

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

In re:

The Cliffs Club & Hospitality Group, Inc., *et al.*,<sup>1</sup> d/b/a The Cliffs Golf & Country Club,

Debtors.

CHAPTER 11

Case No. 12-01220

Joint Administration Pending

**MOTION FOR ENTRY OF ORDER ESTABLISHING CERTAIN NOTICE, CASE  
MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

COME NOW The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases, as debtors and debtors in possession (collectively, the “Debtors”), and hereby file this motion (the “Motion”), pursuant to section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Rules 1015(a), 2002 and 9007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rules 2002-1 (a), 2081-2(e), 4001-1, 9013-1-4 and 9014-1 of the Local Rules for the United States Bankruptcy Court for the District of South Carolina (the “Local Rules”) and the United States Bankruptcy Court for the District of South Carolina Operating Order 08-07, *Guidelines for the Filing of Documents*, dated as of December 31, 2008 (the “Operating Order”), seeking entry of an order, in substantially the form attached hereto as Exhibit A, establishing certain notice, case management and administrative procedures for the administration of their chapter 11 cases. In

<sup>1</sup> The Debtors, followed by the last four digits of their respective taxpayer identification numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. (6338); CCHG Holdings, Inc. (1356); The Cliffs at Mountain Park Golf & Country Club, LLC (2842); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898); The Cliffs at High Carolina Golf & Country Club, LLC (4293); The Cliffs at Glassy Golf & Country Club, LLC (6559); The Cliffs Valley Golf & Country Club, LLC (6486); Cliffs Club & Hospitality Service Company, LLC (9665).

support of this Motion, the Debtors respectfully submit the following:

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

### **PROCEDURAL HISTORY**

2. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing the above-captioned bankruptcy cases (the "Chapter 11 Cases").

3. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases, and no official committees have been appointed or designated. Concurrently with the filing of this Motion, the Debtors have sought procedural consolidation and joint administration of the Chapter 11 Cases. In addition, concurrently with this Motion, the Debtors have filed a motion seeking designation as Complex Chapter 11 Cases in accordance with Local Rule 2081-2.

4. A description of the Debtors' businesses, the reasons for filing these Chapter 11 cases, and the relief sought from this Court to allow for a smooth transition into operations under Chapter 11 are set forth in the Declaration of Timothy P. Cherry in Support of First Day Motions (the "Cherry Declaration"), filed contemporaneously herewith.

**RELIEF REQUESTED**

5. By this Motion, the Debtors seek authority to implement certain notice, case management and administrative procedures (as such may be modified or amended, the “Case Management Procedures”) in connection with the administration of the Chapter 11 Cases. A copy of the Case Management Procedures is attached hereto as Schedule 1 to the proposed order granting this Motion. The Debtors request that, to the extent the Case Management Procedures conflict with or diverge from the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the order designating the Chapter 11 Cases as Complex Chapter 11 Cases entered in these cases or the Operating Order, the Case Management Procedures shall govern and supersede such provisions and rules.

6. Specifically, the Case Management Procedures establish, among other things, the following:

- a) Directing that all matters be heard at regular monthly omnibus hearings (the “Omnibus Hearings”) to be scheduled in advance by the Court;
- b) Establishing requirements for the filing and serving of all notices, motions, pleadings, applications, other requests for relief and all documents filed in support thereof, including any adversary proceedings commenced in connection with the Chapter 11 Cases, and the filing of any objections or replies thereto (all such documents, the “Filings”); and
- c) Establishing noticing procedures (the “Noticing Procedures”) for the Filings including directing that all Filings requiring notice under Bankruptcy Rule 2002(2)-(6) be served only to a shortened mailing list and authorizing electronic service of Filings.

7. The Debtors anticipate that they will have thousands of creditors, potential creditors and other parties in interest. Thus, they believe that hundreds of parties may request service of Filings pursuant to Bankruptcy Rule 2002 in the Chapter 11 Cases. The Debtors also expect that numerous motions and applications will be filed in the Chapter 11 Cases in pursuit of various forms of relief. As a result, the Debtors believe the Case Management Procedures are

necessary to streamline the administration of the Chapter 11 Cases and to promote efficiency and organization to the greatest extent possible.

8. The Debtors propose to serve the Case Management Procedures on the master service list (the “Master Service List”) maintained in accordance with the Case Management Procedures. The Debtors will also publish the Case Management Procedures on the website maintained by BMC Group, Inc. (“BMC” or the “Claims and Noticing Agent”), the Debtors’ claims and noticing agent, at [www.bmcgroup.com/cliffs.com](http://www.bmcgroup.com/cliffs.com). Additionally, the Case Management Procedures will be available by contacting BMC and the Debtors’ counsel. In the event that the Case Management Procedures are modified during the Chapter 11 Cases, the Debtors will redistribute the Case Management Procedures to the Master Service List.

