

EXHIBIT

"A"

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement") is made and entered into as of November __, 2016 ("Effective Date"), by and between the City of Round Rock, Texas, a Texas home-rule municipality ("Owner") and Kemper Sports Management, Inc., an Illinois corporation ("KSM").

WITNESSETH:

WHEREAS, Owner owns the public golf club and related facilities located in Round Rock, Texas known as "Forest Creek Golf Club" (the "Club") and desires to contract for management services for the Club; and

WHEREAS, Owner and KSM desire for KSM to provide management services for the Club as set forth herein; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations;

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

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 in Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

ARTICLE 2

APPOINTMENT AND TERM

2.1. Appointment. Owner hereby retains, engages and appoints KSM 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. This Agreement shall be effective as of the Effective Date, but the initial term (the "Initial Term") for performance of the Management Services under this Agreement shall begin on January 1, 2017 (the "Commencement Date") and unless sooner terminated as provided in Article 13 below, shall terminate on the fifth (5th) anniversary of the Commencement Date (the "Termination Date").

2.3. Automatic Renewal. At the end of the third calendar year of the Initial Term, and at the end of each calendar year thereafter, unless either party shall have given written notice of

termination to the other party prior to the end of the then calendar year as set forth in 14.1, the term shall automatically renew such that the balance of the term remains two (2) years.

2.4. Termination Notice. At any time after the end of the Initial Term, either party shall have the option to terminate the Agreement for any and no reason by giving the other party two (2) years written notice of its option to terminate. Receipt by either party of the aforesaid written notice shall service to terminate the automatic renewal provision.

ARTICLE 3

MANAGEMENT SERVICES

3.1. Management of the Club and Property. During the Term, KSM shall perform the management services described in this Article 3 in order to supervise, manage, direct and operate the Club and the Property on behalf of and for the account of Owner (collectively, the "Management Services"), subject to the terms of this Agreement and consistent with the Business Plan approved by Owner. Owner hereby delegates to KSM, subject to the (i) Business Plan, (ii) Capital Budget, (iii) Owner's approval rights specifically described in this Agreement (the "Approval Rights") 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 Club or the Property or the operation thereof, to implement all of the foregoing, and to perform any act on behalf of Owner deemed by KSM to be necessary or desirable for the operation and maintenance of the Club and the Property subject to the Owner's Approval Rights.

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 Club and Property to Owner.

3.3. The Scope of Services. KSM will manage all activities of the Club that are included in the annual Business Plan and approved by Owner. KSM will operate the Club consistent with the vision and mission statements contained within the Business Plan, the tactical resources determined, and the appropriate operating policies and policies specified therein. Subject to the terms of this Agreement and the approved Business Plan, which shall include the Operating Budget, KSM shall have the authority and responsibility to:

3.3.1. Manage the Club and use commercially reasonable efforts to achieve the approved Business Plan;

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

3.3.3. Establish 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 Club, including but not limited to, tee time reservations, collecting green and cart fees, clubhouse operations,

outside services, course maintenance, managing tournaments and events, food and beverage services, payroll, benefits administration, accounting, and financial reporting;

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

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

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

3.3.8. Market the Club to achieve targeted objectives utilizing a transactional based website with the ability of the golfer to enter date desired, group size and time on the home page. The marketing plan will include email and text communication and the adoption of social media tools (i.e., Hootsuite, Leadlander, Sumo.me). Advertising will include the adoption of various media including Google Adwords or similar media as recommended by Owner or included in the Business Plan. Specific social media tools will be reviewed and updated on an annual basis to keep up with advances in the industry.

3.3.9. Develop a customer database recording the email addresses or text phone numbers for a minimum of 60% of the customers who remit a green fee, or sponsor a tournament or outing at the golf course.

3.3.10. Obtain licenses and other operating permits;

3.3.11. Negotiate contracts for maintenance equipment and carts to be executed by Owner; and

3.3.12. Make repairs and other improvements to keep the Club in good order.

3.3.13. Conduct annual electronic survey of golfers to determine habits, preferences and loyalty.

3.3.14. Participate in industry benchmarking services to include Golf Datatech Rounds and Merchandise Sales Reporting, Links Insights and ORCA Reports.

3.3.15. Implement a non-barter based technology golf management system that features table based software, yield management with automatic dynamic pricing options and an executive reporting modules facilitating database segmentation of customers.

3.3.16. Subscribe to Weather Trends International 11 monthly weather forecasting reporting service and adjust agronomic practices, rate schedules and planned events based on the insights available.

3.3.17. Prepare a Market Analysis and Rebranding Proposal concurrent with the renovation of the Club to include consideration and recommendations regarding the viability of renaming the Club as determined by Owner.

3.4. Business Plan. Within forty-five (45) days after the Commencement Date, KSM shall submit to Owner, for Owner's review and written approval, a 5-year pro forma that includes forecasts of rounds played, revenues and operating expenses for the upcoming five (5) years ("Business Plan"). The following will be set forth in the Business Plan:

- 1) A vision and mission statement developed predicated on the golf course's potential from as reflected in a comprehensive geographic local market analysis;
- 2) A proposed rate structure taking into consideration the optimum playing season based on a 10-year playable days report as the foundation for setting a proposed rate structure;
- 3) The organizational structure and staff with associated payroll requirements;
- 4) Incorporation of operating standards to be implemented as outlined in the Request for Proposal dated June 22, 2016 and added here as Exhibit "D" (Golf Operations), Exhibit "E" (Golf Course Maintenance), and Exhibit "F" (Food and Beverage and Catering Requirement);
- 5) Technology to be implemented, financial benchmarking standards, capital reserve requirements and customer service operating standards;
- 6) An annual budget setting forth the forecasted revenues and expenses associated with the operations of the Club for the current fiscal year or part thereof within the Term ("Operating Budget");
- 7) A budget setting forth the proposed capital improvements (including equipment purchases and leases) within and to the Property for the current fiscal year or part thereof within the Term ("Capital Expenditures Budget"); and
- 8) A 5-year capital improvements plan that will begin initially with the planned program for Year 2 of this Agreement ("Capital Improvements Plan"). The Capital Improvements Plan will be assessed and updated each year as a component of the annual Business Plan.

3.4.1. Annual Update of Business Plan. At least ninety (90) days prior to the first day of each fiscal year thereafter during the Term, KSM shall submit to Owner, for Owner's review and written approval, an updated Business Plan including the Annual Operating Budget of the Club for the upcoming fiscal year or part thereof during the Term.

3.4.2. Preparation and Presentation of Business Plan. The Business Plan and updates to the Business Plan shall be prepared with the advice and counsel of Owner, based on what KSM believes to be reasonable assumptions and projections. All Business

Plans shall be presented in reasonable detail. All budgets shall be prepared consistent with other comparable courses within the region regarding agronomic and maintenance expenses, payroll and general and administration expenses. KSM shall not be deemed to have made any guarantee or warranty in connection with the results of operations or performance outlined in the Business Plan and the Parties acknowledge that the Business Plan are based solely upon KSM's judgment and the facts and circumstances known by KSM at the time of preparation.

3.4.3. Owner's Review and Written Approval. The Business Plan shall be for Owner's review and written approval, subject to the terms of this Agreement, which approval shall not be unreasonably withheld. Owner shall give its written comments and/or approval within sixty (60) days after KSM delivers the Business Plan to Owner. If Owner fails to provide any comments or approval on a Budget within such time period, then the Owner shall be deemed to have approved the Budget. In the event of disapproval of any Business Plan, KSM shall continue operating the Club pursuant to the Business Plan then in effect, subject to increases in Operating Expenses required due to (i) increases in Gross Revenues or (ii) weather or other matters beyond the control of KSM, until such time as Owner and KSM agree upon the appropriate replacement Business Plan.

3.5 Unanticipated Expenditures and Reallocation of Funds. Owner agrees that the Business Plan are intended to be reasonable estimates, and, accordingly, KSM shall be entitled from time to time to revise the Business Plan to cover any expenditures that were unanticipated at the time of preparation of the Business Plan 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 that would result in the total budgeted expenditures exceeding the total approved Annual Operating Budget by any amount without prior written approval of the Owner. KSM is authorized to take all action reasonably deemed necessary by KSM to implement, perform, or cause the performance of the items outlined in the Business Plan. Owner acknowledges that KSM has not made any guarantee, warranty, or representation of any nature whatsoever concerning or relating to (i) the Business Plan, or (ii) the amounts of Gross Revenues or Operating Expenses to be generated or incurred from the operation of the Club.

