

EXHIBIT L

AGREEMENT BETWEEN

THE TOWNSHIP OF MILLCREEK

AND

FOR

**Provision of Management and Maintenance
Services for Millcreek Golf and Learning Center (Golf Center)
for a _____ () year term commencing _____, 2018**

THIS AGREEMENT is made the ___ day of May, 2018 at Erie, Pennsylvania, by and between **THE TOWNSHIP OF MILLCREEK**, a second class Township of the Commonwealth of Pennsylvania maintaining offices at 3608 West 26th Street, Erie, PA 16506-2059 ("Township"), and _____, a [TYPE OF ENTITY] maintaining its offices at _____ ("Operator").

WITNESSETH:

WHEREAS, the Township owns property known as the Millcreek Golf and Learning Center ("Golf Center") located in Millcreek Township with a mailing/street address of 3102 W 17th St, Erie, PA 16505;

WHEREAS, in 2001, a nine-hole golf course with driving range had been constructed at the Golf Center on land formerly designated as the Millcreek Superfund Site;

WHEREAS, the golf course portion of the Golf Center is currently closed due to the expansion of the Erie International Airport, but the Township recently has awarded a contract to Aspen Corporation for the construction and reconstruction of the Golf Center to reopen 6 of the golf holes (with three that can be played a second time for nine holes);

WHEREAS, the Township issued a Request for Proposals ("RFP") relating to the operation and maintenance of the Golf Center; and

WHEREAS, the Township wishes to obtain and the Operator wishes to provide performance of professional management and maintenance services at the Golf Center as set forth in this Agreement and the attached Scope of Services (Exhibit A) for the price and payment terms as set forth in the attached Exhibit B for a term commencing _____ and concluding as of _____, all subject to the General Provisions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth in this Agreement and intending to be legally bound hereby, the parties covenant and agree as follows:

GENERAL PROVISIONS

1. Scope of Services

Operator shall perform, carry out or provide, in a professional manner, all of the services set forth in Exhibit A of this Agreement, entitled "Scope of Services." The Township's RFP and Operator's Proposal are hereby incorporated in this Agreement.

2. Time of Performance

Operator's services are to commence on _____ and extend through _____. Operator shall work to assure that Operator's obligations are completed in such a manner as to fulfill the purposes of this Agreement. The parties may extend the term of the agreement on terms mutually acceptable to the parties.

3. Compensation to Operator

Operator shall be entitled to charge and retain fees for use of the Golf Center in accordance with the schedule of fees approved annually by Millcreek Township.

4. Compensation to Township

4.1 Operator shall pay to Millcreek Township those fees and sums and in the manner as set forth in Exhibit B, which is attached to and made a part of this Agreement. Millcreek Township shall be entitled to receive, free of any claims by the Operator, all sums pertaining to pouring rights, beverage dispensing agreements, hole sponsorships, Golf Course naming rights and other matters beyond the scope of Operator's services and rights under this Agreement.

4.2 A late charge equal to five percent (5%) shall be assessed and added as to any sum due to the Township which is not received by the Township within ten (10) days after the same is due. Said late charge shall be assessed without demand by the Township, and shall be payable with and in addition to the payment so due. In addition, interest shall accrue at the rate of ten percent (10%) per annum from the due date on all sums not paid to the Township within thirty (30) days after the same are due.

4.2 All sums due to the Township under this Agreement shall be paid to Millcreek Township, Attention: Treasurer, 3608 West 26th Street, Erie, PA 16506-2059 and shall refer to "Millcreek Golf and Learning Center" and the specific purpose of the payment.

5. Representations and Warranties

5.1 Each party represents and warrants to the other party that:

- (a) it is duly organized, validly existing and in good standing as a corporation or other entity or as a municipality, as applicable, as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering;
- (b) it has the full right, power and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder;
- (c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all applicable and necessary corporate and municipal action of the party; and
- (d) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

5.2 Operator represents and warrants to Township that:

- (a) it shall perform its obligations under this Agreement using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with best recognized industry standards for similar services and shall devote adequate resources to meet its obligations in a timely manner under this Agreement;
- (b) it has the staff, facilities and expertise to perform the Services competently and in a professional manner and within the applicable and agreed to time frames;
- (c) Operator's activities on behalf of the Township hereunder are not and shall not be in conflict with any other contractual obligations of Operator; and
- (d) it is in compliance with, and shall perform the Services in compliance with, all applicable laws, and that it has all the permits, licenses, and any other applicable governmental or regulatory authorization etc. required to perform the Services.