#### **BASIS FOR RELIEF REQUESTED**

9. The Bankruptcy Code, the Bankruptcy Rules, and the Local Rules provide the Court upon request of the Debtors with ample authority to establish notice and case management procedures. In particular, Bankruptcy Rule 2002(a) provides that, unless otherwise ordered by the Court, notice of certain matters must be given to, among others, all of the Debtors’ creditors, equity security holders and other parties in interest. *See* FED. R. BANKR. P. 2002(a). The Bankruptcy Rules further provide that “[t]he court may from time to time enter orders designating the matters in respect to which, the entity to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules.” FED. R. BANKR. P. 2002(m); *see also* FED. R. BANKR. P. 9007 (“When notice is to be given under the rules, the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.”) In addition, Bankruptcy

Rule 1015(c) provides that the court may enter orders in cases that are jointly administered that may tend to avoid unnecessary costs and delay. See FED. R. BANKR. P. 1015(c).

10. Local Rule 2081-2(e) authorizes a debtor whose chapter 11 case is designated as “complex” to establish a shortened mailing list that will apply to various filings to the extent permitted by Bankruptcy Rule 2002, and further allows the debtor to make service upon such shortened list by electronic mail or facsimile, in lieu of first class mail. See SC LBR 2081-2(e).

11. Section 105(a) of the Bankruptcy Code grants bankruptcy courts broad authority and discretion to enforce the provisions of the Bankruptcy Code either under specific statutory grant or under equitable common law principles. Specifically, Section 105(a) provides that, “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Additionally, Section 102(1) of the Bankruptcy Code states that where the Bankruptcy Code provides for an action to occur “after notice and a hearing,” such action may occur “after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances.” 11 U.S.C. § 102(1)(A).

12. The Debtors submit that approval of the Case Management Procedures is in the best interests of the Debtors, their estates and their creditors, and is well within the Court’s equitable powers under the applicable Bankruptcy Rules and sections of the Bankruptcy Code. As explained above, these cases are large and complex, are expected to be fast-moving, and involve many creditors and parties in interest. Because of the size and complexity of the cases, the Debtors believe that the establishment of the Case Management Procedures is necessary to promote the efficient and orderly administration of the Chapter 11 Cases. Many of these parties may have various issues of concern that may be brought to this Court for redress. By scheduling

regular, monthly Omnibus Hearings in advance and requiring that all matters be heard at Omnibus Hearings, this Court will facilitate the Debtors' reorganization efforts by enabling parties in interest, and certainly the Debtors, to prepare for and present motions in an orderly and timely manner and to schedule attendance at hearings. This will reduce the need for emergency hearings and requests for expedited relief, and will foster consensual resolution of important matters. The costs and burdens associated with the possibility of numerous, fragmented hearings, plus the costs associated with copying and mailing or otherwise serving all Filings to parties without the limitations proposed herein, will impose an administrative and economic burden on the Debtors' estates, this Court and other parties in interest.

13. Early notice to all parties in interest of Omnibus Hearings will enable parties to plan efficiently for the use of hearing time, and parties in interest will still have the opportunity to bring true emergency matters before the Court on an expedited basis pursuant to the Local Rules and the Case Management Procedures. Moreover, the nature of the Debtors' financial difficulties has placed significant demands on the Debtors and their personnel and professionals. In addition to the discharge of their ordinary duties, the Debtors' personnel now carry the additional burdens imposed by the commencement of the Chapter 11 Cases. The Case Management Procedures, by authorizing the Debtors to schedule Omnibus Hearing dates, by establishing clear timelines and requirements for Filings, and by allowing, with certain exceptions, electronic service, will assist the Debtors' management in organizing the Debtors' time and directing the attention of its personnel to issues raised in the Chapter 11 Cases.

14. Moreover, by directing that certain notices be mailed only to a shortened mailing list and those creditors who file a request with the Court to receive such notices, under these proposed Case Management Procedures, all parties in interest will be assured of receiving

appropriate notice of matters affecting their interests and ample opportunity to prepare for and respond to such matters. Thus, no party will be adversely affected by such procedures. Furthermore, a shortened mailing list will significantly reduce the substantial administrative and financial burden that would otherwise be placed on the Debtors' estates.

