

**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**

**Jointly Administered**

**JOINT CHAPTER 11 PLAN  
FILED BY THE DEBTORS AND THE PLAN SPONSOR**

**MAY 22, 2012**

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<sup>1</sup> The Debtors, followed by the last four digits of their respective taxpayer identification numbers and Chapter 11 case numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. (6338) (12-01220); CCHG Holdings, Inc. (1356) (12-01223); The Cliffs at Mountain Park Golf & Country Club, LLC (2842) (12-01225); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319) (12-01226); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879) (12-01227); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230) (12-01229); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898) (12-01230); The Cliffs at High Carolina Golf & Country Club, LLC (7576) (12-01231); The Cliffs at Glassy Golf & Country Club, LLC (6559) (12-01234); The Cliffs Valley Golf & Country Club, LLC (6486) (12-01236); and Cliffs Club & Hospitality Service Company, LLC (9665) (12-01237).

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## INTRODUCTION

This joint chapter 11 plan (as amended or modified hereafter in accordance with its terms, the “Plan”), dated May 22, 2012, is proposed by The Cliffs Club & Hospitality Group, Inc., CCHG Holdings, Inc., The Cliffs at Mountain Park Golf & Country Club, LLC, The Cliffs at Keowee Vineyards Golf & Country Club, LLC, The Cliffs at Walnut Cove Golf & Country Club, LLC, The Cliffs at Keowee Falls Golf & Country Club, LLC, The Cliffs at Keowee Springs Golf & Country Club, LLC, The Cliffs at High Carolina Golf & Country Club, LLC, The Cliffs at Glassy Golf & Country Club, LLC, The Cliffs Valley Golf & Country Club, LLC, and Cliffs Club & Hospitality Service Company, LLC, the affiliated debtors in the above-captioned Chapter 11 Cases, as debtors and debtors in possession, together with the Plan Sponsor. Reference is made to the Disclosure Statement accompanying the Plan for a discussion of the Debtors’ history, business, results of operations, historical financial information, properties, projections for future operations and risk factors, a summary and analysis of the Plan, and certain related matters. The Debtors and the Plan Sponsor are the proponents of the Plan within the meaning of section 1129 of the Bankruptcy Code.

In summary, provided the Plan is Confirmed by the Bankruptcy Court and becomes effective, the Allowed Claims held by creditors of the Debtors will receive Distributions and be deemed satisfied through consideration provided to the Debtors and undertakings by the Plan Sponsor in exchange for a transfer of substantially all assets of the Debtors to entities owned in whole or in part, and managed by, the Plan Sponsor. In general, the Plan provides that: (i) the Allowed Secured Claims of the Note Holders represented by the Indenture Trustee will be satisfied through a combination of (x) a modification of the terms of the Notes to provide for repayment of the principal amount of \$64,050,000, without interest, in twenty (20) annual payments beginning on the one year anniversary of the Effective Date in the amount of the greater of \$1 million or 50% of New ClubCo Net Cash Flow and with a balloon payment of the remaining principal, if any, at maturity, all paid through the Indenture Trustee to the Note Holders subject to the terms of the Notes and Indenture, as may be modified and amended, and (y) the modification of the Prepetition Facility Documents, including without limitation, the Pledge and Security Agreement and the Collateral Trust Agreement to subordinate the Liens of the Indenture Trustee to the Exit Facility and the Mountain Park Facility, after which the Debtors will transfer the Real Property Collateral and substantially all other property of the Debtors to the Plan Sponsor, subject only to the Permitted Liens and otherwise free and clear of all liens, claims and encumbrances, followed by the Plan Sponsor’s and/or Indenture Trustee SPE’s execution of the Exit Facility and the Mountain Park Facility, and then the Plan Sponsor shall contribute these assets to the Indenture Trustee SPE, subject to the Permitted Liens, in return for a 100% economic and managing membership interest in the Indenture Trustee SPE (the Indenture Trustee will hold a 0% non-economic membership interest in the Indenture Trustee SPE), and the Indenture Trustee SPE will assume the modified Notes, all in satisfaction of the Note Holder Claims against the Debtors and the Guarantors of the Note Holder Claims, as well as against NewCo or New ClubCo arising under the Notes or the Notes as modified and amended, after which the Indenture Trustee SPE will enter into the Lease(s) with New ClubCo (or its subsidiary entities, at the sole option and in the sole discretion of New ClubCo) and New ClubCo, in turn, may enter into subleases with its subsidiaries or affiliates; (ii) the DIP Facility will be repaid by

the Plan Sponsor in full, in Cash, on the Effective Date in full and final satisfaction, settlement and release of such DIP Facility Claims; (iii) the Allowed Secured Claim of the Bridge Lender represented by the Indenture Trustee will be satisfied on the Effective Date by the Plan Sponsor; (iv) the Plan Sponsor will, in conjunction with the Debtors, undertake commercially reasonable efforts to obtain substantially all other property used by the Debtors in connection with the operation of the Clubs, receipt of which is a condition to the Plan Sponsor's obligation to close the transaction contemplated herein, and, upon receipt of title to such assets, will contribute that title to the Indenture Trustee SPE, subject to the Permitted Liens and otherwise free and clear of all liens, claims and encumbrances; and (v) the Liquidating Trust will be formed, and the Plan Sponsor will either pay or transfer to the Liquidation Trustee amounts sufficient to satisfy Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Mechanic's Lien Claims, Allowed Other Senior Secured Party Claims and Allowed Administrative Convenience Claims in full (not otherwise paid by the Debtors or the Plan Sponsor on or before the Effective Date), together with General Unsecured Claims Sponsor Funding (payable in three annual installments), and the Rejecting Member Fund, while the Debtors will transfer to the Liquidation Trustee the Retained Actions, with such transfers to be free and clear of all liens, claims and encumbrances for the purpose of making Distributions to Creditors who will be the beneficiaries of the Liquidating Trust.

Club Members in good standing may elect between two options for Distribution towards their claims, either: (i) new membership in New ClubCo, which, through eight subsidiary entities, will adopt the New ClubCo Membership Plan and will offer memberships to Club Members in good standing and to new members; or (ii) absent an affirmative election in conjunction with Plan voting, treatment as a Rejecting Club Member Claim. A Club Member's election to join New ClubCo will constitute full and final satisfaction and waiver of any and all Claims against the Debtors including Rejection Claims. As more specifically provided in the New ClubCo Membership Plan, every rejoining Club Member will pay a one-time Transfer Fee, which will be used toward satisfaction of the Exit Costs, and will thereafter be responsible for Annual Dues. Rejoining Club Members who were not in good standing on the Plan Effective Date will also pay a one-time Membership Reinstatement Fee if such Rejoining Club Members wish to reinstate their membership initiation deposit Claims in accordance with the Vesting Schedule and the New ClubCo Membership Plan. If Transfer Fees exceed Exit Costs, Rejoining Club Members will receive back their pro rata share of any excess in the form of Dues Credits. If such Exit Costs exceed the total amount of the Transfer Fees, then the Plan Sponsor will fund such excess Exit Costs through the Equity Infusion and then, if there remain unsatisfied Exit Costs, through the Exit Facility. Every rejoining Club Member who joins within 30 days after the Effective Date and pays the applicable Transfer Fee and Reinstatement Fee will be entitled to Distributions to be applied to repayment of the initiation deposit they paid to the Debtors prior to the Bankruptcy Cases in accordance with the Vesting Schedule and the New ClubCo Membership Plan.

No refund or resigned list designation for Member Deposit Obligations will carry over from the Debtors to the New ClubCo Membership Plan.

The New Clubs will operate the Clubs and complete the Mountain Park golf course. The Plan Sponsor pursuant to the Mountain Park Facility will provide funds for that completion.



ALL CREDITORS OF AND HOLDERS OF INTERESTS IN THE DEBTORS ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN SECTION 1127 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3019 AND THE PLAN, THE DEBTORS (WITH THE CONSENT OF THE PLAN SPONSOR) RESERVE THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

Capitalized terms used herein shall have the meanings set forth in Article I hereof. At the request of the Debtors, the Bankruptcy Court has entered an Order to jointly administer the Chapter 11 Cases. Accordingly, the Plan is being proposed as a joint plan of the Debtors and the Plan Sponsor. Claims against, and Interests in, the Debtors (other than the DIP Facility Claim, Administrative Claims and Priority Tax Claims) are classified in Article II hereof and the treatment thereof is described in Article III hereof.

## **ARTICLE I DEFINITIONS, INTERPRETATION AND EXHIBITS**

Section 1.01 Definitions. Unless the context requires otherwise, the following terms shall have the following meanings whether presented in the Plan or the Disclosure Statement with initial capital letters or otherwise. As used herein:

“Accepting Club Member Claims” means all Club Member Claims held by Members In Good Standing who indicate on their Ballot an election of the New Club Membership Option, and, on or before the Effective Date, (i) enter into the New ClubCo Membership Plan, (ii) pay the applicable Transfer Fee; and (iii) commit to pay the Annual Dues for the first year following the Effective Date.

“Access Fees” means, subject to adjustment, a fee charged to any owner of a lot who had not previously been a Club Member, or any purchaser of such a lot, to become a member of New ClubCo, calculated as 8% of the gross purchase price attributable to the sale of such lot, provided, however, that as to any lot in which NewCo or any insider or affiliate of NewCo holds an interest, payment of Access Fees shall not commence until the Resolution Date.

“Acquired Assets” means all assets of all of the Debtors other than those assets that constitute Excluded Assets under the Asset Purchase Agreement.

“Adequate Protection Claims” means all liens and claims of the Prepetition Senior Secured Parties granted pursuant to the Cash Collateral Order or subsequent order of the Bankruptcy Court.

“Administrative Claim” means a Claim for: (a) any cost or expense of administration (including, without limitation, the fees and expenses of Professionals) of the Chapter 11 Cases asserted or arising under sections 503, 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy Code including, but not limited to (i) any actual and necessary post-Petition Date cost or expense of preserving the Debtors’ Estates or operating the business of the Debtors, (ii) any post-Petition

Date cost, indebtedness or contractual obligation duly and validly incurred or assumed by any of the Debtors in the ordinary course of its business, (iii) compensation or reimbursement of expenses of Professionals to the extent Allowed by the Bankruptcy Court under sections 327, 328, 330, 331, 503 or 1103 of the Bankruptcy Code, and (iv) all Allowed Claims that are entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court under section 546 of the Bankruptcy Code; (b) any fees or charges assessed against the Debtors' Estates under section 1930 of title 28 of the United States Code; and (c) any Allowed administrative claim or superpriority claim granted to the Prepetition Senior Secured Parties pursuant to the Financing Order.

“Administrative Claim Bar Date” means the first Business Day that is thirty (30) days following the Effective Date, and in the case of Professional Fee Claims the first Business Day that is sixty (60) days following the Effective Date, except as specifically set forth in the Plan or a Final Order.

“Administrative Convenience Claims” means Holders of Allowed General Unsecured Claims, other than claims of Club Members arising from or associated with their membership in one or more Clubs, within the Convenience Class Cap.

“Administrative Convenience Claims Fund” means the amount of the Allowed Administrative Convenience Claims to be paid on the Effective Date by the Plan Sponsor to the Liquidation Trustee.

“Advisory Board” means the current and past members of the advisory board established pursuant to the Stockholders Agreement dated April 30, 2010 entered into by and between The Cliffs Club & Hospitality Group, Inc. and CCHG Holdings, Inc. and not the advisory board contemplated by the Club Membership Agreement.

“Affiliate” shall have the meaning set forth in section 101(2) of the Bankruptcy Code.

“Allowed” means, with reference to any Claim, (a) any Claim against the Debtors that has been listed by the Debtors in the Schedules, as such Schedules may have been amended by the Debtors from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent, and with respect to which no contrary proof of claim has been filed, (b) any Claim specifically allowed under the Plan, (c) any Claim the amount or existence of which has been determined or allowed by a Final Order, (d) any contingent Claim by a Club Member to any Membership Deposit Obligations in the amounts specified in any of the Debtors' Schedules, or (e) any Claim as to which a proof of claim has been timely filed before the Bar Date (or the Administrative Claim Bar Date if an Administrative Claim), provided that at the time of the Effective Date the Debtors have not identified such Claim as being objectionable in part or in whole and no objection to the allowance thereof has been filed by the Claims Objection Deadline; provided, however, that the term Allowed, with reference to any Claim, shall not include (x) any unliquidated claim or (y) interest or attorneys' fees on or related to any Claim that accrues from and after the Petition Date unless otherwise expressly provided for in the Plan.

“Allowed Claim” means a Claim that is Allowed.

“Allowed Interest” means an Interest that is Allowed.

“Annual Dues” means, for the first year following the Effective Date and subject to adjustment thereafter, \$10,380 for Active Golf, \$5,280 for General Sports, and \$3,720 for Active Wellness. There are two additional sub-classifications in each level. These are Home Golf at \$9,340, Flex Golf at \$8,300, Active Sports at \$6,340, Limited Sports at \$4,225, General Wellness at \$2,975 and Social Wellness at \$1,860. Certain dues exceptions may apply as provided in the New ClubCo Membership Plan.

“Asset Purchase Agreement” means that certain Asset Purchase Agreement between the Debtors and the Plan Sponsor that will be attached as an Exhibit to a Plan Supplement.

“Assumed Contracts” means those certain executory contracts and unexpired leases to be assumed by the Debtors and assigned to the Plan Sponsor as set forth on the Schedule of Assumed Contracts identified in Exhibit 1 hereto or as it may be attached to and/or amended in any Plan Supplement.

“Assumed Liabilities” means those liabilities of the Debtors assumed by the Plan Sponsor pursuant to the Asset Purchase Agreement.

“Avoidance Actions” means any and all Causes of Action which a trustee, the Debtors in possession, the Estates or other appropriate party in interest with standing, including the Liquidation Trustee, may assert under sections 502, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code (other than those which are released or dismissed as part of and pursuant to the Plan) or under other similar or related state or federal statutes or common law, including fraudulent conveyance laws.

“Ballot” means the forms of ballots accompanying the Disclosure Statement upon which Holders of Impaired Claims and Interests entitled to vote on the Plan shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the instructions regarding voting and on which Club Members and holders of Claims arising under Club Membership Agreements may elect to receive an Accepting Club Member Claim.

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as in effect on the Petition Date, together with all amendments and modifications thereto that subsequently may be made applicable to the Chapter 11 Cases.

“Bankruptcy Court” means the United States Bankruptcy Court for the District of South Carolina, Spartanburg Division, or, if such court ceases to exercise jurisdiction over these proceedings, the court or adjunct thereof that exercises jurisdiction over the Chapter 11 Cases.

“Bankruptcy Rules” means: (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under section 2075 of title 28 of the United States Code; (b) the Federal Rules of Civil Procedure, as amended and promulgated under section 2072 of title 28 of the United States Code; (c) any local rules applicable to the Bankruptcy Court; and (d) any standing orders governing practice and procedure issued by the

Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Chapter 11 Cases or proceedings therein, as the case may be.

“Bar Date” means the applicable bar date by which a proof of Claim must be, or must have been, Filed, as established by an order of the Bankruptcy Court, which is May 31, 2012 for non-governmental claims and August 28, 2012 for governmental claims pursuant to the Order entered on April 10, 2012 at Docket No. 278.

“Bidding Procedures” means the bidding procedures approved by the Court by Order entered in the Chapter 11 Cases on March 16, 2012 at Docket No. 182.

“Bridge Lender” means SP 50 Investments, Ltd.

“Bridge Loan” means the advances by the Bridge Lender to the Indenture Trustee in the aggregate amount of \$2,000,000 and thereafter advanced by the Indenture Trustee to the Debtors, all pursuant to that certain Amended and Restated Agreement Relating to Bridge Loan executed by the Indenture Trustee, the Debtors and the Bridge Lender on or about February 21, 2012.

“Bridge Loan Documents” those agreements and documents that evidence the respective obligations of parties to the Bridge Loan, including that certain Amended and Restated Agreement Relating to Bridge Loan executed by the Indenture Trustee, The Cliffs Club & Hospitality Group, Inc., and the Bridge Lender, on or about February 21, 2012 (as in effect on the date hereof).

“Business Day” means any day which is not a Saturday, a Sunday, a “legal holiday” as defined in Bankruptcy Rule 9006(a), or a day on which banking institutions in the State of South Carolina are authorized or obligated by law, executive order or governmental decree to be closed.

“Carlile Development” means Carlile Development Company, LLC, the DIP Lender and the stalking horse bidder for Plan Sponsorship rights under the Bidding Procedures, to which Cliffs Club Partners is successor.

“Cash” means money, currency and coins, negotiable checks, balances in bank accounts and other lawful currency of the United States of America and its equivalents.

“Cash Collateral Order” means the Interim Order entered in the Chapter 11 Cases on March 5, 2012 at Docket No. 98 and the Final Order entered in the Chapter 11 Cases on March 16, 2012 at Docket No. 180, authorizing and approving the Debtors’ use of cash collateral pursuant to section 363 of the Bankruptcy Code and granting adequate protection to the Indenture Trustee.

“Causes of Action” means any and all actions, claims, rights, defenses, third-party claims, damages, executions, demands, crossclaims, counterclaims, suits, choses in action, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims whatsoever, whether known, unknown, reduced to judgment, not reduced

to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly, indirectly or derivatively, at law, in equity or otherwise, accruing to the Debtors.

“Chapter 11 Cases” means the jointly administered cases under chapter 11 of the Bankruptcy Code commenced by the Debtors in the Bankruptcy Court on the Petition Date.

“Claim” shall have the meaning set forth in section 101(5) of the Bankruptcy Code.

“Claim Caps” means: Allowed (i) Professional Fees and Administrative Claims and the amount due on the DIP Facility shall not in the aggregate exceed \$7,771,000 plus cash on hand; (ii) Priority Claims shall not exceed \$1,250,000 (exclusive of certain accrued but not yet payable real property taxes which will be paid by the Plan Sponsor as and when due); (iii) Mechanic’s Liens shall not exceed \$1,850,000 and (iv) Cure Amounts shall not exceed \$925,000.

“Claims Objection Deadline” means the latest of: (a) 120 days after the Effective Date; or (b) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clause (a) above.

“Class” means each class of Claims or Interests as classified in Article II of the Plan.

“Cliffs Club Partners” means Cliff Club Partners, LLC, which as the successor to Carlile Development is the Plan Sponsor.

“Cliffs Community” means a Cliffs residential development that adjoins and is served by one of the Clubs.

“Closing” means the Closing as defined in the Asset Purchase Agreement.

“Club Member” means a Person who as of the Record Date is a current or resigned member of one or more of the Clubs.

“Club Member Claim” means a Claim held by a Club Member relating to any Club Membership Agreement, including for Membership Deposit Obligations and credits. For the avoidance of doubt, a Note Holder may hold both a Club Member Claim and a Note Holder Claim.

“Club Membership Agreements” means all agreements entered into by one of more of the Debtors or any predecessor or Affiliate of the Debtors with Club Members relating to the Debtors’ golf, family, wellness and other membership programs including, without limitation, any honorary membership agreement and the Membership Deposit Obligations.

“Clubs” means the golf and country clubs, as of the Petition Date owned or operated by any of the Debtors, some of which are not yet complete, which operate under the names, The Cliffs at Glassy Golf & Country Club, The Cliffs Valley Golf & Country Club, The Cliffs at Keowee Springs Golf & Country Club, The Cliffs at Keowee Vineyards Golf & Country Club, The Cliffs at Keowee Falls Golf & Country Club, The Cliffs at Walnut Cove Golf & Country

Club, The Cliffs at Mountain Park Golf & Country Club and The Cliffs at High Carolina Golf & Country Club.