6. Subcontracting

No subcontract may be entered into by Operator for execution of the obligations outlined in the Scope of Services which is not incorporated in the approved proposal or approved in advance by Township. In the event of any subcontracting approved by Township, Operator shall retain

ultimate control and responsibility for completion of its obligations under this Agreement, and any subcontractor shall be bound by these conditions and all other requirements applicable to Operator in this Agreement.

7. Maintenance of Records

Operator shall keep and maintain complete and accurate records with respect to all revenues from all sources, expenses incurred and manpower expended under this Agreement. All such records shall be maintained on the basis of generally accepted accounting principles and shall be clearly identified and readily available. All such records shall be readily available within (10) business days after the Township's written request. Financial records, supporting documents and all other records pertaining to the Agreement shall be retained and made available for audit or as otherwise needed by the Township for a period of three (3) years after final payment is made and the Agreement has expired, and all other pending matters are resolved.

8. Sunshine Law

This Agreement will be subject to all the provisions of the Sunshine Law, Act 84 of July 3, 1986, as amended.

9. Equal Employment Opportunity

During the performance of this contract, Operator agrees as follows:

- 9.1 Operator shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin.
- 9.2 The Operator shall take action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, sex or national origin.
- 9.3 Operator shall assure that all subcontractors adhere to the provisions of this Paragraph.

10. Non-Collusion

- 10.1 Operator guarantees that the proposal submitted is not a product of collusion with any other consultant and that no effort has been made to fix the proposed price of any consultant or to fix any overhead, profit or cost element of any proposed price.
- 10.2 Operator certifies to Township that no official or employee of the Township or the spouse of any employee of the Township has any interest in Operator, whether financial or through employment, except as has in writing been certified to Township prior to the contract award.

11. Covenant Against Gratuities

Operator warrants that it has not offered or given gratuities of any nature to any official or employee of the Township with a view toward securing favorable treatment in the awarding, amending or evaluation of performance of the Agreement.

12. Bonds Required

No bid bond or payment bond shall be required of the Operator. The Operator shall tender either a performance (or payment, whichever is applicable) bond in the amount of \$ _____ or , alternatively a security deposit to Township in the sum of \$ _____. Any security deposit shall be retained by Township and held to secure performance of Operator’s obligations under this Agreement.

13. Contract Changes

Any proposed change in this Agreement shall be submitted to Township's Board of Supervisors in writing for its prior approval, and the Township will make any such change approved by the Board of Supervisors by a written change order signed by both parties. No change shall be effective unless and until both parties have signed a written change order.

14. Indemnification/Hold Harmless

Township shall not be responsible for any loss of life, personal injury or property damages of any kind arising from or in connection with in performing and completing the work of this Agreement and/or the condition of the Golf Center premises, unless such loss or damage is the result of the Township's actual negligence. Operator agrees to indemnify and hold harmless Township and its officers, directors, employees, representatives and agents from and against any and all damages, liabilities, obligations, losses, deficiencies, actions, costs (including reasonable attorneys’ fees and expenses), demands, suits, judgments, or assessments (hereafter “Claims”) arising out of (a) Operator's negligence in the performance of any Services; (b) any acts or omissions of Operator, its employees, subcontractors, or agents in connection with the Services hereunder; or (c) any breach of this Agreement by Operator, its employees, subcontractors, or agents. In the event of any Claim to which this indemnification applies, Township shall promptly notify Operator of such Claim, provided, however, the failure to give such notice shall not relieve Operator from its indemnification obligations. Operator shall hold Township harmless from and shall indemnify Township for all loss, damage, claims or expense, including attorney's fees, incurred in the performance of the services due under this Agreement and/or the condition of the Golf Center premises. This obligations under this paragraph shall survive termination or expiration of this Agreement.