15. Allowing electronic service of Filings according to the requested procedures will further reduce the administrative and financial burden of the Chapter 11 Cases on the Debtors' estates, as well as on other serving parties, and will in many cases allow for a more expedient service of Filings. As the Court is aware, the Court's Electronic Filing System (the "CM/ECF") makes the legal fiction that the clerk's office is always open a reality because Filings can be filed and accessed 24 hours a day, 7 days a week. *See* FED. R. BANKR. P. 5001. Further, all registered CM/ECF parties on the Master Service List, as well as all other parties in interest that may be directly affected by the relief sought in a particular Filing, will receive notice of such Filing directly from the party submitting such documents to the Court well in advance of the hearing on the matter. All parties in these cases who are registered participants in the Court's CM/ECF system will receive a "Notice of Electronic Filing" via electronic mail whenever a filing is effected, which will provide additional notice to such parties. Although electronic mail is nearly universally available, if a party cannot reasonably obtain access to email, then such party may seek an exemption pursuant to the Case Management Procedures to receive paper copies. Therefore, no party will be adversely affected by the proposed email service set forth herein.

16. Notice procedures are routinely granted by bankruptcy courts in large chapter 11 cases in this jurisdiction and others so as to reduce the expense of the administration of the estates. *See, e.g., In re BI-LO, LLC*, Case No. 09-2140 (HB) (Bankr. D.S.C. 2009); *In re*

*Landmark Land Co. of Carolina, Inc.*, Case No. 91-05814 (Bankr. D.S.C. 1991); *In re Patriots Point Assocs., a South Carolina Limited Partnership*, Case No. 88-03797 (Bankr. D.S.C. 1988); *In re Heritage Vill. Church and Missionary Fellowship, Inc. a/k/a PTL*, Case No. 87-01956 (Bankr. D.S.C. 1987); *In re Sea Pines Plantation*, Case No. 86-03801 (Bankr. D.S.C. 1986); *In re Tower Auto., Inc.*, Case No. 05-10578 (ALG) (Bankr. S.D.N.Y. 2005); *see also In re Kmart Corp.*, Case No. 02-02474 (SPS) (Bankr. N.D. 111. 2002); *In re Comdisco, Inc.*, Case No. 01-24795 (RB) (Bankr. N.D. Ill. 2001).

### **NOTICE**

17. Notice of this Motion has been provided to: (a) the Office of the United States Trustee for the District of South Carolina; (b) counsel to the Indenture Trustee (as defined in the Cherry Declaration); (c) counsel to the DIP Lender (as defined in the Cherry Declaration); (d) the Debtors' fifty (50) largest unsecured creditors (on a consolidated basis); (e) those persons who have formally appeared in the these bankruptcy cases and requested service pursuant to Bankruptcy Rule 2002; and (f) all applicable government agencies to the extent required by the Bankruptcy Rules and the Local Rules. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is required.

WHEREFORE, the Debtors respectfully request that the Court enter an order, in substantially the form attached hereto as Exhibit A, (a) establishing the Case Management Procedures for the administration of the Chapter 11 Cases, a copy of which is attached hereto as Schedule 1, to the Proposed Order; and (b) granting such other and further relief to which the Debtors may be justly entitled.



Dated: February 28, 2012

Respectfully submitted,

/s/ Däna Wilkinson

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/s/ J. Michael Levengood

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**EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

Case No. 12-01220

**ORDER ESTABLISHING CERTAIN NOTICE, CASE MANAGEMENT AND  
ADMINISTRATIVE PROCEDURES**

The relief set forth on the following pages, for a total of 18 pages including this page is hereby **ORDERED**.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

In re:

The Cliffs Club & Hospitality Group, Inc., *et al.*,<sup>1</sup> d/b/a The Cliffs Golf & Country Club,

Debtors.

CHAPTER 11

Case No. 12-01220

Joint Administration Pending

ORDER ESTABLISHING CERTAIN NOTICE, CASE MANAGEMENT AND  
ADMINISTRATIVE PROCEDURES

Upon the motion (the "Motion")<sup>2</sup> of The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases (the "Debtors") for entry of an order establishing certain notice, case management and administrative procedures for the administration of their chapter 11 cases (the "Order"); it appearing that the relief requested herein is in the best interests of the Debtors' estates, their creditors and other parties in interest; and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that notice of the Motion and opportunity for a hearing on the Motion was appropriate under the circumstances and that no other or further notice with respect to the Motion need be

<sup>1</sup> The Debtors, followed by the last four digits of their respective taxpayer identification numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. (6338); CCHG Holdings, Inc. (1356); The Cliffs at Mountain Park Golf & Country Club, LLC (2842); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898); The Cliffs at High Carolina Golf & Country Club, LLC (4293); The Cliffs at Glassy Golf & Country Club, LLC (6559); The Cliffs Valley Golf & Country Club, LLC (6486); Cliffs Club & Hospitality Service Company, LLC (9665).