3.6 Club Operations. KSM shall use commercially reasonable efforts to perform all acts that are necessary in the opinion of KSM to operate and manage the Club, subject to the Business Plan, 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 Club. KSM shall have the authority and responsibility for the administration, operation, and management of the Club and the Property. At a minimum, KSM shall perform the following acts and services:

3.6.1 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 Club whose duties shall include: (i) maintaining all books, records, and other data associated with the financial activities of the Club, (ii) preparing all operating budgets, cash flow budgets, and other financial forecasts, and (iii) being responsible for

the day-to-day financial affairs of the Club. 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 Club 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 Club 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 Club, 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 Club 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 Club 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 Club in connection with such inspections. Notwithstanding the preceding, such inspection rights shall not extend to any inspection of KSM corporate records at its corporate office or any records relating to any other projects or locations. Upon expiration or termination of this Agreement, KSM will promptly turn over all such Club records to Owner; however, KSM may retain copies as required by applicable records retention policies or law.

3.6.2 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 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 under the terms recited herein. All Gross Revenues of the Property shall be collected, received, and deposited by KSM exclusively through the Deposit Account by the terms of this Agreement. All Operating Expenses shall be handled and expended exclusively through

the Operating Expense Account. All Gross Payroll for the Club shall be handled and expended exclusively through the Payroll Account.

3.6.3. Employees. As part of the Business Plan, KSM shall (i) determine personnel requirements, recruitment schedules, and compensation 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 Club incentive programs. KSM shall hire, promote, discharge, and supervise all employees performing services in and about the Club. All of the employees of the Club shall be employees of KSM.

3.6.4 Marketing. KSM shall make recommendations to Owner as to green fees and other fees and rates. KSM shall develop the ongoing marketing plan for the Club and define a schedule of marketing and advertising activities, which shall be submitted to Owner as part of the Operating Budget. KSM shall indicate on the premises that the Club is being operated by KSM in a manner as approved by the Owner.

3.7 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 Club, 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 grossly negligent actions undertaken by KSM. Owner acknowledges and agrees that 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 grossly negligent actions undertaken by KSM.

3.8 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 Club. Any expected agreements over Twenty-Five Thousand Dollars (\$25,000) should be included in the Business Plan submitted under Section 3.4 of this Agreement. Notwithstanding the above, any contract that 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 in writing within thirty (30) business days after KSM's written request for approval if noted and approved as part of the Business Plan. Unexpected circumstances or significant changes will be submitted to the Owner for consideration.

3.9 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, in KSM's name), all licenses, permits, and accreditations required in connection with the management and operation of the Club, 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.

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

3.11 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 Club's continued operation, or to protect the Club's customers, guests, or employees, KSM is authorized to take all steps and to make all reasonable expenditures necessary to repair and correct any such condition, whether or not provisions have been made in the applicable Business Plan 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.

3.12 Compliance with Laws. KSM shall, at Owner's expense, use commercially reasonable efforts to (i) comply in all material respects 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 Club and Property, whether or not compliance therewith shall interfere with the use and enjoyment of the Club 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 Club and Property then being made, and for the operation and maintenance of the Club and Property or any part thereof, the costs of which shall be Operating Expenses. Notwithstanding the preceding, 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 Club. 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 Business Plan 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 and Owner shall indemnify KSM under Article 9 hereof in connection with any such withholding of consent.

3.13 Renovation of the Club. During the Term of this agreement, it is anticipated the Club will undergo a renovation of the facility. As mutually agreed by the parties from time to time, KSM shall assist Owner with Owner's oversight and management of the renovation of the Club, including the review of construction and bid documents; and review of services performed

by third party contractors retained, including monitoring expenditures incurred versus budget and compliance with the building standards outlined in the constructions documents.

3.14 Other Duties and Prerogatives. KSM shall use commercially reasonable efforts to perform any act that KSM determines is necessary to operate and manage the Club 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 Club 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 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 Club or the Property, Owner shall reimburse KSM within thirty (30) 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.

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 Club, provided that such Operating Expenses and capital expenditures are made by the terms of this Agreement. Owner shall be responsible for all other expenditures and obligations in connection with the Club and the Property, including without limitation, all federal, state and local taxes and all principal and interest payments on indebtedness.

4.2 The Owner's Advances. Owner shall advance funds to the Operating Expense Account, and the Payroll Account described in Section 3.6.2, to conduct the affairs of the Club and maintain the Property ("Owner's Advances") as set forth below. Such Owner's Advances shall be paid in the form and manner as shown on Exhibit "C", through Automated Clearing House ("ACH"), or by 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 Club, the Property or Owner.

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) ("Operating Expense Minimum"). Owner shall replenish the Operating Expense Account 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 Club. On a monthly basis, KSM shall provide Owner with a statement describing the anticipated source and use of funds for the Club 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 Club.

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 KSM for deposit into the Payroll Account, Owner's Advances equal to \$75,000.00 or at least one month's estimated Gross Payroll obligations (as specified in the approved budget) ("Payroll Expense Minimum"), whichever amount is greater. Owner shall replenish the Payroll Account 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 Club. Within five (5) days after Owner's receipt of such statement from KSM, Owner shall remit to the Payroll Account the amount outlined 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, to reflect the then-current payroll obligations of the Club.

ARTICLE 5

FEES, EXPENSES. AND RECEIPTS.

5.1 Management Fee. Owner shall pay KSM management fees as follows (collectively, the "Management Fee"):

5.1.1 Base Management Fee. During the Term, Owner shall pay KSM an annual fee of Ninety-Six Thousand Dollars (\$96,000.00) ("Base Management Fee"), which fee shall be paid in equal monthly installments in advance, no later than the first day of each calendar month. The Base Management Fee shall be increased each year on the anniversary of the Commencement Date by three percent (3%). Payment of the Base Management Fee may be made directly from the Operating Expense Account.

5.1.2 Incentive Management Fee. In addition to the Base Management Fee described above, Owner shall pay KSM an annual incentive management fee (the "Incentive Management Fee") calculated as follows:

Five percent (5%) of the amount by which the Gross Revenues for the applicable fiscal year exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000) for first \$500,000 of such excess amount and seven percent (7%) of any such excess amount that exceeds \$500,000.

For example, if in a given fiscal year Gross Revenues are \$3,200,000 (i.e. exceeds \$2,500,000 by \$700,000) then the Incentive Management Fee would be calculated as $(.05 \times \$500,000) + (.07 \times \$200,000) = \$39,000$

In no event shall the annual Incentive Management Fee paid to KSM exceed the annual Base Management Fee. The Incentive Management Fee shall be paid to KSM within sixty (60) days after the end of the fiscal year to which the Incentive Management Fee relates.

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 Business Plan, 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, courier service, costs of recruitment (including applicable agent's fees), and other incidental expenses. In addition, the costs of an interim General Manager, including but not limited to, compensation, reasonable travel, temporary housing, etc., shall be included as Operating Expenses. Reimbursement for such out-of-pocket expenses will be made at actual cost and may be made directly from the Operating Expense Account. KSM agrees that planned out-of-pocket expenses will be included in the Annual Operating Budget for discussion with the Owner in advance. The annual amount of Out-of-Pocket expenses will not exceed \$10,000 in years one and two of the Term, and will not exceed \$7,500 for years three through five and any additional renewal periods. Any amount above these figures must be pre-approved by Owner.

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 thirty (30) days, KSM may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b). 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. Owner shall bear the costs of any legal or collection fees and expenses incurred by KSM in attempting to enforce Owner's payment obligations hereunder. Owner understands and agrees that KSM reserves the right to suspend further services until such time as payment is received on past due invoices. In the event that KSM suspends its services as permitted in this paragraph, Owner understands and agrees that KSM shall not be responsible or liable for any resulting loss, damage or expense due to such suspension.

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 the extent requested by Owner, 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.