15. Force Majeure

Performance hereunder shall be within the time allotted in this contract; provided, however, that neither the Township nor the Consultant shall be held responsible for damages caused by delay or failure to perform hereunder when such delay or failure is due to fires, strikes, storms, floods,

scarcity of fuel, governmental regulation or orders, legal acts of public authorities, acts of God or other acts which cannot reasonably be forecast or provided against.

16. Contract Integrity

Operator shall not vary, alter, amend or change this Agreement, or any part of it, without the written consent of the Township. Operator is familiar with all federal, state and local laws, codes, ordinances and regulations which in any manner affect those engaged or employed in the work and/or the conduct of the work. Operator has also been provided by the Township with specifications and regulations governing maintenance of the integrity of environmental remediation activity performed on portions of the golf course, including the 106 Order Alternate Use Agreement. No pleas of misunderstanding or ignorance on the part of the Operator will in any way serve to modify the provisions of this Agreement.

17. Coordination

Throughout the project, Operator shall coordinate project activities with the Township and with all other applicable federal, state or local agencies having appropriate jurisdiction.

18. Data To Be Furnished/Ownership of Data

18.1 Information, data, reports, photographs, records, maps and other documents as exist and are available and necessary for carrying out the work as outlined in the Scope of Services shall be furnished to the Operator for the duration of this Agreement without charge.

18.2 All data and documents created as part of the project effort shall be acquired on behalf of the Township and shall be and remain property of the Township.

19. Independent Contractor

This Agreement shall not be interpreted to create an employer-employee relation between the Township and Operator.

20. Township Obligations

In addition to allowing the Operator the right to manage and maintain the Golf Center and receive revenues from operations, Township agrees to furnish the following support and assistance to Operator during the term of this Agreement:

20.1 Familiarization with all pertinent information presently available to Township, both in terms of existing data and current efforts;

20.2 Repair and maintain the asphalt parking areas;

- 20.3 Sponsorship of teaching programs and those activities involved in any major program like “First Tee,” or “Hook a Kid on Golf”;
- 20.4 Maintain the public water and sewer service lines to clubhouse and maintenance building; Operator to remain responsible for all piping within the clubhouse and maintenance building; and
- 20.5 To the extent the Operator is not planning on using the Golf Center outside of the golf season, Township shall winterize the clubhouse and maintenance building.

21. Operator's Obligations

In addition to completing the work outlined in the Scope of Services, Operator agrees as follows:

- 21.1 Operator, as requested by Township, shall meet periodically with Township to discuss applicability and progress of the ongoing work and operations of the Golf Course;
- 21.2 Operator shall immediately notify the Township in writing of any unusual development or circumstances which could significantly change or delay performance of its obligations under this Agreement;
- 21.3 Operator shall comply with, and ensure that all its employees, representatives, agents and subcontractors comply with all rules, regulations and policies of the Township that are communicated to Operator in writing, as well as any applicable health and safety practices and procedures required under the Occupational Health and Safety Act ("OSHA") and/or the Pennsylvania Department of Labor and Industry;
- 21.4 Operator is responsible for all Operator's Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

22. Rights Retained by Township

- 22.1 The Township shall at all times have authority to ensure that the Golf Center is open and is held and operated as public facilities and in a manner consistent with obligations under grants and agreements relating to teaching and/or operation.
- 22.2 The Township shall have authority to submit applications for grant funding and to receive, retain and use all grant funds received in accordance with conditions imposed on said grants and determinations of Township's Board of Supervisors.
- 22.3 The Township shall have exclusive authority to determine the name of the golf course, to grant naming rights and to retain any sums received therefrom.

- 22.4 The Township shall have exclusive authority to enter into agreements regarding pouring rights and/or hole, tee and other sponsorships and like matters, and to receive and retain all sums payable in connection with such agreements.
- 22.5 The Township shall have authority to install at its discretion signage identifying the golf course, its teaching facilities and/or products of any vendor(s) with which the Township has contracted as to pouring or concession rights.
- 22.6 The operator will not install or allow to be installed any trade, business or other signage on the premises without the prior approval of Township's Board of Supervisors.
- 22.7 The Township shall have the right to enter and conduct an inspection of the Golf Center and to conduct an inspection and/or audit of the records of the Operator at any time. Township may use a Certified Public Accountant of its choice for any audit conducted of the Operator's records.
- 22.8 The Township shall have the right to inspect any repair/maintenance performed by Operator and reasonably require corrections to such attempted repair/maintenance.
- 22.9 The Township shall have the right to take any action required buy it under the 106 Order Alternate Use Agreement.