<sup>2</sup> Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Motion.

given; and after due deliberation and sufficient cause appearing therefore, it is HEREBY ORDERED:

1. The Motion is granted.
2. The Case Management Procedures, attached hereto as Schedule 1, are approved in their entirety.
3. All notices, motions, pleadings, applications, other requests for relief and all documents filed in support thereof, including any adversary proceedings commenced in connection with the Chapter 11 Cases, and any objections or relies thereto (all such documents, the "Filings") shall be filed in accordance with the Case Management Procedures.
4. All Filings shall, except as otherwise provided herein, be served in the manner described herein on (a) the chambers of the Judge assigned to preside over the Chapter 11 Cases, and (b) the parties listed on the Master Service List (as defined in the Case Management Procedures) at the time.
5. The Bankruptcy Code, the Bankruptcy Rules, the Local Rules and the Operating Order shall apply to the Chapter 11 Cases, except to the extent they conflict with the Case Management Procedures.
6. Nothing herein shall affect the Debtors' obligation to give notice to all creditors, parties in interest, and, where applicable, equity security holders of the meeting of creditors, the dismissal or conversion of the Debtors' Chapter 11 Cases to another chapter, the time fixed to accept or reject a proposed plan of reorganization, the time fixed for filing proofs of claim as required by Bankruptcy Rule 2002(a), the time fixed for filing objections to and the hearing on the disclosure statement and the plan of reorganization required by Bankruptcy Rule 2002(b), or

entry of an order confirming the plan of reorganization. In addition, the Debtor shall be required to comply with the notice requirements of Bankruptcy Rules 2002(d), 4006 and 4007.

7. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

8. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 7062 and 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

10. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

AND IT IS SO ORDERED.

**Prepared and presented by:**

/s/ Däna Wilkinson

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**SCHEDULE 1**



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

In re:

The Cliffs Club & Hospitality Group, Inc., *et al.*,<sup>1</sup> d/b/a The Cliffs Golf & Country Club,

Debtors.

CHAPTER 11

Case No. 12-01220

Joint Administration Pending

**NOTICE, CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

These notice, case management and administrative procedures (the “Case Management Procedures”) have been approved by the United States Bankruptcy Court for the District of South Carolina (the “Court”) for the chapter 11 cases (the “Chapter 11 Cases”) of the above-captioned debtors (the “Debtors”) pursuant to the *Order Establishing Certain Notice, Case Management and Administrative Procedures* (the “Order”) entered by the Court on \_\_\_\_\_, 2012 [Docket Entry No. \_\_\_\_\_].

Anyone may obtain a copy of the Order, as well as any document filed with the Court in the Chapter 11 Cases, by (a) accessing the website maintained by BMC Group, Inc. (“BMC”), the Debtors’ claims and noticing agent, at [www.bmcgroup.com/cliffs.com](http://www.bmcgroup.com/cliffs.com) (the “Case Website”); (b) contacting BMC directly by telephone at 1.888.909.0100; or (c) accessing PACER on the Court’s website at <https://ecf.scb.uscourts.gov/> for a fee. Finally, paper copies of all pleadings filed in the Chapter 11 Cases may be available from the Court.

<sup>1</sup> The Debtors, followed by the last four digits of their respective taxpayer identification numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. (6338); CCHG Holdings, Inc. (1356); The Cliffs at Mountain Park Golf & Country Club, LLC (2842); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898); The Cliffs at High Carolina Golf & Country Club, LLC (4293); The Cliffs at Glassy Golf & Country Club, LLC (6559); The Cliffs Valley Golf & Country Club, LLC (6486); Cliffs Club & Hospitality Service Company, LLC (9665).

**A. Omnibus Hearing Dates and Procedures Related Thereto.**

1. *All Matters to be Heard at Omnibus Hearings.* The Court shall schedule periodic omnibus hearings to consider all motions, pleadings, applications, objections and responses thereto, and other requests for relief (the "Omnibus Hearings"). The following shall be considered or heard only at the Omnibus Hearings unless the Court orders otherwise: all motions, pleadings, applications and other requests for relief, all objections and responses and replies thereto, and all other matters (collectively, the "Filings"). All Filings that purport to set a hearing on a date or time at which no Omnibus Hearing is set shall automatically, and without Court order, be scheduled to be heard at the next Omnibus Hearing that is at least twenty-one (21) calendar days after such Filing is filed and served in accordance with these Case Management Procedures. In such a case, the Debtor shall send a copy of the Case Management Procedures within three business days of the filing of such Filing to the applicable filing party.