“Collateral Trust Agreement” means that certain Collateral Trust Agreement dated April 30, 2010 that provided for a security interest on a subordinated basis for certain Membership Deposit Obligations as defined in the Collateral Trust Agreement owed to the Note Holders.

“Committee” means the official committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to section 1102(a) of the Bankruptcy Code by the United States Trustee, as the membership of such committee is from time to time constituted and reconstituted.

“Committee Members” mean the members of the Committee.

“Confirmation” or “Confirmed” means the entry by the Bankruptcy Court of the Confirmation Order.

“Confirmation Date” means the date on which the Confirmation Order is entered on the docket of the Bankruptcy Court with respect to the Chapter 11 Cases within the meaning of Bankruptcy Rules 5003 and 9021.

“Confirmation Hearing” means the hearing held before the Bankruptcy Court to consider Confirmation of the Plan pursuant to sections 1128 and 1129 of the Bankruptcy Code.

“Confirmation Order” means the order entered by the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, which shall be acceptable in form and substance to the Plan Sponsor.

“Consummation Date” means the date on which the Liquidation Trustee makes the final Distribution of the General Unsecured Claims Fund in accordance with the Plan or such earlier date as the Liquidation Trustee determines that the Plan has been substantially consummated.

“Convenience Class Cap” means Allowed General Unsecured Claims less than or equal to One Thousand Dollars (\$1,000).

“Creditor” means any Person that is the Holder of any Claim against any of the Debtors.

“CRO” means Katie S. Goodman whose appointment as Chief Restructuring Officer by the Debtors was approved by the Court in the Chapter 11 Cases by Interim Order entered on March 6, 2012 at Docket No. 102 and by Final Order entered on March 16, 2012 at Docket No. 175.

“Cure Amounts” means all amounts that must be paid and all obligations that otherwise must be satisfied, including pursuant to Sections 365(b)(1)(A) and (B) of the Bankruptcy Code, in connection with the assumption and/or assignment of the Assumed Contracts to the Plan Sponsor as provided in the Asset Purchase Agreement as and to the extent provided on Schedule 1 hereto, in any Plan Supplement, or as otherwise ordered by the Bankruptcy Court.

“Day(s)” means, unless expressly otherwise provided, calendar day(s).

“Debtor” means any one of the Debtors.

“Debtors” means the following entities (followed by the last four digits of their respective taxpayer identification numbers and Chapter 11 case numbers): The Cliffs Club & Hospitality Group, Inc. (6338) (12-01220); CCHG Holdings, Inc. (1356) (12-01223); The Cliffs at Mountain Park Golf & Country Club, LLC (2842) (12-01225); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319) (12-01226); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879) (12-01227); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230) (12-01229); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898) (12-01230); The Cliffs at High Carolina Golf & Country Club, LLC (7576) (12-01231); The Cliffs at Glassy Golf & Country Club, LLC (6559) (12-01234); The Cliffs Valley Golf & Country Club, LLC (6486) (12-01236); and Cliffs Club & Hospitality Service Company, LLC (9665) (12-01237).

“DIP Credit Agreement” means that certain Debtor in Possession Loan and Security Agreement by and among the Debtors and the DIP Lender dated as of February 29, 2012 (as the same may be amended, restated, supplemented or otherwise modified from time to time pursuant to the terms thereof).

“DIP Facility” means the DIP Revolving Loans.

“DIP Facility Claim” means the DIP Lender’s Claim for repayment of the DIP Facility.

“DIP Lender” means Carlile Development in its capacity as lender under the DIP Loan Documents.

“DIP Loan Documents” means the DIP Credit Agreement together with any related documents and instruments delivered pursuant to or in connection therewith.

“DIP Revolving Commitment” means \$7,500,000.

“DIP Revolving Loans” means that certain super priority non-amortizing revolving credit facility in an aggregate principal amount not to exceed the DIP Revolving Commitment.

“Disallowed” means, with respect to any Claim or Interest or portion thereof, any Claim against or Interest in the Debtors which: (a) has been withdrawn, in whole or in part, by agreement of the Debtors, the Reorganized Debtor or the Liquidation Trustee, as applicable, and the Holder thereof; (b) has been withdrawn, in whole or in part, by the Holder thereof; or (c) has been disallowed, in whole or part, by Final Order of a court of competent jurisdiction. In each case a Disallowed Claim or a Disallowed Interest is disallowed only to the extent of disallowance or withdrawal.

“Disallowed Claim” means a Claim, or any portion thereof, that is Disallowed.

“Disallowed Interest” means an Interest, or any portion thereof, that is Disallowed.

“Disclosure Statement” means the Disclosure Statement for the Joint Chapter 11 Plan filed by the Debtors and the Plan Sponsor dated May 22, 2012, including all exhibits, appendices, schedules and annexes, if any, attached thereto, as submitted by the Debtors, as the

same may be altered, amended, supplemented or modified from time to time, which was prepared and distributed in accordance with sections 1125 and 1126(b) of the Bankruptcy Code and Bankruptcy Rule 3018, and which shall be acceptable in form and substance to the Plan Sponsor.

“Disputed” means any Claim or Interest that has been neither Allowed nor Disallowed.

“Disputed Claim” means a Claim, or any portion thereof, that is Disputed. For purposes of the Plan, a Claim that has been neither Allowed nor Disallowed shall be considered a Disputed Claim.

“Disputed Interest” means an Interest, or any portion thereof, that is Disputed. For purposes of the Plan, an Interest that has been neither Allowed nor Disallowed shall be considered a Disputed Interest.

“Distribution” means any distribution by the Debtors or the Liquidation Trustee to a Holder of an Allowed Claim or Interest.

“Distribution Date” means (i) the Initial Distribution Date, and (ii) the Business Day in which any subsequent Distribution occurs and continuing until the Final Distribution Date; provided, however, that a Distribution Date (other than the Initial Distribution Date and the Final Distribution Date) shall not occur if the aggregate value of the consideration to be distributed on account of all Allowed Claims on such Distribution Date is less than \$1,000, in which case the amount to be distributed shall be retained and added to the amount to be distributed on the next Distribution Date.

“D&O Releasees” means those current and former directors, members, and managers of the Debtors or of the Parents, in each case as of the Petition Date or that have become directors, members, or managers thereafter but prior to the Effective Date, but only to the extent each such party agrees, via execution of an agreement (the form of which will be included as an exhibit to a Plan Supplement), to forever release, waive and discharge any and all Claims, obligations, suits, judgments, remedies, damages, demands, debts, rights, causes of action, and liabilities whatsoever (other than a Note Holder Claim or Club Member Claim) against the Debtors, the Estates, the Liquidating Trust, the Liquidation Trustee, the Indenture Trustee, the Negotiating Group, the Advisory Board, the Plan Sponsor or any of its members, partners, shareholders or affiliates, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence, taking place on or prior to the Effective Date in any way relating to the Plan Sponsor or any of its members, partners, shareholders or affiliates, the Debtors, the Estates, the conduct of the Debtors’ business, the Chapter 11 Cases, the Plan, the Liquidating Trust or the Liquidation Trustee.

“Dues Credits” means credits against Annual Dues for Excess Transfer Fees.

“Effective Date” means the first Business Day following the date on which all conditions to consummation set forth in Article IX of the Plan have been satisfied or waived (if capable of



being duly and expressly waived in accordance with Section 9.03 of the Plan), provided that no stay of the Confirmation Order is then in effect.

“Entity” means any individual, corporation, limited or general partnership, joint venture, association, joint stock company, limited liability company, estate, trustee, United States Trustee, unincorporated organization, government, governmental unit (as defined in the Bankruptcy Code), agency or political subdivision thereof.

“Equity Infusion” means payments by NewCo to New ClubCo as capital contributions and not loans from and after the Effective Date to fund the following: (i) an amount not to exceed the Maximum Exit Equity Infusion necessary to satisfy the Exit Costs to the extent the Exit Costs exceed the Transfer Fees; (ii) \$1,000,000 to fund the Reserve Account; (iii) plan of reorganization payment obligations to trade and other unsecured creditors not constituting Exit Costs; (iv) capital improvements for new facility construction, but not for repair, maintenance or improvements of existing facilities; (v) negative operating cash flow; and (vi) any shortfall in New ClubCo’s operating revenues needed to satisfy the annual rent obligations to the Indenture Trustee SPE.

“Estates” means the estates created in the Chapter 11 Cases pursuant to section 541 of the Bankruptcy Code upon commencement of the Chapter 11 Cases.

“Excess Transfer Fees” means the amount of Transfer Fees in excess of the amount of Exit Costs, if any.

“Excluded Assets” means those assets of the Debtors’ Estates that the Plan Sponsor is not acquiring pursuant to the Asset Purchase Agreement, including, but not limited to, the Retained Actions.

“Exculpated Persons” means: (a) directors, officers and employees of the Debtors, as of the Petition Date but prior to the Effective Date and the Debtors’ agents and professionals including, without limitation, the CRO and counsel for the Debtors, (b) the DIP Lender, (c) the Bridge Lender, (d) the Indenture Trustee, Negotiating Group and Advisory Board, (e) the Plan Sponsor, (f) the Committee and the Committee Members, (g) the Liquidation Trustee, and (h) to the extent that such parties are deemed to be Exculpated Persons, the respective current and former officers, directors, employees, agents, stockholders, managers, members, affiliates, partners, attorneys, advisors and professionals of the parties identified in subclauses (a) through (g).

“Exit Costs” means the aggregate of any and all payments that are made pursuant to this Plan on or about the Effective Date, including, but not limited to, payment of funds to satisfy the DIP Loan, the Bridge Loan, Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Other Senior Secured Party Claims, Allowed Mechanics’ Lien Claims, Administrative Convenience Claims Fund, Allowed Cure Claims, the first installment of General Unsecured Claims Fund, the Rejecting Member Fund, and the Post-Effective Date Administration Plan Sponsor Funding.

“Exit Facility” means a senior facility secured by all assets of New ClubCo, Indenture Trustee SPE and each of their respective subsidiary entities associated with ownership of assets or operation of the New Clubs, to be provided by NewCo to fund the Exit Costs to the extent that such Exit Costs exceed the sum of: (i) the Transfer Fees; and (ii) the Maximum Exit Equity Infusion, which shall be payable together with eight percent (8%) interest, from cash flow of New ClubCo prior to any allocation of New ClubCo Net Cash Flow to payments under the Lease other than the Guaranteed Minimum Lease Payment.

“File, Filed or Filing” means file, filed or filing with the Bankruptcy Court in the Chapter 11 Cases.

“Final Decree” means the final decree entered by the Bankruptcy Court after the Effective Date and pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022.

“Final Distribution” means the final Distribution by the Liquidation Trustee or by the Debtors to the Holders of Allowed Claims to the extent provided in accordance with this Plan.

“Final Distribution Date” means the Distribution Date on which the Final Distribution is made.

“Final Order” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket of such court, the operation or effect of which has not been stayed, reversed, vacated, modified or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal, petition for certiorari, or seek review or rehearing has expired and as to which no appeal, petition for certiorari, or petition for review or rehearing was filed or, if filed, remains pending; provided, however, that the possibility that a motion may be filed pursuant to Rules 9023 or 9024 of the Bankruptcy Rules or Rules 59 or 60(b) of the Federal Rules of Civil Procedure shall not mean that an order or judgment is not a Final Order.

“Financing Order” means the Order entered in the Chapter 11 Case on March 6, 2012 at Docket No. 99 and the Order entered in the Chapter 11 Case on March 16, 2012 at Docket No. 181, entered by the Bankruptcy Court permitting Debtor in possession financing pursuant to section 364 of the Bankruptcy Code, and any extensions or amendments thereof.

“General Unsecured Claims” means, collectively, Rejection Claims, Rejecting Non-Contingent Club Member Claims and any other Claim that is not an Administrative Claim, DIP Facility Claim, Priority Tax Claim, Professional Fee Claim, or an otherwise classified Claim.

“General Unsecured Claims Fund” means the General Unsecured Claim Plan Sponsor Funding.

“General Unsecured Claims Plan Sponsor Funding” means the funding provided by the Plan Sponsor to the Liquidation Trustee for the General Unsecured Claims Fund consisting of a \$953,867 payment on the Effective Date, which shall constitute an Exit Cost, and a \$953,867

payment on the first anniversary of the Effective Date as well as a \$953,867 payment on the second anniversary of the Effective Date, both of which shall be part of the Equity Infusion.

“Governmental Unit” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.

“Gross Revenues” shall mean all New ClubCo revenues (including, but not limited to, Access Fees, net Membership Initiation Fees, Annual Dues (net of Dues Credits), food & beverage, rental, golf, tennis, wellness, merchandise, and all other revenues).

“Guarantors” means CCHG Holdings, Inc., each of The Cliffs Club & Hospitality Group, Inc.’s subsidiaries, and James B. Anthony, individually, pursuant to Article X of the Indenture and the Debtors who are guarantors under any other documents.

“Guaranteed Minimum Lease Payment” means one million dollars (\$1,000,000) annually.

“Holder” means an Entity holding a beneficial interest in a Claim or Interest and, when used in conjunction with a Class or type of Claim or Interest, means a holder of a beneficial interest in a Claim or Interest in such Class or of such type.

“Impaired” means, when used with reference to a Claim or Interest, a Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

“Impaired Claim” means a Claim which is Impaired.

“Impaired Interest” means an Interest which is Impaired.

“Indenture” means that certain Indenture dated as of April 30, 2010 (as in effect on the date hereof) by and among The Cliffs Club & Hospitality Group, Inc., the Guarantors (as defined therein) and the Indenture Trustee, and the Note Holders.

“Indenture Trustee” means Wells Fargo Bank, National Association, in its capacity as indenture trustee under the Indenture and collateral trustee under the Pledge and Security Agreement and the Collateral Trust Agreement.

“Indenture Trustee SPE” means that certain Delaware limited liability company (with all the protections of a special purpose entity such that the Indenture Trustee SPE is a bankruptcy remote entity) formed by New ClubCo as managing member with a one hundred percent (100%) interest in profits and losses and the Indenture Trustee, or its designee, as a member with a zero percent (0%) interest in profits and losses, to receive title to all the Acquired Assets that the Indenture Trustee has a Lien on and all other real property related to the Clubs thereafter acquired, and to lease all such property to New ClubCo or subsidiary entities of New ClubCo (at New ClubCo's sole option and in its sole discretion) pursuant to one or more Leases.

“Initial Distribution Date” means the Effective Date or as soon as reasonably practical thereafter; provided, however, that in no event shall the Initial Distribution Date be more than sixty (60) days after the Effective Date unless otherwise ordered by the Bankruptcy Court.

“Interests” means any and all equity interests, ownership interests or member units in the Debtors issued by the Debtors prior to the Petition Date (including, without limitation, all capital stock, stock certificates, common stock, preferred stock, partnership interests, membership and other interests in a corporation or limited liability company, rights, options, warrants, contingent warrants, convertible or exchangeable securities, investment securities, subscriptions or other agreements and contractual rights to acquire or obtain such an interest or share in the Debtors, partnership interests in the Debtors’ stock appreciation rights, conversion rights, repurchase rights, redemption rights, dividend rights, preemptive rights and liquidation preferences, puts, calls or commitments of any character whatsoever relating to any such equity, ownership interests or shares of capital stock of the Debtors or obligating the Debtors to issue, transfer or sell any shares of capital stock) whether or not certificated, transferable, voting or denominated “stock” or a similar security, and any Claim or Cause of Action related to or arising from any of the foregoing.

“Lease(s)” means one or more non-recourse triple net lease(s) and/or sublease(s) between Indenture Trustee SPE, as landlord, and New ClubCo and/or one or more subsidiary entities of New ClubCo, as tenant and/or sublessor, substantially similar in form and substance to lease(s) and/or sublease(s) which will be attached as an exhibit to a Plan Supplement, which shall contain annual rent obligations equal to the greater of the Guaranteed Minimum Lease Payment or fifty percent (50%) of New ClubCo Net Cash Flow.

“Liens” means, with respect to any asset or Property (or the rents, revenues, income, profits or proceeds therefrom), and in each case, whether the same is consensual or nonconsensual or arises by contract, operation of law, legal process or otherwise: (a) any and all mortgages, liens, pledges, attachments, charges, leases that constitute a capital lease obligation, conditional sale or other title retention agreement, or other security interest or encumbrance or other legally cognizable security devices of any kind in respect of any asset or Property, or upon the rents, revenues, income, profits or proceeds therefrom; or (b) any arrangement, express or implied, under which any Property is transferred, sequestered or otherwise identified for the purpose of subjecting or making available the same for the payment of debt or performance of any other obligation in priority to the payment of general unsecured Creditors.

“Liquidating Trust” means the trust to be established in accordance with Section 5.04 of the Plan.

“Liquidating Trust Agreement” means the agreement to be executed between the Liquidation Trustee and the Debtors establishing the Liquidating Trust, which will be filed with a Plan Supplement and which shall be acceptable in form and substance to the Plan Sponsor.

“Liquidating Trust Documents” means the Liquidating Trust Agreement and any ancillary documents relating thereto, which shall be acceptable in form and substance to the Plan Sponsor.

“Liquidation Trustee” means the Katie S. Goodman who shall be the trustee of the Liquidating Trust.

“Management Fee” means an annual fee of four percent (4%) of Gross Revenues, payable to NewCo in connection with its general oversight and supervision of the operations, maintenance and finances of the Clubs.

“Maximum Equity Infusion” means an amount of money, which for the purpose of satisfying Exit Costs, will not exceed \$1.6 million.

“Mechanic’s Lien Claims” means a Claim with respect to which the Holder (a) holds a statutory lien under state law by virtue of compliance with the laws of the State of South Carolina or North Carolina, as applicable, including by filing a notice of lien and by commencing of litigation within the time periods required under applicable state law, or (b) was eligible on the Petition Date to hold a statutory lien under state law by virtue of compliance with the laws of the State of South Carolina or North Carolina, as applicable, because of the timely filing a notice of lien and whose deadline to commence an action had not passed as of the Petition Date.

“Member In Good Standing” means either: (i) a Club Member who, as of the Effective Date, holds an active membership and is current on all obligations for dues, fees or other obligations to the Debtors relating to membership in, or use of, the Clubs; or (ii) who exercised the Membership Reinstatement Option.

“Membership Deposit Obligations” means any obligation of one or more of the Debtors to refund all or a portion of the initiation deposit paid by a Club Member of any of the Debtors or a predecessor of the Debtors.

“Membership Initiation Fees” means new member Initiation Fees net of applicable refunds.

“Membership Reinstatement Fee” means a cash payment associated with exercise of the Membership Reinstatement Option for the applicable category of membership as follows: (i) Wellness - \$750; (ii) Family - \$1,500; and (iii) Golf –\$2,500.

“Membership Reinstatement Option” means the option allowed to a Club Member who, as of the Effective Date, does not hold an active membership or is not current on all obligations for dues, fees or other obligations to the Debtors relating to membership in, or use of, the Clubs to, within thirty (30) days following the Effective Date deliver to the New ClubCo the sum of the following: (i) all unpaid dues, fees, expenses and other obligations relating to membership in, or use of, the Clubs arising, accruing or coming due from and after the Petition Date; plus (ii) the applicable Membership Reinstatement Fee.