23. Insurance to be Maintained

In addition to the coverages and requirements of Exhibit C, attached hereto, the Operator shall maintain during the entire agreement term the following insurance acceptable to the Township:

- 23.1 Golf Cart Liability insurance on all owned, non-owned, leased and hired carts with liability limits of not less than \$1,000,000 per occurrence and/or aggregate. Such policy(ies) must name Millcreek Township as an additional insured.
- 23.2 Environmental Impairment insurance, including coverage as to all chemicals, fungicides, pesticides and herbicides, applied to or maintained at the golf course, with limits of liability not less than \$1,000,000 per occurrence and/or aggregate. Such policy(ies) must name Millcreek Township as additional insured.
- 23.3 Casualty, liability and comprehensive insurance coverage upon all personal property owned or leased by the contractor.
- 23.4 Excess Liability (Umbrella) insurance with limits of not less than \$1,000,000 in excess of the minimum coverages required above, identifying the Township as additional insured.

24. Required Reports

- 24.1 The Operator shall submit to the Township Treasurer written monthly reports of operations, which at a minimum shall report total revenues received during the calendar month, revenues received within each classification of operations (e.g., golf course, driving range, snack bar), total expenses incurred, expenses per category and a calculation of fees due to the Township for such month. All monthly reports shall be submitted not later than the twenty-fifth (25th) day of the month next following that for which the report is made. The Township shall have the right to request and obtain from Operator reports, invoices and other documents confirming matters set forth on the monthly report.
- 24.2 The Operator, on or before January 31 of the year next following, shall submit to the Township Treasurer a complete financial statement of operations of the Golf Course during the immediately preceding calendar year, audited or reviewed by a certified public accountant. This statement shall include or be accompanied by reports detailing all equipment acquisitions (by purchase, lease or otherwise), all stated revenues and expenses, all capital improvements and/or preventive maintenance made, all programs conducted and suggestions for future improvement. The Township shall have the right to request and obtain from Operator reports, invoices and other documents confirming matters set forth on the financial statement and other documents submitted.
- 24.3 On or before the date by which Operator's federal income tax return is due to be filed (without regard to any extension requested), the Operator shall submit to the Township Treasurer a copy of those portions of Operator's return for the preceding year which pertain to Golf Course operations. These documents may be used by the Township for audit purposes but will not be deemed a public record.
- 24.4 Not later than January 31 of every year during this Agreement, the Operator shall submit to the Township Treasurer its proposal for fees and any additions or modifications to programs or facilities for the coming season. The Township's Board of Supervisors reserves the right to approve or disapprove the Operator's proposals.

25. Notices

All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by electronic mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses indicated below.

If to Operator:

[Operator Address]

Email:

If to Township:

Millcreek Township
Attn: Director of Parks and Recreation
3608 West 26th Street
Erie, PA 16506-2059

26. Miscellaneous Provisions Regarding Operations

26.1 Township shall have the right to approve and authorize, and Operator shall not assess or act prior to the Township's authorization as to:

- (a) Residential fees for use of the golf course and residential preference programs;
- (b) Events sponsored at the golf course;
- (c) Reconfiguration of the golf course or any substantial alteration or modification of its facilities;
- (d) Proposed additions, alterations, improvements and/or substantial repairs;
- (e) Acquisition or amendment of a liquor, beer or other PLCB-issued license and/or operations related thereto;
- (f) Changes in established rankings and/or certifications with amateur and professional golf associations.

26.2 Operator shall be responsible for obtaining and maintaining in force all permits, certificates and licenses required by applicable regulatory agencies and for compliance with the terms of all such permits, certificates and licenses during the term of the Agreement.

26.3 Township's premises has been determined to be exempt from real property taxation. If the fact of Operator's management should result in a final determination that all or any portion of the premises is subject to real property taxes, the Township shall pay such taxes; provided, however, that if such determination should result from the manner of operation as proposed by Operator, then such taxes shall be paid by Operator.