2. *Setting Omnibus Hearings.*

- a. *Initial Omnibus Hearings.* The first three Omnibus Hearings shall be held on the following dates and times:
  - i. \_\_\_\_:\_\_\_\_ a.m./p.m. on the \_\_\_\_ day of \_\_\_\_\_, 2012
  - ii. \_\_\_\_:\_\_\_\_ a.m./p.m. on the \_\_\_\_ day of \_\_\_\_\_, 2012
  - iii. \_\_\_\_:\_\_\_\_ a.m./p.m. on the \_\_\_\_ day of \_\_\_\_\_, 2012
- b. *Subsequent Omnibus Hearings.* At or before the last Omnibus Hearing set forth above, the Debtors shall request that the Court schedule additional Omnibus Hearings. The Court shall schedule such Omnibus Hearings and, upon scheduling, BMC shall post the date of the Omnibus Hearings on the Case Website. Entities may contact BMC for information concerning all scheduled Omnibus Hearings
- c. *Emergency Scheduling Procedures.* Notwithstanding any procedure set forth herein, nothing herein shall restrict any party from requesting an emergency hearing pursuant to and in accordance with Local Rule 9013-1.

3. *Procedures regarding the Omnibus Hearings.* The following procedures will apply unless the Court orders otherwise:

- a. Debtors' counsel, together with the consent of any affected party or parties may, without leave of the Court, unless the Court orders otherwise, adjourn any matter to a subsequent fixed Omnibus Hearing date.
- b. Debtors' counsel may propose to schedule matters filed by another party on a date other than the next Omnibus Hearing date if the Debtors in good faith believe that the hearing on the particular matter could exceed one hour, subject to any affected party or parties right to seek a different date than that proposed by the Debtors' counsel.
- c. Upon request, the Court may allow counsel to listen to an Omnibus Hearing by telephone. If a matter is contested, counsel must attend in person, unless leave of the Court is granted on a case by case basis.

4. *Scheduling of Evidentiary Hearings.* In the event an objection is made to a Filing, the hearing on such motion or application shall be an evidentiary hearing at which witnesses may testify, unless the parties otherwise agree that any such hearing shall not be an evidentiary hearing.

5. *Proposed Omnibus Hearing Agenda.* The Debtors shall prepare Omnibus Hearing agendas in accordance with the following:

- a. Two (2) business days prior to each Omnibus Hearing, Debtors' counsel shall file with the Court and serve on the Master Service List (as defined below) and on any Affected Parties (as defined below) a proposed agenda with regard to the matters that are scheduled to be heard on such Omnibus Hearing (the "Proposed Hearing Agenda"). The Proposed Hearing Agenda is for the convenience of the Court and counsel and is not determinative of the matters to be heard on that day or whether there will be a settlement or a continuance.
- b. The Proposed Hearing Agenda will include, to the extent known by Debtors' counsel: (i) the docket number and title of each matter to be scheduled for hearing on such Omnibus Hearing, including the initial filing and any responses, replies or documents related thereto; (ii) whether the matters are contested or uncontested; (iii) whether the matters have settled or are proposed to be continued; (iv) other comments that will assist the Court; and (v) a suggestion for the order in which the matters should be addressed.

**B. Notice Procedures.**

6. *Procedures Established for Notices.* All Filings required to be served pursuant to Bankruptcy Rules 2002(a)(2)-(6) shall be filed with the Court or other applicable court and served in accordance with the notice procedures set forth herein (the "Notice Procedures").

7. *Definition of Entities Entitled to Service.* All Filings shall be served on the Master Service List, the 2002 List and Affected Entities (each as defined hereinafter and collectively referred to as the "Service List") according to the Notice Procedures described herein. Filings shall be deemed not to have been properly served until served on all parties on the Service List.

- a. *Master Service List.* BMC shall maintain a master service list (the "Master Service List"), which shall be updated weekly. An updated Master Service List shall be made available by (1) accessing the Case Website; (2) contacting BMC directly; or (3) contacting the Debtors' counsel directly. The Master Service List shall include the following parties:
  - i. The Office of the United States Trustee for the District of South Carolina;
  - ii. The Debtors and their counsel;
  - iii. the Debtors' DIP Lender, and its counsel;
  - iv. Wells Fargo, N.A., as Indenture Trustee, and its counsel;
  - v. The members and counsel to any official committee of creditors appointed in the Chapter 11 Cases, and, until such appointment, the creditors holding the fifty (50) largest unsecured claims against the Debtors' estates (on a consolidated basis) filed pursuant to Bankruptcy Rule 1007(d);
  - vi. The Internal Revenue Service; and
  - vii. The Securities and Exchange Commission.
- b. *2002 List.* This group shall be comprised of all entities that have filed a request for service of filings pursuant to Bankruptcy Rule 2002.