“Mountain Park Facility” means a facility of up to \$7.5 million (with an expected maximum of \$5 million) secured by all assets of New ClubCo, Indenture Trustee SPE and each of their respective subsidiary entities associated with ownership of assets or operation of the New Clubs, to be provided by NewCo for the purpose of funding golf course and amenity construction on what was Debtor owned property on the Effective Date at the Mountain Park golf course, which facility will be secured by liens senior to all liens other than those securing the Exit Facility and which shall be payable in full without interest from cash flow of New ClubCo prior

to any allocation of New ClubCo Net Cash Flow to payments under the Lease other than the Guaranteed Minimum Lease Payment.

“Negotiating Group” means the current and past members of the “Negotiating Group” established under the terms of the Proxy attached to the Advisory Board Notice to Note Holders dated as of February 13, 2012 in which the Advisory Board delegated its authority to the Negotiating Group to give direction to the Indenture Trustee with respect to certain matters as set forth in the Proxy.

“New ClubCo” means Cliffs Club Partners, LLC, the limited liability company that will operate the Clubs following the Effective Date, having as its sole member NewCo, and that will be the managing member of Indenture Trustee SPE.

“New ClubCo Dues Revenues” means an amount equal to sixteen million five hundred thousand dollars (\$16.5 million) annualized.

“New ClubCo Net Cash Flow” means all New ClubCo Revenues minus all disbursements (including, but not limited to, all personnel costs, general and administrative costs, utilities, leases, property taxes, maintenance, supplies, materials, payment of the Exit Facility, payment of the Mountain Park Facility, overhead-related and all other costs, Plan payments not the subject of a NewCo Equity Infusion, the Management Fee and capital expenses for any purpose other than construction of new facilities).

“New ClubCo Revenues” means all revenues of New ClubCo, all Access Fees received by NewCo, as well as revenues of lessees and sublessees New ClubCo engaged in operation of the Clubs (including, but not limited to, Access Fees, net Membership Initiation Fees, Annual Dues (net of Dues Credits), food & beverage, rental, golf, tennis, wellness, merchandise, and all other revenues).

“New Clubs” means the wholly owned limited liability companies of New ClubCo following the Effective Date.

“New Club Membership Option” means the option of the Holder of a Claim arising from a Membership Deposit Obligation of a Debtor to opt, as indicated on a Ballot, to receive, in full and final satisfaction of any and all claims (other than a Note Holder Claim) it may have against any of the Debtors, the treatment set forth in Article 3.13 of the Plan.

“New ClubCo Membership Plan” means that certain Membership Plan relating to memberships with New ClubCo, and ancillary documents and agreements therewith, including The Cliffs Clubs Master Membership Plan, The Cliffs Clubs Application and Membership Agreement For Historic Member, and Historic Member Addendum, that is attached hereto as Exhibit 2 or will be attached as an Exhibit to a Plan Supplement.

“NewCo” means The Cliffs Club Holdings, LLC.

“Note Holder Claim” means as of the Petition Date the aggregate amount of \$73,531,505 owed by the Debtors to approximately 535 Note Holders, plus any dues credit or subordinated security interest for any Membership Deposit Obligations.

“Note Holders” means, collectively, the holders of the Notes.

“Note Obligations” means the obligations created by the Notes and any of the other Note Documents, which as of the Petition Date totaled an amount not less than \$73,531,505, secured by the Prepetition Note Collateral.

“Notes” means, collectively, the Series A Notes and the Series B Notes, issued in the aggregate principal amount of \$64,050,000.

“Objection” means any objection, application, motion, complaint or any other legal proceeding seeking, in whole or in part, to Disallow, determine, liquidate, classify, reclassify or establish the priority, expunge, subordinate or estimate any Claim (including the resolution of any request for payment of any Administrative Claim) or Interest other than a Claim or an Interest that is Allowed.

“Ordinary Course Trade Claims” means all trade accounts payable incurred by the Debtors after the Petition Date in the ordinary course of business and outstanding as of the Effective Date.

“Parent” in the case of Debtor CCHG Holdings, Inc. means Cliffs Communities, Inc., in the case of Debtor The Cliffs Club & Hospitality Group, Inc. means CCHG Holdings, Inc., and in the case of the remaining Debtors means The Cliffs Club & Hospitality Group, Inc.

“Permitted Liens” means (a) those liens held by the Prepetition Senior Secured Parties and (b) those Liens that secure the Exit Facility and the Mountain Park Facility.

“Person” means and includes a natural person, individual, partnership, corporation (as defined in section 101(a) of the Bankruptcy Code), or organization including, without limitation, corporations, limited partnerships, limited liability companies, general partnerships, joint ventures, joint stock companies, trusts, land trusts, business trusts, unincorporated organizations or associations, or other organizations, irrespective of whether they are legal entities, governmental bodies (or any agency, instrumentality or political subdivision thereof), or any other form of legal entities; provided, however, “Person” does not include governmental units, except that a governmental unit that (a) acquires an asset from a Person (i) as a result of the operation of a loan guarantee agreement or (ii) as receiver or liquidating agent of a Person; (b) is a guarantor of a pension benefit payable by or on behalf of a Debtors or an Affiliate of a Debtors of; or (c) is the legal or beneficial owner of an asset of (i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986 or (ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986, shall be considered for purposes of section 1102 of the Bankruptcy Code to be a Person with respect to such asset or such benefit.

“Personal Property Collateral” means the personal property of the Debtors in which they granted security interests pursuant to the Pledge and Security Agreement to secure the Note Obligations.

“Petition Date” means February 28, 2012.

“Plan” means this Joint Chapter 11 Plan filed by the Debtors and the Plan Sponsor dated May 22, 2012, including all exhibits, appendices, schedules and annexes, if any, attached hereto, as submitted by the Debtors, including any Plan Supplement, as such Plan may be altered, amended, supplemented or modified from time to time in accordance with the terms hereof, provisions of the Bankruptcy Code and the provisions of the Bankruptcy Rules, the Confirmation Order and the terms and conditions of Section 12.04 of the Plan, and which shall be reasonably acceptable in form and substance to the Debtors and the Plan Sponsor.

“Plan Funding Sources” means the Transfer Fees, the Equity Infusion and the Exit Facility.

“Plan Sponsor” means New ClubCo, the party determined to be the highest and best bidder by the Debtors and the CRO in accordance with the Bidding Procedures.

“Plan Supplement” means the compilation of documents and forms of documents, schedules, attachments and exhibits to this Plan, to be filed by the Debtors following the filing of this Plan as set forth herein, each of which documents and other materials shall be reasonably acceptable in form and substance to the Debtors and the Plan Sponsor, as such Plan Supplement documents may be amended, modified, or supplemented from time to time and which shall include, but not be limited to, the following: (i) the Liquidating Trust Agreement, including any schedule of Retained Actions; (ii) the Liquidating Trust Documents; and (iii) any amended or supplemental Schedule of Assumed Contracts.

“Pledge and Security Agreement” means that certain Pledge and Security Agreement dated as of April 30, 2010 by the Debtors in favor of the Indenture Trustee.

“Post-Effective Date Administration Plan Sponsor Funding” means the sum of \$100,000 to be provided by the Plan Sponsor to the Liquidation Trustee on or about the Effective Date, for the payment of US Trustee Quarterly Fees coming due for any quarter after the quarter in which the Effective Date occurs, for the preparation and filing of post-Confirmation US Trustee Reports, and for the preparation and filing of any interim reports on substantive consummation of the Plan, the Final Report and the Application for Final Decree, which shall constitute an Exit Cost.

“Prepetition Facility Documents” means all ancillary documents executed or delivered in connection with the Indenture.

“Prepetition Loan Documents” means collectively the Indenture, the Notes and the Prepetition Bridge Loan Agreement, the Pledge and Security Agreement, the Mortgages, the Collateral Trust Agreement, and any other documents related to the Notes or the Prepetition Bridge Loan.



“Prepetition Note Collateral” means the Real Property Collateral and the Personal Property Collateral.

“Prepetition Senior Secured Parties” means the Indenture Trustee and any Holder of any properly filed lien regarding equipment that was leased or lease financed and that is senior to the liens of the Indenture Trustee as of the Petition Date; provided, however, it does not include any secured claim relating to the guaranty of an equipment lease or lease finance agreement.

“Priming Liens” means certain first-priority Liens granted to the DIP Lender, which are senior to those of the Bridge Lender and of the Indenture Trustee, and securing financing provided by the DIP Lender up to the DIP Revolving Commitment as provided more fully in the DIP Credit Agreement.

“Priority Tax Claim” means any and all Claims accorded priority in payment pursuant to section 507(a)(8) of the Bankruptcy Code.

“Pro Rata Share” means, with respect to any Claim, a proportionate share, so that the ratio of the consideration distributed on account of an Allowed Claim in a Class to the consideration distributed on account of all Allowed Claims in that Class is the same as the ratio such Claim bears to the total amount of all Allowed Claims in that Class (plus Disputed Claims in that Class until disallowed).

“Professional Fee Claim” means a claim for compensation and/or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503 or 1103 of the Bankruptcy Code relating to services incurred on and after the Petition Date and prior to and including the Effective Date in connection with an application made to the Bankruptcy Court by Professionals in the Chapter 11 Cases. Any Professional Fee Claim (including deferred compensation for services rendered after the Petition Date and prior to and including the Effective Date) that has not been paid by the Debtors as of the Effective Date shall be the joint and several responsibility of the Debtors and the Plan Sponsor.

“Professionals” means any professional employed in these Chapter 11 Cases pursuant to sections 327, 363 or 1103 of the Bankruptcy Code or any Professional entitled to compensation pursuant to sections 327, 328, 330, 331, 503(b)(2) or (4), or 1103 of the Bankruptcy Code.

“Property” means any and all assets or property of the Debtors’ Estates of any nature whatsoever, real or personal, tangible or intangible, including contract rights, accounts and Causes of Action, previously or now owned by the Debtors, or acquired by any of the Debtors’ Estates, as defined in section 541 of the Bankruptcy Code.

“Real Property Collateral” means the real property of the Debtors in which they granted a mortgage, deed of trust, or leasehold mortgage to the Indenture Trustee as collateral trustee to secure the Note Obligations.

“Record Date” means, (i) for purposes of making Distributions under this Plan on account of Allowed Claims, the Effective Date, and (ii) for purposes of casting Ballots, the date

set forth in the order approving the Disclosure Statement that accompanies this Plan (if no date is expressly provided, then the date of the order approving the Disclosure Statement).

“Reinstated or Reinstatement” means: (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim so as to leave such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code; or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim to demand or receive accelerated payment of such Claim after the occurrence of a default (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code; (ii) reinstating the maturity of such Claim as such maturity existed before such default; (iii) compensating the Holder of such Claim for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; and (iv) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitled the Holder of such Claim; provided, however, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim is based, including, but not limited to, financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation, and affirmative covenants regarding corporate existence or which prohibit certain transactions or actions contemplated by the Plan, or conditioning such transactions or action on certain factors, shall not be required to be reinstated in order to accomplish Reinstatement.

“Rejection Claims” means the claims of any non-Debtor counterparty to any unexpired lease of nonresidential real property or any executory contract (including, without limitation, Club Membership Agreements) arising on account of the rejection of such lease or executory contract during the administration of these Chapter 11 Cases under section 365 of the Bankruptcy Code or pursuant to the Plan.

“Rejecting Contingent Club Member Claims” means all Rejection Claims and other Claims of Club Members including, without limitation, for a Membership Deposit Obligation who (a) do not hold a Non-Contingent Claim for a Membership Deposit Obligation, and (b) do not (i) opt in their Ballot an election of the New Club Membership Option, (ii) enter into the New ClubCo Membership Plan, (iii) pay the applicable Transfer Fee; and (iv) commit to pay the Annual Dues for the first year following the Effective Date.

“Rejecting Non-Contingent Club Member Claims” means all Rejection Claims and other claims of Club Members including, without limitation, for a Membership Deposit Obligation who (a) hold a Non-Contingent Claim for a Membership Deposit Obligation and (b) do not (i) opt in their Ballot an election of the New ClubCo Membership Plan, (ii) enter into the New ClubCo Membership Plan (iii) pay the applicable Transfer Fee; and (iv) commit to pay the Annual Dues for the first year following the Effective Date.

“Rejecting Member Fund” means \$100,000 plus the net recovery of the Retained Actions.

“Releasees” means, provided the Plan is confirmed, and on the Effective Date: (a) the Debtors, (b) the CRO, (c) the DIP Lender, (d) the Bridge Lender, (e) the Indenture Trustee, Negotiating Group member, Advisory Board member, and any Note Holder who votes a Class 1

Claim to accept the Plan, (f) the Plan Sponsor, (g) the Committee, (h) the respective current and former officers, directors, employees, agents, stockholders, managers, members, affiliates, partners, advisors and professionals of the parties identified in subclauses (a) through (g); and (i) and any Club Member who joins the New Clubs within thirty (30) days following the Confirmation Date.

“Reserve Account” means a cash reserve on New ClubCo's financial statements for working capital, capital improvements, capitalized maintenance, repairs, renovations and amenities construction in the amount of one-million dollars (\$1,000,000).

“Resolution Date” means the date on which any and all claims, debts, demands, causes of action, lawsuits or other assertions of liability by any of the Debtors or their affiliates, or any insiders, members, shareholders, agents, servants, employees or affiliates of the Debtors or their affiliates, against NewCo, any of its insiders, members, affiliates, shareholders, agents, servants or employees are released, dismissed with prejudice by Final Order, withdrawn or otherwise terminated.

“Retained Actions” means all Causes of Action that are Avoidance Actions and all other Causes of Action and other assets that constitute Excluded Assets as defined and set forth in the Asset Purchase Agreement.

“Sale” means the conveyance of the Acquired Assets under or in connection with the Plan and the Asset Purchase Agreement.

“Sale Consideration” means the following consideration to be provided by a Plan Sponsor: (a) payment in full, in Cash, of the DIP Loan at the Closing, (b) payment in full, in Cash, of the Bridge Loan at the Closing; (c) payment in full, in Cash, of all Professional Fees and Administrative Claims at Closing, or, to the extent any such Claim is Allowed after the Closing, as soon as practicable thereafter, (d) payment in full, in Cash, of all Priority Claims at Closing, or, to the extent any such Claim is Allowed after the Closing, as soon as practicable thereafter, (e) payment in full, in Cash, on the Effective Date of all claims that are Allowed, exclusive of interest and attorneys’ fees, and that are secured by Mechanic’s Liens, except that no installment shall be paid earlier than the day after each such Mechanic's Lien is Allowed, (f) to the Liquidation Trustee, for the Pro Rata benefit of General Unsecured Claims, the General Unsecured Claims Plan Sponsor Funding, (g) payment of Accepting Club Member Claims as to those holders of Member Claims that elect the New Membership Option in accordance with the Vesting Schedule, (h) to the Liquidation Trustee, for the Pro Rata benefit of Rejecting Club Member Contingent Claims, a single aggregate cash payment to the Liquidation Trustee of \$100,000 to be paid at the Closing, (i) to the Liquidation Trustee, for post-Effective Date case administration the Post-Effective Date Administration Plan Sponsor Funding, (j) commitment by the Plan Sponsor, or an Affiliate of the Plan Sponsor, of up to eighty five million dollars (\$85,000,000) to acquire, joint venture, land bank or otherwise gain control of lots, (k) advance up to \$7.5 million dollars (\$7,500,000) in funding pursuant to the Mountain Park Facility, (l) satisfaction of the Cure Amounts, (m) establishment of the Reserve Account; (n) payment in full in Cash of the Administrative Convenience Class Claims by paying the sum of \$56,000 for the Administrative Convenience Claims Fund to the Liquidation Trustee for Distribution to the holders of Allowed Administrative Convenience Class Claims; (o) enter into the Lease(s) and (p)

commitment by the Plan Sponsor, or an Affiliate of the Plan Sponsor to fund negative operating cash flow of New ClubCo, including, but not limited to, amounts necessary to satisfy the Minimum Lease Payment.

“Sale Documents” means the Asset Purchase Agreement, the Schedule of Assumed Contracts, and any schedules, exhibits or other documents attached thereto or contemplated thereby, in each case as amended from time to time in accordance with their terms.

“Schedule of Assumed Contracts” means the schedule listing certain executory contracts and unexpired leases to be assumed and assigned by the Debtors to the Plan Sponsor with associated cure costs, which schedule is or may be set forth in Exhibit 1 hereto and/or to a Plan Supplement and which shall be acceptable in form and substance to the Plan Sponsor, as the same may be amended in any Plan Supplement.

“Schedules” means the schedules of assets and liabilities and the statements of financial affairs Filed by each of the Debtors in their chapter 11 case, as required by section 521 of the Bankruptcy Code, as the same may have been or may be amended, modified or supplemented.

“Secured Claim” means any Claim arising before the Petition Date that is: (a) secured in whole or part, as of the Petition Date, by a Lien which is valid, perfected and enforceable under applicable law on Property in which the Debtors’ Estates have an interest and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law; or (b) subject to setoff under section 553 of the Bankruptcy Code, but, with respect to both case (a) and (b), only to the extent of the value as of the Confirmation Date of the assets or Property securing any such Claim or the amount subject to setoff, as the case may be.

“Securities Act” means the Securities Act of 1933, as amended.

“Securities Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Series A Notes” means those certain Series A Notes due 2017 issued in the original principal amount of \$39,800,000 in connection with the Indenture and with accrued interest in the aggregate outstanding amount of not less than \$5,891,708 as of the Petition Date.

“Series B Notes” means those certain Series B Notes due 2017 issued in the original principal amount of \$24,250,000 in connection with the Indenture and accrued interest in the aggregate outstanding amount of not less than \$3,589,797 as of the Petition Date.

“Tax” means any tax, charge, fee, levy, impost or other assessment by any federal, state, local or foreign governmental authority, including, without limitation, income, excise, property, sales, transfer, employment, payroll, franchise, profits, license, use, ad valorem, estimated, severance, stamp, occupation and withholding tax, together with any interest, penalties, fines or additions attributable to, imposed by, or collected by any such federal, state, local or foreign governmental authority.

“Transfer Fee” means the fee to be paid by each Holder of an Accepting Club Member Claim as follows: if paid within 30 days of the Effective Date, unless otherwise indicated: (i)

Wellness - \$1,500; (ii) Family - \$2,500; and (iii) Golf – either \$5,000 in one payment, or \$5,500 paid as follows: a first payment of \$2,500, followed by two quarterly payments of \$1,500.

“Unclaimed Property” means any Distribution of Cash or any other Property made to the Holder of an Allowed Claim pursuant to the Plan that is returned to the Debtors, the Reorganized Debtor or the Liquidation Trustee as undeliverable and no appropriate forwarding address is received prior to the date on which the Final Decree is entered in the Chapter 11 Case, in the case of a Distribution made in the form of a check, is not negotiated and no request for reissuance is made as provided for in Section 5.07 of the Plan.

“Unimpaired” means any Claim that is not Impaired within the meaning of section 1124 of the Bankruptcy Code.

“United States Trustee” means the United States Trustee appointed under section 581(a)(3) of title 28 of the United States Code to serve in the District of South Carolina.

“U.S. Trustee’s Fee Claims” means any fees assessed against the Debtors’ Estates pursuant to section 1930(a)(6) of title 28 of the United States Code.

