Articles, or by this Agreement) sign a written consent thereto and such written consent is delivered to the Members. Action taken under this **Section Error! Reference source not found.** is effective upon delivery of such written consent, unless the consent specifies a different effective date, in which case it is effective on the date so specified. Within ten (10) days following such actions taken by written consent, the Members will deliver a notice to those Members who have not consented in writing or who are not entitled to vote on the action.

ARTICLE 8 COMPENSATION AND EXPENSES

8.1 **Compensation.** Unless otherwise unanimously agreed to by the Management Board, or as otherwise stated herein (e.g., PSE Management Fee), neither the Management Board, nor the Members shall be entitled to any compensation for services rendered through the Management Board or as Members.

8.2 **Reimbursement of Expenses.** Subject to the unanimous approval of the Management Board, the Company shall reimburse the Members, officers, employees, owners and agents of the Company for any reasonable expenses incurred by them in connection with the operation of the Company.

ARTICLE 9 RESTRICTION ON TRANSFER OF PERCENTAGE INTERESTS

9.1 **Transfer Prohibited.** No Member shall at any time during the existence of this Agreement, directly or indirectly, voluntarily or involuntarily (including by operation of law), sell, assign, transfer, mortgage, encumber, pledge or otherwise deal with or dispose of ("Transfer"), to any Person, all or any part of the Percentage Interest held by the Member in the Company or hereafter acquired by such Member, without first obtaining the unanimous written consent of the Management Board. Any purported Transfer in violation of the provisions of this Agreement shall be null and void and of no force and effect. The fact that a Member or his or her Affiliates are directly or indirectly interested in or connected with any Person associated with such Transfer shall not preclude such Member from consenting to such Transfer or make such consent or Transfer void or voidable

9.2 Involuntary Transfers.

9.2.1 **Death or Permanent Disability.** Notwithstanding anything in this Agreement to the contrary, upon the death or Permanent Disability of a Member, the Company shall have the first option, but not obligation, to purchase the applicable Member's Percentage Interests. A Member (including those individuals named herein) shall be considered to have sustained a "Permanent Disability" if during any 90-consecutive-day period such Member has a physical or mental condition which renders,

and is reasonably expected to continue for an additional ninety (90) days to render him, incapable of performing the duties required of him as an officer of, or participant in, the Company. In the event of a dispute as to whether a Member has sustained a Permanent Disability, the Company may refer the same to a licensed practicing physician of the Company's choice, and such Member agrees to submit to such tests and examinations as such physician shall deem appropriate at the sole cost and expense of the Company. If the Company chooses not to invoke its option to purchase the applicable Member's Percentage Interest, then such Member's Percentage Interest may transfer as deemed appropriate through the Member's estate (e.g., to the Member's heirs). Upon any such transfer, the holder of such transferred Member's Percentage Interest shall convert to "economic only interest", and such Percentage Interest shall have no voting rights with respect to Company matters from that transfer point forward into the future (unless otherwise consented to by all remaining voting Members).

9.2.2 Proceeding. Notwithstanding anything in this Agreement to the contrary, upon the occurrence of a Proceeding with respect to a Member (but not Proceedings prosecuted by the Company or any Member), the Company and other Members shall have the option to purchase any or all of such Member's Percentage Interests, and if exercised, such Member shall sell such Member's Percentage Interests. The Company and any other Member may exercise the foregoing option upon written notice to the applicable subject Member. The other Members shall have priority over the Company with regard to such option in any or all of the Percentage Interests. If all Proceedings with respect to the subject Member terminate and such Member retains record and beneficial ownership of some or all of such Member's Percentage Interest (the "**Retained Percentage Interest**"), then (i) any option of the Company, any Member or their assignees not yet exercised shall terminate with respect to the Retained Percentage Interest, and (ii) any such option already exercised but not yet settled shall terminate and such settlement shall not occur with respect to the Retained Percentage Interest. For purposes of this Agreement, "**Proceeding**" means that (a) any judgment is obtained in any legal or equitable proceeding against a Member have determined that a sale of any of such Member's Percentage Interest is reasonably likely under legal process as a result of such judgment, (b) any execution process is issued against the Percentage Interest of a Member and the other Members unanimously determine that a sale of any of such Member's Percentage Interest is reasonably likely under such process, (c) there is instituted by or against a Member any other form of legal proceeding or process and the other Members unanimously determine that the sale or transfer of any of the Percentage Interest of such Member is reasonably likely, including but not limited to a divorce proceeding (d) a Member makes an assignment for the benefit of creditors, (e) a Member commences a voluntary case or proceeding under any bankruptcy law, or consents to the entry of an order for relief against such Member in an involuntary case or proceeding under any bankruptcy law, or consents to the appointment of a receiver, custodian or trustee for such Member or for all or substantially all of such Member's property, or (f) a court of competent jurisdiction enters an order or decree under any bankruptcy law (i) for relief against a Member in an involuntary case or proceeding, or (ii) appointing a receiver, custodian or trustee for a Member or for all or substantially all of such Member's property.