- i. *Filing Requests for Documents Requires Email Address.* A request for service of papers pursuant to Bankruptcy Rules 2002 (each, a “2002 Notice Request”) filed with the Court shall be deemed proper if and only if it includes the following information with request to the party filing such request: (a) name; (b) street address; (c) name of client(s), if applicable; (d) telephone number; (e) facsimile number; and (f) electronic mail (or email) address. If a 2002 Notice Request fails to include an email address and a Certification (defined below), the Debtors shall forward a copy of these Case Management Procedures to such party within five (5) business days specifically requesting an email address.
- ii. *Certification Opting Out of Email Service.* Any individual or entity filing a 2002 Notice Request who does not maintain (and cannot practicably obtain) an email address and thereafter cannot receive service by email must include in the 2002 Notice Request a certification to that effect (the “Certification”). The Certification shall include a statement certifying that the individual or entity (a) does not maintain an email address and (b) cannot practicably obtain an email address at which the individual or entity could receive service by email. If no email address or no Certification is provided in response to such request, such party shall not be added to the 2002 List and shall not be served with copies of pleadings and documents filed in these cases unless such pleadings and/or documents directly affect such party.
- iii. *2002 Notice List.* BMC shall be responsible for maintaining an updated list of those who have submitted a proper 2002 Notice Request (the “2002 List”). At least every fifteen (15) days during the first sixty (60) days of the Debtors’ Chapter 11 Cases, and thereafter at least every thirty (30) days, BMC shall maintain and update the 2002 List by: (a) making any additions and deletions; (b) filing the updated 2002 List; (c) serving the updated 2002 List on the parties listed thereon; (d) filing a proof of service; and (e) simultaneously with the filing of the 2002 List, posting an updated version of the 2002 List on the Case Website.
- iv. *Updates to 2002 Information.* It is the responsibility of each entity submitting a 2002 Notice Request to file with the Court an updated 2002 Notice Request as necessary to reflect changes to any information, including email address and/or contact person and serve a copy of such request

upon the Debtors and BMC. Nothing herein shall affect the obligation of parties to verify their address in connection with filing documents on the CM/ECF system in accordance with Local Rule 2002-1 (a).

- c. *Affected Entities.* This group shall be comprised of all entities with a particularized interest in the subject matter of the Filing (each, an "Affected Entity").

8. *Service of Motions on Affected Entities.* With respect to Filings for which particular notices are required to be served on all creditors and parties in interest, including Bankruptcy Rules 2002(a)(2) and (3), 4001, 6004, 6007 or 9019, parties shall serve all such Filings, at a minimum, on the Service List and the following Affected Parties by electronic mail or otherwise (if an exemption is granted) unless otherwise ordered by the Court —

- a. in the case of any use, sale, lease or abandonment of substantially all of the Debtors' property, on each entity asserting an interest in that property;
- b. in the case of a motion for relief or modification of the automatic stay, on each entity asserting a lien or encumbrance on the affected property;
- c. in the case of a motion relating to the use of cash collateral or obtaining credit, each party asserting an interest in the cash collateral or a lien or other interest in property upon which a lien or encumbrance is proposed to be granted;
- d. in the case of a motion under Bankruptcy Rule 9019, all parties that are parties to the relevant compromise and settlement or that may be directly affected by such compromise or settlement;
- e. in the case of assumption, assignment or rejection of an executory contract or an unexpired lease, each party to the executory contract or the unexpired lease;
- f. any objection, opposition, response, reply or further document filed directly in response to a document shall be served on the entity who filed such document; and
- g. all matters for which the Bankruptcy Rules specifically require notice to all parties in interest shall be served on all parties in interest unless otherwise directed by the Court.

9. *Exceptions to Noticing Procedures.* Except as set forth herein or otherwise provided by order of the Court, the Notice Procedures shall not affect the Debtors' obligation to provide notice to all creditors, parties in interest and, where applicable, equity security holders of the matters or proceedings described in the following Bankruptcy Rules:

- a. Bankruptcy Rule 2002(a)(1) (meeting of creditors pursuant to § 341 of the Bankruptcy Code);
- b. Bankruptcy Rule 2002(a)(2) (any proposed use, sale or lease of property of the estate other than in the ordinary course of business, to the extent that such use, sale or lease concerns all or substantially all of the Debtors' assets);
- c. Bankruptcy Rule 2002(a)(4) (hearing on the dismissal of a case or cases or the conversion of a case to another chapter);
- d. Bankruptcy Rule 2002(a)(5) (time fixed to accept or reject a proposed modification of a chapter 11 plan);
- e. Bankruptcy Rule 2002(a)(7) (time fixed for filing a proof of claim pursuant to Bankruptcy Rule 3003(c));
- f. Bankruptcy Rule 2002(b)(1) (time fixed for filing objections and any hearing to consider approval of a disclosure statement);
- g. Bankruptcy Rule 2002(b)(2) (time fixed for filing objections and any hearing to consider confirmation of a chapter 11 plan);
- h. Bankruptcy Rule 2002(d) (certain matters for which notice is to be provided to equity security holders);
- i. Bankruptcy Rule 2002(f)(1) (entry of an order for relief);
- j. Bankruptcy Rule 2002(f)(2) (dismissal or conversion of a case to another chapter of the Bankruptcy Code);
- k. Bankruptcy Rule 2002(f)(3) (time allowed for filing claims pursuant to Bankruptcy Rule 3002);
- l. Bankruptcy Rule 2002(f)(6) (waiver, denial or revocation of a discharge as provided in Bankruptcy Rule 4006);
- m. Bankruptcy Rule 2002(f)(7) (entry of an order confirming a chapter 11 plan); and