5.5 Automatic Withdrawal. In the reasonable discretion of KSM, upon the occurrence of an Insecurity Event and for so long as such Insecurity Event shall exist, Owner shall take all necessary steps to initiate and authorize payment of the Management Fee, the Incentive Management Fee, and the out of pocket expenses of KSM through automatic withdrawal from an account designated by Owner and wire transfer to an account designated by KSM. Such automatic withdrawal shall occur on or before the first day of each month for services to be rendered during the upcoming month.

5.6 Deposit. In the reasonable discretion of KSM, upon the occurrence of an Insecurity Event and for so long as such Insecurity Event shall exist, KSM will require the payment of a security deposit which will not be applied against amounts owing by Owner to KSM and will be retained by KSM as security for the payment of fees and expenses and returned to Owner at the end of the engagement. The terms and conditions applicable to the retainer are set forth in this Section.

5.6.1 Amount of Deposit. The initial deposit ("Deposit") shall be set at an amount equal to the aggregate the Management Fee plus the Incentive Management Fee plus the expected out-of-pocket expenses of KSM, each to be estimated by KSM in its reasonable discretion based on expected amounts due and owing from Owner to KSM during a one (1) month period. KSM shall have the right to request that Owner add to the Deposit in the event that, at any time, KSM's monthly Management Fee plus the monthly Incentive Management Fee plus the monthly expected out of pocket expenses exceeds the amount of the Deposit.

5.6.2 Security Interest in Deposit. The Deposit is a separate obligation of Owner and Owner understands and agrees that KSM will be under no obligation to perform any services under the Agreement until payment in full of the Deposit is received. The Deposit shall not be applied or credited to amounts due from Owner as they come due, but will be returned to Owner once all amounts due hereunder are paid in full. Owner hereby grants a security interest in the Deposit to KSM to secure payment of all amounts due hereunder and expressly authorizes KSM to pay itself any amounts past due from the Deposit. Owner acknowledges and agrees that this security interest is perfected by virtue of KSM's possession of the Deposit.

5.6.3. Interest on Deposit. Interest earned on the Deposit is the property of Owner and shall be returned to Owner once all amounts due under the Agreement are paid in full. The Deposit is not intended to be an estimate for the total cost of the work to be performed.

5.7 Payment Prior to Insolvency Proceeding. Prior to the initiation of an Insolvency Proceeding (as defined below) by Owner, if applicable, Owner shall pay all amounts then outstanding and owing to KSM in immediately available funds by wire transfer.

5.8 Third Party Services.

5.8.1. Should KSM utilize the services of a tee time broker, any and all compensation that KSM may receive from said third party related to tee times sold at the Club shall be remitted in its entirety to Owner.

5.8.2 Any rebates or discounts received by KSM resulting from its national contracts for cart rental fleets, maintenance equipment, etc. purchased on behalf of the Club shall inure to the sole benefit of Owner.

5.8.3. If KSM elects to offer a reservation/discount card that entitles buyers to preferred access and discounted fees at the courses managed by KSM, KSM and Owner shall use good faith efforts to agree upon a mutually beneficial revenue share and pricing structure. If no such agreement is reached, Owner shall have the option to opt out of such a program.

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. Political Subdivision. Owner is a home-rule municipality duly organized, validly existing, and in good standing under the laws of Texas 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 by 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 Club, the Property or any part thereof is subject.

6.1.4. Ownership Rights. Owner currently possesses, and shall retain during the Term, all of the property interests in the Club and the Property necessary to enable KSM to perform its duties under this Agreement peaceably and quietly. Such property interests shall include all trade names and logos Owner uses in the operation of the Club. 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. No Litigation. There are no actions, suits or proceedings pending, or to the best of Owner's knowledge, threatened against Owner that may adversely affect the Club, the Property or the Owner in connection with the operations of the Club.

6.1.6. No Violation. There is no existing violation or breach of any ordinance, code, law, rule, requirement or regulation applicable to the Club or the Property, and Owner is not aware of the basis for any such violation or breach.

6.1.7. Hazardous Material. Owner is not aware of the presence of any Hazardous Material in, on or under the Property in a quantity sufficient to require remediation or to report under any Environmental Law, and Owner has not received notice of any violation or alleged violation of any Environmental Law with respect to the Property.

6.1.8. 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 Club.

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 Texas, with the 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 Club 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 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.

The preceding Property Insurance shall include 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.

(B) Commercial General Liability and Umbrella/Excess Liability Insurance providing coverage for bodily injury and property damage arising in connection with the operation of the Club 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 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) Employment Practices ("EPLI") of not less than \$5,000,000 each occurrence.

(F) Crime Liability Insurance covering all employees who have access to or responsibility for or who handle Owner funds of not less than \$3,000,000 each occurrence.

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

(H) Pollution Liability/Environmental Impairment of not less than \$3,000,000 per accident/aggregate limit.

All such insurance coverage maintained by KSM (except as set forth in (E), (F), (G) and (H)) shall name Owner as additional insured to the extent of the indemnification by KSM under Section 9.2 and shall be maintained with insurance companies rated at least A- by Best Key Rating Guide and shall be licensed to do business in the state in which the Property is located. KSM shall deliver to Owner certificates of such insurance evidencing the required policies. Property insurance shall include a waiver of all recovery by way of subrogation against KSM and Owner about any damage covered by such policy. Owner acknowledges that KSM has made no representations or warranties that the above coverages are sufficient to protect Owner fully.

The expenses for all the coverages outlined above shall be Operating Expenses.

7.2 Owner Provided Insurance. Upon mutual written agreement between the parties, 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 the State of Texas, sufficient insurance fully covering the Property and operation of the Club, in at least the amounts specified in Section 7.1 (A) through (D), and (H) 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 about any damage covered by such policy. The insurance coverage described in (B), (C) and (D) above shall be Primary and Non-Contributory. Within fifteen (15) days following the parties' written agreement as contemplated above and receipt of the appropriate certificates of insurance, KSM shall no longer secure the coverage specified above; as applicable, provided, however, that KSM shall continue to secure the coverage specified in Section 7.1 (E), (F), (G), and (H) 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 Club, 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 preceding 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 another 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 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, on amounts due to KSM, after such date if it is reasonably necessary to incur additional expenses in the wind-down of operations of the Club.

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 an 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, on amounts due to KSM, after such date if it is reasonably necessary to incur additional expenses in the wind-down of operations of the Club.

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 before such event shall be used for such purpose. The balance of such award, if any, shall be fairly and equitably apportioned between the Parties by their respective interests.

ARTICLE 9

INDEMNIFICATION

Owner's Indemnification Obligations. To the extent permitted by law, and 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; (ii) the ownership, leasing, organization, development or construction of the Club or the Property; (iii) Hazardous Materials or other conditions existing at the Club or the Property; (iv) the use by KSM of Club trade names, trademarks, logos or other intellectual property used in connection with the Club; (v) any acts or omissions of Owner (or its officers, directors, agents, employees, representatives, contractors and others for whom Owner is responsible); (vi) any activities in connection with the transition of the management of the Club to KSM; (vii) any acts or omissions occurring in connection with the operation or management of the Club prior to the Term; (viii) any labor or employment condition or situation occurring or existing prior to the Term; (ix) the relationship between Owner or any of Owner's Affiliates and the prior management company of the Club or any acts or omissions of the prior management company; and (x) any breach by Owner of any of Owner's covenants, representations, and warranties herein; except to the extent such liabilities were caused by KSM's willful or criminal misconduct, gross negligence or fraud.

9.2 KSM's Indemnification Obligations. Except as provided in Section 7.3, KSM shall indemnify Owner and Owner's shareholders, officers, directors, employees, agents, and representatives ("Owner Related Parties") from all liability, loss, damage, cost, or expense (including, without limitation, reasonable attorneys' fees and expenses) caused by the grossly 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, gross negligence or fraud. KSM's duty to 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 before, 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. Other than with respect to Owner's obligations pursuant to Sections 5.5 to 5.7 hereof, 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.

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 five (5) days after written notice (specifying the item not paid) thereof from the other Party to the defaulting Party.

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 (collectively, an "Insolvency Proceeding").

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, 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 to it.