9.2.3 Cause Events. Notwithstanding anything in this Agreement to the contrary, upon the occurrence of a Cause Event with respect to a Member (or Les Spellman), the Company and other Members shall have the option to purchase any or all of such Member's Percentage Interests, and if exercised, such Member shall sell such Member's Percentage Interests. The Company and any other Member may exercise the foregoing option upon written notice to the applicable subject Member. The other Member shall have priority over the Company with regard to such option in any or all of the Percentage Interests. For purposes of this Agreement, "Cause Event" means (i) willful destruction by a Member of Company property having a material value to the Company, (ii) fraud, embezzlement, theft, or comparable dishonest activity committed by a Member against the Company, (iii) a Member's conviction of or entering a plea of guilty or nolo contendere to any crime constituting a felony or involving fraud, dishonesty or moral turpitude, (iv) the Member materially violates the requirements of this Agreement and fails to cure such violation within ten (10) days of receipt of written notice of the violation, if such violation is capable of cure.

9.2.4 Purchase Price. For any Percentage Interest to be purchased pursuant to the terms of this Section 9.2, the Members agree that the purchase price of such Percentage Interest shall be determined by an independent third party appraiser (experienced in the business of evaluating and appraising the fair market value of stock or limited liability interests) agreed upon by the Members (or their representatives). The fees and charges of such independent appraiser for making such determination shall be split between the applicable Member and the Company.

9.2.5 Purchase Terms. The purchase price shall be paid as follows: (i) at least ten percent (10%) of the purchase price must be paid in cash, and (ii) in the sole discretion of the purchaser, the remainder of the purchase price may be paid in cash or may be evidenced by a negotiable promissory note of the purchaser delivered to the transferring Member (or, if applicable, the estate of the Member). Such promissory note shall bear interest at the rate equal to one percent (1%) above the prime rate as reported in the Wall Street Journal as of the date of the closing and shall provide for the acceleration of the maturity of the unpaid principal and interest at the option of the holder upon default in the payment of any installment of principal or interest. Such negotiable promissory note shall provide for equal monthly installments of principal and interest over a period not to exceed sixty (60) months. Any and all payments of principal or interest may be prepaid without penalty.

9.2.6 Closing of Purchase. Settlement for the purchase of the Percentage Interest by the Company shall be within forty-five (45) days following the date of death, date of Permanent Disability, or the date such notice of exercise is delivered in Section 9.2.2 or Section 9.2.3. All settlements for the purchase and sale of Percentage Interests, unless otherwise agreed to by the parties, shall be held at the principal executive offices of the Company during regular business hours. The precise date and hour of settlement shall be fixed by the Company or its assignee (within the time limits allowed by the provisions of this Agreement) by notice in writing to the selling Member given at least three (3) days in advance of the settlement date specified. At settlement, the selling Member shall deliver such duly executed instruments of transfer, including certificates properly endorsed for

transfer, if applicable, and any other documents that are reasonably requested by the Company and/or its assignees, and concurrently with such delivery, the Company and/or its assignees shall deliver to the selling Member the purchase price and any promissory notes.

9.3 **Effect of Transfer.** In the event of any permitted Transfer by a Member of all or any part of such Member's Percentage Interest in the Company pursuant to the terms of this Agreement, the transferee shall receive and hold the transferred Percentage Interest in the Company subject to the terms and conditions of this Agreement and subject to the obligations of the transferor Member under this Agreement, and, as a condition precedent to the Transfer pursuant to the terms of this Agreement, the transferee shall execute and deliver to the Company (a) a joinder to this Agreement and acknowledgment of such responsibilities, (b) an affidavit signed under penalty of perjury that such transferor is not a foreign person (or otherwise comply with the requirements necessary) in order to absolve the Company and the transferee of any withholding obligation pursuant to Code Section 1446(f), and (c) if requested by the Members, a legal opinion, in form and substance satisfactory to the Members, that the Transfer does not result in a violation of applicable federal or state securities laws. No assignee, transferee, designee or legal representative of a Member shall be admitted as a substitute Member or have any rights whatsoever without complying with the provisions of this Article 9 (including the requirements in this Section 9.3). As conditions to a Person's admission as a Member: (y) any assignee, transferee, designee or legal representative of the Member shall execute and deliver such instruments, in form and substance satisfactory to the Management Board as they shall unanimously deem reasonably necessary or desirable to cause the assignee, transferee, designee or legal representative of the Member to become a substitute Member, and (z) such assignee, transferee, designee or legal representative shall pay all reasonable expenses incurred in connection with the Person's admission as a substitute Member, including but not limited to, the cost of preparing and filing any amendment to this Agreement or the Articles that is deemed by the Members to be reasonably necessary or desirable in connection therewith.