- n. Bankruptcy Rule 2002(f)(8) (summary of the trustee's final report and account should a case be converted to chapter 7 of the Bankruptcy Code).

10. *Certificates of Service.* Certificates of service of all Filings, including a Service List, shall be filed with the Court in accordance with Local Rule 9013-3 within three (3) business days of each Filing; provided, however, that notwithstanding Local Rule 9013-3, parties shall not be required to include the Service List when serving Filings.

11. *Serving Adversary Proceedings.* All Filings in any adversary proceeding commenced in the Chapter 11 Cases shall be served upon each Affected Entity and any other entities required to be served under any applicable Bankruptcy Rule or Local Rule, including but not limited to, Fed. R. Bankr. P. 7004.

**C. Filing Procedures; Deadlines for the Filing of Responsive Pleadings.**

12. *Form of Filings.* All documents must conform to and be filed in accordance with the Operating Order. The notice accompanying any Filing shall include the title of the pleading, the time and date of the objection deadline (as determined below), and the Omnibus Hearing date (or other hearing date, as ordered by the Court) at which the party intends to present the Filing if an objection or response is filed. In accordance with Local Rule 9013-1, all Filings, if applicable, must be filed with a proposed order that should conform to the Operating Order.

13. *Filing Deadline.* Except as otherwise provided by the Bankruptcy Code, the Bankruptcy Rules or herein, the Debtors propose that for a Filing (other than a motion for relief from the automatic stay pursuant to 11 U.S.C. § 362(d)) to be heard at the next-scheduled Omnibus Hearing, a movant or applicant must file with this Court and serve such Filing at least ten (10) days prior to the next-scheduled Omnibus Hearing (the "Filing Deadline"), provided, however, if such Filing is served by mail, then the movant or applicant must file with this Court and mail such Filing at least thirteen (13) days prior to the next-scheduled Omnibus Hearing.



Except as otherwise ordered by the Court, if such Filing is filed and served (by electronic mail, hand delivery, overnight courier or facsimile) fewer than ten (10) days prior to the next-scheduled Omnibus Hearing, the Debtors request that the hearing with respect to such Filing take place at the next Omnibus Hearing thereafter. If such Filing is filed and served by mail fewer than thirteen (13) days prior to the next scheduled Omnibus Hearing, the hearing with respect to such Filing shall take place at the next Omnibus Hearing thereafter. The filing deadlines do not require three additional days notice as set forth in Rule 6(e) of the Federal Rules of Civil Procedure (made applicable to contested matters indirectly by Bankruptcy Rule 9014(b) and to adversary proceedings by Bankruptcy Rule 7005(b)(2)(D)), and Bankruptcy Rule 9006(f)) when a document is served by electronic mail, including service, via the CM/ECF system.

14. *Shortened Time for Motions.* In the event that a party cannot comply with the Filing Deadline, the Debtors propose that such party be permitted to shorten the Filing Deadline and have a Filing heard on the next Omnibus Hearing Date if and only if, for cause shown, this Court shortens such deadline.

15. *Scheduling of Automatic Stay Motions.* Unless this Court orders otherwise, for good cause shown, when the Filing is a motion for relief from the automatic stay pursuant to 11 U.S.C. § 362(d) and when such motion is filed with the Court and served (regardless of manner of service) more than fourteen (14) days before the upcoming Omnibus Hearing, then the preliminary hearing date for such matter shall be set for such upcoming Omnibus Hearing. When the Filing in such matter is filed and served (regardless of manner of service) fewer than fourteen (14) days before the upcoming Omnibus Hearing, then the preliminary hearing for such matter shall be set for the Omnibus Hearing following the upcoming Omnibus Hearing. Except

as specifically set forth herein, all other procedures for such motions shall otherwise conform to Local Rule 4001-1 and the Bankruptcy Rules.

