

DRAFT MANAGEMENT AGREEMENT

FOR CSA ADVISORY COMMITTEE REVIEW

Note: The provisions of this Agreement are subject to ongoing negotiations between CSA staff and Kemper Sports Management. The provisions of this Agreement may change, and this draft is provided solely for the purpose of obtaining comments from the CSA Advisory Committee.

Agreement No. ___-___

**AGREEMENT BETWEEN THE WILD WINGS COUNTY SERVICE AREA AND
KEMPER SPORTS MANAGEMENT, INC., FOR MANAGEMENT OF THE WILD
WINGS GOLF COURSE**

THIS MANAGEMENT AGREEMENT (“Agreement”) is made and entered into as of _____ 2009, by and between Wild Wings CSA, a County Service Area organized under California law (“Owner”), and Kemper Sports Management, Inc., an Illinois corporation (“KSM”).

W I T N E S S E T H:

WHEREAS, Owner expects to acquire the golf club facilities located within the boundaries of the Wild Wings County Service Area (CSA) known as “Wild Wings Golf Course” (the “Course”) no later than March 19, 2009; and

WHEREAS, following Owner’s anticipated acquisition of the Course, Owner and KSM desire for KSM to operate and manage the Course subject to the terms and conditions set forth herein; and

WHEREAS, KSM recognizes that Owner will rely solely on revenues arising from a voter-approved special tax on residential parcels within the CSA to fund the acquisition, operation, maintenance, and improvement of the Course, and that the CSA will not be able to pay for such activities unless there is sufficient funding from such anticipated special tax revenues; and

WHEREAS, in response to a Request for Proposals distributed by the CSA, KSM submitted various materials, including a pro forma, relating to its proposed management and operation of the Course; and

WHEREAS, the pro forma indicates that based on information known to KSM at the time of its preparation, KSM expects to be able to operate and maintain the Course at a total annual cost to the CSA that does not exceed, and may be well below, the portion of anticipated special tax revenues that will be allocated to Course maintenance, operation, and related matters; and

WHEREAS, the purpose of this Agreement is to provide a framework for KSM to operate and maintain the Course in a manner that is cost-effective and responsive to the concerns of the CSA, its advisory board, and residents within the CSA;

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and agreements herein contained, the parties hereto agree as follows:

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ARTICLE 1

DEFINITIONS

1.1. Definitions. All capitalized terms referenced or used in this Agreement and not specifically defined herein shall have the meanings set forth on Exhibit A attached hereto.

ARTICLE 2

APPOINTMENT AND TERM

2.1. Appointment. Owner hereby retains, engages and appoints KSM as Owner's agent to perform the Management Services during the Term, as more fully described herein, and KSM hereby accepts said appointment upon and subject to the terms hereof.

2.2. Term. The initial term of this Agreement shall begin on the date that the Owner acquires the Course, which is expected to be between March 11 and 19, 2009) (the "Commencement Date"), and shall terminate on the fifth anniversary of the Commencement Date (the "Termination Date") unless terminated or extended according to the provisions hereof (the "Term"). The parties acknowledge that Owner's acquisition of the Course is uncertain, and agree that if Owner does not acquire the Course by March 19, 2009 or such later date as the parties may agree in writing, this Agreement shall be of no effect. The parties may mutually agree in writing to extend the Term of this Agreement for a term of two additional five (5) year periods upon the expiration of the Term then in effect at least ninety (90) days prior to the expiration of the Term then in effect. If there is no agreement to extend the Term, the Term of this Agreement shall terminate as of the expiration of the Term then in effect.

ARTICLE 3

MANAGEMENT SERVICES

3.1. Management of the Course and Property. KSM shall perform the management services described in this Article 3 (collectively, the "Management Services") and shall supervise, manage, direct, and operate the Course and the Property on behalf of and for the account of Owner, subject to the terms hereof and at all times consistent with the Operating Budget approved by Owner. Owner hereby delegates to KSM, subject to the (i) Budgets, (ii) Owner's approval rights specifically described in this Agreement (the "Approval Rights"), (iii) Operating Budget, and (iv) other terms and conditions set forth herein, the discretion and authority to determine operating policies and procedures, standards of operation, house rules, standards of service and maintenance, pricing, and other policies, rules, and regulations affecting the Course or the Property or the operation thereof, to implement all of same, and to perform any act on behalf of Owner deemed by KSM to be necessary or desirable for the operation and maintenance of the Course and the Property.

3.2. Use of the Property. Owner hereby grants to KSM the right to use and occupy the Property during the Term for the purposes set forth herein. KSM shall, upon the expiration or prior termination of the Term, vacate and surrender the Course and Property to Owner.

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3.3. Scope of Services. KSM will manage all activities of the Course that are included in the annual Operating Budget and approved by Owner. KSM will operate the Course to high quality standards (i.e., golf course maintenance, customer service, etc.) as provided for in the approved Operating Budget. Subject to the terms of this Agreement and the approved Operating Budget, Kemper shall have the authority and responsibility to:

3.3.1. Manage the Course and use commercially reasonable efforts to achieve the approved Operating Budget;

3.3.2. Implement the policies and standards of the Course, as approved by Owner;

3.3.3. Establish high quality golf course maintenance standards approved by Owner and funded appropriately in the Operating Budget;

3.3.4. Manage and supervise all day-to-day operations of the Course, including tee time reservations, collecting green and cart fees, clubhouse operations, outside services, course maintenance, course marshalling services, relations with CSA residents, managing tournaments and events, payroll and benefits administration, accounting and financial reporting, etc;

3.3.5. Hire, train, and supervise all employees required to carry out KSM's responsibilities;

3.3.6. Manage payment of all Course operating expenses as identified in the Operating Budget;

3.3.7. Determine hours of operations, dress code requirements, establish starter, marshal and other outside services, establish handicap services, and golf instruction programs;

3.3.8. In consultation with Owner during the Budget process set forth in Section 3.4, below, establish an "after hours trail" on the Course for passive recreational use (e.g., walking, running) by CSA residents, subject to reasonable restrictions;

3.3.9. Acquire all goods and services necessary to carry out KSM's responsibilities;

3.3.10. Market the Course to achieve targeted objectives, as developed by KSM in consultation with Owner;

3.3.11. Obtain licenses and other operating permits, including but not limited to an alcoholic beverage license;

3.3.12. Negotiate contracts for maintenance equipment and carts to be executed by Owner, and act as Owner's agent in connection with

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existing contracts and lease agreements relating to Course operations and agreements;

3.3.13. Use commercially reasonable efforts to comply with all insurance and legal requirements of the Course; and

3.3.14. Make repairs and other improvements to keep the Course in good order.

3.4. **Budgets.** All budgets, as hereinafter set forth (collectively the “Budgets”), shall be prepared with the advice and counsel of Owner, based on what KSM believes to be reasonable assumptions and projections, and delivered to Owner for Owner’s review and written approval. All Budgets shall be presented in reasonable detail. KSM shall not be deemed to have made any guarantee or warranty in connection with the results of operations or performance set forth in the Budgets and the parties acknowledge that the Budgets are based solely upon KSM’s judgment and the facts and circumstances known by KSM at the time of preparation.

3.4.1 **Operating Budget.** By April 15th of each fiscal year (which for purposes of this Agreement shall be July 1 through June 30 of the successive calendar year) during the Term, KSM shall submit to Owner, for Owner’s review and written approval, an Operating Budget setting forth the forecasted revenues and expenses associated with the operations of the Course for the upcoming fiscal year or part thereof within the Term (the “Operating Budget”). The Operating Budget may include all information that KSM deems reasonably necessary and appropriate, and shall include a line item that identifies the anticipated rounds of golf and projected Course revenue.

Notwithstanding the foregoing, prior to opening the Course following the commencement of the initial Term, KSM shall provide the Owner with an Operating Budget that conforms with the requirements set forth in the preceding paragraph. The parties shall review, revise, and approve the Operating Budget in accordance with the requirements of this Section 3.4, except that in lieu of following to the timeframes provided for such activities, the parties shall work in good faith to finalize the Operating Budget at the earliest possible date and prior to opening the Course.

3.4.2 **Capital Expenditures Budget.** At least sixty (60) days prior to the first day of each fiscal year during the Term, KSM shall submit to Owner, for Owner’s review and written approval, a budget setting forth the proposed capital improvements (including equipment purchases and leases) within and to the Property for the upcoming fiscal year or part thereof within the Term (the “Capital Expenditures Budget”).