26.4 Operator shall pay all applicable taxes and fees, except for those expressly assumed by the Township under this Agreement under Section 26.3.

- 26.5 Operator shall work with local, state, regional and national amateur and professional golf associations to ensure that current ranking and certifications are received and maintained during the term of this Agreement.
- 26.6 The Operator shall provide to the Township copies of all agreements entered into between Operator and third parties with respect to operation, management, maintenance and/or improvement of the golf course and the premises comprising it.

27. Default and Remedies in Event of Default

- 27.1 In the event either party should be in default of obligations owing under this Agreement, the other party shall have the right to issue to that party, in writing, notice of default. Such notice shall specify the nature of the default and shall be served personally upon the other party or by U.S. certified mail, return receipt requested.
- 27.2 If the default relates to the failure to pay sums or submit reports due under this Agreement, the defaulting party shall have the right to cure said default by making full payment of sums due, including any assessed late charges and/or interest, or submitting such report(s) due within ten (10) days after its receipt of the notice of default.
- 27.3 If the default relates to any other duty under this Agreement, the defaulting party shall have the right to cure said default by taking such action necessary to remedy the violation within twenty (20) days after receipt of such notice and then giving written notice to the other that the default is believed to have been cured.
- 27.4 Neither party shall have more than two (2) opportunities in any calendar year to cure a default, nor shall either party have more than a maximum of five (5) opportunities to cure during the entire term of this Agreement as authorized in Sections 27.2 and 27.3.
- 27.5 If a default should relate to the voluntary or involuntary filing of a petition in bankruptcy as to the Operator; to any assignment or subcontract by the Operator without the Township's prior written consent; to removal, transfer, assignment, pledge or alienation by or on behalf of Operator of any real or personal property owned by the Township, the Operator shall not be entitled to an opportunity to cure such default.
- 27.6 Upon the occurrence of an uncured default or a default not capable of cure under Section 27.5, the non-defaulting party shall have the right to terminate this Agreement immediately and shall further be entitled to exercise all rights available to it in law or in equity, including but not limited to ejection, specific performance, injunction or money damages.

- 27.7 Upon occurrence of an uncured or incurable default by Operator, the Operator's rights to continued possession or management of the Golf Center shall terminate effective upon the effective date of the Township's notice of termination. In that event, Operator shall have no right to be at or upon the premises or to exercise any control over the same, other than to remove, with prior notice to the Township, personal property at the premises belonging to the Operator.
- 27.8 In the event either party should be compelled by the other's default to institute proceedings for enforcement of this Agreement or other relief, the defaulting party, in addition to other relief, shall be obligated to pay all reasonable attorney's fees and all expenses of litigation incurred by the non-defaulting party.

28. Miscellaneous Provisions

- 28.1 As a political subdivision of the Commonwealth of Pennsylvania, purchases by and for the use of the Township of tangible personal property and services are excluded from sales and use taxation under Pennsylvania law. Operator shall not have authority under this Agreement to make purchases for or on behalf of the Township absent its prior written consent and only then in full compliance with regulations governing municipal purchases.
- 28.2 This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Pennsylvania.
- 28.3 This Agreement has been entered into in the Township of Millcreek, Erie County, Pennsylvania, which shall be deemed the location of the Agreement and any cause of action arising out of this Agreement.
- 28.4 This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors, personal representatives and, as is in writing approved, assigns.
- 28.5 This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, between the parties with respect to the subject matter.
- 28.6 No modification of this Agreement shall be effective unless in writing and signed by all of the parties hereto.
- 28.7 This Agreement and no part of this Agreement may be assigned by the Operator absent the prior written consent of the Township. The Township shall be under no obligation to consent to a proposed assignment.
- 28.8 Neither party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement, or otherwise use the other party's trademarks, service marks, trade names, logos, symbols or brand

names, in each case, without the prior written consent of the other party, which shall not be unreasonably withheld or delayed.

- 28.9 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, whether the signatures thereon contained are original, photocopies, facsimile, or otherwise, but all of which counterparts together shall be deemed to be one and the same instrument, document, or agreement, as appropriate.
- 28.10 If any of the terms or provisions of this Agreement are deemed invalid under any applicable statute or rule of law, such terms or provisions shall be deemed omitted.
- 28.11 No waiver of any breach of this Agreement shall be deemed a waiver of any subsequent breach.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties, themselves or by their duly authorized officers, have executed this Agreement the day and year first above written.