ARTICLE 10 DRAG-ALONG RIGHTS; WAIVER OF APPRAISAL RIGHTS

10.1 **Drag-Along Rights.** If any Person offers to acquire all or substantially all of the Percentage Interests, or assets of the Company, by merger, sale of assets or otherwise and such transaction is approved by the Member, PSE, then each party to this Agreement hereby agrees to (a) vote all of his, her or its Percentage Interests in favor of such transaction, (b) transfer or exchange all of his, her or its Percentage Interest in connection with such transaction on the same terms as those approved on such transaction and (c) execute and deliver such instruments of conveyance and Transfer and take such other action, including executing any purchase agreement, merger agreement, indemnity agreement, escrow agreement or related documents, as may be reasonably required by the Members in order to carry out the terms and provisions of this Article 10. If a party to this Agreement fails or refuses to vote his, her or its Percentage Interest or sell his, her or its Percentage Interest as required by, or votes his, her or its Percentage Interest in contravention of this Article 10, then such party hereby grants the other Members of the Company an irrevocable proxy, coupled with an interest, to vote such Percentage Interest in accordance with the terms of this Article 10, and hereby appoints the other Members his, her or its attorneys in fact, to sell such party's Percentage Interest in accordance with the terms of this Article 10. At the closing of such transaction, each of the parties

to this Agreement shall deliver, against receipt of the consideration payable in such transaction, certificates, if any, representing the Percentage Interest that such party holds of record or beneficially, with all endorsements necessary for Transfer. In the event that any party fails or refuses to comply with the provisions of this Article 10, the Company, the Members and the purchaser in such transaction, at their option, may elect to proceed with such transaction notwithstanding such failure or refusal and, in such event and upon tender of the specified consideration to any such party, the rights of any such party with respect to the Percentage Interest of such party shall cease.

10.2 **Waiver of Appraisal Rights.** The Members understand that the Act provides specific instances that trigger appraisal rights under Florida Statutes Section 605.1006. Such appraisal rights allow a Member to force a judicial proceeding to determine the fair price of such Member's interest in the Company. **THE MEMBERS HEREBY WAIVE AND RELINQUISH THE STATUTORY APPRAISAL RIGHTS UNDER FLORIDA STATUTES SECTION 605.1006.** No Member of the Company shall be entitled to appraisal rights, dissenters' rights or similar rights in any event. This provision is intended to eliminate all appraisal rights, dissenters' rights or similar rights provided to Members under the Act, including those provided in Sections 605.1006 and 605.1061 through 605.1072 of the Act, as amended from time to time, or any other statute of similar import, and the Members hereby waive any such appraisal rights, dissenters' rights or similar rights.

ARTICLE 11 AMENDMENT

Unless otherwise required by the Act, an amendment to either the Articles or to this Agreement shall become effective only at such time as such amendment has been unanimously approved in writing by the Management Board; provided, however, that any amendment to this Agreement that would have the effect of removing, modifying, altering or waiving, in any respect, any rights, interests, preferences, privileges, duties or obligations of a Member hereunder, or that would otherwise adversely affect a Member in a manner that is not the same as, or proportionate to, the effect of such amendment on all other Members, shall require the affirmative written consent of such Member.

ARTICLE 12 TAXATION

12.1 **Income Tax Reporting.** The Members are aware of the income tax consequences of the allocations and distributions made by Article 4 and Article 5 hereof and each hereby agrees to be bound by the provisions of Article 4 and Article 5 in reporting such Member's share of Company income and loss for federal and state tax purposes.

12.2 **Partnership.** Notwithstanding anything contained herein to the contrary, the Company shall be treated as a partnership for federal and state income tax purposes unless and until the Management Board by unanimous consent cause the Company to file an election under the Code to be treated for tax purposes as an entity other than a partnership (in which case this Agreement must be amended in accordance with its terms).

12.3 **Tax Matters.**

12.3.1 Unless otherwise provided herein, the Partnership Representative is authorized to make any and all elections on behalf of the Company for federal, state, local, and foreign tax purposes, including, without limitation, any election, if permitted by applicable law, added to the Code by the Bipartisan Budget Act of 2015. For purposes of this Section 12.3, unless otherwise specified, all references to provisions of the Code shall be to such provisions as enacted by the Bipartisan Budget Act of 2015.

12.3.2 Member, PSE shall be the "Partnership Representative" (within the meaning of Code Section 6223) of the Company. The Partnership Representative shall discharge their duty in good faith. The Partnership Representative shall not receive additional compensation from the Company for its services in any such capacity, but all expenses incurred in any such capacity (including professional fees for such accountants, attorneys and agents as are necessary to or useful in the performance of its duties in such capacity) shall be borne by the Company.