16. *Filing and Service of Objections, Replies and Other Responsive Pleadings.*

- a. *Deadline for Objections.* In the event that a Filing is a motion or application for relief, any objection shall be filed with the Court and served so as to be actually received by the moving party: (1) on the seventh (7th) calendar date before the applicable Omnibus Hearing (or such other date upon which the Court will consider the Filing) if the Filing is filed and served (regardless of manner of service) at least twenty-one (21) days prior to the applicable Omnibus Hearing Date; (2) on the third (3rd) calendar date or the second (2nd) business date, whichever date occurs first, before the applicable Omnibus Hearing (or such other date upon which the Court will consider the Filing) if the Filing is filed and served (regardless of manner of service) fewer than twenty-one (21), but at least ten (10) days prior to, the applicable Omnibus Hearing; or (3) as otherwise ordered by this Court. For motions that are set on an expedited basis and less than ten (10) days after the request for relief is filed, the Objection Deadline shall be by 12:00 p.m. (Eastern Time) on the business day preceding the hearing date. Failure to file objections by the Objection Deadline may cause the Court to not consider the objection.
- b. *Form of Objection.* The objection shall conform to the requirements set forth in Local Rule 9014-1.
- c. *Failure to File Objection.* The relief requested in the Filing may be granted without a hearing if no objection is timely filed.
- d. *Extension of Objection Deadline.* The Objection Deadline may be extended with the consent of the entity filing the request for relief to a date that is no later than three (3) days before the applicable Omnibus Hearing.
- e. *Adversary Proceedings.* All initial Filings, complaints, and other pleadings filed in any adversary proceeding commenced in these cases shall be served on (1) counsel to the Debtors, (2) the Office of the United States Trustee, (3) counsel to any statutory committees appointed in the Chapter 11 Cases, (4) counsel to the Indenture Trustee, (5) counsel to the DIP Lender and (6) any parties required to be served under any applicable Bankruptcy Rule or Local Rule.
- f. *Service of Objections.* All objections, responses, or statements in support of Filings as well as any replies thereto (collectively "Objections") shall be filed with the Court by the applicable Objection Deadline and served on the counsel who served such Filings plus (1) counsel to the Debtors, (2) the Office of the United States Trustee, (3) counsel to any statutory

committees appointed in the Chapter 11 Cases, (4) the Master Service List, (5) each Affected Entity, with such Affected Entities to be determined based on the particular Filing being served, and (6) any parties required to be served under any applicable Bankruptcy Rule or Local Rule, provided that all such Objections are served so as to be actually received by such parties on or prior to the applicable Objection Deadline as set forth herein.

- g. *Service of Replies to Objections.* If a Filing is a reply to an Objection, such reply shall be filed with the Court and served so as to actually be received by the Debtors, the United States Trustee, those parties on the Master Service List, the parties filing Objections and each Affected Entity, in all cases by 12:00 p.m. (Eastern Time) at least one (1) business day before the applicable Omnibus Hearing.

17. *Right to Request Special Notice Procedures.* Nothing herein shall prejudice the right (a) of any entity to move the Court to further limit or expand notice of contested matters and adversary proceedings upon a showing of good cause, including without limitation the right to file a motion seeking emergency ex parte relief or relief upon shortened notice or (b) of any entity to request an enlargement or reduction of any time period under Bankruptcy Rules 9006(b) or 9006(c).

18. *Use of Passive Notice.* Nothing in these Case Management Procedures shall affect the applicability of Local Rule 9013-4 in the Chapter 11 Cases, which authorizes a moving party to seek entry of an order approving certain enumerated Filings without a hearing if no objection or response to such Filing is filed; provided however, that notwithstanding anything in Local Rule 9013-4, should an Objection to a Filing be filed, the hearing on such matter shall be scheduled in accordance with these Case Management Procedures.

19. *Section 342 Notice Requirements.* Any notice sent by the Debtors or any other party in interest shall be deemed to comply with the requirements set forth in section 342(c)(1) of the Bankruptcy Code so long as the notice is accompanied by an insert containing the name,

address and last four digits of the taxpayer identification number of each of the Debtors in the Chapter 11 Cases.

**D. Service by Electronic Mail**

20. *Service by Electronic Mail.* All Filings shall be electronically served via the CM/ECF system, other than service of a summons and complaint in an adversary proceeding or documents filed under seal, which shall be deemed to constitute proper service for all parties who are sent such email service. Subject to the limited exclusions set forth herein, each party that has filed a notice of appearance and a request for service of papers shall be deemed to have consented to electronic service of papers. A party filing a Filing that is served on entities via the CM/ECF system has no further obligation for service of such Filing with respect to such entities to be proper.

21. *Form of Documents Served by Email.* All documents served by email shall provide either a copy of the document or a link to access the entire document, including the proposed form(s) of order and any exhibits, attachments, or other materials in “.pdf” format, readable by Adobe Acrobat or other equivalent document reader program commonly available without cost. Email service shall also include a copy of or a link to the current Service List.