Notwithstanding the foregoing, prior to opening the Course following the commencement of the initial Term, KSM shall provide the Owner with a Capital Expenditures budget that conforms with the requirements set forth in the preceding paragraph. The parties shall review, revise, and approve the Capital Expenditures Budget in accordance with the requirements of this Section 3.4, except that in lieu of following to the timeframes provided for such activities, the parties shall work in good faith to finalize

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the Capital Expenditures Budget at the earliest possible date and prior to opening the Course.

3.4.3 Owner's Review and Approval of Budgets. The Budgets shall be for Owner's review and written approval, subject to the terms of this Agreement. Owner shall give its written comments and/or approval within thirty (30) days after KSM delivers the Budgets to Owner. During the annual Budget process, Owner may reasonably request, subject to the approval of KSM (which shall not be unreasonably withheld) that the Budget be amended to provide for KSM to perform additional tasks or services consistent with its duty to operate and maintain the Course (including but not limited to longer hours of operation, quarterly or monthly meetings with the CSA governing board, its advisory committee, or CSA residents, or a periodic newsletter to CSA residents). In the event of disapproval of any Budgets, KSM shall continue operating the Course pursuant to the Budgets then in effect, subject to increases in Operating Expenses required due to (i) increases in Gross Revenues or (ii) other matters beyond the control of KSM, until such time as Owner and KSM agree upon the appropriate replacement Budgets.

3.4.4 Unanticipated Expenditures and Reallocation of Funds. Owner agrees that the Budgets are intended to be reasonable estimates, and, accordingly, KSM shall be entitled from time to time to revise the Budgets to cover any expenditures that were unanticipated at the time of preparation of the Budgets but are reasonable and necessary to carry out the provisions of this Agreement; provided, however, that except as otherwise set forth in this Agreement, KSM shall be required to obtain Owner's prior written approval of any expenditures which would result in the total budgeted expenditures in any particular department category within the Budget being exceeded by more than five percent (5%) or if expenditures in any combination of department categories would exceed the total amount of expenditures in the Budget by twenty percent (20%). KSM is authorized to take all action reasonably deemed necessary by KSM to implement, perform, or cause the performance of the items set forth in the Budgets. Owner acknowledges that KSM has not made any guarantee, warranty, or representation of any nature whatsoever concerning or relating to (i) the Budgets, or (ii) the amounts of Gross Revenues or Operating Expenses to be generated or incurred from the operation of the Course.

3.5 Course Operations. KSM shall use commercially reasonable efforts to perform all acts that are necessary in the opinion of KSM to operate and manage the Course, subject to the Budgets, the Approval Rights and terms and conditions set forth herein, on behalf of and for the account, and at the sole cost and expense of, Owner, in accordance with the standards of quality expected at high quality golf courses in the vicinity of the Course. KSM shall have the authority and responsibility for the administration, operation and management of the Course and the Property. At a minimum, KSM shall perform the following acts and services:

3.5.1 Financial Management, Accounting Records and Reporting. KSM will employ an on-site accountant or bookkeeper (the cost of which shall be an Operating Expense) for the Course whose duties shall include: (i) maintaining all books, records, and other data associated with the financial activities of the Course, (ii)

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preparing all operating budgets, cash flow budgets, and other financial forecasts, and (iii) being responsible for the day-to-day financial affairs of the Course. All accounting records shall be maintained in a format consistent (in all material respects) with generally accepted accounting principles.

(A) Financial Reporting. During the Term, KSM shall provide the following financial statements in a format reasonably specified by Owner:

- 1) KSM shall submit to Owner, within twenty (20) days after the close of each calendar month, a financial statement showing in reasonably accurate detail the financial activities of the Course for the preceding calendar month and the fiscal year to date.
- 2) KSM shall submit to Owner, within sixty (60) days after the close of each fiscal year, a financial statement showing in reasonably accurate detail the financial activities of the Course for the fiscal year then ended.

(B) Internal Control. KSM agrees to develop, install, and maintain reasonably appropriate accounting, operating, and administrative controls governing the financial aspects of the Course, such controls to be consistent (in all material respects) with generally accepted accounting principles.

(C) Records and Inspection. KSM shall maintain a set of all financial, vendor and operating records relating to the Course at the Property. At any time during the Term, Owner shall have the right, after three (3) days prior written notice to KSM, to inspect the books, records, invoices, deposits, canceled checks, or other financial data or transactions of the Course at reasonable times and during normal business hours; provided, however, Owner shall use its best efforts to not cause any disruptions in the operations of the Course in connection with such inspections. Notwithstanding the foregoing, such inspection rights shall not extend to any inspection of KSM corporate records at its corporate office nor any records relating to any other projects or locations. Upon expiration or termination of this Agreement, KSM will promptly turn over all such Course records to Owner. Owner shall also have the right to request external auditor review of the financial, vendor, and operating records relating to the Course at any time during the Term, as well as upon the conclusion of each Term. The external auditor shall be selected by Owner, subject to prior approval of KSM (which shall not be unreasonably withheld). Owner shall bear all costs associated with external auditor review.

3.5.2 Bank Accounts. KSM shall assist Owner in establishing, in Owner's name, utilizing the federal tax identification number of Owner, a deposit account (the "Deposit Account") and an operating expense account (the "Operating Expense Account"). Owner agrees that individuals designated by KSM, and approved in writing by Owner, shall be signatories on the accounts, and that Owner will not change the signatories of such accounts or close such accounts without the prior

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written consent of KSM. Additionally, KSM shall establish a payroll account (the "Payroll Account") in KSM's name. The records and bank statements shall be subject to inspection by Owner pursuant to the terms recited herein. All Gross Revenues of the Property shall be collected, received, and deposited by KSM exclusively through the Deposit Account in accordance with the terms of this Agreement. All Operating Expenses shall be handled and expended exclusively through the Operating Expense Account. All Gross Payroll for the Course shall be handled and expended exclusively through the Payroll Account.

- 3.5.3 Employees. As part of the Operating Budget, KSM shall (i) determine personnel requirements, recruitment schedules, and compensation (including salary and benefit) levels, (ii) furnish job descriptions, performance appraisal procedures, employee benefit programs, and operational and procedural manuals for all personnel, and (iii) establish forms and procedures for employee compensation and Course incentive programs. KSM shall hire, promote, discharge, and supervise all employees performing services in and about the Course. All of the employees of the Course shall be employees of KSM.
- 3.5.4 Marketing. KSM shall make recommendations to Owner as to green fees and other fees and rates. Owner may request discounted greens fees, facility rates, and other benefits for CSA residents, and KSM shall cooperate in good faith to implement any such requests. KSM shall develop the ongoing marketing plan for the Course and define a schedule of marketing and advertising activities, which shall be submitted to Owner as part of the Operating Budget. Upon Owner's approval, KSM shall indicate on the premises that the Course is being operated by KSM. KSM shall appear on at least a bi-annual basis at a public meeting of the CSA Advisory Committee or (if requested by CSA staff) its governing board to discuss Course operations, maintenance, and any benefits, amenities or other services that may be available to CSA residents.
- 3.5.6 Non-Discrimination. KSM agrees that any service provided pursuant to this Agreement shall be without discrimination based on color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability in accordance with all applicable Federal, State and County laws and regulations and any administrative directives established by the CSA governing board (provided that any such administrative directives are provided to KSM in writing in advance). For the purpose of this Agreement, distinctions on the grounds of color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability include but are not limited to the following: denying a participant any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this Agreement; subjecting a participant to segregation or separate treatment in any way in the enjoyment or any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in

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order to be provided any service or benefit; and the assignment of times or places for the provision of services.

3.6 Environmental Remediation. Throughout the Term, if KSM becomes aware of the presence of any Hazardous Material in a quantity sufficient to require remediation or reporting under any Environmental Law in, on or under the Property or if KSM, Owner, the Course, or the Property becomes subject to any order of any federal, state or local agency to investigate, remove, remediate, repair, close, detoxify, decontaminate or otherwise clean up the Property, KSM shall, at Owner's request and sole expense, use all commercially reasonable efforts to carry out and complete any required investigation, removal, remediation, repair, closure, detoxification, decontamination or other cleanup of the Property; provided that such remediation activities shall be at KSM's expense if such activities are required as a direct consequence of Hazardous Material being present in, on or under the Property solely as a result of the actions or omissions of KSM and not directed or approved by Owner. Owner acknowledges and agrees that as between Owner and KSM, Owner shall be solely responsible for any legal or other liability arising out of the presence of any Hazardous Material in, on or under the Property, except to the extent such Hazardous Material is present in, on or under the Property solely as a result of the actions or omissions undertaken by KSM and not directed or approved by Owner.