12.3.3 Notwithstanding any other provision of this Agreement to the contrary, if any "partnership adjustment" (as defined in Code Section 6241(2)) is determined with respect to the Company and the Company has not elected pursuant to Code Section 6226 to have a such adjustment passed through to the Members for the taxable year to which such adjustment relates, the Partnership Representative may, in its sole discretion, adjust subsequent allocations and distributions, or correct prior special allocations, to the Members in an equitable manner so that, to the maximum extent possible, the tax and economic consequences of such adjustment (or corresponding "imputed underpayment," as determined in accordance with Code Section 6225, if any) are borne by the Members in the same manner as they would have been borne had the adjustment been properly reflected on the Company's tax return in the year to which the adjustment relates.

12.3.4 Each Member agrees that, upon request of the Partnership Representative, such Member shall take such actions as may be necessary or desirable (as determined in good faith by the Partnership Representative) to (i) allow the Company to comply with the provisions of Code Section 6226 so that any "partnership adjustments" are taken into account by the Members rather than the Company or (ii) file amended tax returns with respect to any "reviewed year" (within the meaning of Code Section 6225(d)(1)) to reduce the amount of any "partnership adjustment" otherwise required to be taken into account by the Company. Each Member further agrees that, upon request of the Partnership Representative, such Member shall provide to the Company such information, certifications or forms that the Partnership Representative may reasonably request with respect to the Company's compliance with applicable tax laws, including any requirements necessary to avoid or reduce withholding taxes with respect to any payments to be received or made by the Company. Upon a Member's written request to the Partnership Representative, and in order to reduce a Member's share of any "imputed underpayment" (as defined in Code Section 6225 and the Regulations thereunder) of the Company, the Partnership Representative shall permit a Member to timely file, for any reviewed year of the Company, an amended tax return of the Member pursuant to Code Section 6225(c)(2)(A), or alternatively (as determined by such Member), shall permit the Member to timely comply with the alternative procedures set forth in Code Section 6225(c)(2)(B), with respect to any reviewed year of the Company.

12.3.5 The Partnership Representative shall, within thirty (30) days of receipt, notify the Company, all Members, and Former Members (if such Former Member was a Member in the reviewed year, or otherwise could be affected by the result of any audit) in writing, of all communications to and from the Internal Revenue Service (which notice shall include a copy of such IRS communication), as well as make available any information a Member reasonably requests in connection with any federal, state, or local audit of the Company or related to such Member's interest in the Company. Each Member (including applicable Former Members) shall inform the Company of any adjustments to Company items that result from any audit of such Member within sixty (60) days of the close of such audit; and provide any information the Partnership Representative determines is reasonably applicable to such adjustments.

12.3.6 In the event the Partnership Representative resigns, or dissolves, a new Partnership Representative shall be appointed by the unanimous consent of the Management Board. Provided however, that in the event of a change in the person designated as the Partnership Representative on the tax return for the Company, such person agrees to continue to perform the duties as Partnership Representative until such time he, she, or it has resigned or been removed in accordance with Sections 301.6223-1(d) or (e) of the Regulations.

12.3.7 All Members agree to remain bound by the provisions in this Section 12.3 following any transfer of such Member's interest, withdrawal, redemption, or other cessation of Membership (such Member is referred to as a "Former Member"), with respect to reviewed years during which such Member was a Member of the Company. Further, each Former Member shall, to the fullest extent provided or allowed by law, indemnify, save harmless and pay all judgments and claims against the Company or its Members, from, against, and in respect of such Former Member's pro-rata share (based on such Former Member's membership interest during the reviewed year, or applicable portion thereof if such Former Member was not a Member for the entire reviewed year) of any and all liability, loss, damage and expense incurred or sustained by the Company or its Members in connection with a tax audit, tax assessment, tax judgment, or any other costs or expenses incurred with respect to an audit of a reviewed year in which such Former Member was a Member including, without limitation, costs and reasonable attorneys' fees before and at trial and at all appellate levels, whether or not suit is instituted (which attorneys' fees shall be paid as incurred), and any amounts expended in the settlement of any claims of liability, loss or damage. The provisions of this Section 12.3.7 shall be in addition to and not in limitation of any other rights of indemnification and reimbursement or limitations of liability to which the Company or its Members may be entitled under the Act, common law or otherwise.