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, 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;
- 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 ten (10) days of termination an amount equal to the total unpaid Management Fees that KSM would have earned had the Agreement remained in effect until the Termination Date.

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 to it.

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, 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.

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);

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 Employee and Other Obligations Upon Termination. Upon a termination of this Agreement for any reason, Owner shall remain responsible for payment of obligations connected with the Management Services rendered through the effective date of termination (including all Operating Expenses, all Gross Payroll obligations, as well as the Management Fee and all out of pocket expenses). Such obligations shall include all amounts to become due and owing to the terminated staff of KSM at the Club through the effective date of termination. Owner shall pay all accrued wages for the terminated staff through such termination date and shall reimburse and/or hold harmless KSM for workers compensation insurance and other employee benefits paid or accrued by KSM on behalf of Owner to the terminated staff as of the termination date. Additionally, Owner shall be responsible for the payment of any earned and accrued vacation owed or due to the terminated staff as a result of the termination as well as any manual adjustments of wages and any unclaimed wages due the terminated staff accruing prior to the termination date and shall, if requested by KSM, reimburse KSM for any such payments made by KSM. Any amounts owed to KSM pursuant to this Section shall be paid to KSM within ten (10) days of written request therefor.

13.3 Other Payments Upon Termination. Upon expiration or termination of this Agreement, all sums owed by either Party to the other shall be paid within ten (10) 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: City Manager
221 East Main Street
Round Rock, TX 78664

with a copy to: Stephan Sheets, City Attorney
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664

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: General 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 between 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. KSM shall be permitted to use the trade names, trademarks and logos of Owner (collectively, "Owner Marks") 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 Club 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 Club 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 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 Intangible Property. KSM hereby acknowledges that the Club's website url, the customer database to include email addresses, and the Owner's accounts on Facebook, Twitter, Linked-In and all other software media platforms shall remain the exclusive property of Owner, and neither KSM nor any of its affiliates or successors may use or disclose such proprietary information without the advance written consent of Owner. The obligations and restrictions contained in this Section shall survive the expiration or termination of this Agreement for any reason.

15.6 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.

15.7 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 and/or its agents and contractors shall not, directly or indirectly, seek to contact, entice, or discuss employment or contracting opportunities with any Key Employee of KSM nor shall Owner, its agents and/or contractors employ or otherwise engage or seek to employ or otherwise engage, directly or indirectly, any such Key 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, director of golf, head professional of the Club, or any employee of KSM's corporate office.

15.8 Assignment; Successors and Assigns. This Agreement may not be assigned by either Party hereto without the express written consent of the other Party, except that KSM may assign this Agreement to any of its Affiliates. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, legal representatives, and permitted assigns.

15.9 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 effect 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 should not be deemed to be a part of this Agreement.

15.10 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.

15.11 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.

15.12 Construction and Interpretation of Agreement. This Agreement shall be governed by and construed under the laws and court decisions of the State of Texas. 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.

15.13 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.

15.14 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.

15.15 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.

15.16 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.

15.17 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 "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 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 apply to either Party's obligation to pay any sums, monies, costs, charges, or expenses required to be paid under the terms of this Agreement.

15.18 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.

15.19 Certain Services Excluded. Notwithstanding anything else contained in this Agreement to the contrary, KSM's services are limited to those specifically noted in the Agreement and do not include, among others and without limitation, architectural, engineering, design or general contracting services, facility planning services, accounting or tax-related assistance or advice, legal advice or services, expert witness services, cost report preparation, data processing or information services, or feasibility studies. KSM's services will not constitute an audit, review or compilation or any other type of financial statement reporting or consulting engagement subject to the rules of the AICPA or other similar bodies. KSM will not be expressing any professional opinions and makes no representations or warranties in conjunction with this engagement.

15.20 Bankruptcy Obligations. KSM shall have no obligation to provide any services under the Agreement if Owner becomes a debtor under the Bankruptcy Code, and, by Section 12 hereof, may terminate this Agreement in such event. If Owner is or becomes a debtor under Chapter 11 of the Bankruptcy Code and KSM agrees to provide services to Owner post-petition, the Parties shall enter into a revised written agreement or an amendment to this Agreement to govern their respective rights and obligations as part of Owner's bankruptcy case.

Notwithstanding the foregoing, Owner expressly agrees that KSM shall be compensated by Owner for any and all efforts by KSM to comply with all requirements or requests for information placed upon KSM in an Insolvency Proceeding by Owner, any receiver, trustee or liquidator for Owner or any property of Owner, any assignee for the benefit of creditors, or any trustee in any case under Chapter 7 of the Bankruptcy Code, at an hourly rate set by KSM in its reasonable discretion, in addition to the out-of-pocket expenses incurred by KSM in connection with the Insolvency Proceeding (the "Insolvency Administration Fees"). All such Insolvency Administration Fees shall be considered "Operating Expenses" under this Agreement.

15.21 Confidentiality. The terms and provisions of this Agreement shall be released to third parties only in connection with carrying out their respective duties and obligations described herein, in connection with any order of court or in order to comply with governmental rules and regulations, and as required by any proposed purchaser or mortgagee of all or any portion of Owner's interest in the Club or Property, and then only to the extent as may be reasonably necessary. Certain terms and provisions or books and records maintained throughout the term of this Agreement may contain confidential information of KSM that is exempt from the Texas Public Information Act. In the future, if the City receives a request for public information it believes may be confidential in nature, the City will (1) immediately notify KSM, as required by Section 552.305(d) of the Texas Public Information Act, of the request for information; (2) withhold the requested information from disclosure pending a Texas Attorney General determination requiring disclosure; and (3) notify the requestor of the withholding pending the Texas Attorney General's determination. The notice to KSM will include a copy of the written request for information and a statement that KSM may, within 10 business days of receiving the notice, submit to the Texas Attorney General its reasons why the information in question should be withheld and explanations in support thereof. KSM, respectively, has 10 business days after receiving notice from the City of the request for public information to assert an exception from disclosure under Section 552.101, 552.110, 552.113, or 552.131 of the Texas Public Information Act and present its arguments to the Texas Attorney General for nondisclosure. The preceeding shall not be construed to limit KSM's ability to announce both privately and publicly that it manages the Club and Property.

15.21 Dispute Resolution. Owner and KSM expressly agree that no claims or disputes between the Parties arising out of or relating to this Agreement, or a breach thereof, shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

15.22 Non-Appropriation of Fiscal Funding. This Agreement is a commitment of Owner's current revenues only. It is understood and agreed that Owner shall have the right to terminate this Agreement at the end of any fiscal year if the Owner's governing body does not appropriate funds sufficient to purchase the services as determined by the Owner's budget for the fiscal year in question. Owner may effect such termination by giving KSM a written notice of termination at the end of its then-current fiscal year.

15.23 Applicable Law; Enforcement and Venue. This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas.

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

KEMPER SPORTS MANAGEMENT, INC.

City of Round Rock, Texas

By: _____
Steven K. Skinner
Chief Executive Officer

By: _____
Name: _____
Title: _____

For City Attest:

By: _____
Sara L. White, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

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.
- Business Plan. The term "Business Plan" 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 of the Agreement.
- Club. The term "Club" shall mean the golf club to be operated as "Forest Creek Golf Club" 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.

- 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 Club 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, membership initiation fees and/or membership dues, 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 Club 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 Club;
- 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;
- Membership assessments
- Interest or investment income earned on distributed Positive Net Cash Flow to Owner or KSM under 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 Club, and any additions or subsequent modifications to it.
- Insecurity Event. The term “Insecurity Event” shall mean the occurrence of any one or more of the following events: (a) there shall occur a default under any agreement, document or instrument, other than this Agreement, to which Owner is a party, the consequences of which could reasonably be expected to have a Material Adverse Effect; (b) any written statement, report, financial statement or certificate made or delivered by Owner, or any of its officers, employees or agents, to KSM is untrue or incorrect in any material respect; (c) any of Owner’s assets are attached, seized, levied upon or subjected to a writ or distress warrant, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors and the same is not cured within thirty (30) days thereafter; (d) an application is made by any person, other than Owner, for the appointment of a receiver, trustee, or custodian for any of Owner’s assets and the same is not dismissed within thirty (30) days after the application therefor; (e) any material change in Owner’s capital structure or in any of its business objectives, purposes and operations which might in any way adversely effect the repayment of its obligations to KSM pursuant to this Agreement; or (f) any other event or occurrence, which, in the reasonable discretion of KSM, could materially and adversely affects Owner’s ability to repay its obligations to KSM pursuant to this Agreement.
- Intangible Personal Property. The term “Intangible Personal Property” shall mean all intangible property or rights owned or held by Owner in connection with the Club, including, but not limited to, security deposits, prepaid rents, liquor and operating licenses, website url addresses, customer databases to include e-mail addresses, and all trademarks related to the Club.
- 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 3.12 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 under Article 3 of the Agreement.
- Material Adverse Effect. The term “Material Adverse Effect” shall mean any event that has a material adverse effect on (i) the business, assets, operations or financial or other condition of Owner, and (ii) Owner’s ability to pay the amounts owed to KSM by the terms hereof.