3.7 Contracts. KSM shall negotiate, consummate, enter into, and perform, in the name of Owner, such agreements as KSM may deem necessary or advisable for the furnishing of all food, beverages, utilities, concessions, entertainment, operating supplies, equipment, repairs and other materials and services as KSM determines are needed from time to time for the management and operation of the Course. Notwithstanding the above, any contract which exceeds Twenty Five Thousand Dollars (\$25,000) in total payments over the term of such contract or which has a term of over one (1) year shall require the prior written consent of Owner, which consent shall be deemed to have been given if Owner neither consents nor disapproves within ten (10) business days after KSM's written request for approval.

3.8 Licenses, Permits, and Accreditations. KSM shall apply for and use its commercially reasonable efforts to obtain and maintain, in Owner's name (or, if otherwise required by applicable law or requested by Owner, in KSM's name), all licenses, permits, and accreditations required in connection with the management and operation of the Course, the cost of which shall be an Operating Expense. Owner will cooperate with KSM in applying for, obtaining, and maintaining such licenses (including liquor licenses), permits, and accreditations.

3.9 Legal Action. KSM may not institute any legal action by or on behalf of Owner or the Course without the prior written consent of Owner and Owner may not institute any legal action by or on behalf of KSM without the prior written consent of KSM.

3.10 Emergency Expenditures. In the event, at any time during the Term, a condition should exist in, on, or about the Property of an emergency nature which, in KSM's sole and absolute discretion, requires immediate action to preserve and protect the Property, to better assure the Course's continued operation, or to protect the Course's customers, guests, or employees, KSM is authorized to take all steps and to make all reasonable expenditures

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necessary to repair and correct any such condition, whether or not provisions have been made in the applicable Budgets for any such expenditures. Owner shall be notified of the need for, and estimated amount of, any such emergency expenditures as soon as reasonably practical.

3.11 Compliance with Laws. KSM shall comply with all federal, state and local laws, ordinances, rules, or governmental regulations now or hereafter in force, or by order of any governmental or municipal power, department, agency, authority, or officer (collectively "Laws") applicable to the use, operation, maintenance, repair and restoration of the Course and Property, whether or not compliance therewith shall interfere with the use and enjoyment of the Course and Property; and (ii), except for those which are the obligation of Owner or Owner's separate contractors, procure, maintain and comply with all licenses and other authorizations required for any use of the Course and Property then being made, and for the operation and maintenance of the Course and Property or any part thereof, the costs of which shall be Operating Expenses. Notwithstanding the foregoing, Owner acknowledges and agrees that Owner or its construction contractors shall be responsible for procuring, maintaining and complying with all licenses and other authorizations relating to design, construction, zoning, erection, installation and similar matters relating to any construction at the Course. If at any time during the Term KSM is notified or determines that repairs, additions, changes, or corrections in the Property of any nature shall be required by reason of any Laws, KSM shall notify Owner and request Owner's consent to take all reasonable steps and to make all reasonable expenditures necessary to repair and correct any such repairs, additions, changes, or corrections whether or not provisions have been made in the applicable Budgets for any such expenditures, the costs of which shall be Operating Expenses. If Owner withholds such consent, KSM shall not be liable for any failure of the Property to be in compliance with such Laws.

3.12 Other Duties and Prerogatives. In addition to the foregoing duties, KSM shall use commercially reasonable efforts to perform any act that does not fall into any of the categories set forth above and that is necessary to operate and manage the Course and the Property during the Term, subject to the terms and conditions hereof. In fulfilling its operational and managerial responsibilities hereunder, KSM shall have all rights ordinarily accorded to a manager in the ordinary course of business, including, without limitation, the collection of proceeds from the operation of the Course and the Property, the incurring of trade debts in Owner's name (other than mortgage indebtedness), the approval and payment of obligations, and the negotiating and signing of leases and contracts. KSM shall not be obligated to advance any of its own funds to or for the account of Owner nor to incur any liability, unless Owner shall have furnished KSM with funds necessary for the full discharge thereof. Further, KSM shall not be obligated to sign any leases, contracts or other agreements in KSM's name. However, if for any reason KSM shall have advanced funds in payment of any reasonable expense in connection with the maintenance and operation of the Course or the Property, Owner shall reimburse KSM within twenty (20) days after invoice for the full amount of such payments. Owner's failure to reimburse KSM as provided herein for any such payment shall be an Event of Default by Owner.

3.13 Other Contracts Within the CSA. The Wild Wings Home Owners Association, which is responsible for the maintenance of the residential community surrounding the Course, has indicated that it may desire for KSM to provide maintenance services to the surrounding residential community and may enter into a separate contract with KSM for the provision of such

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maintenance services. KSM shall obtain prior approval from CSA before entering into any such separate contracts that use CSA property or assets.

ARTICLE 4

RESPONSIBILITIES OF OWNER

4.1 Expenditures. Owner acknowledges that it is solely responsible for all Operating Expenses and capital expenditures required for or on behalf of the Course provided that such Operating Expenses and capital improvements are made in accordance with the terms of this Agreement. Owner shall be responsible for all other expenditures and obligations in connection with the Course and the Property, including without limitation, all federal, state and local taxes and all principal and interest payments on indebtedness.

4.2 Owner's Advances. Owner shall advance funds to the Operating Expense Account and the Payroll Account described in Section 3.5.2 to conduct the affairs of the Course and maintain the Property (the "Owner's Advances") as set forth below. Such Owner's Advances may be paid by check, wire transfer or authorization to apply funds from the Deposit Account towards the payment of such Owner's Advances. Owner acknowledges and agrees that it has sole responsibility for providing Owner's Advances and KSM shall have no responsibility to provide funds for the payment of any Operating Expenses, Gross Payroll, debts or other amounts payable by or on behalf of the Course, the Property or Owner. Nothing in this Agreement, however, shall be deemed to require Owner to make advances or other payments under this Article in any fiscal year that exceed twenty percent (20%) of the total budgeted expenditures set forth in Budgets developed pursuant to Article 3, above, as may be amended by the parties from time to time.

4.2.1 Operating Expense Account. On or before the Commencement Date (and in any event, prior to KSM's incurrence of any Operating Expenses), Owner shall remit to KSM for deposit into the Operating Expense Account, Owner's Advances equal to one month's estimated Operating Expenses (as specified in the approved Budget) (the "Operating Expense Minimum"). Owner shall replenish the Operating Expense Account in order to maintain the Operating Expense Minimum in the Operating Expense Account as described below. KSM shall use the funds in the Operating Expense Account to pay the Operating Expenses of the Course. On a monthly basis, KSM shall provide Owner with a statement describing the anticipated source and use of funds for the Course for the next monthly period. Within five (5) days after Owner's receipt of such statement from KSM, Owner shall remit to the Operating Expense Account the amount set forth in such statement, less the amount, if any, then on deposit in the Deposit Account to the extent Owner authorizes the transfer of such amount to the Operating Expense Account. The parties agree to adjust the Operating Expense Minimum seasonally, or as otherwise required from time to time, in order to reflect the then-current payment obligations of the Course.

4.2.2 Payroll Account. On or before the Commencement Date (and in any event, prior to KSM's incurrence of any Gross Payroll obligations), Owner shall remit to

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KSM for deposit into the Payroll Account, Owner's Advances equal to one month's estimated Gross Payroll obligations (as specified in the approved budget) (the "Payroll Expense Minimum"). Owner shall replenish the Payroll Account in order to maintain the Payroll Expense Minimum in the Payroll Account as described below. On a bi-weekly basis, KSM shall fund payroll and the Gross Payroll obligations from the Payroll Account and concurrently provide Owner with a statement containing such funded Gross Payroll obligations of the Course. Within five (5) days after Owner's receipt of such statement from KSM, Owner shall remit to the Payroll Account the amount set forth in such statement, less the amount, if any, then on deposit in the Deposit Account to the extent Owner authorizes the transfer of such amount to the Payroll Account. The parties agree to adjust the Payroll Expense Minimum seasonally, or as otherwise required from time to time, in order to reflect the then-current payroll obligations of the Course.