“Vesting Schedule” means, except as otherwise provided in the New ClubCo Membership Plan, the following percentage of an amount that equals the lesser of (i) that Club Member’s initiation deposit or (ii) 75% of the New Club membership initiation fee at the time of the repayment of the Club Member’s initiation deposit (the “Vesting Amount”):

- 1<sup>st</sup> anniversary of rejoining: 20% of Vesting Amount
- 2<sup>nd</sup> anniversary of rejoining: 40% of Vesting Amount
- 3<sup>rd</sup> anniversary of rejoining: 60% of Vesting Amount
- 4<sup>th</sup> anniversary of rejoining: 80% of Vesting Amount
- 5<sup>th</sup> anniversary of rejoining: 100% of Vesting Amount

“Voting Tabulation Agent” means BMC Group, Inc.

Section 1.02 Rules of Interpretation. All references to “the Plan” herein shall be construed, where applicable, to include references to this document and all its exhibits, appendices, schedules, annexes and Plan Supplement, if any (and any amendments thereto made in accordance with the Bankruptcy Code and the Plan). Whenever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular paragraph, subparagraph, or clause contained in the Plan. The words “includes” and “including” are not limiting and mean that the things specifically identified are set forth for purposes of illustration, clarity or specificity and do not in any respect qualify, characterize or limit the generality of the class within which such things are included. The captions and headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. Any term used in the Plan that is not defined in the Plan, either in Article I hereof or elsewhere, but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to

that term in (and shall be construed in accordance with the rules of construction under) the Bankruptcy Code or the Bankruptcy Rules (with the Bankruptcy Code controlling in the case of a conflict or ambiguity). Without limiting the preceding sentence, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply to the Plan, unless superseded herein. In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) and Section 12.15 hereof shall apply, but Bankruptcy Rule 9006(a) shall govern.

Section 1.03 Exhibits. All Exhibits to the Plan, including any Plan Supplement, are incorporated into and are a part of the Plan as if set forth in full herein, regardless of when Filed.

**ARTICLE II  
CLASSIFICATION OF CLAIMS AND INTERESTS**

Section 2.01 Summary. Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims and Interests. A Claim or an Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of the Class, and is classified in a different Class to the extent the Claim or Interest qualifies within the description of that different Class. A Claim or Interest is placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or an Allowed Interest in that Class and such Claim or Interest has not been paid, released, settled or otherwise satisfied prior to the Effective Date. The classification of Claims under this Plan is as follows:

Class	Claim	Status	Entitled to Vote
1	Indenture Trustee – Note Holder Claims	Impaired	Yes
2	Indenture Trustee Bridge Loan Claim	Unimpaired	No
3	Mechanic’s Lien Claims	Impaired	Yes
4	Other Senior Secured Party Claims	Impaired	Yes
5	General Unsecured Claims	Impaired	Yes
6	Administrative Convenience Claims	Impaired	Yes
7	Club Member Claims	Impaired	Yes
8	Equity Interests	Impaired	No

Section 2.02 Unclassified Claims. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims (including the DIP Facility Claim), and Priority Tax Claims are not classified and are excluded from the Classes designated in this Article II of the

Plan. The treatment accorded to Administrative Claims (including the DIP Facility Claim) and Priority Tax Claims is set forth in Article III of the Plan.

Section 2.03 Unimpaired Classes Deemed to Accept. The Plan classifies the following Unimpaired Claims that are not entitled to vote on the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, each Holder of a Claim in the following Class is conclusively presumed to have accepted the Plan in respect of such Claims and is not entitled to vote to accept or reject the Plan:

Class 2 shall consist of the Indenture Trustee – Bridge Loan Claim.

Section 2.04 Impaired Classes Entitled to Vote. The Plan classifies the following Classes as the only Impaired Classes that may receive a Distribution under the Plan and that are entitled to vote to accept or reject the Plan:

Class 1 shall consist of the Indenture Trustee - Note Holder Claims.

Class 3 shall consist of all Mechanic's Lien Claims.

Class 4 shall consist of all Other Senior Secured Party Claims.

Class 5 shall consist of General Unsecured Claims.

Class 6 shall consist of all Administrative Convenience Claims.

Class 7 shall consist of all Club Member Claims.

Section 2.05 Impaired Classes Deemed to Reject. The Plan classifies the following Impaired Class of Interests as an Impaired Class that is not entitled to vote to accept or reject the Plan. Pursuant to section 1126(g) of the Bankruptcy Code, each Holder of Claims or Interests that will receive no Distribution is conclusively presumed to have rejected the Plan in respect of such Claims or Interests because the Plan does not entitle the Holders of such Claims Interests to receive or retain any Property under the Plan on account of such Claims or Interests. The Plan classifies Class 8 as an Impaired Class deemed to reject and not entitled to vote to accept or reject the Plan.

### **ARTICLE III PROVISIONS FOR TREATMENT OF CLASSES OF CLAIMS AND INTERESTS**

Section 3.01 Satisfaction of Claims and Interests. The treatment of and consideration to be received by Holders of Allowed Claims or Allowed Interests pursuant to this Article III and the Plan shall be in full satisfaction, settlement, release, and extinguishment of their respective Claims against or Interests in the Debtors and the Debtors' respective Estates, except as otherwise provided in the Plan or the Confirmation Order.

Section 3.02 Unclassified Claims, Classified Unimpaired and Impaired Claims and Classified Interests. Administrative Claims (including the DIP Facility Claim) and Priority Tax Claims are treated in accordance with section 1129(a)(9)(A) and section 1129(a)(9)(C) of the

Bankruptcy Code, respectively. Such Claims are Unimpaired under the Plan and, in accordance with section 1123(a)(1) of the Bankruptcy Code, are not designated as Classes of Claims for purposes of this Plan and for purposes of sections 1123, 1124, 1126 and 1129 of the Bankruptcy Code. In addition, the Class 2 Claim is classified as a Class of Claims that is Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the Holders of Claims in such Class are conclusively presumed to have accepted the Plan and are not entitled to vote to accept or reject the Plan. Class 1, 3, 4, 5, 6 and 7 Claims are Impaired and the Holders thereof are entitled to vote to accept or reject the Plan on account of such Allowed Claims. The Class 8 Interests will neither receive nor retain any Property on account of such Interest and, pursuant to section 1126(g) of the Bankruptcy Code, the Holders of such Interests are conclusively presumed to have rejected the Plan and are not entitled to vote to accept or reject the Plan on account of such Interests.

### Section 3.03 Administrative Claims.

(a) General. Except as otherwise provided for in the Plan, on the later of (i) the Initial Distribution Date, if an Administrative Claim is Allowed as of the Effective Date, or (ii) as soon as practicable after the date such Administrative Claim becomes an Allowed Claim, if an Administrative Claim is not Allowed as of the Effective Date, each holder of an Allowed Administrative Claim shall receive from the Debtors (before the Effective Date) or the Liquidation Trustee or Plan Sponsor thereafter, in full satisfaction, settlement and release of, and in exchange for, such Allowed Administrative Claim, (a) Cash equal to the unpaid portion of such Allowed Administrative Claim, or (b) such less favorable treatment to which the Debtors (with the consent of the Plan Sponsor) or Liquidation Trustee and the holder of such Allowed Administrative Claim shall have agreed upon in writing; provided, however, that Allowed Ordinary Course Trade Claims shall be paid in the ordinary course of business of New ClubCo and/or its sublessees in accordance with the terms and subject to the conditions of any agreements governing or relating thereto.

(b) Payment of Statutory Fees. The Debtors, as determined, if necessary, by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall pay on or before the Effective Date all U.S. Trustee Fee Claims that come due on or before the Effective Date. Because of the substantive consolidation of the Debtors provided for in the Plan, the Liquidation Trustee will pay the U.S. Trustee Fee Claims for the quarter in which the Effective Date occurs for eleven Debtors, and the Chapter 11 Cases of all of the Debtors other than that of The Cliffs Club & Hospitality Group, Inc. will be Closed, so that following the Effective Date there shall only be one Debtor for which the Liquidation Trustee will pay U.S. Trustee Fee Claims based on cash disbursements made during any quarter following the quarter in which the Effective Date occurs until a Final Decree is entered in that Chapter 11 Case.

(c) Bar Date for Administrative Claims.

(i) General. Except for Administrative Claims of Professionals for Professional Fee Claims, which are addressed in Section 3.03(c)(ii) below, and except as otherwise provided herein, requests for payment of Administrative Claims must be Filed and served on counsel for the Debtors, counsel for the Committee, Counsel for the Indenture Trustee and counsel for the Plan Sponsor no later than (x) the Administrative Claim Bar Date, or (y) such later date, if any, as the Bankruptcy Court shall order upon application made prior to the end of



the Administrative Claim Bar Date, which is thirty (30) days after the Effective Date. Holders of Administrative Claims (including, without limitation, the holders of any Claims for federal, state or local taxes) that are required to File a request for payment of such Claims and that do not File such requests by the applicable bar date shall be forever barred from asserting such Claims against any of the Debtors, the Plan Sponsor, the Liquidation Trustee or the Indenture Trustee.

(ii) Professional Fee Claims. Except as otherwise provided for in the Plan, all requests for compensation or reimbursement of Professional Fee Claims for services rendered from the Petition Date through the Effective Date shall be Filed and served on the Debtors, counsel to the Debtors, the United States Trustee, counsel for the Indenture Trustee, counsel to the Committee, counsel to the Plan Sponsor, the Liquidation Trustee, and such other entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, prior to the end of the Administrative Claim Bar Date for Professional Fee Claims, which is sixty (60) days after the Effective Date, unless such date is otherwise modified by order of the Bankruptcy Court. Holders of Professional Fee Claims that are required to file and serve applications for final allowance of its Professional Fee Claims and that do not file and serve such applications by the required deadline shall be forever barred from asserting such Claims against the Debtors, the Plan Sponsor, the Liquidation Trustee or the Indenture Trustee, and such Professional Fee Claims shall be deemed discharged as of the Effective Date. Objections to any Professional Fee Claims must be filed and served on counsel for the Debtors, counsel for the Plan Sponsor, counsel for the Committee, counsel for the Indenture Trustee, and the Liquidation Trustee and the requesting party on or before twenty-one (21) days after the filing and service of such request.

Section 3.04 DIP Facility Claims. The DIP Facility Claims shall be repaid by the Debtors in full, in Cash, on the Effective Date in full and final satisfaction, settlement and release of such DIP Facility Claims.

Section 3.05 Priority Tax Claims. Except as otherwise provided for in the Plan, on (i) the Initial Distribution Date, if a Priority Tax Claim is Allowed as of the Effective Date, or (ii) the first Distribution Date after the date such Priority Tax Claim becomes Allowed, each holder of an Allowed Priority Tax Claim shall receive from the New ClubCo, in full satisfaction, settlement and release of, and in exchange for, such Allowed Priority Tax Claim, (A) Cash of New ClubCo equal to the amount of such Allowed Priority Tax Claim, (B) such less favorable treatment as to which such Debtors (with the consent of the Plan Sponsor), and the holder of such Allowed Priority Tax Claim shall have agreed upon in writing; or (C) at the option of the Debtors, Cash of New ClubCo in an aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period of not more than five (5) years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code.

Section 3.06 Other Priority Claims. Except as otherwise provided for in the Plan, on the seventh (7<sup>th</sup>) day following the later of the Closing Date under the Asset Purchase Agreement or the date on which such Priority Claim is Allowed, the New ClubCo will pay in full, in Cash, all other Priority Claims.

Section 3.07 Class 1: Indenture Trustee – Note Holder Claims.

(a) Classification: Class 1 consists of the Indenture Trustee – Note Holder Claims against the Debtors.

(b) Treatment: Class 1 Indenture Trustee – Note Holder Claims are Impaired. On the Effective Date, (i) the Allowed Secured Claims of the Note Holders represented by the Indenture Trustee will be satisfied through a combination of (x) a modification of the terms of the Notes to provide for repayment of the principal amount of \$64,050,000, without interest, in twenty (20) annual payments beginning on the one year anniversary of the Effective Date in the amount of the greater of \$1 million or 50% of New ClubCo Net Cash Flow and with a balloon payment of the remaining principal, if any, at maturity, all paid through the Indenture Trustee to the Note Holders subject to the terms of the Notes and Indenture, as may be modified and amended, and (y) the modification of the Prepetition Facility Documents, including without limitation, the Pledge and Security Agreement and the Collateral Trust Agreement to subordinate the Liens of the Indenture Trustee to the Exit Facility and the Mountain Park Facility, after which the Debtors will transfer the Real Property Collateral and substantially all other property of the Debtors to the Plan Sponsor, subject only to the Permitted Liens and otherwise free and clear of all liens, claims and encumbrances, followed by the Plan Sponsor's and/or Indenture Trustee SPE's execution of the Exit Facility and the Mountain Park Facility, and then the Plan Sponsor shall contribute these assets to the Indenture Trustee SPE, subject to the Permitted Liens, in return for a 100% economic and managing membership interest in the Indenture Trustee SPE (the Indenture Trustee will hold a 0% non-economic membership interest in the Indenture Trustee SPE), and the Indenture Trustee SPE will assume the modified Notes, all in satisfaction of the Note Holder Claims against the Debtors and the Guarantors of the Note Holder Claims, as well as against NewCo or New ClubCo arising under the Notes or the Notes as modified and amended. Then, the Indenture Trustee SPE will enter into the Lease(s) with New ClubCo (or its subsidiary entities, at the sole option and in the sole discretion of New ClubCo) and New ClubCo, in turn, may enter into subleases with its subsidiaries or affiliates. From and after the Effective Date, the Debtors shall have no liability to the Indenture Trustee or to the Note Holders. Upon receipt of title to the Acquired Assets from the Debtors, the Indenture Trustee SPE shall execute such documents as are required to evidence its assumption of the Notes and underlying security interest(s) as modified pursuant to the Plan and to secure the obligations thereunder. In the event the Plan Sponsor defaults under the Note Restructuring Agreement subsequent to the Effective Date, the Indenture Trustee will have a number of remedies, including without limitation, the following: (i) the right to foreclose on the assets subject to its liens; (ii) the right to require deeds in lieu of foreclosure; and (iii) the right to acquire the 100% economic member interest of the Plan Sponsor in the Indenture Trustee SPE. The foregoing shall be effectuated and governed by the terms of certain operative documents, which shall include but shall not be limited to: Note Restructuring Agreement by and between the Debtors and the Indenture Trustee; Assumption Agreement by and between Cliffs Club Partners and the Indenture Trustee; Assumption Agreement by and between Indenture Trustee SPE and the Indenture Trustee; Master Lease by and between Indenture Trustee SPE and Cliffs Club Partners; Mortgages/Deeds of Trust by and between Indenture Trustee SPE and the Indenture Trustee; Security Agreement by and between Indenture Trustee SPE and the Indenture Trustee; Collateral Assignment of IP/License Agreement by and between Indenture Trustee SPE and the Indenture Trustee; Deeds in

Lieu/Escrow Agreement by and between Indenture Trustee SPE and the Indenture Trustee; Amendment to Indenture; Indenture Trustee SPE Operating Agreement; Establishment of IT Representative, LLC; and Subleases by and between Cliffs Club Partners and the golf operating subsidiaries. Each of the Note Holders by voting its Class 1 Claim to accept the Plan is deemed to consent to the use of the Indenture Trustee's cash collateral by the Debtors to fund Distributions under the Plan, to the subordination of its Liens to those of the Exit Facility and the Mountain Park Facility and to all other provisions of the Plan that affect the Note Holders. By accepting the Plan, the Note Holders and the Indenture Trustee will be deemed to waive the right: (i) to any dues credits or club credits; (ii) the right to any subordinate lien securing their Membership Deposit obligations; and (iii) the right to any deficiency claim against the Debtors and Guarantors of the Note Holder Claims (but not their Membership Deposit Obligations that are treated under Plan Class 7).

(c) Voting: Class 1 is Impaired and pursuant to section 1126 of the Bankruptcy Code Holders of Allowed Class 1 Claims are entitled to vote to accept or reject the Plan.

Section 3.08 Class 2: The Indenture Trustee - Bridge Loan Claim.

(a) Classification: Class 2 consists of the Indenture Trustee - Bridge Loan Claim.

(b) Treatment: The Class 2 Indenture Trustee - Bridge Loan Claim is Unimpaired. The Bridge Lender as the Holder of the Allowed Class 2 Indenture Trustee - Bridge Loan Claim shall receive in full satisfaction, settlement, release, and extinguishment of such Claim, and of any lien securing such Claim, Cash equal to the amount of such Allowed Bridge Loan Claim, including all interest accrued thereon as and to the extent provided by the Bridge Loan Documents, on or as soon as practicable after the Effective Date.

(c) Voting: Class 2 is Unimpaired and the Holder of the Class 2 Claim is conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holder of the Claim in Class 2 is not entitled to vote to accept or reject the Plan.

Section 3.09 Class 3: Mechanic's Lien Claims.

(a) Classification: Class 3 consists of the Mechanic's Lien Claims against the Debtors.

(b) Treatment: The Class 3 Claims are Impaired. Each Holder of an Allowed Class 3 Claim shall receive, in full satisfaction, settlement, release, and extinguishment of such Claim, and of any lien securing such Claim, and as a condition precedent thereto, the following treatment:

Payment in full, in Cash, without interest, costs or fees, by New ClubCo directly to all holders of Claims that are Allowed and that are secured by Mechanic's Liens on the Effective Date.

(c) Voting: Class 3 is Impaired and pursuant to section 1126 of the Bankruptcy Code Holders of Allowed Class 3 Claims are entitled to vote to accept or reject the Plan.

Section 3.10 Class 4: Other Senior Secured Party Claims.

(a) Classification: Class 4 consists of all Other Senior Secured Party Claims against the Debtors.

(b) Treatment: Each Holder of an Allowed Class 4 Other Senior Secured Party Claim shall receive, at the election of the Debtors (with the consent of the Plan Sponsor), in full satisfaction, settlement, release, and extinguishment of such Claim: (a) Cash equal to the amount of such Allowed Other Senior Secured Party Claim on or as soon as practicable after the later of (i) the Effective Date, (ii) the date that such Other Senior Secured Party Claim becomes Allowed, and (iii) a date agreed to by the Debtors and the Holder of such Class 4 Other Senior Secured Party Claim; (b) Cure and Reinstatement of one or more equipment leases with such Other Senior Secured Party but not any guaranty that gives rise to such Allowed Other Senior Secured Party Claim; (c) the Equipment that is the subject of one or more leases with such Other Senior Secured Party securing such Other Senior Secured Party Claim without representation or warranty by or recourse against the Debtors; or (d) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Debtors.

(c) Voting: Class 4 is Impaired and pursuant to section 1126 of the Bankruptcy Code Holders of Allowed Class 4 Claims are entitled to vote to accept or reject the Plan.

Section 3.11 Class 5: General Unsecured Claims.

(a) Classification: Class 5 consists of all General Unsecured Claims against the Debtors.

(b) Treatment: The Class 5 Claims are impaired. Each Holder of an Allowed Class 5 General Unsecured Claim shall receive, in full satisfaction, settlement, release, and extinguishment of such Claim, and as a condition precedent thereto, the following treatment:

Each Holder of an Allowed Class 5 Claim shall receive its Pro Rata Share of the General Unsecured Claims Fund less a reserve established by the Liquidation Trustee for expenses of administration of the Liquidating Trust, on or as soon as practicable after the later of (i) the first Distribution Date after the Claims Objection Deadline has occurred, if no objection to such Claim has been timely filed, or (ii) the first Distribution Date after the date on which any objection to such General Unsecured Claim is settled, withdrawn or overruled pursuant to a Final Order of the Bankruptcy Court. On each subsequent Distribution Date or as soon thereafter as is reasonably practicable, the Liquidation Trustee shall continue to make Pro Rata Distributions of the General Unsecured Claims Fund to Holders of Allowed Class 5 Claims.