- 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 Base Management Fees. Such calculation shall not include payments associated with maintenance equipment leases treated as capital leases, capital expenditures, interest expense, income taxes, depreciation and amortization.
- Operating Budget. The term “Operating Budget” shall have the meaning described in Section 3.4 of the Agreement.
- Operating Expense Account. The term “Operating Expense Account” shall have the meaning described in Section 4.2.1 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 be included in the Business Plan and shall mean all operating expenses of the Club 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, Club profit sharing programs, and insurance for all employees employed on-site in the direct operation of the Club, 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;
 - 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 lease payments on any item of furniture, fixtures or equipment to the extent not excluded below from Operating Expenses, and accounting services incurred in the on-site operation of the Club;
 - The costs of IT consultants and other consultants utilized for the Club;
 - Reasonable travel expenses of on-site employees incurred exclusively in connection with the business of the Club;
 - 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, administrative and financing charges and expenses, property taxes, to the extent not provided for in the reserve established therefore and any deductible amounts required to be paid under Club 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 (including costs to license and maintain accounting software), and legal fees incurred in respect of the operation of the Club, including any reasonable financial management and reasonable accounting fees paid to third party accounting firms, if included in the Business Plan;
- 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 Club;
- Ordinary maintenance and repairs, exclusive of any capital improvements or capital replacements, which are hereby excluded;
- 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, 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 Club;
- All expenses outlined in the approved Business Plan; and
- All other customary and reasonable expenses incurred in the operation of the Club 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 the City of Round Rock, Texas 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.
- Real Property. The term “Real Property” shall mean that certain parcel of land upon which the Club 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 Club.
- 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 15.17 of the Agreement.

EXHIBIT "B"
LEGAL DESCRIPTION OF REAL PROPERTY

FIELD NOTES

FOREST CREEK GOLF CLUB

BEING 185.25 acres of land out of the E. W. Matthews Survey, Abstract No. 449, and the John H. Randall Survey, Abstract No. 531, Williamson County, Texas, being all of that certain 15.25 acre tract of land described in a deed to the City of Round Rock recorded in Volume 1853 at Page 855, Official Records, Williamson County, and 170.00 acres out of that certain 582.35 acre tract of land described in a deed to the Ben Franklin Corporation recorded in Volume 1020 at Page 812, Official Records of Williamson County, and being more particularly described by metes and bounds as follows, to wit:

TRACT 1

BEGINNING at the most northerly northeast corner of said 582.35 acre tract, said Beginning Point also being the southeast corner of Oak Bluff Estates, Phase 2, a subdivision of record filed in Cabinet F, Slide 253, Plat Records of Williamson County;

THENCE S 11° 59' 28" W a distance of 241.09 feet with the east line of said 582.35 acre tract to an iron rod set at the most northerly corner of said 15.25 acre tract;

THENCE S 44° 23' 26" E a distance of 362.62 feet to an iron rod set at the northeast corner of said 15.25 acre tract;

THENCE S 12° 43' 00" W a distance of 1068.00 feet to an iron rod at the southeast corner of said 15.25 acre tract in the north line of said 582.35 acre tract;

THENCE N 89° 17' 00" W a distance of 250.00 feet with the north line of said 582.35 acre tract and the south line of said 15.25 acre tract to an iron rod, from which an iron rod at the southwest corner of said 15.25 acre tract bears N 89° 17' W a distance of 490.00 feet;

THENCE traversing the interior of said 582.35 acre tract, the following described courses and distances to iron rods set:

- (1) S 00° 00' 00" W a distance of 185.00 feet;
- (2) S 73° 08' 37" E a distance of 491.70 feet;
- (3) N 87° 47' 51" E a distance of 910.67 feet;
- (4) S 71° 18' 25" E a distance of 702.03 feet;
- (5) S 41° 49' 46" E a distance of 249.69 feet;
- (6) S 12° 06' 57" W a distance of 428.64 feet;
- (7) S 63° 30' 59" E a distance of 192.50 feet;
- (8) S 06° 19' 50" W a distance of 195.32 feet;
- (9) S 67° 12' 02" W a distance of 209.34 feet;
- (10) S 03° 27' 20" E a distance of 133.67 feet;
- (11) S 70° 46' 37" W a distance of 337.32 feet;
- (12) N 37° 21' 55" W a distance of 80.59 feet;
- (13) N 73° 21' 35" W a distance of 861.06 feet;
- (14) N 79° 41' 42" W a distance of 479.02 feet;
- (15) N 85° 13' 05" W a distance of 113.57 feet;
- (16) N 73° 15' 50" W a distance of 97.58 feet;
- (17) S 61° 31' 35" W a distance of 59.27 feet;
- (18) S 14° 32' 49" W a distance of 629.23 feet;
- (19) S 35° 34' 39" W a distance of 665.09 feet;
- (20) N 83° 58' 40" W a distance of 213.16 feet;

TRACT I (Continued)

- (21) N 55° 02' 00" W a distance of 167.70 feet;
- (22) N 03° 13' 30" E a distance of 592.02 feet;
- (23) N 62° 54' 16" E a distance of 231.51 feet;
- (24) N 00° 00' 00" E a distance of 215.00 feet;
- (25) N 43° 36' 10" E a distance of 290.00 feet;
- (26) N 08° 12' 44" W a distance of 115.12 feet;
- (27) N 32° 48' 33" W a distance of 477.18 feet;
- (28) N 01° 50' 47" W a distance of 532.27 feet;
- (29) N 47° 40' 35" W a distance of 118.82 feet;
- (30) N 09° 17' 54" W a distance of 310.19 feet;
- (31) N 07° 12' 51" E a distance of 786.85 feet;
- (32) N 50° 33' 43" W a distance of 146.28 feet;
- (33) N 77° 28' 40" W a distance of 129.26 feet;
- (34) S 54° 45' 43" W a distance of 574.87 feet;
- (35) S 41° 49' 01" W a distance of 674.91 feet;
- (36) S 03° 16' 37" E a distance of 73.15 feet to an iron rod set in the north line of Golf Road;
- (37) N 59° 49' 56" W a distance of 405.72 feet with the north line of said Golf Road to an iron rod set;
- (38) N 30° 10' 04" E a distance of 42.96 feet;
- (39) N 07° 40' 14" W a distance of 299.68 feet;
- (40) N 00° 39' 17" E a distance of 175.01 feet;
- (41) N 32° 12' 39" E a distance of 118.19 feet;
- (42) N 61° 45' 31" E a distance of 111.23 feet;
- (43) N 79° 39' 30" E a distance of 231.84 feet;
- (44) N 58° 08' 42" E a distance of 351.95 feet;
- (45) N 24° 26' 38" E a distance of 226.91 feet to an iron rod set in the south line of Golf Road;

TRACT 1 (Continued)

THENCE along and with the southerly line of Golf Road, the following described four (4) courses and distances:

(1) S 88° 54' 23" E a distance of 236.04 feet to an iron rod found at the beginning of a curve to the right;

(2) An arc distance of 138.62 feet with said curve to the right, said curve having a central angle of 6° 59' 52", a radius of 1134.99 feet, tangents of 69.40 feet, and a chord bearing and distance of S 85° 24' 27" E 138.53 feet, to an iron rod found at the point of tangency of said curve;

(3) S 81° 54' 31" E a distance of 84.27 feet to an iron rod found at the beginning of a curve to the left;

(4) An arc distance of 240.06 feet with said curve to the left, said curve having a central angle of 59° 48' 05", a radius of 230.00 feet, tangents of 132.26 feet, and a chord bearing and distance of N 68° 11' 27" E 229.31 feet, to an iron rod found at the intersection of the southerly line of said Golf Road and the north line of said 582.35 acre tract;

THENCE along and with the north line of said 582.35 acre tract and the south line of said Oak Bluff Estates, Phase 2, the following described three (3) courses and distances:

(1) S 88° 53' 40" E a distance of 89.20 feet to an iron rod found;

(2) S 88° 47' 57" E a distance of 380.72 feet to an iron rod found, and;

(3) S 89° 02' 29" E a distance of 501.86 feet to the Place of Beginning, containing 145.4457 acres of land.