4.3 Limitations. The total financial responsibility of Owner under this Article 4 is limited in each fiscal year to the amount of anticipated special tax revenues allocated to Course operation and maintenance. This sum may vary from year to year, and Owner will advise KSA of the anticipated amount of special tax revenues available for Course operation and maintenance each year (the "Annual Spending Cap") during the budgeting process described in Article 3, above.

ARTICLE 5

FEES, EXPENSES AND RECEIPTS.

5.1 Management Fee. Subject to the Annual Spending Cap, during the Term, Owner shall pay KSM an annual fee of seventy five thousand dollars (\$75,000) (the "Management Fee"), which fee shall be paid in equal monthly installments in advance, no later than the first day of each calendar month. (Such Management Fee shall be prorated for any partial calendar month occurring during the Term.) Each year on the anniversary of the Commencement Date, so long as net Course revenues exceeded total expenses (excluding the Management Fee) in the prior year, the Management Fee shall be increased by five percent (5%). Payment of the Management Fee may be made directly from the Operating Expense Account.

5.2 Out-of-Pocket Expenses. In addition to all other fees and expenses recited herein payable to KSM, and subject to Owner's approval of same in the Budgets, it is agreed that Owner shall reimburse KSM within fifteen (15) days of invoice for all actual out-of-pocket expenses incurred by KSM in the performance of this Agreement. Out-of-pocket expenses shall include, but shall not be limited to, reasonable travel, air express, costs of recruitment (including applicable agent's fees), and other incidental expenses. Reimbursement for such out-of-pocket expenses will be made at actual cost and may be made directly from the Operating Expense Account. Such reimbursements shall be subject to the Annual Spending Cap.

5.3 Late Fees. Owner shall pay to KSM all of the fees described above, and any other sums due KSM, at the times, at the places, and in the manner herein provided. If any payment or any part thereof to be made by Owner to KSM pursuant to the terms hereof shall become overdue for a period of twenty (20) days, a "late charge" may be charged by KSM for the

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purpose of defraying the expense incident to handling such delinquency. The late charge shall be equal to the lesser of (i) one percent (1%) per month, or (ii) the highest amount allowed to be charged by applicable law. In the event any portion of this Section violates any state or federal law or regulation, this Section shall be deemed void and shall have no other effect or make invalid any other provision of this Agreement. Further, nothing herein shall be construed as waiving any rights of KSM arising out of any Events of Default of Owner by reason of KSM assessing or accepting any such late payment or late charge; the right to collect the late charge is separate and apart from any rights relating to remedies of KSM after default by Owner in the performance or observance of the terms of this Agreement.

5.4 Owner's Receipts. During the Term, in each calendar month Owner shall receive the Positive Net Cash Flow for such calendar month after payment of the Management Fee and any other fees or out-of-pocket expenses owed to KSM, which amount shall be distributed, to a reserve account established by the Owner at the same institution where the Operating Expense and Payroll Accounts are maintained, within fifteen (15) days following the close of each calendar month ("Owner's Receipts"); provided, however, that a minimum balance of at least the Operating Expense Minimum and the Payroll Expense Minimum is maintained in the Operating Expense Account and the Payroll Account at all times. KSM may deduct any Management Fee or other fees or amounts owed to KSM from Gross Revenues before remitting Owner's Receipts to Owner.

ARTICLE 6

COVENANTS AND REPRESENTATIONS

6.1 Owner's Covenants and Representations. Owner makes the following covenants and representations to KSM, which covenants and representations shall, unless otherwise stated herein, survive the execution and delivery of this Agreement:

- 6.1.1 Status. Owner is a special district duly organized, validly existing, and in good standing under the laws of the State of California, and authorized to transact business in California, with full power and authority to enter into this Agreement.
- 6.1.2 Authorization. The making, execution, delivery, and performance of this Agreement by Owner has been duly authorized and approved by all requisite action, and this Agreement has been duly executed and delivered by Owner and constitutes a valid and binding obligation of Owner, enforceable in accordance with its terms.
- 6.1.3 Effect of Agreement. Neither the execution and delivery of this Agreement by Owner nor Owner's performance of any obligation hereunder (a) shall constitute a violation of any law, ruling, regulation, or order to which Owner is subject, or (b) shall constitute a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document (i) to which Owner is a party or is otherwise bound, or (ii) to which the Course, the Property or any part thereof is subject.

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6.1.4 Ownership Rights. Owner shall obtain and retain the property interests in the Course and the Property necessary to enable KSM to perform its duties pursuant to this Agreement peaceably and quietly. Owner represents and warrants that KSM's performance of the services required by this Agreement shall not violate the property rights or interests of any other Person.

6.1.5 Documentation. If necessary to carry out the intent of this Agreement, Owner agrees to execute and provide to KSM, on or after the Commencement Date, any and all other instruments, documents, conveyances, assignments, and agreements which KSM may reasonably request in connection with the operation of the Course.

6.2 KSM's Covenants and Representations. KSM makes the following covenants and representations to Owner, which covenants and representations shall, unless otherwise stated herein, survive the execution and delivery of this Agreement:

6.2.1 Corporate Status. KSM is a corporation duly organized, validly existing, and in good standing under the laws of Illinois, and authorized to transact business in California, with full corporate power to enter into this Agreement and execute all documents required hereunder.

6.2.2 Authorization. The making, execution, delivery, and performance of this Agreement by KSM has been duly authorized and approved by all requisite action of the board of directors of KSM, and this Agreement has been duly executed and delivered by KSM and constitutes a valid and binding obligation of KSM, enforceable in accordance with its terms.

6.2.3 Effect of Agreement. Neither the execution and delivery of this Agreement by KSM nor KSM's performance of any obligation hereunder (i) will constitute a violation of any law, ruling, regulation, or order to which KSM is subject, or (ii) shall constitute a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which KSM is a party or is otherwise bound.

ARTICLE 7

INSURANCE

7.1 Course Insurance. During the Term, KSM shall secure, the cost of which shall be an Operating Expense, the following insurance covering its on-site activities under this Agreement:

(A) Property Insurance covering loss or damage to the buildings, structures or other Improvements, contents, equipment and supplies. Owner shall provide KSM with the appropriate written specifications for all property to be insured under such policy. Owner understands that coverage for flood, earthquake or wind damage shall be excluded from coverage and damages connected with such events shall be an Operating Expense. Upon

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Owner's written request, KSM will attempt to obtain coverage for flood, earthquake and/or wind damage and, if available, such coverage shall be an Operating Expense. Such Property Insurance shall include a waiver of all right of recovery by way of subrogation against KSM and Owner in relation to any damage covered by such policy.

(B) Commercial General Liability and/or Umbrella/Excess Liability Insurance providing coverage for bodily injury and property damage arising in connection with the operation of the Course or on the Property and including coverage for contractual liability providing limits of not less than:

Bodily Injury and Property Damage Liability -	\$5,000,000 each occurrence
Personal Injury and Advertising Liability -	\$5,000,000 per person or per organization
General Policy Aggregate -	\$5,000,000
Products Liability/Completed Operations Aggregate -	\$5,000,000

(C) Commercial Business Automobile Liability Insurance including coverage for all owned, non-owned, and hired vehicles providing coverage for bodily injury and property damage liability with combined single limits of not less than \$1,000,000.

(D) Commercial Liquor Liability including coverage for damages arising out of the selling, serving or furnishing of any alcoholic beverage with a limit of \$5,000,000 per occurrence/\$5,000,000 aggregate limit or the minimum limits required by statute if higher.

Special Note: the limits of liability specified in A, B, C and D above can be satisfied through a combination of primary, umbrella or excess liability policies, provided that the coverage under such umbrella or excess liability policies is at least as broad as the primary coverage.

(E) Business Interruption, Loss of Income and Extra Expense Insurance that will reimburse Owner and KSM for direct and indirect loss of earnings attributable to six months of business interruption and for the actual loss sustained until the structures are substantially rebuilt after an insured property loss.

(F) Workers' Compensation Insurance in such amounts that comply with applicable statutory requirements, and Employer's Liability limits, including Umbrella Liability Insurance, if necessary, of not less than \$1,000,000 per accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease each employee.

(G) Fidelity Bond or Fidelity Insurance covering all employees who have access to or responsibility for or who handle Owner funds.

All such insurance coverage maintained by KSM (except as set forth in (F) and (G)) shall name Owner as additional insured and shall be maintained with insurance companies rated at least A- by Best Key Rating Guide and shall be licensed to do business in California. KSM shall deliver to Owner certificates of such insurance evidencing the required policies together with original

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copies of the policies if requested. Property insurance shall include a waiver of all recovery by way of subrogation against KSM and Owner in relation to any damage covered by such policy.