(c) Voting: Class 5 is Impaired and pursuant to section 1126 of the Bankruptcy Code Holders of Allowed Class 5 Claims are entitled to vote to accept or reject the Plan.

Section 3.12 Class 6: Administrative Convenience Claims.

(a) Classification: Class 6 consists of all Administrative Convenience Claims against the Debtors.

(b) Treatment: Class 6 is Impaired. On either (i) the Effective Date, (ii) the first Distribution Date after the Claims Objection Deadline has occurred, if no objection to such Claim has been timely filed, or (iii) the first Distribution Date after the date on which any objection to such Administrative Convenience Claim is settled, withdrawn or overruled pursuant to a Final Order of the Bankruptcy Court, each Holder of an Allowed Class 6 Administrative Convenience Claim shall receive, in full satisfaction, settlement, release, and extinguishment of such Claim, Cash in an amount equal to the full amount of such Allowed Claim, without interest, costs or fees, from the Liquidation Trustee from the Administrative Convenience Claims Fund.

(c) Voting: Class 6 is Impaired and pursuant to section 1126 of the Bankruptcy Code Holders of Allowed Class 6 Claims entitled to vote to accept or reject the Plan.

Section 3.13 Class 7: Club Member Claims.

(a) Classification: Class 7 consists of the Holders of all Club Member Claims other than Rejecting Non-Contingent Member Claims, which are included in Class 5):

(b) Treatment: The Class 7 Claims are Impaired. Each Holder of an Allowed Class 7 Club Member Claim shall receive in full satisfaction, settlement, release, and extinguishment of such Claim, the following treatment:

Option to Join the New Clubs: A Club Member may elect in the ballot the New Club Membership Option. If so, then upon payment of the applicable Transfer Fee within thirty (30) days after the Effective Date, and any Membership Reinstatement Fee, if applicable, and execution of an agreement to pay at least one year of dues under the New Membership Plan, the Class 7 Claimant shall receive a membership with New ClubCo under the New ClubCo Membership Plan as well as the right to satisfaction by New ClubCo of any Membership Deposit Obligations in accordance with the Vesting Schedule.

Option not to Join the New Clubs: A Club Member who does not elect in the ballot the New Club Membership Option shall receive its Pro Rata Share of the Rejecting Member Fund on or as soon as practicable after the later of (i) the first Distribution Date after the Claims Objection Deadline has occurred, if no objection to such Claim has been timely filed, or (ii) the first Distribution Date after the date on which any objection to such Rejecting Club Member Claim is settled, withdrawn or overruled pursuant to a Final Order of the Bankruptcy Court. On each subsequent Distribution Date or as soon thereafter as is reasonably practicable, the Liquidation Trustee shall continue to make Pro Rata Distributions to Holders of Allowed Class 7 of the Rejecting Member Fund.

(c) Voting: Class 7 is an Impaired Class and pursuant to section 1126 of the Bankruptcy Code, the Holders of Allowed Class 7 Claims are entitled to vote to accept or reject the Plan.

Section 3.14 Class 8: Equity Interests.

(a) Classification: Class 8 consists of all Equity Interests in any of the Debtors.

(b) Treatment: Holders of Class 8 Interests in any of the Debtors shall not receive or retain any Property under the Plan on account of such Interests. On the Effective Date, all Interests shall be canceled.

(c) Voting: Class 8 is impaired. The Holders of the Class 8 Interests are conclusively deemed to have rejected the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of the Class 8 Interests are not entitled to vote to accept or reject the Plan.

**ARTICLE IV  
ACCEPTANCE OR REJECTION OF THE PLAN; CRAMDOWN**

Section 4.01 Acceptance by Impaired Classes of Claims and Interests. Pursuant to section 1126(c) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if: (a) the Holders of at least two-thirds (2/3) in dollar amount of the Allowed Claims actually voting in such Class (other than Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code) have timely and properly voted to accept the Plan, and (b) more than one-half (1/2) in number of the Holders of such Allowed Claims actually voting in such Class (other than Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code) have timely and properly voted to accept the Plan. Holders of Class 8 Interests are not entitled to vote on the Plan pursuant to section 1126 of the Bankruptcy Code.

Section 4.02 Voting Classes. Except as otherwise required by the Bankruptcy Code or the Bankruptcy Rules or as otherwise provided in this Section 4.02, the Holders of Claims in Classes 1, 3, 4, 5, 6 and 7 shall be entitled to vote to accept or reject the Plan in accordance with Section 4.01 of the Plan. Classes of Claims Unimpaired under the Plan (Indenture Trustee - Bridge Loan Claim (Class 2) shall not be entitled to vote to accept or reject the Plan, and shall be conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. The Class 8 Interests are Impaired under the Plan and shall not be entitled to vote to accept or reject the Plan and shall be conclusively presumed to have rejected the Plan. Administrative Claims (including the DIP Facility Claim) and Priority Tax Claims are Unimpaired and not classified under the Plan and hence are not entitled to vote to accept or reject the Plan pursuant to section 1126(g) of the Bankruptcy Code.

Section 4.03 Ballot Instructions. Each Holder of a Claim or Interest entitled to vote on the Plan will be asked to complete and return a Ballot to the Voting Tabulation Agent. The Voting Tabulation Agent will compile the votes so received. Any questions as to the validity, form, and eligibility (including time of receipt) of Ballots will be resolved by the Bankruptcy Court upon application or at the Confirmation Hearing.

Section 4.04 Cramdown. If all applicable requirements for Confirmation of the Plan are met as set forth in sections 1129(a)(1) through (16) of the Bankruptcy Code except subsection (8) thereof, the Debtors may request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code, notwithstanding the requirements of section 1129(a)(8) thereof, on the bases that the Plan is fair and equitable, and does not discriminate unfairly, with respect to each Class of Claims or Interests that is Impaired under, and has not accepted, the Plan.

## **ARTICLE V PROVISIONS GOVERNING DISTRIBUTIONS UNDER THE PLAN**

This Article does not govern any distribution to Class 1 Claims.

Section 5.01 Timing of Distributions. Except as specifically set forth in the Plan and as otherwise provided in this Article V, Distributions to be made on the Effective Date to Holders of Claims that are Allowed as of the Effective Date will be deemed made on the Effective Date if made on the Effective Date or as promptly thereafter as practicable, but in any event no later than: (i) 30 days after the Effective Date or (ii) 30 days after such later date when the applicable conditions of Section 6.02 (regarding cure payments for executory contracts and unexpired leases being assumed) and Section 5.05 (regarding undeliverable Distributions) are satisfied.

Section 5.02 Distributions to Holders of Allowed Claims. Except as specifically set forth in the Plan and otherwise as provided in this Article V, Distributions to be made on the Effective Date to Holders of Claims that are Allowed as of the Effective Date will be deemed made on the Effective Date if made on the Effective Date or as promptly thereafter as practicable, but in any event no later than: (i) 30 days after the Effective Date or (ii) 30 days after such later date when the applicable conditions of Section 6.02 (regarding cure payments for executory contracts and unexpired leases being assumed) and Section 5.05 (regarding undeliverable Distributions) are satisfied. Distributions on account of Claims that become Allowed Claims after the Effective Date will be made pursuant to Section 5.03 of the Plan.

Section 5.03 Distributions After Allowance. As soon as practicable after (i) the occurrence of the applicable Claims Objection Deadline, if no objection to such Claim has been timely filed, or (ii) a Disputed Claim becomes an Allowed Claim, the Plan Sponsor or the Reorganized Debtor or the Liquidation Trustee, as the case may be, will distribute to the Holder thereof all Distributions to which such Holder is then entitled under this Plan. All Distributions made under this Section of the Plan will be made together with any dividends, payments, or other Distributions made on account of, as well as any obligations arising from, the distributed property as if such Claim had been an Allowed Claim on the dates Distributions were previously made to Allowed Holders included in the applicable Class.

Section 5.04 Liquidating Trust. The Liquidating Trust shall be established to receive from the Plan Sponsor the General Unsecured Creditors Fund, the Administrative Convenience Claims Fund, the Rejecting Member Contingent Claim Fund, the Post-Effective Date Administration Fund and from the Debtors the Retained Actions, and to Distribute such funds or proceeds of the Retained Actions to certain Creditors in accordance with the Plan. Except as otherwise expressly provided in the Plan, pursuant to sections 1123(a)(5), 1123(b)(3) and

1141(b) of the Bankruptcy Code, all Property comprising the Estates of the Debtors (including, but not limited to, the General Unsecured Creditors Fund, the Administrative Convenience Claims Fund, the Rejecting Member Fund, the Post Effective Date Administration Fund and the Retained Actions) not conveyed to the Plan Sponsor under the Asset Purchase Agreement, shall automatically vest in the Liquidating Trust, free and clear of all Claims, Liens, contractually-imposed restrictions, charges, encumbrances and interests of Creditors and equity security holders on the Effective Date, with all such Claims, Liens, contractually-imposed restrictions, charges, encumbrances and interests being extinguished subject to the rights of Holders of Allowed Class 5 General Unsecured Claims, Class 6 Administrative Convenience Claims and Class 7 Rejecting Club Member Contingent Claims to obtain Distributions provided for in this Plan. In no event shall any property of any kind be returned by, or otherwise transferred from, the Liquidating Trust to any Debtor.

The Liquidating Trust shall qualify as a liquidating trust as described in Treasury Regulation section 301.7701-4(d) and shall be treated as a grantor trust for United States federal income tax purposes. All parties will be required to treat, for federal income tax purposes, the Liquidating Trust as a grantor trust of which the Liquidating Trust beneficiaries are the owners and grantors. The Liquidation Trustee shall have the authority to manage the day-to-day operations of the Liquidating Trust, including, without limitation, by disposing of the assets of the Liquidating Trust, appearing as a party in interest, calculating Distributions, paying taxes and such other matters as more particularly described in Section 7.05 of the Plan and the Liquidating Trust Agreement. Expenses of the Liquidating Trust, including the expenses of the Liquidation Trustee and her representatives and professionals, will be satisfied solely from the assets of the Liquidating Trust and its proceeds, as set forth in the Liquidating Trust Agreement. The holders of Allowed Claims in Class 5 and 7 under the Plan will be the grantors, and owners of the Liquidating Trust. On the Effective Date, the Liquidating Trust will be treated as formed by the transfer of the General Unsecured Creditors Fund and the Rejecting Members Fund by the Plan Sponsor and the Retained Actions by the Debtors to the holders of Claims who receive the beneficial interests in the Liquidating Trust pursuant to the Plan (with each holder receiving in a taxable transaction an undivided interest in such assets in accordance with its economic interests in such assets) and a deemed transfer by such holders to the Liquidating Trust. Accordingly, all parties must treat the Liquidating Trust as a grantor trust of which the holders of interests in the Liquidating Trust are the owners and grantors, and treat the Liquidating Trust beneficiaries as the direct owners of an undivided interest in the Liquidating Trust assets, consistent with their economic interests therein, for all federal income tax purposes. The Liquidation Trustee will maintain, in accordance with the Liquidating Trust Agreement, an escrow of any distributable amounts required to be set aside on account of any disputed claims, which disputed claims will be treated in accordance with the terms of the Liquidating Trust Agreement. The Liquidation Trustee will determine the fair market value of each beneficial Liquidating Trust interest, and the holders of such interests will be required to use the valuation consistently for federal income tax purposes. The Liquidation Trustee will file returns for the Liquidating Trust as a grantor trust. All income of the Liquidating Trust will be subject to federal income tax on a current basis. The Liquidating Trust Agreement will provide for the allocation of the Liquidating Trust's taxable income and who will be responsible for any tax liability due as a result of such income. Taxable income or loss allocated to a Liquidating Trust beneficiary will be treated as income or loss with



respect to such Liquidating Trust beneficiary's undivided interest in the Liquidating Trust assets, and not as income or loss with respect to its prior respective Claim.

In addition to the foregoing powers and duties of the Liquidation Trustee, the Liquidation Trustee will act as disbursing agent of the Administrative Convenience Claims Fund, and Class 6 Claimants shall not be grantors or owners of the Liquidating Trust.

Section 5.05 Delivery of Distributions. Except as otherwise provided in the Plan, subject to Bankruptcy Rule 9010, the Debtors or the Liquidation Trustee shall make Distributions to holders of Allowed Claims at the address for each holder indicated on the Debtors' records as of the date of any such Distribution; provided, however, that the manner of such Distributions shall be determined at the discretion of Debtors; and, provided further, however, that the address for each holder of an Allowed Claim shall be deemed to be the address set forth in any proof of claim filed by that holder. In the event that any Distribution to any holder is returned as undeliverable, the Liquidation Trustee shall use reasonable efforts to assist the Debtors to determine the current address of such holder, but no Distribution to such holder shall be made unless and until the Debtors have determined the then-current address of such holder, at which time such Distribution shall be made to such holder without interest; provided that such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one (1) year from the Effective Date. After such date, all Unclaimed Property or interest in property shall revert to the Liquidation Trustee, to be held in the Class 5 or 7 fund from which such unclaimed property arose (or in the case of a Class 6 Distribution, into Class 7), and the Claim of any other holder to such Property or Interest in Property shall be discharged and forever barred.

Section 5.06 Method of Cash Distributions. Any Cash payment to be made pursuant to the Plan may be made by Cash, draft, check, wire transfer, or as otherwise required or provided in any relevant agreement or applicable law at the option of the Liquidation Trustee or the Debtors.

Section 5.07 Failure to Negotiate Checks. Checks issued in respect of Distributions under the Plan shall be null and void if not negotiated within sixty (60) days after the date of issuance. Any amounts returned to the Debtors, or the Liquidation Trustee in respect of such non-negotiated checks shall be forwarded to (if necessary) and held by the Liquidation Trustee or the Debtors, as the case may be. The Holder of the Allowed Claim with respect to which such check originally was issued shall make requests for reissuance for any such check directly to the issuer of the check. All amounts represented by any voided check will be held until the earlier of: (a) one (1) month after the date on which the check is voided, or (b) the date on which the Bankruptcy Court enters the Final Decree, and all requests for reissuance by the Holder of the Allowed Claim in respect of a voided check are required to be made prior to such date. Thereafter, all such amounts shall be deemed to be Unclaimed Property, in accordance with Section 5.08 of the Plan, and all Holders of Claims in respect of void checks shall be forever barred, estopped and enjoined from asserting a claim to such funds in any manner against any of the Debtors or their assets, the Liquidation Trustee or the Liquidating Trust.

Section 5.08 Unclaimed Distributions. All Property distributed on account of Claims must be claimed prior to the date on which the Bankruptcy Court enters the Final Decree, or, in

the case of a Distribution made in the form of a check, must be negotiated and a request for reissuance be made as provided for in Section 5.07 of the Plan. All Unclaimed Property will be retained by and will vest in the Liquidating Trust. All full or partial payments made by the Debtors and received by the Holder of a Claim prior to the Effective Date will be deemed to be payments under the Plan for purposes of satisfying the obligations of the Debtors, or the Liquidation Trustee pursuant to the Plan. Nothing contained in the Plan shall require the Debtors, or the Liquidation Trustee to attempt to locate any Holder of an Allowed Claim other than by reviewing the records of the Debtors and any Claims filed in the Chapter 11 Case. Pursuant to section 1143 of the Bankruptcy Code, all Claims in respect of Unclaimed Property shall be deemed Disallowed and the Holder of any Claim Disallowed in accordance with this Section 5.08 will be forever barred, expunged, estopped and enjoined from asserting such Claim in any manner against the Debtors or their assets or the Liquidation Trustee or the Liquidating Trust.

Section 5.09 Limitation on Distribution Rights. If a claimant holds more than one Claim in any one Class, all Claims of the claimant in that Class will be aggregated into one Claim and one Distribution will be made with respect to the aggregated Claim.

Section 5.10 Fractional Dollars. Notwithstanding any other provision of the Plan, Cash Distributions of fractions of dollars will not be made; rather, whenever any payment of a fraction of a dollar would be called for, the actual payment made shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash remains undistributed as a result of the rounding of such fraction to the nearest whole dollar, such Cash shall be treated as Unclaimed Property pursuant to Section 5.08 of this Plan.

Section 5.11 Compliance With Tax Requirements. In connection with each Distribution with respect to which the filing of an information return (such as an Internal Revenue Service Form 1099 or 1042) or withholding is required, the Debtors and/or the Liquidation Trustee shall file such information return with the Internal Revenue Service and provide any required statements in connection therewith to the recipients of such Distribution or effect any such withholding and deposit all moneys so withheld as required by law. With respect to any Person from whom a tax identification number, certified tax identification number or other tax information required by law to avoid withholding has not been received by the Debtors or the Liquidation Trustee, the Debtors or the Liquidation Trustee may, at their or its option, withhold the amount required and distribute the balance to such Person or decline to make such Distribution until the information is received.

Section 5.12 De Minimis Distributions. No Cash payment of less than fifty (\$50.00) dollars shall be made to any Holder of an Allowed Claim on account of such Allowed Claim, excepting on account of Administrative Convenience Claims.

Section 5.13 No Payment or Distribution Pending Allowance. All references to Claims and amounts of Claims refer to the amount of the Claim Allowed by agreement of the Debtors or the Liquidation Trustee and the Holder of such Claim, by operation of law, by Final Order, or by this Plan. Notwithstanding any other provision in the Plan, no payment or Distribution shall be made on account of or with respect to any Claim to the extent it is a Disputed Claim unless and until the Disputed Claim becomes an Allowed Claim.

Section 5.14 Estimation of Claims. The Debtors (with the consent of the Plan Sponsor) or the Liquidation Trustee may at any time request that the Bankruptcy Court estimate any Disputed Claim and/or any Club Member Claim pursuant to section 502(c) of the Bankruptcy Code or other applicable law regardless of whether the Debtors have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during the pendency of litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Disputed Claim or Club Member Claim, such estimated amount shall constitute either (a) the Allowed amount of such Claim, (b) the amount on which a reserve is to be calculated for purposes of any reserve requirement to this Plan or (c) a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors (with the consent of the Plan Sponsor) or the Liquidation Trustee, as applicable, may pursue supplementary proceedings to object to the allowance of such Claim. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

Section 5.15 No Interest on Claims. Except as set forth in the Plan or in a Final Order of the Bankruptcy Court entered in the Cases, no holder of any Claim will be entitled to interest accruing after the Petition Date on such Claim, nor to fees, costs or charges provided under any agreement under which such Claim arose and that were incurred after the Petition Date. Unless otherwise specifically provided for in this Plan or as otherwise required by sections 506(b), 511 or 1129(a)(9)(C)-(D) of the Bankruptcy Code, interest shall not accrue or be paid on any Disputed Claim in respect of the period from the Effective Date to the date a final Distribution is made when and if such Disputed Claim becomes an Allowed Claim.

Section 5.16 Distributions Only On Timely Filed, Allowed Claims. No payments of Cash or other consideration of any kind will be made on account of any Disputed Claim or Club Member Claim until such Claim becomes an Allowed Claim or is deemed to be such for purposes of Distribution, and then only to the extent that the Claim becomes, or is deemed to be for Distribution purposes, an Allowed Claim. Except as otherwise ordered by the Bankruptcy Court, no payments shall be made on account of Claims filed after the Bar Date.

Section 5.17 Record Date For Distributions. As of the close of business on the Record Date, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Debtors shall be deemed closed, and there shall be no further changes made to reflect any new record holders of any Claims or equity interests occurring on or after the Record Date. The Debtors, the Liquidation Trustee and the Plan Sponsor shall have no obligation to recognize any transfer of any Claims or equity interests occurring after the Record Date.