12.3.8. In the event the Company elects, pursuant to Code Section 6226, to have a partnership adjustment passed through to the Members for the taxable year to which such adjustment relates and any Member does not promptly remit payment due as a result of such adjustment, such Member shall, to the fullest extent provided or allowed by law, indemnify, save harmless, and pay all judgments and claims against the Company, from and against, any and all liability, loss, damage and expense incurred or sustained by the Company in connection with such Member's non-payment as a result of adjustment,

including, without limitation, costs and reasonable attorneys' fees before and at trial and at all appellate levels, whether or not suit is instituted (which attorneys' fees shall be paid as incurred), and any amounts expended in the settlement of any claims of liability, loss, or damage. The provisions of this Section 12.3.8 shall be in addition to and not in limitation of any other rights of indemnification and reimbursement or limitations of liability to which the Company may be entitled under the Act, common law or otherwise.

ARTICLE 13 DISSOLUTION AND TERMINATION

13.1. Events of Dissolution. The Company shall continue until dissolved by:

13.1.1 The unanimous written approval of the Management Board;

13.1.2 Any event which makes it unlawful for the business of the Company to be carried on by the Members; or

13.1.3 Any other event causing a dissolution of a limited liability company under the Act.

13.2. Final Accounting. In case of the Company's dissolution, a proper accounting shall be made from the date of the last previous accounting to the date of dissolution.

13.3. Liquidation. Upon the Company's dissolution, the Management Board by unanimous approval shall select an entity or other Person to act as liquidator to wind up the Company. The liquidator shall have full power and authority to sell, assign and encumber any or all of the Company's assets and to wind up and liquidate the Company's affairs in an orderly and prudent manner. The liquidator shall distribute all proceeds from the liquidation of the Company in the following order of priority:

13.3.1 First, to the payment of all debts, taxes, obligations and other liabilities of the Company and the necessary expenses of liquidation; where there is a contingent debt, obligation or liability, a reserve shall be set up to meet such contingency, and if and when the contingency shall cease to exist, the monies, if any, in the reserve shall be distributed as herein provided for in this Section 13.3.1; and

13.3.2 Second, to the Members in the order of priority for distributions as set forth in Section 5.2.

13.4. Distribution in Kind. If the liquidator shall determine that a portion of the Company's assets should be distributed in kind to the Members, it shall distribute such assets to the Members in the order of priority for distributions as set forth in Section 13.3.2.

13.5. Waiver of Partition. Each Member irrevocably waives any right it may have to demand any distributions or withdrawal of property from the Company or to maintain any action for dissolution (except pursuant to the Act) of the Company or for partition of the property of the Company.

13.6 **Termination of Company.** Upon completion of the winding up, liquidation and distribution of the Company's assets, the Company shall be deemed terminated. After the termination of the Company, the Members may cause a statement of termination to be filed with the Florida Department of State. The Members shall have the authority to distribute any property of the Company discovered after the dissolution and termination, transfer real estate, and take such other action as may be necessary on behalf of and in the name of the Company.

ARTICLE 14 BOOKS AND RECORDS

14.1 **Information Relating to Company.** Each Member or his, her or its authorized representative shall have access to and may inspect and copy all books, records and materials regarding the Company or its activities, pursuant to the terms of the Act. The exercise of the rights contained in this **Section Error! Reference source not found.** shall be at the requesting Member's expense.

14.2 **Books; Accounting Period.** The Members shall maintain complete and accurate books of account of the Company's affairs at the Company's principal place of business, or at such other place as the Members from time to time may select. The books shall be kept on such method of accounting as the Members shall select. The Company's accounting period shall be the calendar year.

14.3 **Accounts.** All funds of the Company shall be deposited in the Company's name in such account or accounts of a bank or other financial institution as the Members shall designate and shall not be commingled with funds not belonging to the Company. Withdrawals from any such account shall be made upon the signature of the Members or such other Person as the Members shall designate.

14.4 **Reports.** The Members shall close the books of account within a reasonable time period after the close of each calendar year (as determined in the sole discretion of the Members holding the Required Interest of the Members), and shall prepare and send to each Member a statement of such Member's distributive share of income and expense for federal and applicable state income tax reporting purposes.

ARTICLE 15 LIABILITY AND INDEMNIFICATION

15.1 **No Liability.** No Member, Partnership Representative, and/or officer shall have any personal liability whatsoever to the Company or to its Members or creditors for any of the Company's debts, liabilities, or obligations except as expressly provided in this Agreement, under the Act or by separate agreement of the Members, Partnership Representative, or officers. No Member, Partnership Representative, and/or officer shall be liable to the Company or any Member for any loss resulting from any action or inaction by a Member, Partnership Representative, and/or officer provided that such action or inaction was taken in good faith and does not constitute fraud, willful misconduct or gross negligence.