The expenses for all the coverages outlined in (A) through (G) above shall be Operating Expenses.

7.2 Owner's Option to Provide Insurance. Upon Owner's prior written notification to KSM, Owner may procure and maintain, at Owner's sole cost and expense, with insurance companies rated at least A- by Best's Key Rating Guide, and licensed to do business in California, sufficient insurance fully covering the Property and operation of the Course, in at least the amounts specified in Section 7.1 (A) through (E) above. All such insurance shall name KSM and its shareholders, officers, directors, employees, agents and representatives as additional insureds. Owner shall deliver to KSM certificates of insurance evidencing the above-required policies. Property insurance shall include a waiver of all recovery by way of subrogation against KSM in relation to any damage covered by such policy.

Within fifteen (15) days after receipt of such written notification from Owner, along with appropriate certificates of insurance, KSM shall no longer secure the coverage specified in Section 7.1 (A) through (E) above; provided, however, that KSM shall continue to secure the coverage specified in Section 7.1 (F) and (G) above. The expenses for the coverages provided by KSM shall be Operating Expenses.

7.3 Waiver of Subrogation. Notwithstanding anything else contained in this Agreement, Owner and KSM each hereby waive all rights of recovery against the other and their Affiliates, and against each of their officers, employees, agents and representatives, on account of loss by or damage to the waiving party's property or the property of others under its control, to the extent that such loss or damage is (i) insured against under any insurance policy which either may have in force at the time of the loss or damage; or (ii) is required to be insured against in accordance with this Agreement; or (iii) given the facts and circumstances surrounding the Property and the Course, should reasonably be insured against by the Owner (in any case, regardless of whether or not such insurance policy is in effect). Owner shall, upon obtaining any policies of insurance required under this Agreement, give notice to its insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Agreement. This waiver of subrogation shall survive the expiration or termination of this Agreement.

ARTICLE 8

DAMAGE AND CONDEMNATION

8.1 Substantial Destruction. In the event the Real Property, Tangible Personal Property, and/or Improvements are damaged or destroyed by fire or other casualty to the extent that the damage cannot be materially restored with due diligence within two hundred seventy (270) days following such event, either party hereto may terminate this Agreement upon written notice to the other party given within ninety (90) days following the date of such destruction. In the event of termination of this Agreement pursuant to this Section, the Term shall cease and come to an end as of the effective date of termination specified in the termination notice (which shall in no event be prior to the date of receipt of the termination notice) as though such date

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were the date originally fixed for the expiration of the Term. Both parties shall pay all amounts due to the other party up to such effective date of termination (or, with respect to amounts due to KSM, after such date if it is reasonably necessary to incur additional expenses in the wind-down of operations of the Course).

8.2 Partial Destruction. In the event the Real Property, Tangible Personal Property, and/or Improvements, or any portion thereof, is damaged or destroyed by fire or other casualty and such damage can be materially restored with due diligence within two hundred seventy (270) days following such event, Owner shall have the obligation to repair the damaged Real Property, Tangible Personal Property, and/or Improvements as nearly as practicable to the condition the same were in prior to such damage. Owner shall cause such repair to be made with all reasonable dispatch so as to complete the same at the earliest possible date.

8.3 Substantial Condemnation. In the event (i) all or substantially all of the Real Property is taken in any eminent domain, condemnation, compulsory acquisition, or similar proceeding by any competent authority for any public or quasi-public use or purpose, or (ii) a substantial portion of the Real Property is so taken, but the result is that it is unreasonable to continue to operate the Property for the purposes contemplated by this Agreement, then either party hereto may terminate this Agreement upon written notice to the other party given within ninety (90) days following the conclusion of the condemnation proceedings. In the event of termination of this Agreement pursuant to this Section, the Term shall cease and come to an end as of the effective date of termination specified in the termination notice (which shall in no event be prior to the date of receipt of the termination notice) as though such date were the date originally fixed for the expiration of the Term. Both parties shall pay all amounts due to the other party up to the date of termination (or, with respect to amounts due to KSM, after such date if it is reasonably necessary to incur additional expenses in the wind-down of operations of the Course).

8.4 Partial Condemnation. In the event a portion of the Real Property shall be taken by any of the events described in Section 8.3 above, or is affected but on a temporary basis, and the result is not to make it unreasonable to continue to operate the Property for the purposes contemplated by this Agreement, this Agreement shall not terminate. It is further agreed that any portion of any award, damages or other compensation paid to Owner on account of such partial taking, condemnation, or sale as is necessary to render the Property equivalent to its condition prior to such event shall be used for such purpose. The balance of such award, if any, shall be fairly and equitably apportioned between the parties in accordance with their respective interests.

ARTICLE 9

INDEMNIFICATION

9.1 Owner's Indemnification Obligations. Except as provided in Section 7.3, Owner shall defend, indemnify and hold KSM and its Affiliates and each of their shareholders, members, officers, directors, managers, employees, agents, and representatives (the "KSM Related Parties") harmless of and from all liability, loss, damage, cost, or expense (including, without limitation, reasonable attorneys' fees and expenses) arising from or relating to (i) the performance of the Management Services on behalf of Owner, and (ii) the ownership, leasing,

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organization, development or construction of the Course or the Property; and (iii) Hazardous Materials or other conditions existing at the Course or the Property; and (iv) the use by KSM of Course trade names, trademarks, logos or other intellectual property used in connection with the Course; and (v) any acts or omissions of Owner (or its officers, directors, agents, employees, representatives, contractors and others for whom Owner is responsible); and (vi) any activities in connection with the transition of the management of the Course to KSM; and (vii) any acts or omissions occurring in connection with the operation or management of the Club prior to the Term and (viii) the relationship between Owner or any of Owner's Affiliates and the prior management company of the Course or any acts or omissions of the prior management company; to the fullest extent permitted by law, except to the extent such liabilities were caused by KSM's willful or criminal misconduct, negligence or fraud. Owner's duty to defend and indemnify KSM and the KSM Related Parties shall extend to all liability, loss, damage, cost, or expenses hereunder arising from or relating to any event or occurrence taking place prior to, during, or after the Term.

9.2 KSM's Indemnification Obligations. Except as provided in Section 7.3, KSM shall defend, indemnify and hold Owner and Owner's shareholders, officers, directors, employees, agents, and representatives (the "Owner Related Parties") harmless of and from all liability, loss, damage, cost, or expense (including, without limitation, reasonable attorneys' fees and expenses) arising from or relating to the negligent acts or omissions of KSM (or its officers, directors, agents, employees, representatives, contractors and others for whom KSM is responsible), to the fullest extent permitted by law, except to the extent such acts or omissions were directed or approved by Owner, or such liabilities were caused by Owner's willful or criminal misconduct, negligence or fraud. KSM's duty to defend and indemnify Owner and the Owner Related Parties shall extend to all liability, loss, damage, cost, or expenses hereunder arising from or relating to any event or occurrence taking place prior to, during, or after the Term. Notwithstanding anything else contained herein, Owner acknowledges that KSM shall not be responsible for any damage to property under its care custody and control and that Owner shall ensure that all such damage is covered by appropriate insurance coverage.

9.3 Survival. The defense and indemnification obligations contained in this Article 9 shall survive the expiration or termination of this Agreement for any reason.

ARTICLE 10

RIGHT TO CURE

10.1 Performance. If, after the expiration of any permitted grace period or notice and cure period, a party hereto shall have failed to cure any default in the performance of any representation, covenant, or obligation on its part to be performed, then the other party may, at any time thereafter, without further notice, perform the same for the account and at the expense of the other party. Notwithstanding the above, in the case of an emergency, either party may, after notice to the other party, so reasonably perform in the other party's stead prior to the expiration of any applicable grace period; provided, however, the other party shall not be deemed in default under this Agreement.

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10.2 Reimbursement. If, pursuant to this Article, either party at any time is compelled or elects (as permitted by the immediately preceding Section) (i) to pay any sum of money, (ii) to do any act which will require the payment of any sum of money, or (iii) to incur any expense (including reasonable attorneys' fees) in instituting, prosecuting, and/or defending any action or proceeding instituted by reason of the other party's failure to perform, as described in the immediately preceding Section, the sum or sums paid or payable by such party, with all interest, cost, and damages, shall be immediately due from the other upon receipt of a statement and reasonable documentation therefor.