SAVE AND EXCEPT PARCEL 1, described as follows, to wit:

BEGINNING at an iron rod set in the interior of the above described Tract 1, from which the northeast corner of said 582.35 acre tract described in Volume 1020, Page 912, Official Records of Williamson County, (also being the northeast corner of Tract 1), bears N 10° 12' 08" E a distance of 2008.84 feet;

THENCE traversing the interior of said 130.1957 acre tract, the following described courses and distances to iron rods set;

(1) S 59° 10' 43" E a distance of 286.11 feet;

(2) S 82° 42' 15" E a distance of 256.26 feet;

(3) N 84° 11' 36" E a distance of 593.04 feet;

(4) N 65° 03' 22" E a distance of 237.12 feet;

(5) S 53° 33' 39" E a distance of 665.02 feet;

(6) S 10° 14' 05" E a distance of 365.82 feet;

(7) S 20° 33' 22" W a distance of 170.88 feet;

(8) S 59° 51' 31" W a distance of 115.00 feet;

(9) N 68° 55' 55" W a distance of 397.09 feet;

(10) N 50° 37' 50" W a distance of 252.24 feet;

PARCEL 1 (Continued)

- (11) N 86° 18' 31" W a distance of 621.29 feet;
- (12) N 70° 27' 48" W a distance of 164.47 feet;
- (13) S 61° 08' 59" W a distance of 190.66 feet;
- (14) N 56° 43' 30" W a distance of 153.10 feet;
- (15) N 36° 08' 31" W a distance of 220.42 feet;
- (16) N 25° 06' 53" W a distance of 168.12 feet, and;
- (17) N 18° 35' 36" E a distance of 286.88 feet to the Place of Beginning, containing 25.2753 acres of land.

AND ALSO TRACT 2, described as follows, to wit:

BEGINNING at an Iron rod set in the southerly line of Golf Road, from which the northeast corner of said 582.35 acre tract bears N 55° 29' 40" E a distance of 2490.84 feet;

THENCE traversing the interior of said 582.35 acre tract, the following described courses and distances to iron rods set;

- (1) S 03° 16' 42" E a distance of 172.03 feet;
- (2) S 65° 02' 25" W a distance of 323.33 feet;
- (3) S 10° 27' 36" W a distance of 400.32 feet;
- (4) S 18° 21' 32" E a distance of 548.24 feet;
- (5) S 00° 00' 00" E a distance of 161.86 feet;
- (6) S 45° 35' 55" W a distance of 328.92 feet;
- (7) S 62° 39' 48" W a distance of 132.83 feet;
- (8) S 19° 44' 27" W a distance of 48.14 feet to an Iron rod set in the northerly line of Golf Road;
- (9) N 70° 15' 53" W a distance of 146.91 feet with the north line of Golf Road to an iron rod set;
- (10) N 19° 44' 10" E a distance of 96.36 feet;
- (11) N 19° 13' 50" W a distance of 227.71 feet;
- (12) N 48° 14' 23" W a distance of 187.68 feet;
- (13) N 90° 00' 00" W a distance of 260.00 feet;
- (14) S 81° 47' 34" W a distance of 475.50 feet;
- (15) S 64° 17' 29" W a distance of 95.14 feet;
- (16) S 46° 47' 24" W a distance of 85.12 feet;
- (17) S 28° 48' 59" W a distance of 293.23 feet to an iron rod set in the north line of Golf Road;

TRACT 2 (Continued)

(18) An arc distance of 210.00 feet with the north line of said Golf Road, said north line being a curve to the left having a central angle of $23^{\circ} 08' 19''$, a radius of 520.00 feet, tangents of 106.45 feet, and a chord bearing and distance of $N 77^{\circ} 58' 57'' W 208.58$ feet, to an iron rod set;

(19) $N 08^{\circ} 31' 04'' W$ a distance of 103.05 feet;

(20) $N 57^{\circ} 08' 21'' W$ a distance of 191.67 feet;

(21) $N 61^{\circ} 28' 37'' W$ a distance of 471.77 feet;

(22) $N 01^{\circ} 09' 00'' E$ a distance of 224.77 feet;

(23) $N 30^{\circ} 05' 17'' E$ a distance of 269.28 feet;

(24) $N 09^{\circ} 10' 59'' W$ a distance of 626.69 feet;

(25) $N 18^{\circ} 49' 17'' W$ a distance of 132.25 feet;

(26) $S 75^{\circ} 00' 00'' W$ a distance of 20.00 feet;

(27) $N 27^{\circ} 19' 05'' W$ a distance of 115.46 feet;

(28) $N 08^{\circ} 41' 22'' E$ a distance of 117.28 feet;

(29) $N 73^{\circ} 36' 11'' E$ a distance of 200.60 feet;

(30) $N 25^{\circ} 15' 48'' E$ a distance of 96.35 feet;

(31) $N 52^{\circ} 48' 39'' E$ a distance of 177.48 feet;

(32) $N 46^{\circ} 31' 54'' E$ a distance of 437.22 feet;

(33) $N 52^{\circ} 16' 52'' E$ a distance of 494.26 feet;

(34) $N 05^{\circ} 41' 35'' W$ a distance of 286.74 feet;

(35) $N 89^{\circ} 49' 52'' E$ a distance of 228.02 feet;

(36) $S 75^{\circ} 38' 46'' E$ a distance of 75.39 feet;

(37) $S 61^{\circ} 23' 10'' E$ a distance of 75.22 feet;

(38) $S 25^{\circ} 08' 10'' E$ a distance of 79.27 feet;

(39) $S 07^{\circ} 51' 10'' W$ a distance of 81.81 feet;

(40) $S 54^{\circ} 17' 36'' E$ a distance of 174.08 feet;

(41) $S 19^{\circ} 39' 22'' E$ a distance of 420.78 feet;

(42) $S 54^{\circ} 28' 33'' E$ a distance of 475.71 feet;

(43) $N 36^{\circ} 09' 31'' E$ a distance of 26.21 feet to an iron rod set in the south line of Golf Road;

(44) An arc distance of 210.32 feet with the south line of said Golf Road, said south line being a curve to the left having a central angle of $22^{\circ} 16' 25''$, a radius of 541.03 feet, tangents of 196.51 feet, and a chord bearing and distance of $S 48^{\circ} 41' 44'' E 209.00$ feet, to an iron rod found at the point of tangency of said curve;

(45) $S 59^{\circ} 49' 56'' E$ a distance of 530.52 feet with the south line of said Golf Road to the Place of Beginning, containing 118.4600 acres of land.