ATTEST:

TOWNSHIP OF MILLCREEK

By: _____

[OPERATOR]

EXHIBIT A

SCOPE OF SERVICES

The Operator shall:

1. Provide all services necessary and/or appropriate under the specifications and generally accepted golf course industry standards during the grow-in phase of the golf course, including but not necessarily limited to application of fertilizer, fungicides and pesticides, application of water and mowing of the golf course and driving range areas. The minimum specifications for the grow-in are attached hereto as Exhibit D. Operator shall be responsible for acquiring at its cost all materials necessary in the performance of the grow-in, and shall ensure that all materials are in accord with the specifications and generally accepted standards of the industry. The Township shall not shall be responsible for acquiring any materials or equipment related to grow-in.
2. Make the Golf Center available for play during the golf season (typically May-October, depending on the weather) and provide day to day management and maintenance, and be responsible for maintaining course and all facilities and equipment in proper condition in accordance with generally accepted golf industry standards and in a manner reasonably acceptable to the Township. The minimum standards for the maintenance of the golf course are attached hereto as Exhibit E. The Township shall not shall be responsible for acquiring any materials or equipment related to day to day management and maintenance.
3. The Operator shall give advance notice to Township of any structural repairs (e.g., roof repairs) and of any other repairs in excess of \$1,000 involving mechanical systems (heating; cooling, plumbing, electrical, etc.) and any structural repairs (e.g., roof repairs), and get approval from the Township prior to commencing such repairs;
4. Ensure that all repair/maintenance work provided by persons other than employees of the Operator be performed by persons who are qualified to perform such work;
5. Maintain the security systems in clubhouse and maintenance buildings; and
6. Maintain exterior lighting for clubhouse, maintenance building and parking areas;
7. Maintain integrity of soil cap in accordance with established guidelines attached hereto as Exhibits E and E-1;
8. Operate and maintain the golf course, driving range of other areas of the property of the Golf Center in a manner that will satisfy the operation and maintenance requirements for Routine Cap Maintenance as required by Sections 3.0 and 4.0 of

the Operation and Maintenance Guidelines, the relevant portions of which are attached hereto as Exhibit F.

9. Maintain in proper and attractive condition the entire premises in a manner reasonably acceptable to the Township;
10. Maintain, repair and operate in accordance with generally accepted golf industry standards driving range, protective netting, timber bridges, irrigation system, clubhouse, maintenance building, and equipment; monitor and maintain integrity of wetlands on site;
11. Plant and maintain flowers around clubhouse;
12. Collect and receive daily fees, membership fees, concession sales, equipment and accessory sales, league fees, fees for driving range use and such other fees associated with Operator's use of the Golf Center. Operator shall not permit the use of the Golf Center without a reasonable charge for such use unless agreed in writing by the Township. Operator shall not be responsible for collecting and receiving fees for programs sponsored by the Township;
13. Provide PGA registered professional or teaching professional, who shall be available to assist in Township-sponsored instruction and programs;
14. Cooperate and assist with Township's emphasis on teaching and programming for youth, including but not limited to its participation in programs if the parties determine them to be appropriate, developing and conducting programs, itself and/or in partnership with others; and assure that the Golf Center is operated in a manner consistent with requirements of such programs and the emphasis on teaching and youth programming;
15. Promote Golf Center with due emphasis to public character of the facilities;
16. Assist Township in developing youth contests or tournaments;
17. Be responsible for planting additional ornamental and other trees as agreed upon by Operator and Township in accordance with planting standards for the Golf Center;
18. Locate any additional hazards (mounds, sand traps, long grasses) and cart paths as agreed upon by Operator and Township;
19. As to all planting, construction and other activities, comply strictly with the "Guidelines for Future Site Work Through the Site Marker Mat" attached hereto as Exhibit G;