ARTICLE 11

EVENTS OF DEFAULT

The occurrence of any one or more of the following events which is not cured within the specified cure period, if any, shall constitute a default under this Agreement (hereinafter referred to as an "Event of Default"):

11.1 Failure to Pay Sums Due. Either party's failure to pay any sums payable under this Agreement when and as the same shall become due and payable and such failure shall continue for a period of ten (10) days after written notice (specifying the item not paid) thereof from the other party to the defaulting party, provided said sums (individually or in the aggregate) exceed \$5,000. The failure to pay any sums of a lesser amount shall be handled in accordance with Section 11.2, below.

11.2 Failure to Comply. Either party's material failure to comply with any of the covenants, agreements, terms, or conditions contained in this Agreement and such failure shall continue for a period of thirty (30) days after written notice thereof from the other party to the defaulting party specifying in detail the nature of such failure. Notwithstanding the foregoing, in the event any such failure cannot with due diligence be cured within such 30-day period, if the defaulting party proceeds promptly and diligently to cure the same and thereafter diligently prosecutes the curing of such failure, the time within which the failure may be cured shall be extended for such period as may be necessary for the defaulting party to cure the failure.

11.3 Bankruptcy. If either party (i) applies for or consents to the appointment of a receiver, trustee, or liquidator of itself or any of its property, (ii) is unable to pay its debts as they mature or admits in writing its inability to pay its debts as they mature, (iii) makes a general assignment for the benefit of creditors, (iv) is adjudicated as bankrupt or insolvent, or (v) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or taking advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or admits the material allegations of a petition filed against it in any proceedings under any such law, or if any action shall be taken by said party for the purpose of effecting any of the foregoing.

11.4 Reorganization; Receiver. An order, judgment, or decree is entered without the application, approval, or consent of either party by any court of competent jurisdiction approving a petition seeking reorganization of said party or appointing a receiver, trustee, or liquidator of said party, or of all or a substantial part of any of the assets of said party, and such order,

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judgment, or decree remains unstayed and in effect for a period of ninety (90) days from the date of entry thereof.

ARTICLE 12

REMEDIES

12.1 Owner's Remedies. Upon the occurrence of an Event of Default by KSM, Owner may:

12.1.1 Seek specific performance of KSM's obligations or injunctive relief, as applicable;

12.1.2 Demand and receive payment of all amounts due Owner under the terms of this Agreement and the payment of all costs, damages, expenses, and reasonable attorneys' fees of Owner arising due to KSM's Event of Default;

12.1.3 Proceed to remedy the Event of Default, and in connection with such remedy, Owner may pay all expenses and employ counsel. All sums so expended or obligations incurred by Owner in connection therewith shall be paid by KSM to Owner, upon demand by Owner, and on failure of such reimbursement, Owner may, at Owner's option, deduct all costs and expenses incurred in connection with remedying the Event of Default from the next sums becoming due to KSM from Owner under the terms of this Agreement; and

12.1.4 Terminate this Agreement by written notice of termination to KSM. Upon proper termination of this Agreement, KSM shall surrender occupancy of the Property to Owner.

No remedy granted to Owner is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity, or by statute. No delay or omission by Owner to exercise any right accruing upon an Event of Default shall impair Owner's exercise of any right or shall be construed to be a waiver of any Event of Default or acquiescence thereto.

IN NO EVENT SHALL KSM BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR PERFORMANCE OR NON-PERFORMANCE HEREUNDER (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST BUSINESS AND LOSS OF GOODWILL) EVEN IF ADVISED OR AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

12.2 KSM's Remedies. Upon the occurrence of an Event of Default by Owner, KSM may:

12.2.1 Seek specific performance of Owner's obligations or injunctive relief, as applicable;

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- 12.2.2 Demand and receive payment of all amounts due KSM under the terms of this Agreement and the payment of all costs, damages, expenses, and reasonable attorneys' fees of KSM due to Owner's Event of Default;
- 12.2.3 Proceed to remedy the Event of Default, and in connection with such remedy, KSM may pay all expenses and employ counsel. All sums so expended or obligations incurred by KSM in connection therewith shall be paid by Owner to KSM, upon demand by KSM, and on failure of such reimbursement, KSM may, at KSM's option, deduct all costs and expenses incurred in connection with remedying the Event of Default from the next sums becoming due to Owner from KSM under the terms of this Agreement; and
- 12.2.4 Terminate this Agreement by KSM's written notice of termination to Owner. In such event, Owner shall pay to KSM within twenty (20) days of termination an amount equal to the total unpaid Management Fees that KSM had earned as of the termination date (i.e., prorated for the fiscal year).

No remedy granted to KSM is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity, or by statute. No delay or omission by KSM to exercise any right accruing upon an Event of Default shall impair KSM's exercise of any right or shall be construed to be a waiver of any Event of Default or acquiescence thereto.

IN NO EVENT SHALL OWNER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR PERFORMANCE OR NON-PERFORMANCE HEREUNDER (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST BUSINESS AND LOSS OF GOODWILL) EVEN IF ADVISED OR AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

12.3 Litigation. In the event of any litigation under or respecting this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs through all pretrial, trial, appellate, administrative, and post-judgment proceedings. Any litigation arising under or respecting this Agreement shall be filed in the Superior Court located in Woodland, California.

ARTICLE 13

TERMINATION

13.1 Events of Termination. This Agreement shall terminate upon the occurrence of any of the events set forth below:

- 13.1.1 An Event of Default by KSM, and Owner sends to KSM a notice of termination for cause (after the expiration of any applicable cure period);

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13.1.2 An Event of Default by Owner, and KSM sends to Owner a notice of termination for cause (after the expiration of any applicable cure period);

13.1.3 Both parties agree in writing to terminate this Agreement;

13.1.4 Upon the expiration or termination of this Agreement according to its terms.

13.2 Termination Due to Lack of Funding. In the event that Owner does not receive, or does not anticipate receiving, sufficient funding for continued operation of the Course through special tax revenues or otherwise, and Owner determines that it must consequently close or sell the Course due to such lack of funding, Owner may terminate this Agreement upon at least ninety (90) days advance written notice to KSM prior to such closure or sale.

13.3 Termination for Convenience. Either party may terminate this Agreement for any reason, in its sole discretion, by providing at least one hundred and eighty (180) days advance written notice to the other party of such decision. In the event of a termination under this Section 13.3, in addition to all other payments owed by the terminating party, it shall pay the other party a termination for convenience fee of \$_____. This sum shall be liquidated damages, and not a penalty, and it is the sole relief available to the non-terminating party in the event of a termination for convenience

13.4 Payments Upon Termination. Upon expiration or termination of this Agreement, all sums owed by either party to the other shall be paid within twenty (20) days of the effective date of such termination.

ARTICLE 14

NOTICES

14.1 Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and (i) delivered personally, (ii) sent by certified mail, return receipt requested, postage prepaid (“Mail”), or sent by nationally-recognized overnight mail or courier service (“Overnight Courier”), addressed as shown below, or to such other address as the party concerned may substitute by written notice to the other. Any notice will be deemed received (A) upon the date personal delivery is made, (B) three (3) business days after the date it is deposited in the Mail, (C) one (1) business day after it is deposited with an Overnight Courier, or (D) the date upon which attempted delivery of such notice, whether by Mail, Overnight Courier or personal delivery, is refused or rejected.

If to Owner:

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If to KSM:

Kemper Sports Management, Inc.
500 Skokie Boulevard, Suite 444
Northbrook, Illinois 60062
Attention: Steven K. Skinner, Chief Executive
Officer

with a copy to:

Kemper Sports Management, Inc.
500 Skokie Boulevard, Suite 444
Northbrook, Illinois 60062
Attention: Corporate Counsel

The addresses and addressees may be changed by giving notice of such change in the manner provided herein for giving notice. Unless and until such written notice is received, the last address and addressee given shall be deemed to continue in effect for all purposes.

ARTICLE 15

MISCELLANEOUS

15.1 Exhibits. All Exhibits attached hereto are incorporated herein by this reference as if fully set forth herein. If any Exhibits are subsequently changed by the mutual written agreement of the parties, the Exhibits shall be modified to reflect such change or changes and dated and initialed by the parties.

15.2 Entire Agreement. This Agreement and the Exhibits hereto embody the entire agreement and understanding of the parties relating to the subject matter hereof and supersede all prior representations, agreements, and understandings, oral or written, relating to such subject matter.