SAVE AND EXCEPT PARCEL 2, described as follows, to wit:

BEGINNING at an iron rod set in the interior of the above described Tract 2, from which the northeast corner of said 582.35 acre tract described in Volume 1020, Page 812, Official Records of Williamson County, bears N 63° 22' 40" E a distance of 2903.79 feet;

THENCE traversing the interior of said 118.4600 acre Tract 2, the following described courses and distances to iron rods set;

- (1) S 15° 56' 43" W a distance of 136.00 feet;
- (2) S 32° 29' 26" W a distance of 154.35 feet;
- (3) S 10° 50' 05" W a distance of 426.59 feet;
- (4) S 00° 47' 07" E a distance of 221.07 feet;
- (5) S 68° 36' 00" W a distance of 1177.19 feet;
- (6) N 71° 50' 18" W a distance of 120.23 feet;
- (7) N 49° 32' 18" W a distance of 198.82 feet;
- (8) N 22° 49' 00" W a distance of 90.58 feet;
- (9) S 67° 11' 00" W a distance of 152.19 feet;
- (10) N 28° 27' 38" W a distance of 48.46 feet;
- (11) N 30° 21' 46" E a distance of 310.60 feet;
- (12) N 21° 00' 23" W a distance of 772.36 feet;
- (13) N 49° 18' 38" E a distance of 676.38 feet;
- (14) N 43° 37' 01" E a distance of 556.66 feet;
- (15) S 66° 18' 34" E a distance of 107.02 feet;
- (16) S 17° 41' 23" E a distance of 396.44 feet;
- (17) S 67° 22' 48" E a distance of 825.00 feet to the Place of Beginning, containing 53.3804 acres of land.

COALTER & ASSOCIATES, SURVEYORS

Stan Coalter

Stan Coalter, RPS, LSL
7-21-91



STATE OF TEXAS COUNTY OF WILLIAMSON
I hereby certify that this instrument was FILED
on the date and at the time stamped hereon
by me, and was duly RECORDED in the Volume
and Page of the named RECORDS of Williamson
County, Texas, as stamped hereon by me, on
SEP 2 6 1991



William B. Byrnes
COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

FILED FOR RECORD
1991 SEP 26 PM 4:23
William B. Byrnes
COUNTY CLERK

EXHIBIT “C”

ACH FORM

EXHIBIT "D"

GOLF OPERATIONS SCOPE OF WORK

The scope of work covered by these Golf Operations Specifications consists of providing labor; services; materials; supplies; golf carts; selecting golf shop furniture, fixtures, equipment, inventory for sale; and other items as may be required to support the operation of a quality, municipal golf course, golf shop, and practice facility. Services according to these specifications shall commence at a time necessary for the Contractor to adequately prepare for the start of revenue producing operations and will continue until termination of the agreement between the golf operations Contractor and the City.

A. PERSONNEL & SUPERVISION

Golf operations as identified herein will be conducted under the direct supervision of an experienced, qualified, onsite operations Manager.

The Contractor will be responsible for hiring, training, managing, and compensating the necessary personnel for the performance of the work according to these specifications and other terms contained in the agreement documents. A Staffing plan may include a PGA/LPGA Class "A" Professional, who is onsite a minimum of 40 hours per week and will provide staff on duty during pro shop operating hours.

B. HOURS OF OPERATION

In the event play and/or use must be temporarily suspended on the golf course due to inclement weather conditions, the decision on when to allow use and/or play to resume, and when to allow golf carts to go on the course, will be made by the Contractor and the City will be notified.

C. CLUBHOUSE AND GOLF SHOP

Merchandise Quality/Quantity:

- a. Contractor shall agree, on behalf of the City, to purchase the existing pro shop inventories from the current operator by actual cost and consistent with a physical inventory of such items.
- b. Contractor shall provide and maintain such inventory of golf merchandise as is deemed necessary by mutual consent of the Contractor and the City.
- c. Contractor shall provide a point-of-sale system, and all fixtures necessary for the display and sale of merchandise. Costs will be part of the annual budget.
- d. The Contractor shall offer for sale goods of premium quality consistent with the quality of goods sold at the equivalent daily-fee golf course.
- e. Contractor shall not offer for sale or rental any item of merchandise which the City deems objectionable or beyond the scope of the agreement.

Pricing:

The Contractor shall charge competitive prices for the same or similar goods sold at the equivalent quality, daily fee golf course in the area consistent with the cost to provide such goods.

D. GOLF AND OTHER SERVICES

Required Operating Responsibilities:

The Contractor will be responsible for providing all Golf Services at the Course including, at a minimum, the following services, and activities:

- a. Manage golf cart and equipment rentals.
- b. Supervise and control the starting time and reservation system.
- c. Collect and deposit all daily revenues, including, but not limited to, monies from green fees, merchandise sales, cart and equipment rentals, lessons, tournaments, gift certificate sales, resident and multi-play cards, and membership programs.
- d. Provide quality golf lessons and instruction for all levels of play.
- e. Promote golf and golf-related activities in cooperation with existing golf clubs, organizations, tourist development, and the City of Round Rock.
- f. Schedule and facilitate golf tournaments, clinics, and junior golf promotions that meet with the City's image and priorities.
- g. Provide, schedule, and supervise course marshal and starter services.
- h. Attend monthly meetings, as requested, with the City to provide updates on golf course matters.
- i. Work cooperatively and collaboratively with the supervision of maintenance, food, and beverage, and City management staff to provide a positive golf experience for all users.
- j. The contractor will make a representative available for meetings with local Men's and Women's Golf Associations.
- k. The contractor will maintain signage and advertisement for the Men's and Women's Golf Associations (memberships).

Reservations:

- a. The Contractor shall provide, maintain, and upgrade reservation systems as needed to include a website.
- b. Group and tournament events shall be handled by qualified, experienced personnel.
- c. Restricted walking will be permitted; Contractor to determine.

Starter/Player Assistants:

- a. The Contractor shall provide a Starter and a plan for the Starter to monitor play and provide a quality experience as players begin each round of golf.

- Pace of play objectives shall be established by the Contractor, approved by the City and communicated to players before they begin each round of golf.
- b. The Contractor shall submit a plan to the City for Golf Course marshal services to promote a comfortable yet brisk pace of play. Any subsequent curtailment or decrease of this service shall be reasonably justified by the Contractor and approved by the City.
 - c. Any special requirements for group/tournament play will be established by the Contractor, conveyed when reservations are booked and communicated by golf operations staff as groups are checked in.
 - d. The Contractor shall provide all complimentary, necessary and consumable golf supplies including scoring pencils and "logo" scorecards.
 - e. The Contractor shall provide cart assignment sheets, scoreboards, and other special materials to support group/tournament events. The support materials shall be consistent with quality and "logo" identification with other daily fee play materials.

Rentals:

- a. The Contractor shall provide and maintain for rental an inventory of quality, recognized brand sets of golf clubs, with bags, sufficient to meet player's demands. Costs will be included in the annual budget
- b. The Contractor shall provide and maintain for rental a supply of pull carts sufficient to meet player's demands. Costs will be included in the annual budget
- c. The Contractor shall ensure an adequate number golf carts are available. The contractor will maintain an adequate number of this supply in a clean, fully-charged manner sufficient to meet player's demand. Costs will be included in the annual budget

Practice Areas:

- a. The Contractor shall be responsible for the quality operation of the practice facility.
- b. The Contractor shall be responsible for maintaining a high quality and sufficient quantity of all elements used at the practice facility including balls, hitting surfaces, landing area, cups, and flags.

Lessons:

The Contractor shall provide golf lessons and training by qualified instructors under the supervision of a Class "A" professional whose qualifications have been approved by the City.

Group Tournament Services:

- a. The Contractor shall provide group event, tournament, and outing scheduling services without discrimination consistent with the City standards and image.
- b. The Contractor shall promote the use of all other fee services and sale of goods.
- c. Existing tournament schedules and annual tournaments run by the local golf associations will have preferred scheduling.
- d. The contractor may negotiate fees for group/tournament activity or other special uses.

Equipment Repair:

- a. If the City and the Contractor together determine that there is a demand for equipment repair service, the Contractor shall submit a plan to maintain all City-owned and leased equipment . (Referenced equipment includes items such as ID card printers, push carts, club fitting equipment, etc.)

Golf Green Fees:

- a. Fees and Charges
 - 1. Contractor shall keep current a comprehensive schedule of fees for golf play and cart rentals. Standard fees shall be displayed and posted on the website.
- b. Establishing of Fees
 - 1. Contractor shall conduct an annual, comprehensive survey of green fee and rental rates at comparable golf course within the market area and submit recommendations for fee changes to the City.
 - 2. The City must approve all green fee and rental rate changes, for which approval will not be unreasonably withheld.
 - 3. The contractor may run fee discounts and special pricing packages at their discretion.