Section 5.18 Survival Of Certain Corporate Indemnities. The obligations of the Debtors pursuant to their operating agreements and other governing documents to indemnify persons serving on or after the Petition Date as officers, directors, agents, or employees of the Debtors with respect to actions, suits, and proceedings against the Debtors or such officers, directors, agents, or employees, based upon any act or omission for or on behalf of the Debtors occurring on or after the Petition Date, shall not be impaired by the confirmation of the Plan. Such obligations shall be deemed and treated as executory contracts to be assumed by the Debtors

pursuant to the Plan and shall continue as obligations of the Debtors to the extent of available insurance only.

## **ARTICLE VI EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Section 6.01 Treatment of Executory Contracts and Unexpired Leases. All executory contracts and unexpired leases of the Debtors, including, without limitation, all Club Membership Agreements, shall be deemed rejected by the Debtors as of the Effective Date, except for any executory contract or unexpired lease that: (a) has previously been assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court on or prior to the Confirmation Date, (b) is the subject of a pending motion to assume, assume and assign, or reject as of the Confirmation Date, or (c) is listed on the Schedule of Assumed Contracts set forth in Exhibit 1 hereto or a Plan Supplement, provided, however, that the Debtors shall have the right, on or before the hearing on Plan Confirmation, to modify the Schedule of Assumed Contracts by filing a Plan Supplement, subject to the consent of the Plan Sponsor, thus, by removing an executory contract or unexpired lease, providing for its rejection pursuant to this Section 6.01 or by adding any executory contract or unexpired lease, providing for its assumption and assignment pursuant to this Section 6.01.

Section 6.02 Cure of Defaults for Assumed Contracts and Leases. The cure of all defaults under executory contracts and unexpired leases to be assumed and assigned under the Plan, including the resolution of all objections to the adequacy of assurance of future performance under such contracts and leases and as to the adequacy of amounts proposed to cure defaults under such contracts and leases contained in the Schedule of Assumed Contracts set forth in Exhibit 1 hereto or a Plan Supplement, shall be governed by the Confirmation Order or other order approving or authorizing the assumption of such executory contracts. Except as set forth in the Plan Supplement, all cure amounts shall be satisfied via payment by the Plan Sponsor of the full amount of each cure amount listed in the Schedule of Assumed Contracts on the Effective Date. To the extent that any counterparty of any assumed executory contract asserts that any affiliate of the Debtors has any liability on any assumed executory contract, upon payment by the Plan Sponsor of the full amount of each cure amount as set forth herein, such non-Debtor affiliate shall have no liability to any counterparty of any assumed executory contract.

Any party to an executory contract or unexpired lease to be assumed shall have twenty one (21) days after service of this Plan and the Schedule of Assumed Contracts within which to file with the Bankruptcy Court an objection to the cure amount listed by the Debtors, an objection to the adequacy of assurance of future performance by the Plan Sponsor, or any other objection to the assumption of such executory contracts or unexpired lease. Any such objection shall be resolved by the Bankruptcy Court at the Confirmation Hearing or, if the Court does not hear such objection at the Confirmation Hearing, at such other time as agreed to by the affected parties. If the Bankruptcy Court determines that the cure amount with respect to an executory contract or unexpired lease is greater than the amount listed by the Debtors, then the Debtors may elect to reject the contract or lease at issue.

Section 6.03 Bar Date for Claims for Rejection Damages. Claims arising out of the rejection of any executory contract or unexpired lease pursuant to Article VI of the Plan must be filed with the Bankruptcy Court no later than the later of (a) thirty (30) days after the Effective Date, or (b) thirty (30) days after the entry of an order rejecting such executory contract or unexpired lease. Any Claim not filed within such time period shall be forever barred. The Debtors and the Liquidation Trustee shall have the right to object to any Claim arising out of the rejection of an executory contract or unexpired lease pursuant to the terms of Section 8.04 of this Plan.

Section 6.04 Treatment of Rejection Claims. The Bankruptcy Court shall determine any objections Filed in accordance with Section 6.04 hereof at a hearing to be held on a date to be determined by the Bankruptcy Court. Subject to any statutory limitation, including, but not limited to, the limitations contained in sections 502(b)(6) and 502(b)(7) of the Bankruptcy Code, any Claims arising out of the rejection of executory contracts and unexpired leases shall, pursuant to section 502(g) of the Bankruptcy Code, be Impaired and treated as a Class 5 Claim (in the case of non-Club Members and Club Members who hold Non-Contingent Claims), or a Class 7 Claim (in the case of Rejecting Club Members who hold Contingent Claims) in accordance with Article III of the Plan.

Section 6.05 Rejection of Contracts and Leases. The entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption and rejection of the executory contracts assumed and rejected pursuant to Article VI of the Plan.

Section 6.06 Rejection of Club Membership Agreements. Except and to the extent previously rejected by an order of the Bankruptcy Court on or before the Effective Date, all Club Membership Agreements entered into before or after the Petition date and not since terminated, shall be deemed to be, and shall be treated as though they are, executory contracts that are rejected under Section 6.01 of the Plan. Notwithstanding the above, each party (other than the Debtors) to a Club Membership Agreement shall be entitled to elect to have its Claims against the Debtors arising under the Club Membership Agreement treated as an Accepting Club Member Claim in full satisfaction of such claims. In the event a Club Member does not elect in Ballot to have his or her Claim treated as an Accepting Club Member Claim, all Claims of such Club Member under the applicable Club Membership Agreement, including any Rejection Claim, shall be treated in accordance with Section 6.04 of the Plan.

## **ARTICLE VII MEANS FOR IMPLEMENTATION OF THE PLAN**

Section 7.01 The Sale. This Plan's primary funding is provided through the Sale of the Acquired Asset to the Plan Sponsor in consideration of the Sale Consideration pursuant to sections 365, 1123(b)(4), 1129(b)(2)(A), 1145 and 1146(a) of the Bankruptcy Code, and provides for the orderly Distribution of the Sale Proceeds as well as the proceeds or rights in the General Unsecured Creditors Fund and the Rejecting Member Fund under the terms and conditions of the Plan. The Debtors have entered into the Asset Purchase Agreement. The Sale shall be consummated pursuant to this Plan.

In accordance with this Plan, the Debtors and the Plan Sponsor shall, prior to the Effective Date, take all steps necessary to consummate the Sale in accordance with this Plan. On the Closing Date: (i) the Allowed Secured Claims of the Note Holders represented by the Indenture Trustee will be satisfied through a combination of (x) a modification of the terms of the Notes to provide for repayment of the principal amount of \$64,050,000, without interest, in twenty (20) annual payments beginning on the one year anniversary of the Effective Date in the amount of the greater of \$1 million or 50% of New ClubCo Net Cash Flow and with a balloon payment of the remaining principal, if any, at maturity, all paid through the Indenture Trustee to the Note Holders subject to the terms of the Notes and Indenture, as may be modified and amended, and (y) the modification of the Prepetition Facility Documents, including without limitation, the Pledge and Security Agreement and the Collateral Trust Agreement to subordinate the Liens of the Indenture Trustee to the Exit Facility and the Mountain Park Facility, after which the Debtors will transfer the Real Property Collateral and substantially all other property of the Debtors to the Plan Sponsor, subject only to the Permitted Liens and otherwise free and clear of all liens, claims and encumbrances, followed by the Plan Sponsor's and/or Indenture Trustee SPE's execution of the Exit Facility and the Mountain Park Facility, and then the Plan Sponsor shall contribute these assets to the Indenture Trustee SPE, subject to the Permitted Liens, in return for a 100% economic and managing membership interest in the Indenture Trustee SPE (the Indenture Trustee will hold a 0% non-economic membership interest in the Indenture Trustee SPE), and the Indenture Trustee SPE will assume the modified Notes, all in satisfaction of the Note Holder Claims against the Debtors and the Guarantors of the Note Holder Claims, as well as against NewCo or New ClubCo arising under the Notes or the Notes as modified and amended, after which the Indenture Trustee SPE will enter into the Lease(s) with New ClubCo (or its subsidiary entities, at the sole option and in the sole discretion of New ClubCo) and New ClubCo, in turn, may enter into subleases with its subsidiaries or affiliates; (ii) the DIP Facility will be repaid by the Plan Sponsor in full, in Cash, on the Effective Date in full and final satisfaction, settlement and release of such DIP Facility Claims; (iii) the Allowed Secured Claim of the Bridge Lender represented by the Indenture Trustee will be satisfied on the Effective Date by the Plan Sponsor; (iv) the Plan Sponsor will, in conjunction with the Debtors, undertake commercially reasonable efforts to obtain substantially all other property used by the Debtors in connection with the operation of the Clubs, receipt of which is a condition to the Plan Sponsor's obligation to close the transaction contemplated herein, and, upon receipt of title to such assets, will contribute that title to the Indenture Trustee SPE, subject to the Permitted Liens and otherwise free and clear of all liens, claims and encumbrances, in accordance with the Asset Purchase Agreement; and (v) the Liquidating Trust will be formed, and the Plan Sponsor will transfer to the Liquidation Trustee amounts sufficient to satisfy Allowed Administrative Claims, Allowed Priority Claims, Allowed Mechanic's Lien Claims and Allowed Administrative Convenience Claims in full, together with General Unsecured Claims Sponsor Funding (payable in three annual installments), while the Debtors will transfer to the Liquidation Trustee the Retained Actions, with such transfers to be free and clear of all liens, claims and encumbrances for the purpose of making Distributions to Creditors who will be the beneficiaries of the Liquidating Trust. Upon consummation of the Sale, the Permitted Liens shall no longer be obligations of the Debtors or their Estates, and any Holder of any claim with respect thereto shall have no recourse on account of such Claim against the Debtors or their Estates.

Section 7.02 Substantive Consolidation of the Debtors. The Plan is premised on the substantive consolidation of all of the Debtors with respect to the treatment of all Claims and Interests. This Plan shall serve as a request by the Debtors, in lieu of a separate motion, to the Bankruptcy Court, that it grant substantive consolidation with respect to the treatment of all Claims and Interests as follows: on the Effective Date, (a) all assets and liabilities of the Debtors will be merged or treated as though they were merged; (b) all guarantees of the Debtors of any obligation of any of the Debtors and any joint and several liability of any of the Debtors shall be eliminated; and (c) each and every claim and interest against any of the Debtors shall be deemed Filed against the consolidated Debtors and all Claims Filed against more than one of the Debtors for the same liability shall be deemed one Claim against any obligation of the consolidated Debtors

Section 7.03 Recharacterization of Affiliate Claims as Equity.

In addition to the presence of intercompany payables and receivables among the Debtors, the books and records of the parent of Debtor CCHG Holdings, Inc. also reflect intercompany payables and receivables among the Debtors, on the one hand, and Affiliates of the Debtors, on the other hand. These books and records are prepared on a consolidated basis. Intercompany payables on the books reflect that the Debtors owe to the DevCo Affiliates the total sum of \$44,817,112 while the DevCo Affiliates owe to the Debtors the total sum of \$87,051,437, leaving a net balance due to the Debtors by the DevCo Affiliates of \$42,234,325. The Plan shall serve as a request by the Debtors, in lieu of a separate motion, to the Bankruptcy Court to recharacterize intercompany payables by the Debtors to the DevCo Affiliates as equity. While the Bankruptcy Code does not expressly provide for the recharacterization of debt to equity, most of the appellate courts that have considered the issue, including the Fourth Circuit Court of Appeals, have determined that the bankruptcy courts have the power to recharacterize debt to equity based on their equitable authority under Bankruptcy Code Section 105 in a manner consistent with the priority scheme for the distribution of the debtor's assets found in section Bankruptcy Code Section 726.

Section 7.04 Continued Corporate Existence. Each Debtor will continue to exist after the Effective Date as a separate legal entity, with all of the powers of a corporation or limited liability company, as applicable, under applicable law in the jurisdiction in which it is incorporated or otherwise formed and pursuant to its certificate or articles of incorporation, formation or organizational documents and by-laws, operating agreement or other organizational documents in effect prior to the Effective Date, without prejudice to the right of any Debtor to dissolve (subject to its obligations under this Plan) under applicable law and file a certificate of dissolution (or its equivalent) with the secretary of state or similar official of the jurisdiction of incorporation after the Effective Date. Nevertheless, because of the substantive consolidation provided in section 7.02 of the Plan, immediately following the Effective Date, the Chapter 11 Cases of all of the Debtors except that of The Cliffs Club & Hospitality Group, Inc. shall be Closed, without prejudice to the rights of the Liquidation Trustee to pursue any of the Retained Actions relating to any of the Debtors in the lead Chapter 11 Case.

Section 7.05 Land Acquisition. The Plan Sponsor shall commit up to \$85 million to acquire, joint venture, land bank, or otherwise gain control of development land and lots and will be the operator of the Clubs. The Plan Sponsor will form a separate development company to

develop, market and sell lots thereby replacing the non-Debtor affiliates that were engaged in the development and sales of lots in the communities around the Clubs on the Petition Date.

Section 7.06 Powers and Duties of the Liquidation Trustee. The Liquidation Trustee shall administer the Liquidating Trust and its assets in accordance with this Plan, the Liquidating Trust Agreement, and the other Liquidating Trust Documents and shall be responsible for, among other things, making certain Distributions required under this Plan. From and after the Effective Date and continuing through the date of entry of a Final Decree, the Liquidation Trustee shall: (a) possess the rights of a party in interest pursuant to section 1109(b) of the Bankruptcy Code for all matters arising in, arising under, or related to the Chapter 11 Case and, in connection therewith, shall (i) have the right to appear and be heard on matters brought before the Bankruptcy Court or other courts, (ii) be entitled to notice and opportunity for hearing on all such issues, (iii) participate in all matters brought before the Bankruptcy Court, and (iv) receive notice of all applications, motions, and other papers and pleadings filed in the Bankruptcy Court; (b) have the authority to act on behalf of the Debtors in all adversary proceedings and contested matters pending in the Bankruptcy Court and in all actions and proceedings pending elsewhere; and (c) have the authority to retain such personnel or professionals (including, without limitation, legal counsel, financial advisors or other agents) as it deems appropriate and compensate such personnel and professionals as it deems appropriate, all without prior notice to or approval of the Bankruptcy Court. Professionals and personnel retained or employed by the Liquidating Trust or the Liquidation Trustee need not be disinterested as that term is defined in the Bankruptcy Code.

Section 7.07 Approval of Agreements. Entry of the Confirmation Order shall constitute approval of the Asset Purchase Agreement and transactions contemplated therein, and the Confirmation Order shall so provide.

Section 7.08 Corporate Action. The entry of the Confirmation Order shall constitute authorization for the Debtors to take or to cause to be taken all corporate and limited liability company actions necessary or appropriate to consummate and implement the provisions of the Plan prior to, on and after the Effective Date, and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court, including, without limitation, the execution and delivery of the Asset Purchase Agreement. Subject to the terms and conditions of the Asset Purchase Agreement, all such actions shall be deemed to have occurred and shall be in effect pursuant to applicable non-bankruptcy law and the Bankruptcy Code, without any requirement of further action by the stockholders, directors or members of the Debtors. On the Effective Date, the CRO is authorized and directed to execute and deliver the agreements, documents and instruments contemplated by the Plan, any Plan Supplement and the Sale Documents in the name of and on behalf of the Debtors.

Section 7.09 Cancellation of Securities and Agreements. On the Effective Date, except as otherwise specifically provided for in this Plan: except (i) for purposes of evidencing a right to Distributions under the Plan, (ii) with respect to executory contracts and unexpired leases assumed and assigned by the Debtors to the Plan Sponsor, or (iii) otherwise as provided herein, all the agreements and other documents evidencing the Claims, equity interests, or rights of any holder of a Claim or Interest Impaired under the Plan shall be cancelled.



Section 7.10 Substantial Consummation. On the Effective Date, the Plan shall be deemed to be substantially consummated under Sections 1101 and 1127(b) of the Bankruptcy Code.

Section 7.11 Effective Date Fees and Expenses. From and after the Effective Date, the Debtors, if on the Effective Date, or the Liquidation Trustee, if after the Effective Date, shall, in the ordinary course of business and without the necessity for Bankruptcy Court approval, pay the reasonable fees and expenses of professional persons retained by the Debtors or the Liquidation Trustee and incurred after the Effective Date, including, without limitation, fees and expenses incurred in connection with the implementation and consummation of the Plan.

Section 7.12 Post- Effective Date Notice Limited. From and after the Effective Date, any person seeking relief from the Bankruptcy Court in the Chapter 11 Cases shall be required to provide notice only to the Debtors, the Liquidation Trustee, the United States Trustee, the Plan Sponsor and their respective counsel, to any person whose rights are directly affected by the relief sought, and to other parties in interest who, after entry of the Confirmation Order, file a request for such notice with the clerk of the Bankruptcy Court and serve a copy of such notice on counsel to the Debtors and the Liquidation Trustee.

Section 7.13 Plan Supplement. Any Plan Supplement, acceptable in form and substance to the Debtors and the Plan Sponsor, shall be filed with the Clerk of the Bankruptcy Court at least five (5) days prior to the last day on which holders of Claims may vote to accept or reject the Plan.

## **ARTICLE VIII PRESERVATION OF CAUSES OF ACTION AND RIGHT TO DEFEND AND CONTEST**

Section 8.01 Preservation of Rights. Except to the extent that any Claim is Allowed during the Chapter 11 Cases or expressly by this Plan or the Confirmation Order, nothing, including, but not limited to, the failure of the Debtors to object to a Claim or Interest for any reason during the pendency of the Chapter 11 Cases, shall affect, prejudice, diminish or impair the rights and legal and equitable defenses of the Debtors or the Liquidation Trustee with respect to any Claim or Interest, including, but not limited to, all rights of the Debtors or the Liquidation Trustee to contest or defend themselves against such Claims or Interests in any lawful manner or forum when and if such Claim or Interest is sought to be enforced by the Holder thereof.

Section 8.02 Rights of Action. Except as otherwise provided in this Plan or the Confirmation Order, in accordance with section 1123(b)(3) of the Bankruptcy Code, the Debtors or the Liquidation Trustee will retain and may exclusively enforce any Retained Actions subject only to any express waiver or release thereof in the Plan or in any other contract, instrument, release, indenture or other agreement entered into in connection with the Plan, and the Confirmation Order's approval of the Plan shall be deemed a res judicata determination of such rights to retain and exclusively enforce such Retained Actions, and none of such Retained Actions is deemed waived, released or determined by virtue of the entry of the Confirmation Order or the occurrence of the Effective Date, notwithstanding that the specific Retained Actions are not identified or described. For the avoidance of doubt, neither the Debtors, the Liquidation

Trustee nor any other party shall retain the right to dispute any Class 1 Claim after the Effective Date, which Claim, and the treatment thereof, is conclusively provided herein.

Absent an express waiver or release as referenced above, nothing in the Plan shall (or is intended to) prevent, estop or be deemed to preclude the Debtors or the Liquidation Trustee from utilizing, pursuing, prosecuting or otherwise acting upon all or any of its Retained Actions and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to such Retained Actions upon or after Confirmation, the Effective Date or the consummation of the Plan. By example only, and without limiting the foregoing, the utilization or assertion of a Retained Action, or the initiation of any proceeding with respect thereto against a Person, by the Debtors or the Liquidation Trustee shall not be barred (whether by estoppel, collateral estoppel, res judicata or otherwise) as a result of (a) the solicitation of a vote on the Plan from such Person or such Person's predecessor in interest; (b) the Claim, Interest or Administrative Claim of such Person or such Person's predecessor in interest having been listed in a Debtors' Schedules, list of Holders of Interests, or in the Plan, Disclosure Statement or any exhibit thereto; (c) prior objection to or allowance of a Claim or, Interest of the Person or such Person's predecessor in interest; or (d) Confirmation of the Plan.