15.3 Amendment and Waiver. This Agreement may not be amended or modified in any way except by an instrument in writing executed by all parties hereto; provided, however, either party may, in writing, (i) extend the time for performance of any of the obligations of the other, (ii) waive any inaccuracies and representations by the other contained in this Agreement, (iii) waive compliance by the other with any of the covenants contained in this Agreement, and (iv) waive the satisfaction of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement.

15.4 Proprietary Information. The trade names, trademarks and logos of Owner (collectively, the "Owner Marks") shall be used by KSM only in connection with the performance of the services provided under this Agreement and as otherwise provided in this Agreement or as agreed upon by Owner; provided, however, that Owner agrees that KSM may use the Owner Marks in its marketing and promotional materials as a course managed by KSM. All specifically identifiable information developed by KSM for Owner at the expense of Owner shall be the property of both KSM and Owner and such information may continue to be used by Owner at the Course beyond any expiration or termination of this Agreement; provided, however, that Owner may not use or grant others the right to use such information at any other

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location nor disclose or grant any rights to such information to any third party. All of KSM's proprietary information, including (i) trade names, trademarks and logos as well as programs that have been or may be developed by KSM, and (ii) software and technology, shall remain the exclusive property of KSM and neither Owner nor any of its affiliates or successors may use or disclose such proprietary information without the advance written consent of KSM. The obligations and restrictions contained in this Section shall survive the expiration or termination of this Agreement for any reason.

15.5 No Partnership or Joint Venture. Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of (i) a partnership, or (ii) a joint venture between the parties hereto; it being understood and agreed that neither any provisions contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties hereto other than the relationship of independent contractor.

15.6 Restrictions as to Employees. During the Term and for a period of two (2) years after the end of the Term, it is agreed that Owner or its agents and contractors shall not seek to contact, entice, or discuss employment with any Key Employee of KSM nor shall Owner employ or seek to employ any such employee, without first obtaining the written consent of KSM. For purposes hereof, a "Key Employee" of KSM shall mean any individual holding any of the following positions at any time during the Term: the general manager, superintendent, accountant/bookkeeper, head professional or assistant superintendent of the Course, or any employee of KSM's corporate office.

15.7 Assignment; Successors and Assigns.

15.7.1 This Agreement may not be assigned by either party hereto without the express written consent of the other party, which shall not be unreasonably withheld.

15.7.2 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives, and permitted assigns.

15.8 Severability. Except as expressly provided to the contrary herein, each section, part, term, or provision of this Agreement shall be considered severable, and if for any reason any section, part, term, or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or governmental agency having valid jurisdiction, such determination shall not impair the operation of or have any other affect on other sections, parts, terms, or provisions of this Agreement as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto, and said invalid sections, parts, terms, or provisions shall not be deemed to be a part of this Agreement.

15.9 Survival. All covenants, agreements, representations, and warranties made herein shall survive the execution and delivery of (i) this Agreement, and (ii) all other documents and instruments to be executed and delivered in accordance herewith, and shall continue in full force and effect.

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15.10 Accord and Satisfaction; Allocation of Payments. No payment by Owner or receipt by KSM of a lesser amount than that which is owed to KSM shall be deemed to be other than on account of such amounts owed to KSM, nor shall any endorsement or statement on any check or letter accompanying any check or payment to KSM be deemed an accord and satisfaction, and KSM may accept such check or payment without prejudice to KSM's right to recover the balance of the amounts owed to KSM or pursue any other remedy provided for in this Agreement or as otherwise provided at law or in equity. In connection with the foregoing, KSM shall have the absolute right in its sole discretion to apply any payment received from Owner, regardless of Owner's designation of such payments, to any outstanding amount of Owner then not current and due or delinquent, in such order and amounts as KSM, in its sole discretion, may elect.

15.11 Construction and Interpretation of Agreement. This Agreement shall be governed by and construed under the laws of the State of California. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion that a document should be construed more strictly against the party who itself or through its agent prepared the same. It is agreed and stipulated that all parties hereto have equally participated in the preparation of this Agreement and that legal counsel was consulted by each party before the execution of this Agreement.

15.12 Captions. Captions, titles to sections, and paragraph headings used herein are for convenience of reference and shall not be deemed to limit or alter any provision hereof.

15.13 Governing Document. This Agreement shall govern in the event of any inconsistency between this Agreement and any of the Exhibits attached hereto or any other document or instrument executed or delivered pursuant hereto or in connection herewith.

15.14 Outside Businesses. Nothing contained in this Agreement shall be construed to restrict or prevent, in any manner, any party or any party's affiliates, parent corporations, or representatives or principals from engaging in any other businesses or investments, nor shall Owner or KSM have any right to share or participate in any such other businesses or investments of the other party.

15.15 Counterparts; Facsimile Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same Agreement. Facsimile signature or scanned and e-mailed signature shall be as effective as an original signature.

15.16 Unavoidable Delays. The provisions of this Section shall be applicable if there shall occur during the Term any (i) strikes, lockouts, or labor disputes, (ii) inability to obtain labor or materials, or reasonable substitutes therefor, (iii) acts of God, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, fire, or other casualty, or (iv) other conditions beyond the reasonable control of the party obligated to perform. If either party shall, as the result of any of the above-described events, fail punctually to perform any obligation on its part to be performed under this Agreement, then such failure shall be excused and not be a breach of this Agreement by the party claiming an unavoidable delay (an

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“Unavoidable Delay”), but only to the extent the delay is occasioned by such event. If any right or option of either party to take any action under or with respect to the Term is conditioned upon the same being exercised within any prescribed period of time or at or before a named date, then such prescribed period of time or such named date shall be deemed to be extended or delayed, as the case may be, upon written notice, as provided above, for a time equal to the period of the Unavoidable Delay. Notwithstanding anything contained herein to the contrary, the provisions of this Section shall not be applicable to either party’s obligation to pay any sums, monies, costs, charges, or expenses required to be paid pursuant to the terms of this Agreement.

15.17 No Third-Party Beneficiaries. Nothing herein contained shall be deemed to establish any rights of third parties against the parties hereto; it being the intent that the rights and obligations set forth herein are those of the parties hereto alone, with no third party beneficiary rights intended.

15.18 Certain Services Excluded. Notwithstanding anything else contained in this Agreement to the contrary, the parties acknowledge that KSM is not providing Owner with any architectural, engineering, design or general contracting services.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

KEMPER SPORTS MANAGEMENT, INC.

By: _____
Steven K. Skinner
Chief Executive Officer

By: _____
Name: _____
Title: _____

EXHIBIT A DEFINITIONS

All capitalized terms referenced or used in the Management Agreement (the “Agreement”) and not specifically defined therein shall have the meaning set forth below in this Exhibit A, which is attached to and made a part of the Agreement for all purposes.

- Affiliate(s). The term “Affiliate(s)” shall mean a Person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with the Person in question and any officer, director, or trustee, and any stockholder or partner of any Person referred to in the preceding clause owning fifty percent (50%) or more of such Person. For purposes of this definition, the term “control” means the ownership of fifty percent (50%) or more of the beneficial interest of the voting power of the appropriate entity.
- Approval Rights. The term “Approval Rights” shall have the meaning described in Section 3.1 of the Agreement.
- Budgets. The term “Budgets” shall have the meaning described in Section 3.4 of the Agreement.
- Capital Expenditures Budget. The term “Capital Expenditures Budget” shall have the meaning described in Section 3.4.2 of the Agreement
- Course. The term “Course” shall mean the golf course to be operated as “Wild Wings Golf Course” located on and operated from the Real Property.
- Commencement Date. The term “Commencement Date” shall have the meaning described in Section 2.2 of the Agreement.
- Deposit Account. The term “Deposit Account” shall have the meaning described in Section 3.5.2 of the Agreement.
- Environmental Laws. The term “Environmental Laws” shall mean all current and future federal, state, and local statutes, regulations, ordinances, and rules relating to (i) the emission, discharge, release, or threatened release of a Hazardous Material into the air, surface water, groundwater, or land; (ii) the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation, or investigation of a Hazardous Material; or (iii) the protection of human health, safety, or the indoor or outdoor environment, including, without limitation, the Clean Air Act, the Federal Water Pollution Control Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Occupational Safety and Health Act, all amendments thereto, all regulations promulgated thereunder, and their state or local statutory and regulatory counterparts.