Cash Handling and Reporting

- a. The Contractor shall keep complete records of all transactions concerning all monies for fees and goods collected.
- b. The Contractor shall be responsible for and keep neat, accurate, auditable records of reservations made and fulfilled, and fees charged for every individual and group who use the golf course.
- c. The Contractor shall, throughout the term of this agreement, comply with City's policy regarding the collection of all fees, reporting requirements for fees collected, and the system of accountability and procedures thereof.

- d. At the City's request, all accounting records and starting sheets shall be available for examination by the City, its auditor, and any 3rd parties so designated by the City.
- e. All green fees and sales & rental transactions must be entered into Point of Sale Systems. A register receipt, showing a correct date and time of issue, and amount paid, shall be tendered to every person paying for fees or services.

EXHIBIT "E"

GOLF COURSE MAINTENANCE

Golf Course Maintenance Requirements

Listed below are the standard maintenance guidelines and requirements to be performed. The addition or deletion of services necessary to maintain the course to USGA standards should be clearly identified in the Proposer's proposed Maintenance Plan.

A. Soil Analysis

1. Soil samples shall be taken at least once a year on greens, tees, and fairways.
2. A certified laboratory shall analyze the samples, and the resulting report will be used to make treatment decisions.
3. Fertilizer applications will be tailored to the soil/plant needs.

B. Fertilization Requirements (by USGA recommendations)

1. Greens shall be fertilized to promote playability, and a healthy grass and root system.
2. Tees shall be fertilized as needed.
3. Fairways, roughs, driving range, and clubhouse turf shall receive necessary applications to promote maximum turf coverage per year based upon a standard level set for the particular course.
4. Landscape, ornamentals, and shrubbery to receive at least one application a year. Mulching must be maintained and replenished to maintain appearance standards.

C. Mowing Requirements

These activities shall be scheduled at such a time as to limit the interference with play.

1. Greens:
 - a. Greens to be mowed on a daily basis, weather permitting and seasonally adjusted.
 - b. Mowing heights of the greens shall be consistent and be maintained on a daily basis to keep a smooth rolling service to USGA standards.
 - c. Collars will be maintained at less than 750/1000 inch weather permitting and seasonally adjusted
2. Tees, Fairways, and Aprons. These areas will be mowed as needed and be consistent with a maximum of 5/8 inch for the tees.
3. Roughs and other areas:
 - a. Roughs will be mowed as needed to help maintain an acceptable pace of play and golfer enjoyment.

- b. Bunker slopes, clubhouse turf, and all other turf areas shall be mowed as needed.
- c. Sand traps are to be raked daily weather permitting and seasonally adjusted
- d. During colder months it may be acceptable to mow bi-weekly.
- e. Clubhouse flowerbeds will be maintained and kept free of weeds.
- f. Leaf removal to be conducted to facilitate play.

D. Cultural Practices

1. Aerification:

- a. Greens are required to be aerified a minimum of two times a year.
- b. Tees and aprons are required to be aerified once a year.
- c. Fairways are required to be aerified once a year.
- d. Rough is to be aerified at the discretion of the Contractor.
- e. Topdressing is required as needed; topdressing material shall meet the requirements of the USGA specifications. Vendor information will be supplied to maintain consistent material to avoid creating a perch water table.

2. Verti-cutting:

- a. Aprons and greens are to be verti-cut from April through October, twice a month. The greens mower shall follow immediately after verti-cutting. The height of the greens mower should be the same as the height of your everyday green setting.
- b. Tees and fairways may be verti-cut bi-annually as conditions dictate, and based on a mutual agreement between the two parties.

E. Over-seeding

- 1. Greens: Only necessary if there is turf loss during the season.
- 2. Tees and Fairways: tees, aprons, and fairways may be over seeded with turf-type perennial rye grass to be applied in late August and no later than the last week of September or as conditions dictate, and based on a mutual agreement between the two parties

F. Chemical Program

- 1. Contractor Must Provide a Detailed Agronomic Plan for Cultural Activities and Chemical Applications

G. Cups and Pins

- 1. Pin locations shall be changed as appropriate, most likely seven days a week during the prime season.
- 2. Cups shall be replaced and painted as needed.

- 3 Pins will be placed a least 10 feet from the previous location and at least three (3) paces from the edge of the green.

H. Repairs

1. Repair all ball marks, divots, and other damaged turf on greens including chipping area & practice greens as needed.
2. Out of bounds and hazard stakes will be replaced and maintained as needed and placed to USGA standards.

I. Cart Paths

1. Following the renovation of the course, it will be the responsibility of the Contractor to maintain the cart paths and the turf entering and exiting the cart paths.

J. Irrigation

1. It will be the responsibility of the Contractor to ensure that all of the equipment required to irrigate the golf course is maintained in good repair.
2. It will be the Contractor's responsibility to determine the frequency and the amount of irrigation used in each application.

K. Lake and Ditch Maintenance

1. It will be the responsibility of Contractor to maintain the lakes and ditches including culvert pipes and headways on the golf property.
2. Contractor shall provide a plan for maintaining ditches and lakes as part of the proposal.

L. Personnel

1. The Contractor shall provide adequate staffing to carry out services on a timely basis stated in finalized contract.
2. The Contractor shall provide a qualified golf course superintendent who holds a Class A Golf Course Superintendent Association of America (GCSAA) professional license or certification and local chapter of Superintendent Association with a license to apply chemicals normally used in the geographical area and approved by the City.

EXHIBIT "F"

FOOD, BEVERAGE & CATERING REQUIREMENTS

A. Licenses and Permits

The Contractor must obtain and keep current all licenses and permits necessary to run an indoor and outdoor food service facility at the City of Round Rock Golf Course. In accordance with the Texas Alcohol Beverage Commission (TABC), the current license is non-transferable and would have to be reissued under a change of ownership if the golf course managed by a company other than the current licensee. The Contractor shall be held responsible for the legal serving of all patrons and customers, in accordance with all TABC rules, statutes and the Texas Alcoholic Beverage Code. Costs associated with obtaining a new license will be an operating expense of the golf course

C. Staffing

The Contractor must provide all necessary staff to prepare and serve the menu and adhere to current Health Department regulations and standards.

D. Hours of Operation

1. The food and beverage operation are expected to operate seven days a week during the golf season in a casual environment to meet the needs of the golf course patrons, visitors, and the surrounding community. At a minimum the food and beverage operation are expected to be open when the Pro Shop is open. The Contractor can, of their choosing, be open outside the operating hours of the Pro Shop. The contractor will work with the Golf Pro and Golf Course Director in scheduling events to ensure the best use of the facility is allowed. Non-golf events will be welcome but are secondary to golf events.

E. Beverage Cart Service

The Contractor will be expected to provide roving beverage cart service during the hours of popular demand as determined by patron utilization.

F. Operating Costs

The Contractor will be responsible for ensuring the availability of all merchandise and supplies necessary for the production of the food and beverage menu, ensuring that an adequate level of supplies is kept stocked at all times, and accounting for all revenues and expenses. The Contractor is responsible for maintaining an accurate perpetual inventory system of all items held for food or beverage consumption. Such inventory levels will be verified on a regular basis as deemed appropriate based on accuracy and experience, and shall be reported to the City.

G. Supplies and Equipment

All equipment will be inventoried when the Contractor commences operation. The Contractor shall replace any equipment that has been destroyed, damaged, or worn beyond its useful life, with like equipment after consulting with the City and obtaining written approval. Expenses will be part of the golf course operating budget or annual capital expenditure plan. Upon the expiration of this Agreement, the Contractor shall relinquish inventoried equipment to the City in good and working order.

H. Financial Reporting

1. The Contractor shall maintain a system of accounting that accounts for all monies received at the time of sale and at any time be prepared to submit accurate records of all transactions.
2. The Contractor shall offer to provide receipts to customers for all goods and services sold in the restaurant.
3. The Contractor shall keep and maintain all required financial records in accordance with established City retention policies and procedures, while utilizing accounting procedures compatible with the City's financial system. The City will consider alternative procedures and reports proposed by the prospective Contractor, provided they assure adequate internal controls, compliance with State laws and City regulations, and the safeguarding of City assets.
4. The City shall have the right, and plans to exercise that right, to request and audit performed by an independent Certified Public Accountant selected by the City.