Notwithstanding any allowance of a Claim, the Debtors and the Liquidation Trustee reserve the right to seek, among other things, to have such Claim disallowed if the Debtors or the Liquidation Trustee, at the appropriate time, determines that they may then have a defense under section 502(d) of the Bankruptcy Code; for example, the Debtors or the Liquidation Trustee hold an Avoidance Action against the Holder of such Claim and such Holder after demand refuses to pay the amount due in respect thereto.

Section 8.03 Setoffs. Except to the extent that any Claim is Allowed, the Debtors or Liquidation Trustee, as applicable, may, but shall not be required to, set off against any Claims and the payments or Distributions to be made pursuant to the Plan in respect of such Claims, any and all debts, liabilities, Causes of Action and claims of every type and nature whatsoever which the Estate, the Debtors may have against such Creditors, including, without limitation, any payments remaining due for dues, club charges, initiation deposits or any other amounts due to the Debtors, but neither the failure to do so nor the allowance of any such Claims, whether pursuant to the Plan or otherwise, shall constitute a waiver or release by the Debtors or Liquidation Trustee of any such claims or Causes of Action the Debtors may have against such Creditors, and all such claims and Retained Actions which are not expressly released, conveyed or compromised pursuant to the Plan, shall remain with the Debtors on the Effective Date.

Section 8.04 Resolution of Disputed Claims. Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, the Debtors and the Liquidation Trustee shall have the right, on and after the Effective Date, to File objections to Claims (except those specifically Allowed by this Plan) and shall serve a copy of each such objection upon the holder of the Claim to which the objection is made as soon as practicable, but in no event later than the applicable Claims Objection Deadline. The foregoing deadlines may be extended by order of the Bankruptcy Court. An objection to any Claim shall be deemed properly served on the Holder thereof if the Debtors or Liquidation Trustee effects service in any of the following manners: (a) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made

applicable by Federal Rule of Bankruptcy Procedure 7004; (b) by first class mail, postage prepaid, on the signatory on the proof of claim or other representative identified in the proof of claim or any attachment thereto; or (c) by first class mail, postage prepaid, on any counsel that has appeared on the Holder's behalf in the Chapter 11 Case.

After the Effective Date, the Debtors or the Liquidation Trustee, as the case may be, may settle or compromise any Disputed Claim without approval of the Bankruptcy Court; provided that (a) the Debtors or the Liquidation Trustee, as the case may be, shall promptly File with the Bankruptcy Court a written notice of any settlement or compromise of a Claim that results in an Allowed Claim in excess of \$500,000 and (b) the United States Trustee shall be authorized to contest the proposed settlement or compromise by Filing a written objection with the Bankruptcy Court and serving such objection on the Debtors or the Liquidation Trustee, as the case may be, within 20 days of the service of the settlement notice. If no such objection is Filed, the applicable settlement or compromise shall be deemed final without further action of the Bankruptcy Court.

## **ARTICLE IX CONDITIONS TO CONSUMMATION OF THE PLAN**

Section 9.01 Confirmation Order. The Confirmation Order shall not be entered unless and until all conditions to the entry of the Confirmation Order set forth in the Asset Purchase Agreement have been met or waived.

Section 9.02 Conditions to Effective Date. The Plan shall not be consummated, and the Effective Date shall not occur, unless and until the following conditions have occurred or been duly waived (if waivable) pursuant to Section 9.03 below:

(a) the Bankruptcy Court shall have approved the information contained in the Disclosure Statement as adequate;

(b) the Confirmation Order in form and substance satisfactory to the Debtors and the Plan Sponsor shall have been entered and shall not be stayed by order of a court of competent jurisdiction;

(c) those holders of Membership Claims opting to become members of New ClubCo shall be sufficient in number to generate over a projected twelve month period an amount equal to the New ClubCo Dues Revenues.

(d) All Allowed Claims (i) in any Class that is the subject of the Claims Caps, (ii) any unclassified claims and (iii) the Cure Amounts, in the aggregate, shall not exceed 110% of the Claim Caps, in the aggregate.

(e) all conditions precedent to the obligations of the Debtors and the Plan Sponsor under the Asset Purchase Agreement have occurred or have been waived;

(f) the transactions contemplated in the Asset Purchase Agreement have been consummated;

(g) the Bankruptcy Court shall have entered an order (contemplated to be part of the Confirmation Order) authorizing and directing the Debtors to take all actions necessary or appropriate to enter into, implement, and consummate the documents created, amended, supplemented, modified or adopted in connection with the Plan;

(h) all authorizations, consents and regulatory approvals required, if any, in connection with the Plan's effectiveness shall have been obtained;

(i) the Debtors shall have appointed the Liquidation Trustee, the Liquidating Trust Agreement and the other Liquidating Trust Documents shall have been executed, and the Liquidating Trust shall have received the General Unsecured Creditors Fund, the Administrative Convenience Claims Fund, the Rejecting Club Members Fund, the Post-Effective Date Plan Sponsor Funding from the Plan Sponsor, and an assignment from the Debtors of the Retained Actions; and

(j) no order of a court shall have been entered and shall remain in effect restraining the Debtors from consummating the Plan.

Section 9.03 Waiver of Conditions. The conditions to consummation in Section 9.02 (other than 9.02(a), (b) and (f)) may be waived at any time by a writing signed by an authorized representative of each of the Debtors and the Plan Sponsor without notice or order of the Bankruptcy Court or any further action other than proceeding to consummation of the Plan.

Section 9.04 Effect of Failure or Absence of Waiver of Conditions Precedent to the Effective Date of the Plan. In the event that one or more of the conditions specified in Section 9.02 of the Plan have not occurred (or been waived), upon notification submitted by the Debtors to the Bankruptcy Court: (a) the Confirmation Order, automatically and without further order of the Bankruptcy Court, shall be, and shall be deemed, vacated, null and void, with no force or legal effect whatsoever; (b) no Distributions under the Plan shall be made; (c) all Property of the Estate shall revert in the Debtors' Estates; (d) the Debtors and all Holders of Claims and Interests shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred; (e) the Asset Purchase Agreement shall become null and void; and (f) the Debtors' obligations with respect to the Claims and Interests shall remain unchanged and nothing contained herein shall constitute or be deemed a waiver or release of any Claims or Interests by or against the Debtors or any other Person or Entity or to prejudice in any manner the rights of the Debtors or any Person or Entity in any further proceedings involving the Debtors.

## **ARTICLE X EFFECTS OF CONFIRMATION**

### Section 10.01 Injunction.

(a) Claims and Interests. Except as otherwise expressly provided for in the Plan or the Confirmation Order, and to the fullest extent authorized or provided by the Bankruptcy Code, including sections 524 and 1141 thereof, the entry of the Confirmation Order shall, provided that

the Effective Date occurs, permanently enjoin all Persons that have held, currently hold or may hold a Claim or other debt or liability or an Interest or other right of an equity security holder that is Impaired or terminated pursuant to the terms of the Plan from taking any of the following actions against the Debtors, the Liquidating Trust, the Liquidation Trustee, or the Property of any of the foregoing on account of any such Claims, debts or liabilities or such terminated Interests or rights: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind; (b) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order; (c) creating, perfecting or enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind; (d) asserting any setoff, offset, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to any of the Debtors; and (e) proceeding in any manner in any place whatsoever, including employing any process, that does not conform to or comply with or is inconsistent with the provisions of the Plan; provided, however, that this injunction shall not apply to (a) any claims Creditors may assert under the Plan to enforce their rights thereunder to the extent permitted by the Bankruptcy Code or (b) any claims Creditors or other third parties may have against each other, which claims are not related to the Debtors, it being understood, however, that any defenses, offsets or counterclaims of any kind or nature whatsoever which the Debtors may have or assert in respect of any of the claims of the type described in (a) or (b) of this proviso are fully preserved.

(b) Released Claims. As of the Effective Date, the Confirmation Order shall constitute an injunction permanently enjoining any Person that has held, currently holds or may hold a Claim, demand, debt, right, Cause of Action or liability that is released pursuant to the Plan from enforcing or attempting to enforce any such Claim, demand, debt, right, Cause of Action or liability against (i) any Debtor, (ii) the Liquidating Trust, (iii) any Releasee, (iv) any D&O Releasee, or (v) any Exculpated Person, or any of its Property, based on, arising from or relating to, in whole or in part, any act, omission, or other occurrence taking place on or prior to the Effective Date with respect to or in any way relating to the Chapter 11 Case, all of which claims, demands, debts, rights, Causes of Action or liabilities shall be deemed released on and as of the Effective Date; provided, however, that with respect to the former directors, officers and employees of the Debtors, this injunction shall apply only to the enforcement of Claims, demands, debts, rights, Causes of Action or liabilities with respect to which such former directors, officers and employees would be entitled to indemnification from the Debtors under contract or law; and, provided further, however, that this injunction shall not apply to (a) any claims Creditors may assert under the Plan to enforce their rights thereunder to the extent permitted by the Bankruptcy Code or (b) any claims Creditors or other third parties may have against each other, which claims are not related to the Debtors, it being understood, however, that any defenses, offsets or counterclaims of any kind or nature whatsoever which the Debtors may have or assert in respect of any of the claims of the type described in (a) or (b) of this proviso are fully preserved.

Section 10.02 Exculpation. None of the Debtors, the Liquidation Trustee, or any Exculpated Person, nor any of their respective members, employees, officers, directors, agents, advisors, attorneys, or financial advisers, shall have or incur any liability to any Person, including, without limitation, any Holder of a Claim or Interest or any other party in interest, or

any of its agents, employees, representatives, financial advisors, attorneys or affiliates or any of their successors or assigns, for any act taken or omission made in connection with, relating to, or arising out of, the Chapter 11 Cases, filing, negotiating, prosecuting, administering, formulating, implementing, confirming or consummating this Plan, or the Property to be distributed under this Plan, including all activities leading to the promulgation and confirmation of the Plan, the Disclosure Statement (including any information provided or statement made in the Disclosure Statement or omitted therefrom), or any contract, instrument, release or other agreement or document created in connection with or related to the Plan or the administration of the Debtors or these Chapter 11 Cases, provided, however, that the foregoing exculpation shall not apply to any act of gross negligence or willful misconduct, and in all respects they shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. The entry of the Confirmation Order shall constitute the determination by the Bankruptcy Court that the Debtors, the CRO, the Committee, the Indenture Trustee, the DIP Lender, the Plan Sponsor, and each of their respective members, employees, officers, directors, agents, advisors, attorneys, and financial advisers shall have acted in good faith and in compliance with the applicable provisions of the Bankruptcy Code pursuant to, among others, Sections 1125(e) and 1129(a)(3) of the Bankruptcy Code, with respect to the foregoing. Nothing herein shall be construed, however, to relieve the Debtors, the Liquidation Trustee, the Plan Sponsor, or any other party, from performing its respective obligations under the Plan.

#### Section 10.03 Releases.

(a) Releases by Debtors. (i) Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, each in its individual capacity and as Debtors in possession, will be deemed to have forever released, and waived the Releasees and the D&O Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of the Debtors or the Liquidation Trustee to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by the Debtors, taking place on or prior to the Effective Date in any way relating to the Debtors, the Chapter 11 Cases, or the Plan; provided, however, that (a) no Releasee or D&O Releasee shall be released from any Claims, obligations, suits, judgments, debts or Causes of Action arising out of or in connection with indebtedness for money borrowed by any such person from the Debtors; and (b) no Cause of Action against any insurer arising out of or relating to matters for which the Debtors would otherwise be liable or suffer an insurable loss shall be released, including without limitation, any Cause of Action against the Debtors' directors and officers insurance carrier(s). For the avoidance of doubt, James B. Anthony is not being released by this Plan Section 10.03(a) unless: (a) he becomes a D&O Releasee; and (b) he and any non-debtor Affiliates he directly or indirectly owns or controls: (i) waive and release any and all claims of any kind against the Debtors; (ii) transfer and convey all real property, personal property and other assets used by the Debtors, or necessary to operate the businesses of

the Debtors, or which is necessary to satisfy any condition precedent under the Plan or the Asset Purchase Agreement; and (iii) fully cooperate with the transfer of the Acquired Assets, the Sale and the orderly transition of the Debtors' businesses to the Plan Sponsor.

(b) Releases by Holders of Claims and Interests. Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, to the fullest extent permitted under applicable law, in consideration for the obligations of the Persons set forth below under the Plan and, if applicable, the Cash, securities, contracts, releases and other agreements or documents to be delivered in connection with the Plan, each Holder of a Claim or Interest who votes in favor of the Plan or is presumed to have voted in favor of the Plan pursuant to section 1126(f) of the Bankruptcy Code shall be deemed to have forever waived and released (i) the Debtors, (ii) the Liquidation Trustee, (iii) the Liquidating Trust, (iv) the Releasees, and (v) the D&O Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of such Holders of Allowed Claims under the Plan to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by the Debtors, taking place on or prior to the Effective Date in any way relating to the Debtors, the Chapter 11 Cases, or the Plan; provided, however, that this Section 10.03(b) shall not release any Releasees or the D&O Releasees from any Causes of Action held by a Governmental Unit existing as of the Effective Date based on (i) any criminal laws of the United States or any domestic state, city or municipality or (ii) sections 1104-1109 and 1342(d) of ERISA. For the avoidance of doubt, James B. Anthony is not being released by this Plan Section 10.03(b) unless: (a) he becomes a D&O Releasee; and (b) he and any non-debtor Affiliates he directly or indirectly owns or controls: (i) waive and release any and all claims of any kind against the Debtors; (ii) transfer and convey all real property, personal property and other assets used by the Debtors, or necessary to operate the businesses of the Debtors, or which is necessary to satisfy any condition precedent under the Plan or the Asset Purchase Agreement; and (iii) fully cooperate with the transfer of the Acquired Assets, the Sale and the orderly transition of the Debtors' businesses to the Plan Sponsor.

Section 10.04 Other Documents and Actions. The Debtors are authorized to execute such documents and take such other action as is necessary to effectuate the transactions provided for in the Plan, provide such actions and documents are reasonably acceptable in form and substance to the Plan Sponsor.

Section 10.05 Term of Injunctions or Stays. Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under sections 105(a) or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

Section 10.06 Preservation of Insurance. Except as necessary to be consistent with the Plan, the Plan shall not diminish or impair (a) the enforceability of insurance policies that may

cover Claims against the Debtors or any other Person or Entity or (b) the continuation of workers' compensation programs in effect, including self-insurance programs.

Section 10.07 Guaranties. Notwithstanding the existence of guaranties by the Debtors of obligations of any Entity or Entities, and the Debtors' joint obligations with another Entity or Entities with respect to the same obligations, all Claims against the Debtors based upon any such guaranties shall be satisfied and released in the manner provided in this Plan and the Holders of Claims shall be entitled to only one Distribution with respect to any given obligation of any of the Debtors.

Section 10.08 Subordination Rights. Any Distributions under the Plan shall be received and retained free of and from any obligations to hold or transfer the same to any other Creditor, and shall not be subject to levy, garnishment, attachment or other legal process by any Holder by reason of claimed contractual subordination rights, which rights shall be waived and the Confirmation Order shall constitute an injunction enjoining any Person from enforcing or attempting to enforce any contractual, legal or equitable subordination rights to Property distributed under the Plan, in each case other than as provided in the Plan.

Section 10.09 Avoidance and Recovery Actions Preserved. From and after the Effective Date, the Debtors shall have the right to prosecute any avoidance, equitable subordination, or recovery Cause of Action arising under Sections 105, 502(d), 510, 542 through 551, and 553 of the Bankruptcy Code that belongs to the Debtors and has not been expressly compromised, settled, or released pursuant to Article X, Section 10.06 or any other provision of the Plan, or by an order of the Bankruptcy Court entered prior to the Confirmation Date, or assigned to the Liquidating Trust under the Plan.

Section 10.10 Other Causes of Action Preserved. Except for any Cause of Action that has been expressly compromised, settled, or released pursuant to the Plan or an order of the Bankruptcy Court entered prior to the Confirmation Date, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any right or Cause of Action that the Debtors may have, or which the Debtors may choose to assert on behalf of the Estates pursuant to any provision of the Bankruptcy Code or any applicable non-bankruptcy law, including (a) any claim against any person or entity, to the extent that such person or entity asserts a cross-claim, counterclaim, and/or Claim for setoff seeking affirmative relief against the Debtors or their officers, directors, or representatives; and (b) the turnover of any property of the Estates. Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, Cause of Action, right of setoff, or other legal or equitable defense which the Debtors had immediately prior to the Petition Date against or with respect to any Claim left unimpaired by the Plan. The Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff, and other legal or equitable defenses that any of them had immediately prior to the Petition Date as if the Cases had not been commenced and all of the Debtors' legal and equitable rights respecting any Claim left unimpaired by the Plan may be asserted after the Confirmation Date to the same extent as if the Cases had not been commenced. **EXCEPT FOR ANY CAUSE OF ACTION THAT HAS BEEN EXPRESSLY COMPROMISED, SETTLED, OR RELEASED PURSUANT TO THE PLAN OR AN ORDER OF THE COURT ENTERED PRIOR TO THE CONFIRMATION DATE, ALL CLAIMS AND CAUSES OF ACTION OF THE**



**DEBTORS AND THEIR ESTATES SHALL SURVIVE CONFIRMATION, AND THE ASSERTION OF CLAIMS AND CAUSES OF ACTION BY THE DEBTORS OR THE LIQUIDATION TRUSTEE SHALL NOT BE BARRED OR LIMITED BY ANY ESTOPPEL, WHETHER JUDICIAL, EQUITABLE, OR OTHERWISE.**

Section 10.11 Causes of Action Retained by Debtors or Assigned to the Liquidating Trust. From and after the Effective Date, because the Debtors will have assigned the Retained Actions to the Liquidating Trust, the Liquidation Trustee will have the right to prosecute any avoidance, equitable subordination or recovery Cause of Action arising under Sections 105, 502(d), 510, 542-551, and 553 of the Bankruptcy Code that belonged to any of the Debtors as of the Effective Date and has not been expressly compromised, settled, or released pursuant to the Plan or an order of the Bankruptcy Court entered prior to the Confirmation Date. Except for any Cause of Action that has been expressly compromised, settled, or released pursuant to the Plan or an order of the Bankruptcy Court entered prior to the Confirmation Date, nothing contained in the Plan or the Confirmation Order will be deemed to be a waiver or relinquishment of any right or Cause of Action that the Debtors or the Liquidating Trustee may have, or which the Liquidating Trustee may choose to assert on behalf of the Liquidating Trust beneficiaries pursuant to any provision of the Bankruptcy Code or any applicable non-bankruptcy law, including, without limitation (a) any claim against any person or entity, to the extent that such person or entity asserts a cross-claim, counterclaim, and/or Claim for setoff seeking affirmative relief against the Debtors, or their officers, directors, or representatives; (b) the turnover of any property of the Estates; and (c) Causes of Action against current or former directors, shareholder, officers, professionals, and other persons relating to acts or omissions occurring on or prior to the Petition Date.