15.2 **Indemnification.** In any threatened, pending, or completed action, suit, or proceeding (including an action by or in the right of the Company) to which a Member, Partnership Representative, and/or officer was or is a party or is threatened to be made a party and where that threatened, pending, or completed action, suit, or proceeding involves an alleged cause of action for damages arising from activities pertaining to the management and disposition of the Company properties and business, the Company shall indemnify (to the maximum extent permitted by law) the Member, Partnership Representative, and/or officer against expenses, including attorney fees, judgments, and amounts paid in settlement, that the Member, Partnership Representative, and/or officer actually and reasonably incurs in connection with the action, suit, or proceeding. To qualify for indemnification, the Member, Partnership Representative, and/or officer must have acted in good faith and in a manner the Member, Partnership Representative, and/or officer reasonably believed to be in or not opposed to the Company's best interests. The Member's, Partnership Representative's, and/or officer's conduct must not have constituted fraud, gross negligence, material breach of this Agreement, willful or wanton misconduct, the receipt of a financial benefit to which the Member, Partnership Representative, and/or officer is not entitled, any act or omission occurring prior to the Effective Date of this Agreement, or a breach of any fiduciary obligation to the Company. The termination of any action, suit, or proceeding by settlement shall not, by itself, create a presumption that the Member, Partnership Representative, and/or officer did not act in good faith and in a manner that the Member, Partnership Representative, and/or officer reasonably believed to be in or not opposed to the Company's best interests. Any indemnification shall be made from Company assets only.

ARTICLE 16 GENERAL PROVISIONS

16.1 **Notice.** Any notice, request, demand or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; following confirmation of receipt if transmitted by fax, email or similar electronic transmission method; the day after it is sent, if sent by recognized overnight delivery service; and upon receipt (or refusal of receipt), if mailed, first class certified mail, return receipt requested, postage prepaid. Notice to the Company shall be given to the principal office of the Company as specified in **Section Error! Reference source not found.** Notice to a Member shall be sent to the address maintained by the Company for such Member, as set forth on **Exhibit A** to this Agreement and as may be changed from time to time by giving notice to the Company pursuant to the provisions of this **Section 16.1.**

16.2 **Entire Agreement.** This Agreement (a) contains the entire agreement among the parties, (b) except as provided in **Article 11**, may not be amended nor may any rights hereunder be waived except by an instrument in writing signed by the party sought to be charged with such amendment or waiver, (c) shall be construed in accordance with, and governed by, the laws of the State of Florida, and (d) shall be binding upon and shall inure to the benefit of the parties and their respective personal representatives, administrators, devisees, legatees, heirs, successors and permitted assigns, but nothing herein shall permit any assignment or other Transfer not otherwise permitted under this Agreement.

16.3 **Governing Law/Venue.** The validity, construction and interpretation of this Agreement and all questions arising out of or concerning either the organization of, or the

investment in, the Company, or this Agreement, or the rights, duties, and responsibilities of the parties hereunder (including claims alleging fraud, misrepresentation or similar torts), are to be governed by the laws of the State of Florida, without regard to the choice or conflicts of laws principles of any jurisdiction. Each Member irrevocably submits to the exclusive jurisdiction of the state courts of the State of Florida for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby, and further agrees that venue shall properly lie in the Thirteenth Judicial Circuit of the State of Florida, in and for Tampa, Florida, with respect to any legal proceedings arising from this Agreement. Each Member further agrees that service of any process, summons, notice or document by U.S. certified or registered mail to such Member's respective address set forth above shall be effective service of process in any action, suit or proceeding in Florida with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding sentence. Each Member irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the state courts of the State of Florida and hereby irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in such court has been brought in an inconvenient forum.

16.4 **Executory Contract.** The parties desire and hereby agree that this Agreement constitutes an executory contract under 11 U.S.C. § 365. This Agreement is an executory contract, because of the duties imposed under this Agreement on each of the Members, which include but are not limited to the duties of the Members to manage the business of the Company pursuant to Article 6.

16.5 **Costs of Litigation.** In any legal or arbitration proceedings, or other actions between any of the parties hereto, to enforce any of the terms of conditions of this Agreement or any other contract concerning the Company, or any other action that in any other way pertains to the Company affairs or this Agreement, the prevailing party, in addition to any other damages or compensation received, will be entitled to recover that party's litigation or arbitration costs, including reasonable attorneys' fees, expenses and costs of any appeals.

16.6 **Construction Principles.** Words in any gender shall be deemed to include the other gender. The singular shall be deemed to include the plural and vice versa. The headings and underlined Section titles are for guidance only and shall have no significance in the interpretation of this Agreement.

16.7 **No Third Party Beneficiaries.** This Agreement is made solely and specifically among and for the benefit of the parties hereto and their successors and assigns, and no other Person, unless express provision is made herein to the contrary, is to have any rights, interests, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

16.8 **Counterparts.** This Agreement may be executed in several counterparts with the same effect as if the signature on each such counterpart were on the same instrument. A signed copy, including by DocuSign or other electronic or digital signature, of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

16.9 **Severability.** If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby. The Members shall endeavor in good faith negotiations to replace the invalid provision with a valid provision, the economic effect of which comes as close as possible to that of the invalid provision.