20. During grass growing months, mow Township's flood detention basin located to the west of the course so as to keep grass height at 3" or less;
21. Maintain all required insurance coverages as specified in Exhibit H attached;
22. Obtain the approval of the Township Board of Supervisors under such terms and conditions as are acceptable to the Board of Supervisors before submitting any application or transfer of a malt beverage, liquor or other PLCB license for the Golf Center. If such license is granted or transferred, Operator shall maintain insurance against liquor liability in amounts acceptable to Township prior to any operations under the license;
23. Assure that a person applying pesticides is properly licensed for such pesticide application and insured as required by Pennsylvania law (minimum \$1 million liability);
24. To the extent Operator has hazardous chemicals/materials and/or petroleum products at the Golf Center, Operator shall comply with all requirements regarding proper storage and operation of such materials; and advise the Township of any releases of such materials into the environment;
25. Assure proper watering and irrigation of course in accordance with generally accepted golf industry standards, using irrigation system provided and, if needed, public water; assure proper winterization of the irrigation system at the end of the golf season;
26. Provide equipment, supplies and inventory for snack/beverage area, pro shop and other facilities and manage the same (exclusive of Township responsibilities for operation of teaching, other programs);
27. Offer to Millcreek Township residents a discount of at least \$1 on all play fees and, if memberships are offered, discount to be mutually agreed upon by Township and operator to be offered Township residents;
28. Offer special pricing for play by juniors (proposed fees should be disclosed in proposals);
29. Pay all municipal assessments and utilities during term of agreement; utilities include but are not limited to electricity, cable/satellite, telephone, water, sewer, gas and garbage;
30. Assure proper removal and disposal of all waste, and recycle recyclable materials;
31. Recommend for Township approval annual opening and closing dates of the Golf Center;

32. Collect from third parties all Pennsylvania sales and use taxes and be solely responsible for submission of required reports and remittance of collected taxes;
33. Hire or retain all personnel necessary or appropriate for the proper maintenance and operation of the Golf Center, the Operator being solely responsible for payment of all personnel compensation, tax withholding and required payments and reports, provision of unemployment and workers' compensation insurance protecting Contractor's employees and for all other matters associated with such management;
34. Because one of the goals of the Township is the promotion of golf for youth, ensure that all employees have the clearances required under the Pennsylvania Child Protective Services Law; all employees are presumed to have direct contact with children;
35. Provide, maintain and, as necessary, replace, hole identification signs, tee markers, refuse and recycling containers, tee towels, ball washers, club cleaners, green cups and flags, flagpoles and other accessories to the extent not provided by the Township. Attached as Exhibit I is an inventory of materials available at the Golf Center that can be used by Operator;
36. Shall maintain a direct and open line of communication with the Township Director of Parks and Recreation;
37. Develop and implement a robust and effective marketing program that produces positive results in terms of growth of the use of the Golf Center;
38. Establish and implement appropriate plans for maintenance and capital improvements to the Golf Course, to be reviewed with the Township;
39. Establish and implement appropriate control and cash management systems, including practices such as segregation of duties, reconciliation of daily bank deposits and computerized POS cash register system;
40. Provide written reports on a monthly basis to the Township of all revenues and expenses generated from the operations of the Golf Center, as well as maintenance activities, as well as an annual audited or reviewed financial statement of the Golf Center's operations;
41. Shall be responsible for the payment of all costs and expenses associated with meeting its obligations under this Scope of Services; and
42. Shall provide a security deposit to the Township in the form of a performance bond, which must remain in effect for the duration of the term of any agreement in the amount of \$ _____, which shall be due upon execution of the contract. Alternatively, a cash deposit in the amount of \$ _____ may be submitted with the Township.

EXHIBIT B

TO BE DETERMINED

EXHIBIT C

MILLCREEK TOWNSHIP INSURANCE REQUIREMENTS

1. Before commencing the Work, the Operator at its own expense at all times shall procure and maintain in full force and effect not less than the following insurance coverages and limits, which shall be maintained under forms of policies and from companies reasonably satisfactory to Millcreek Township. The insurance company must have a financial rating of at least A-VII as defined by A.M. Best Company.