Section 10.12 No Successor Liability. Except as otherwise expressly provided in the Plan or the Asset Purchase Agreement, the Debtors, the Liquidation Trustee, and the Plan Sponsor do not, pursuant to the Plan or otherwise, assume, agree to perform, pay, or indemnify or otherwise have any responsibilities for any liabilities or obligations of the Debtors or any other party relating to or arising out of the operations of or assets of the Debtors, whether arising prior to, on, or after the Effective Date. The Liquidating Trust, the Liquidation Trustee, and the Plan Sponsor are not, and shall not be, successors to the Debtors by reason of any theory of law or equity, and none shall have any successor or transferee liability of any kind or character, except that the Liquidation Trustee and the Liquidating Trust shall assume the obligations specified in the Plan, the Liquidating Trust Agreement, the other Liquidating Trust Documents, and the Confirmation Order and the Plan Sponsor shall assume the obligations specified in the Asset Purchase Agreement.

Without limiting the generality of the foregoing, and in conjunction with Section 12.13 of the Plan, the transfer of the Acquired Assets to the Plan Sponsor and its contribution thereof to the Indenture Trustee SPE and lease of the Acquired Assets to the Plan Sponsor or to any of its Affiliates as contemplated in the Plan is exempt from taxation under applicable State law. Upon the payment of the Purchase Price by the Plan Sponsor pursuant to the Asset Purchase Agreement, any obligation or liability Plan Sponsor or any of its Affiliates may have under any applicable Law to withhold, deduct or deposit any amount from the Purchase Price and any obligation or liability Plan Sponsor or any of its Affiliates may have under any applicable Law as

successor or transferee for Taxes of any Debtor or any Affiliate of any Debtor shall be satisfied and Plan Sponsor and its Affiliates shall hereby be release and discharged from any such obligation or liability. The Acquired Assets transferred to Plan Sponsor or any of its Affiliates as contemplated by the Asset Purchase Agreement shall be free and clear from, and shall not be subject to, any Liens for or arising from any Tax delinquencies or deficiencies of any Debtor or any Affiliate of any Debtor. Any bank account designated in writing by the Debtors pursuant to the Asset Purchase Agreement shall be approved by the Bankruptcy Court to be an account in which the Purchase Price may be deposited, and all amounts deposited therein by the Plan Sponsor shall be distributed only pursuant to the Plan and Confirmation Order.

Section 10.13 Allocation of Plan Distributions between Principal and Interest. To the extent that any Claim scheduled to receive a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount of the Claim (as determined for federal income tax purposes) first and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

## **ARTICLE XI RETENTION OF JURISDICTION**

Section 11.01 Exclusive Jurisdiction of Bankruptcy Court. Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain after the Effective Date and until the Chapter 11 Cases are closed, exclusive jurisdiction of all matters arising out of, arising in or related to the Chapter 11 Cases to the fullest extent permitted by applicable law, including, without limitation, jurisdiction to:

(a) classify or establish the priority or secured or unsecured status of any Claim (whether Filed before or after the Effective Date and whether or not contingent, Disputed or unliquidated) or resolve any dispute as to the treatment of any Claim pursuant to the Plan;

(b) grant or deny any applications for allowance of compensation or reimbursement of expenses pursuant to sections 328, 330, 331 or 503(b) of the Bankruptcy Code or otherwise provided for in the Plan, for periods ending on or before the Effective Date;

(c) determine and resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which any Debtors is a party or with respect to which any Debtors may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;

(d) ensure that all payments due under the Plan and performance of the provisions of the Plan are accomplished as provided herein and resolve any issues relating to Distributions to Holders of Allowed Claims pursuant to the provisions of the Plan;

(e) construe, take any action and issue such orders, prior to and following the Confirmation Date and consistent with section 1142 of the Bankruptcy Code, as may be necessary for the enforcement, implementation, execution and consummation of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in

connection with the Plan, including, without limitation, the Disclosure Statement and the Confirmation Order, for the maintenance of the integrity of the Plan and protection of the Debtors or the Liquidation Trustee in accordance with sections 524 and 1141 of the Bankruptcy Code following consummation;

(f) determine and resolve any case, controversies, suits or disputes that may arise in connection with the consummation, interpretation, implementation or enforcement of the Plan (and all Exhibits to the Plan and a Plan Supplement) or the Confirmation Order, including the indemnification and injunction provisions set forth in and contemplated by the Plan or the Confirmation Order, or any Entity's rights arising under or obligations incurred in connection therewith;

(g) hear any application of the Debtors or the Liquidation Trustee to modify the Plan after the Effective Date pursuant to section 1127 of the Bankruptcy Code and Section 12.04 hereof or modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan, to the extent authorized by the Bankruptcy Code and the Plan;

(h) issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;

(i) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

(j) determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order, the Liquidating Trust, or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order, except as otherwise provided in the Plan;

(k) determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(l) hear and determine any other matters related hereto and not inconsistent with chapter 11 of the Bankruptcy Code;

(m) hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan or the Liquidating Trust;

(n) enter one or more Final Decrees closing each of the Chapter 11 Cases;

(o) determine and resolve any and all controversies relating to the rights and obligations of the Liquidation Trustee in connection with the Chapter 11 Cases;

(p) allow, disallow, determine, liquidate or estimate any Claim, including the compromise, settlement and resolution of any request for payment of any Claim, the resolution of any Objections to the allowance of Claims and to hear and determine any other issue presented hereby or arising hereunder, including during the pendency of any appeal relating to any Objection to such Claim (to the extent permitted under applicable law);

(q) permit the Debtors (and the Liquidation Trustee, to the extent provided for in the Plan, or the Liquidating Trust Agreement) to recover all assets of the Debtors and Property of their Estates, wherever located;

(r) hear and determine any motions or contested matters involving taxes, tax refunds, tax attributes and tax benefits and similar or related matters with respect to the Debtors or the Debtors' Estates arising prior to the Effective Date or relating to the period of administration of the Chapter 11 Case, including, without limitation, matters concerning federal, state and local taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(s) hear and determine any motions, applications, adversary proceedings, contested matters and other litigated matters pending on, Filed or commenced after the Effective Date that may be commenced by the Liquidation Trustee thereafter, including Retained Actions, proceedings with respect to the rights of the Liquidation Trustee to recover Property under sections 542, 543 or 553 of the Bankruptcy Code, or proceedings to otherwise collect to recover on account of any claim or Cause of Action that the Debtors may have had;

(t) to consider and act on the compromise of any Claim against, or Interest in, the Debtor, or any Cause of Action asserted on behalf of the Debtors' Estates; provided, however, that there shall be no requirement that the Debtors or the Liquidation Trustee seek Bankruptcy Court approval of compromises and settlements except as provided herein; and

(u) hear any other matter not inconsistent with the Bankruptcy Code.

Section 11.02 Failure of Bankruptcy Court to Exercise Jurisdiction. If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to the Debtors, including with respect to the matters set forth above in Section 11.01 hereof, this Article XI shall not prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

## ARTICLE XII MISCELLANEOUS PROVISIONS

Section 12.01 Binding Effect of Plan. The provisions of the Plan shall be binding upon and inure to the benefit of the Debtors, the Estates, the Debtors, the Liquidation Trustee, the Liquidating Trust, the Plan Sponsors, any Holder of any Claim or Interest treated herein or any Person named or referred to in the Plan, and each of its heirs, executors, administrators, representatives, predecessors, successors, assigns, agents, officers and directors, and, to the

fullest extent permitted under the Bankruptcy Code and other applicable law, each other Person affected by the Plan.

Section 12.02 Withdrawal of the Plan. The Debtors reserve the right (subject to the consent of the Plan Sponsor), at any time prior to Confirmation of the Plan, to withdraw the Plan. If the Plan is withdrawn, the Plan shall be null and void and have no force and effect. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtor.

Section 12.03 Final Order. Except as otherwise expressly provided in the Plan, any requirement in the Plan for a Final Order may be waived by the Debtors or, after the Effective Date, the Liquidation Trustee upon written notice to the Bankruptcy Court. No such waiver shall prejudice the right of any party in interest to seek a stay pending appeal of any order that is not a Final Order.

Section 12.04 Modification of the Plan. The Debtors may alter, amend or modify the Plan in accordance with section 1127 of the Bankruptcy Code or as otherwise permitted at any time prior to the Confirmation Date, provided any such modification shall be acceptable in form and substance to the Plan Sponsor. After the Confirmation Date and prior to the substantial consummation of the Plan, and in accordance with the provisions of section 1127(b) of the Bankruptcy Code and the Bankruptcy Rules, the Debtors may, subject to the consent of the Plan Sponsor and so long as the treatment of Holders of Claims or Interests under the Plan is not adversely affected, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order and any other matters as may be necessary to carry out the purposes and effects of the Plan; provided, however, prior notice of such proceedings shall be served in accordance with Bankruptcy Rules 2002 and 9014.

Section 12.05 Business Days. If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

Section 12.06 Severability. Should the Bankruptcy Court determine, prior to the Confirmation Date, that any provision of the Plan is either illegal on its face or illegal as applied to any Claim or Interest, such provision shall be unenforceable as to all Holders of Claims or Interests or to the specific Holder of such Claim or Interest, as the case may be, as to which such provision is illegal. Unless otherwise determined by the Bankruptcy Court, such a determination of unenforceability shall in no way limit or affect the enforceability and operative effect of any other provision of the Plan. The Debtors reserve the right not to proceed with Confirmation or consummation of the Plan if any such ruling occurs.

Section 12.07 Governing Law. EXCEPT TO THE EXTENT THAT THE BANKRUPTCY CODE OR BANKRUPTCY RULES OR OTHER FEDERAL LAWS ARE APPLICABLE, AND SUBJECT TO THE PROVISIONS OF ANY CONTRACT, INSTRUMENT, RELEASE, INDENTURE OR OTHER AGREEMENT OR DOCUMENT

ENTERED INTO IN CONNECTION WITH THE PLAN, THE CONSTRUCTION, IMPLEMENTATION AND ENFORCEMENT OF THE PLAN AND ALL RIGHTS AND OBLIGATIONS ARISING UNDER THE PLAN SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO CONFLICTS-OF-LAW PRINCIPLES WHICH WOULD APPLY THE LAW OF A JURISDICTION OTHER THAN THE STATE OF DELAWARE; PROVIDED, HOWEVER, THAT THE LAW OF THE STATE IN WHICH COLLATERAL IS LOCATED MAY GOVERN PERFECTION OF AND RECOVERY UPON THAT COLLATERAL.

Section 12.08 Dissolution of Committee. On the Effective Date, the Committee shall be automatically dissolved and all of its members, Professionals and agents shall be deemed released of their duties, responsibilities and obligations, and shall be without further duties, responsibilities and authority in connection with the Debtors, the Chapter 11 Cases, the Plan or its implementation.

Section 12.09 Post-Confirmation Operating Reports. The Consolidated Debtors shall file post-Confirmation operating reports on a consolidated basis as required by the United States Trustee until such time as a Final Decree or other order is entered under section 350(a) of the Bankruptcy Code closing the Chapter 11 Cases.

Section 12.10 Notices. Any notice required or permitted to be provided under this Plan to the Debtors, or any request for information with respect to the Plan, shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

To the Debtors and to the Liquidating Trustee

The Cliffs Club & Hospitality Group, Inc.  
3598 Highway 11  
Travelers Rest, South Carolina 29690  
Attn: Katie Goodman, CRO and Liquidation Trustee  
Telephone: 404 293-0137  
Facsimile: 404 256-4555

With a copy to:

McKenna Long & Aldridge LLP  
303 Peachtree Street, Suite 5300  
Atlanta, GA 30308  
Attn: Gary W. Marsh  
Telephone: 404 527-4150  
Facsimile: 404 527-4198

To the Plan Sponsor:

Cliffs Club Partners, LLC  
c/o John Monaghan  
Holland & Knight  
10 St. James Avenue, 11<sup>th</sup> Floor  
Boston, MA 02116  
Telephone: 617-573-5834  
Facsimile: 617-523-6850

and

The Carlile Group, LLC  
c/o Bill Rothschild  
Ogier, Rothschild, Rosenfeld & Ellis-Monro, P.C.  
170 Mitchell Street, S.W.  
Atlanta, GA 30303  
Telephone: 404 525 4000  
Facsimile: 404 526 8855

With a copy to:

Nexsen Pruet, LLC  
P.O. Drawer 2426  
Columbia, SC 29202-2426  
Attn: Julio E. Mendoza, Jr. Esq.  
Telephone: 803-540-2026  
Facsimile: 803-727-1478

Section 12.11 Filing of Additional Documents. On or before substantial consummation of the Plan, the Debtors may issue, execute, deliver, and File with the Bankruptcy Court or record any agreements and other documents, and take any action as may be necessary or appropriate to effectuate, consummate and further evidence the terms and conditions of the Plan, provided such documents shall be acceptable in form and substance to the Plan Sponsor.

Section 12.12 Section 1125 of the Bankruptcy Code. The Debtors and the Plan Sponsor have, and upon Confirmation of the Plan shall be deemed to have, solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, and the Debtors and the Plan Sponsor (and each of their respective Affiliates, officers, directors, employees, consultants, agents, advisors, members, attorneys, accountants, financial advisors, other representatives and Professionals), have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer, issuance, sale, and purchase of the securities offered and sold under the Plan, and are not, and on account of such offer, issuance, sale, solicitation, and/or purchase will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer, issuance, sale, or purchase of the securities offered and sold under the Plan.

Section 12.13 Section 1146 Exemption. To the fullest extent permitted under section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan, if any, or the execution, delivery or recording of an instrument of transfer under the Plan, or the revesting, transfer or sale of any real or other Property of or to the Debtors, the Plan Sponsor or its designee, the Indenture Trustee SPE, or the Liquidating Trust, shall not be taxed under any state or local law imposing a document recording tax, stamp tax, conveyance fee, sales tax, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or fee or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, mortgage recording tax, intangible tax or similar tax.

Section 12.14 Section 1145 Exemption. Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and Distribution of the modified Notes, the New Club Membership Agreement and interests in the Liquidating Trust shall be exempt from, among other things, the registration requirements of section 5 of the Securities Act and any other applicable law requiring registration prior to the offering, issuance, Distribution, or sale of memberships under the New Club Membership Agreement.

Section 12.15 Time. Unless otherwise specified herein, in computing any period of time prescribed or allowed by the Plan, the day of the act or event from which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is not a Business Day, in which event the period runs until the end of next succeeding day that is a Business Day. Otherwise, the provisions of Bankruptcy Rule 9006 shall apply.

Section 12.16 No Attorneys' Fees. No attorneys' fees will be paid by the Debtors with respect to any Claim or Interest except as expressly specified herein or by order of the Bankruptcy Court.

Section 12.17 No Injunctive Relief. No Claim or Interest shall under any circumstances be entitled to specific performance or other injunctive, equitable or other prospective relief.

Section 12.18 Continued Confidentiality Obligations. Pursuant to the terms thereof, members of and advisors to any Committee, any other Holder of a Claim or Interest, and its predecessors, successors and assigns shall continue to be obligated and bound by the terms of any confidentiality agreement executed by them in connection with these Chapter 11 Cases or the Debtors, to the extent that such agreement, by its terms, may continue in effect after the Confirmation Date.

Section 12.19 No Admissions or Waivers. Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission or waiver by the Debtors with respect to any matter set forth herein, including, without limitation, liability on any Claim or Interest or the propriety of any classification of any Claim or Interest.



Section 12.20 Entire Agreement. The Plan (and all Exhibits to the Plan and any Plan Supplement) sets forth the entire agreement and undertakings relating to the subject matter hereof and supersedes all prior discussions and documents. The Debtors shall not be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, other than as expressly provided for herein or as may hereafter be agreed to by the parties in writing.

Section 12.21 Waiver. The Debtors reserve the right to waive any provision of this Plan (with the consent of the Plan Sponsor) to the extent such provision is for the sole benefit of the Debtors and/or their officers or directors.

Section 12.22 Confirmation of Plans for Separate Debtors. In the event the Debtors are unable to confirm this Plan with respect to all Debtors, the Debtors reserve the right, unilaterally and unconditionally, to proceed with this Plan with respect to any Debtor for which the confirmation requirements of the Bankruptcy Code are met.

Section 12.23 Name Change. No later than five (5) Business Days following the Closing Date, each Debtor shall (a) amend its governing documents and take all other actions necessary to change its name to one that does not include, and is not similar to the term “Cliffs” or any other name included as part of the intellectual property; and (b) take all actions requested by the Plan Sponsor to enable Plan Sponsor, if so desired, to change its name to one utilizing the “Cliffs” name or something similar, and (c) shall provide the Plan Sponsor reasonable documentation confirming the foregoing required name changes.

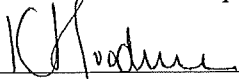
### **CONFIRMATION REQUEST**

The Debtors hereby request confirmation of the Plan pursuant to section 1129(a) or section 1129(b) of the Bankruptcy Code.

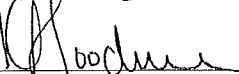
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Dated: May 22, 2012

The Cliffs Club & Hospitality Group, Inc.

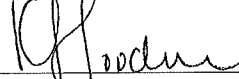
By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

CCHG Holdings, Inc.

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

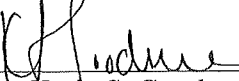
The Cliffs at Mountain Park Golf & Country Club, LLC

By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

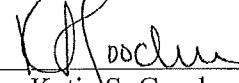
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By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

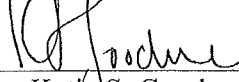
The Cliffs at Walnut Cove Golf & Country Club, LLC

By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

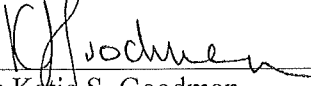
By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

The Cliffs at Keowee Falls Golf & Country Club, LLC

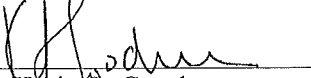
By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

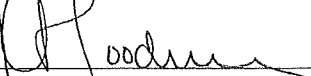
The Cliffs at Keowee Springs Golf & Country Club, LLC  
By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

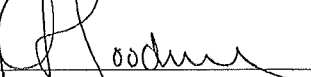
The Cliffs at High Carolina Golf & Country Club, LLC  
By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

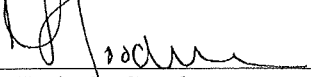
The Cliffs at Glassy Golf & Country Club, LLC  
By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

The Cliffs Valley Golf & Country Club, LLC  
By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER


By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

Cliffs Club & Hospitality Service Company, LLC  
By: THE CLIFFS CLUB & HOSPITALITY GROUP, INC., AS SOLE MEMBER

By:   
Name: Katie S. Goodman  
Title: Chief Restructuring Officer

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Cliffs Club Partners, LLC

By:   
Name: Steve B. Costello  
Title: \_\_\_\_\_

Plan Sponsor

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Dated: May 22, 2012

Respectfully submitted,

/s/ Däna Wilkinson

Däna Wilkinson  
District Court I.D. No. 4663  
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-and-

/s/ J. Michael Levensgood

Gary W. Marsh  
Georgia Bar No. 471290  
J. Michael Levensgood  
Georgia Bar No. 447934  
Bryan E. Bates  
Georgia Bar No. 140856

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mlevengood@mckennalong.com  
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*Attorneys for Debtors and Debtors in Possession*

**HOLLAND & KNIGHT**

/s/ John Monaghan

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Telephone: (617) 523-5834  
Facsimile: (617) 523-6850

and

**NEXSEN PRUET, LLC**

/s/ Julio E. Mendoza, Jr.

Julio E. Mendoza, Jr.  
1230 Main Street, Suite 700  
Columbia, SC 29201  
Telephone: (803) 771-8900  
Facsimile: (803) 727-1478

*Attorneys for Cliffs Club Partners, LLC, Plan Sponsor*