16.10 **Remedies; Injunctive Relief.** All parties hereto agree and acknowledge that a breach of the provisions of this Agreement would cause irreparable harm to the Company and the other parties that could not adequately be compensated by monetary damages. Accordingly, all parties hereto agree that in addition to any other legal remedies that may be available to the Company and the other parties in the event of the breach or threatened breach of this Agreement (including monetary damages), the Company and the other parties will be entitled, at its or their option and in its or their sole discretion, upon application to a court of competent jurisdiction, to obtain injunctive or other equitable relief to enforce the provisions of this Agreement. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations hereunder or with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person hereunder or with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default hereunder or with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

16.11 **Dissociation.** No Member shall have the right to dissociate or withdraw from the Company.

16.12 **Spousal Consent.** In connection with the execution and delivery of this Agreement, any Member who is a natural person will deliver to the Company an executed consent from such Member's spouse (if any) in the form of **Exhibit B** attached hereto. If, at any time subsequent to the date of this Agreement a Member becomes legally married (whether in the first instance or to a different spouse), such Member shall cause his or her spouse to execute and deliver to the Company a consent in the form of **Exhibit B** attached hereto. Such Member's non-delivery to the Company of an executed consent in the form of **Exhibit B** attached hereto at any time shall constitute such Member's continuing representation and warranty that such Member is not legally married as of such date.

16.13 **Further Assurances.** In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

16.14 **JURY TRIAL WAIVER.** EACH PARTY, BY HIS, HER OR ITS ACCEPTANCE HEREOF, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT,

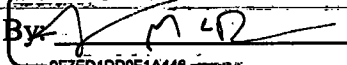
COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY.

IN WITNESS WHEREOF, the Members acknowledge that the matters and facts set forth in this Agreement are true and that they have signed this Agreement to be effective as of the Effective Date.

**PIONEER SPORTS &
ENTERTAINMENT, LLC**

Signed by: (Member)

DocuSigned by:

By: 

0F7ED1DD0F1A446...

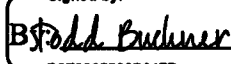
Name: Jeremy McDonald

Title: CEO

SPELLMAN PERFORMANCE LLC

(Member)

Signed by:

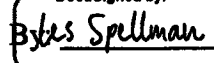
By: 

B3F0065238B64FD...

Name: Todd Buchner

Title: Managing Partner

DocuSigned by:

By: 

8FAAFE4CBCCC485...

Name: Les Spellman

Title: Co-Founder

SPELLMAN SCHOLARSHIPS

(Member)

DocuSigned by:

By: 

8FAAFE4CBCCC485...

Name: Les Spellman

Title: CEO

EXHIBIT B
PIONEER SPORTS PERFORMANCE, LLC OPERATING AGREEMENT
(1-1-25)

A. MEMBERS

Member Name/Address/Email	Initial Capital Contribution	Percentage Interest
Pioneer Sports & Entertainment, LLC 446 W. Plant Street Winter Garden, Florida 34777 Email: jeremy@pioneersports.com	Use of Surf Sports Park Field and Other Support	51%
Spellman Performance LLC 3021 McGraw Street San Diego, California 92117 Email: todd@bxcpartners.com	\$ 50,000.00	45%
Spellman Scholarships 12707 High Bluff Drive, Suite 200-9968 San Diego, California 92130 Email: les.spellman@gmail.com	N/A	4%
Total	\$ 50,000.00	100%

B. MANAGEMENT BOARD

Appointed By	Manager
Pioneer Sports & Entertainment, LLC	Jeremy McDonald
Spellman Performance LLC	Todd Buchner
Spellman Performance LLC	Les Spellman

EXHIBIT C
Spousal Consent

I, _____, the spouse of _____, who is a Member of _____, a limited liability company (the "Company"), hereby sign this "Spousal Consent", and understand and agree to the following:

1. I have read the Company's _____ dated _____ (the "Agreement"), to which the form of this Spousal Consent is attached, and understand the provisions of the Agreement relating to the contributions of cash or property to the Company, the purchase, sale, or other disposition of any Member's membership interest in the Company, and management of the Company and Company property.

2. I recognize that the community property laws of certain jurisdictions – including the U.S. states of Louisiana, Arizona, California, Texas, Washington, Idaho, Nevada, New Mexico, and Wisconsin – may provide me with community property rights in property acquired during the marriage, including my spouse's interest in the Company, and that community property rights may frustrate the intentions of the other Member or other parties to the Agreement.

3. I am aware that, under the Agreement, my spouse has agreed to certain restrictions on my spouse's ability to sell my spouse's membership interest (also referred in Agreement as "Percentage Interest") as more fully described in the Agreement.