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- Event of Default. The term “Event of Default” shall have the meaning described in Article 11 of the Agreement.
- Gross Revenues. The term “Gross Revenues” shall mean all monthly receipts related to or derived from the operation of the Course from cash or credit transactions recognized during the Term, computed on an accrual basis, including, but not limited to, greens fees, cart rental fees, guest fees, income derived from the investment of Gross Revenues, the amount of all sales (wholesale or retail) of food, beverages, goods, wares, or merchandise on, at, or from the Property, or for services of any nature performed on, at, or from the Property, determined in accordance with generally accepted accounting principles applied on a consistent basis. Gross Revenues shall be reduced by any refunds, rebates, discounts, and credits of a similar nature given, paid, or returned by KSM or Owner in the course of obtaining such Gross Revenues.

Gross Revenues shall not include:

- Applicable gross receipts taxes, admission, cabaret, excise, sales, and use taxes, or similar governmental charges collected directly from customers or their guests or as a part of the sales price of any goods or services;
- Service charges that are percentage gratuities added to billings, to the extent paid to employees of the Course;
- Proceeds of borrowings by Owner;
- Proceeds paid as a result of an insurable loss, unless paid for the loss or interruption of business, to the extent such sums are used to remedy said loss;
- Interest or investment income earned on distributed Positive Net Cash Flow to Owner or KSM pursuant to the terms of the Agreement; or
- Owner’s Advances.

Any of the above provisions resulting in a double exclusion from Gross Revenues shall be allowed as an exclusion only once.

- Hazardous Material. The term “Hazardous Material” shall mean any solid, liquid, or gaseous substance, chemical, compound, product, byproduct, waste, or material that is or becomes regulated, defined, or designated by any applicable federal, state, or local governmental authority or by any Environmental Law as hazardous, extremely hazardous, imminently hazardous, dangerous, or toxic, or as a pollutant or contaminant, and shall include, without limitation, asbestos, polychlorinated biphenyls, and oil, petroleum, petroleum products and petroleum byproducts.
- Improvements. The term “Improvements” shall mean the improvements, structures, and fixtures placed, constructed, or installed on the Real Property for the Course, and any additions or subsequent modifications thereto.

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- Intangible Personal Property. The term “Intangible Personal Property” shall mean all intangible property or rights owned or held by Owner in connection with the Course, including, but not limited to, security deposits, prepaid rents, liquor and operating licenses, and all trademarks related to the Course.
- Key Employee. The term “Key Employee” shall have the meaning described in Section 15.6 of the Agreement.
- KSM. The term “KSM” means Kemper Sports Management, Inc., an Illinois corporation, and its successors, legal representatives, and permitted assigns.
- Laws. The term “Laws” shall have the meaning described in Section 3.11 of the Agreement.
- Management Fee. The term “Management Fee” shall have the meaning described in Section 5.1 of the Agreement.
- Management Services. The term “Management Services” shall mean the services provided by KSM pursuant to Article 3 of the Agreement.
- Net Operating Income. The term “Net Operating Income” or “NOI” shall be computed as the sum of Gross Revenues less cost of goods sold, payroll, other Operating Expenses and the Management Fees. Such calculation shall not include payments associated with maintenance equipment leases, capital expenditures, interest expense, taxes, depreciation and amortization
- Operating Budget. The term “Operating Budget” shall have the meaning described in Section 3.4.1 of the Agreement
- Operating Expense Account. The term “Operating Expense Account” shall have the meaning described in Section 3.5.2 of the Agreement.
- Operating Expense Minimum. The term “Operating Expense Minimum” shall have the meaning described in Section 4.2.1 of the Agreement.
- Operating Expenses. The term “Operating Expenses” shall mean all operating expenses of the Course incurred or paid on behalf of Owner during the Term, computed on an accrual basis, including, but not limited to, the following items:
 - Salaries, wages, employee benefits, and payroll expenses, including without limitation, payroll service bureau fees, payroll taxes, Course profit sharing programs, and insurance for all employees employed on-site in the direct operation of the Course, excluding, however, service charges, which are defined as percentage gratuities added to billings and paid to employees (collectively, the “Gross Payroll”);
 - Marketing, advertising, and promotional expenses;

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- Purchase and replacement, as necessary, of inventories of maintenance parts and supplies, food stores and bar supplies;
- Purchase and replacement, as necessary, of silver, chinaware, glassware, cooking utensils, and other similar items of equipment;
- Purchase and replacement, as necessary, of office supplies, computers, printers, facsimile machines, photocopiers, postage, printing, routine office expenses, and accounting services incurred in the on-site operation of the Course;
- The costs of IT consultants and other consultants utilized for the Course;
- Reasonable travel expenses of on-site employees incurred exclusively in connection with the business of the Course;
- Accrual of a reserve for insurance (including workers' compensation) and property taxes each month in an amount or at a rate that is sufficient to pay such insurance premiums or property taxes when they become due and payable;
- Insurance premiums and property taxes, to the extent not provided for in the reserve established therefore and any deductible amounts required to be paid pursuant to Course insurance coverage;
- Accounts receivable previously included within Gross Revenues, to the extent they remain unpaid ninety (90) days after the first billing;
- Auditing, accounting costs, computer fees, and legal fees incurred in respect of the operation of the Course, including any reasonable financial management and reasonable accounting fees paid to third party accounting firms, if included in the Budgets;
- Costs incurred for utilities, including, but not limited to, all electric, gas, and water costs, and any other private utility charges incurred in connection with the operation of the Course;
- Ordinary maintenance and repairs, exclusive of any capital improvements or capital replacements, which are hereby excluded;
- The amount to be retained for purposes of maintaining Working Capital at an appropriate level;
- All out-of-pocket expenses incurred by KSM in providing the services under the terms of the Agreement, including without limitation, reasonable travel for employees employed on-site at the Property and KSM's other employees while engaged in performing the obligations of KSM hereunder, air express,

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costs of recruitment (including applicable agent's fee), and other incidental expenses included in the Budget;

- Expenses, including legal fees, damages or other costs, involved in defending any employment-related lawsuits, charges or claims involving personnel of the Course;
- All expenses set forth in the approved Budgets; and
- All other customary and reasonable expenses incurred in the operation of the Course and the Improvements.

Any of the above provisions resulting in a double inclusion as an Operating Expense shall be allowed as an inclusion only once.

Operating Expenses shall not include (i) depreciation or amortization, (ii) principal or interest payments on indebtedness, (iii) rental or lease payments for major items of furniture, fixtures, or equipment which, in accordance with generally accepted accounting principles, are purchased and capitalized as fixed assets, and (iv) federal, state and local income taxes of any nature or kind incurred by Owner or KSM.

- Owner. The term "Owner" means Wild Wings CSA, a County Service Area of Yolo County, California and its successors, legal representatives, and permitted assigns.
- Owner's Advances. The term "Owner's Advances" shall have the meaning described in Section 4.2 of the Agreement.
- Owner's Receipts. The term "Owner's Receipts" shall have the meaning described in Section 5.4 of the Agreement.
- Person. The term "Person" shall mean any individual, partnership, corporation, association, or other entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so permits; and, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and the neuter, and vice versa.
- Personal Property. The term "Personal Property" shall mean the Intangible Personal Property and the Tangible Personal Property.
- Positive Net Cash Flow. The term "Positive Net Cash Flow" shall mean the amount, if any, by which Gross Revenues exceed Operating Expenses for the particular period being measured.
- Property. The term "Property" shall mean (i) the Improvements, (ii) the Personal Property, and (iii) the Real Property.

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- Real Property. The term “Real Property” shall mean that certain parcel of land upon which the Course is located, the legal description of which is attached hereto as Exhibit B.
- Tangible Personal Property. The term “Tangible Personal Property” shall mean all equipment, machinery, fixtures, furnishings, accessories, and other tangible personal property placed or installed, or to be placed or installed, on or about the Real Property and used as a part of or in connection with the operation of the Course.
- Term. The term “Term” shall have the meaning described in Section 2.2 of the Agreement.
- Termination Date. The term “Termination Date” shall have the meaning described in Section 2.2 of the Agreement.
- Unavoidable Delay. The term “Unavoidable Delay” shall have the meaning described in Section 15.16 of the Agreement.
- Working Capital. The term “Working Capital” shall mean an amount sufficient to pay Operating Expenses for any given month.

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EXHIBIT B

LEGAL DESCRIPTION OF REAL PROPERTY