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE, in accordance with the laws of the Commonwealth of Pennsylvania. Employer's Liability Insurance shall be provided in amounts not less than:

\$500,000 for each accident for bodily injury, by accident \$500,000 policy limit for bodily injury, by disease \$500,000 each employee for bodily injury, by disease

COMPREHENSIVE/COMMERCIAL GENERAL LIABILITY INSURANCE APPLICABLE TO THE WORK, INCLUDING COMPLETED OPERATIONS, CONTRACTUAL LIABILITY INSURANCE FOR THE LIABILITY ASSUMED ABOVE AND INCLUDING INDEPENDENT CONTRACTOR'S LIABILITY INSURANCE. If the Operator sublets or subcontracts to another all or any portion of the Work, Personal Injury Liability, Broad Form Property Damage (including completed operations) and Explosion, Collapse and Underground Hazards and shall be written on ISO occurrence Form CG0001 10 01 or a substitute form providing equal or greater coverage, with the following minimum limits:

\$1,000,000 Each Occurrence
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Products and Completed Operations Aggregate
\$2,000,000 General Aggregate

Endorsement providing that the General Aggregate Limit applies separately to each project

COMPREHENSIVE BUSINESS VEHICLE LIABILITY INSURANCE covering all owned, non-owned and hired vehicles including, but not limited to automobiles, mobile equipment, trucks, semi tractors, trailers, tank trucks, buses and other vehicles used in connection with the Work, with a Combined Single Limit not less than \$1,000,000 per accident.

(IF EXPRESSLY REQUIRED BY THE TOWNSHIP FOR THE PROJECT)
UMBRELLA LIABILITY INSURANCE providing not less than \$5,000,000 Each Occurrence/Annual Aggregate additional insurance limits in addition to the Employer's Liability, General Liability and Vehicle Liability coverage limits.

(IF EXPRESSLY REQUIRED BY THE TOWNSHIP FOR THE PROJECT)
PROFESSIONAL

LIABILITY INSURANCE with limits not less than \$1,000,000 Each Claim/Annual Aggregate.

2. Before commencing the Work, the Operator shall furnish an ACORD Certificate of Liability Insurance (or equivalent acceptable to the Township) from each insurance company, showing that the above insurance is in force; stating policy numbers, dates of expiration and limits of liability thereunder; and further providing that the insurance will not be canceled or changed until the expiration of at least sixty (60) days after written notice of such cancellation or change has been mailed to and received by Millcreek Township.

3. Millcreek Township and other entities as may be reasonably requested by the Township, shall be named as an additional insured under these policies of insurance using Forms CG 20 10 and CG 20 37 (or similar endorsements providing owner with premises and operations insurance as well as completed operations). Under all contracts awarded by Millcreek Township, the insurance afforded the additional insured(s) shall be primary insurance and that any other insurance carried by the Township shall be excess of all other insurance carried by the Operator and shall not contribute with the Operator's insurance. Operator shall also provide endorsements on its insurance policies, copies of which are to be supplied with applicable certificates and which shall state the foregoing.

4. Certificates including additional insured endorsements shall be furnished annually during the Project and for two (2) years following completion of the Work.

5. If the Operator fails to procure and maintain such insurance, Millcreek Township shall have the right, but not the obligation, to procure and maintain said insurance for and in the name of the Operator, and the Operator in that event shall pay the cost thereof and shall furnish all necessary information to make effective and maintain such insurance and, at the Township's option, the Township may offset the cost incurred by the Township against amounts otherwise payable to Operator under this Agreement.

6. The Operator shall ensure that all tiers of Operator's subcontractors shall procure and maintain insurance in like form and amounts, including naming Millcreek Township as Additional Insured. Copies of certificates must be provided to the Township prior to the subcontractor's or sub-subcontractor's of any tier entering the site.

7. Waiver of Subrogation. By submitting a proposal and accepting a contract award, the Operator and all insurance policies supplied by Operator and Subcontractor(s) and insurers shall release and waive any and all rights of recovery against Millcreek Township, or any of the other Indemnified Parties, their officers, agents, servants or employees and affiliates.

8. The required insurance shall be subject to the approval of Millcreek Township, but any acceptance of insurance certificates by the Township shall in no way limit or relieve Operator of the contractual or legal duties and responsibilities of said Operator. If higher limits or other forms of insurance are required in the Contract Documents, Operator will comply with such requirements.

This document shall be included in all Requests for Proposals issued by Millcreek Township and shall be an integral part of the Township's specifications and requirements. This document shall be made a part of the agreement document confirming the contract award.

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