4. I hereby consent to each and every provision or restriction set forth in the Agreement and approve all of the provisions of the Agreement.

5. I hereby designate and appoint my spouse – which appointment is coupled with an interest and hereby declared irrevocable – as my true and lawful attorney-in-fact for all purposes of the Agreement, including without limitation, to act for and bind me in all Company matters and affairs.

6. If I and my spouse divorce or our marriage is otherwise legally dissolved, I will transfer and sell any interest that I have or may acquire in the Company to my spouse for fair market value and a court may award any such interest to my spouse as part of the legal division of our property. The previous sentence is not intended waive or relinquish any community property right that I have in the Company, but to agree to accept other property or assets of substantially equivalent value as part of any property settlement agreement or other legal division of property upon dissolution of my marriage.

7. I agree not to transfer or bequeath any community property interest that I have in the Company – by will, trust, or any other testamentary disposition – to anyone other than my current spouse. Any residuary clauses in any will or trust shall not include any interest I have or may acquire in the Company.

8. This Spousal Consent is binding on my heirs, executors, administrators, and assigns.

9. I am aware that this Spousal Consent involves issues of limited liability company and community property law that may be complex. I acknowledge that I am free to seek independent legal or financial counsel regarding this Spousal Consent. I have either sought the advice of independent counsel or, after carefully reading the Agreement, am satisfied with its terms without seeking the advice of independent counsel. I understand and have received full disclosure of the rights that I am agreeing to waive under this Agreement.

10. I knowingly and voluntarily intend to be bound by the Spousal Consent and hereby agree that any and all interest I may have in the Company – by community property laws or otherwise – shall be governed by the terms of the Agreement and this Spousal Consent.

11. This Spousal Consent applies to the Agreement as it currently exists and to any subsequent amendments, restatements, or other changes to the Agreement as may be agreed upon by the parties to the Agreement. I agree that my spouse may join in any amendment, restatement, or other change to the Agreement without any further signature, acknowledgment, agreement, or consent on my part or notice to me.

My signature is effective on the date signed below.

Date: _____

Signature

Print Name



202464512792

B3177-7791 11/07/2024 8:44 AM Received by California Secretary of State



STATE OF CALIFORNIA
Office of the Secretary of State
REGISTRATION
OUT-OF-STATE LIMITED LIABILITY COMPANY
California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

For Office Use Only

-FILED-

File No.: 202464512792

Date Filed: 11/7/2024

Limited Liability Company Name	Pioneer Sports Performance, LLC
Jurisdiction Limited Liability Company is Formed in	FLORIDA
Authority Statement	This LLC currently has powers and privileges to conduct business in the state, foreign country or other jurisdiction entered above.
Street Address of Principal Office of LLC Principal Address	446 W PLANT ST WINTER GARDEN, FL 34787
Mailing Address of LLC Mailing Address Attention:	PO BOX 770310 WINTER GARDEN, FL 34777 Jeremy McDonald
Street Address of California Office of LLC Street Address of California Office	None
Agent for Service of Process	☒ I certify the selected California Registered Corporate Agent (1505) has agreed to serve as the Agent for Service of Process for this entity. California Registered Corporate Agent (1505) CORPORATE CREATIONS NETWORK INC. Registered Corporate 1505 Agent
Consent to Service of Process	The Secretary of State is appointed as the agent of the foreign (out-of-state) limited liability company for service of process if the agent has resigned and has not been replaced or if the agent cannot be found or served with the exercise of reasonable diligence. Consent to service of process extends to service of process directed to the foreign (out-of-state) limited liability company's agent in this state for a search warrant issued pursuant to California Penal Code section 1524.2, or for any other validly issued and properly served search warrant, for records or documents that are in the possession of the foreign (out-of-state) limited liability company and are located inside or outside of this state. This shall apply to a foreign (out-of-state) limited liability company that is a party or a nonparty to the matter for which the search warrant is sought. For purposes of this consent "properly served" means delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, facsimile, or any other means specified by the foreign (out-of-state) limited liability company, including email or submission via an Internet Web portal, the foreign (out-of-state) limited liability company has designated for the purpose of service of process.
Electronic Signature	☒ By signing, I affirm under penalty of perjury that the information herein is true and correct and that I am authorized to sign on behalf of the out-of-state LLC. Jeremy McDonald 11/07/2024 Signature Date



Department of State

I certify from the records of this office that PIONEER SPORTS PERFORMANCE, LLC, is a limited liability company organized under the laws of the State of Florida, filed on November 6, 2024.

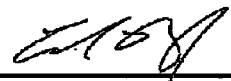
The document number of this company is L24000469759.

I further certify that said company has paid all fees due this office through December 31, 2024, and its status is active.

Authentication Code: 124A00024494-110724-L24000469759-1/1



Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Seventh day of November, 2024


Secretary of State