

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: ) Case No. 16-10346-TPA  
HMF GOLF, INC., ) Chapter 11  
Debtor )

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HMF GOLF, INC., ) Case Nos. 16-10346-TPA  
Movant )  
vs. ) Chapter 11  
)  
NORTHWEST BANK; SEDA-COG )  
LOCAL DEVELOPMENT )  
CORPORATION; UNITED STATES )  
SMALL BUSINESS ADMINISTRATION; )  
MICHAEL F. HUGHES AND JOYCE I. )  
HUGHES; TOWNSHIP OF )  
CORNPLANTER; CITY OF OIL CITY, )  
BOROUGH OF SUGARCREEK; UNITED )  
STATES INTERNAL REVENUE )  
SERVICE; PENNSYLVANIA )  
DEPARTMENT OF REVENUE; )  
PENNSYLVANIA DEPARTMENT OF )  
LABOR & INDUSTRY; WELLS FARGO )  
BANK, NA; TODD McLAUGHLIN; )  
STEVE SHINGLEDECKER; MATTHEW )  
HART; AND FRANCES FITZGERALD, ) Date and Time of Hearing:  
Respondents ) March 9, 2017 at 11:30 a.m.

**DEBTOR'S MOTION TO SELL PROPERTY OF THE ESTATE  
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES IN ACCORDANCE  
WITH 11 U.S.C. § 363**

AND NOW COMES HMF Golf, Inc. ("HMF"), hereinafter sometimes referred to as the "Debtor", by and through its undersigned counsel, Brian C. Thompson, Esquire, Thompson Law Group, P.C., and files this Motion to Sell Property of the Estate Free and Clear of Liens, Claims and Encumbrances in Accordance with 11 U.S.C. § 363 (the "Sale Motion"), and respectfully represents as follows:

## **BACKGROUND**

1. On April 13, 2016, Debtor HMF filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its assets as debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

2. The Debtor HMF owns the real estate located at 314 Chestnut Street, Reno PA 16343, known as Wanango Golf Club which includes an eighteen-hole golf course, club house and ancillary buildings.

3. The Debtor and Debtor WGC, Inc., Bankruptcy Case No. 16-10347, received an offer under a Purchase Agreement (the “Agreement”) from Baron, Inc. of Oil City, a Pennsylvania company, or its assigns (hereafter “Buyer”) to purchase the following assets from HMF: the real property of HMF located at 314 Chestnut Street, Reno, PA 16343, including but not limited to the golf course real estate, 18 hole golf course of the Wanango Golf Club and all buildings and improvements thereon, including the clubhouse, pro shop building, and equipment building (the “Real Property”).

4. The Agreement also covers the Buyer’s purchase of the following assets from WGC: all assets (tangible and intangible), including all of the rights, titles, ownership interests, naming rights, copyrights, software, fixtures, furniture, electronic equipment (phone, television, security system, music system), equipment, supplies, and inventory owned by the Debtor, including all personal property owned by the Debtor and used in connection with the operation of the golf course, restaurant, lounge and/or pro shop, including but not limited to the 2017 membership dues, liquor license, flags, pins, mowers, irrigation system, tees, fairways and rough (collectively the “Assets”).

5. The Buyer is represented by Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501, Attention: Guy C. Fustine, Esquire.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction pursuant to 28 U.S.C. § 157 and § 1334.

7. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

8. Venue of the Debtor's case and this Sale Motion are proper in this district pursuant to 28 U.S.C. § 1408 and § 1409.

### **RESPONDENTS**

9. Respondent, Northwest Bank, is a financial institution with a place of business at 301 2nd Avenue, Warren, Pennsylvania 16365 and is represented by Eric D. Rosenberg, Esquire and John O'Keefe, Esquire, 535 Smithfield St., Suite 800, Pittsburgh, Pennsylvania 15222. Northwest Bank holds secured claim and lien against the Debtor's Real Property and Assets by virtue of an Open-End Mortgage and Security Agreement in favor of Northwest Savings Bank, dated and recorded on May 1, 2009 in the Venango County Court of Common Pleas at Record Book 536, Page 77; and, recorded on May 5, 2009 against HMF at Financial Statement No. 2009050506709 and continued on February 24, 2014 at Financial Statement No. 2014022402996; and, on May 5, 2009 against WGC with the Pennsylvania Secretary of State at Financial Statement No. 2009050506711, continued on February 24, 2014 at Financial Statement No. 2014022403037. According to its Proofs of Claim, the amount due to the Bank is approximately Four Hundred Thirty-Six Thousand Three Hundred and One Dollars (\$436,301.00) (Proof of Claim No. 1 in Case No. 16-10346, and Proof of Claim No. 4 in Case No. 16-10347).

10. Respondent, SEDA-COG Local Development Corporation (“SEDA-COG”) maintains a place of business or mailing address at 201 Furnace Road, Lewisburg, Pennsylvania 17837. SEDA-COG holds secured claim and lien against the Debtor’s Real Property and Assets by virtue of a Mortgage dated August 31, 2010 in the amount of \$328,000.00 recorded at Venango County Record Book 589, Page 776, assigned to the U.S. Small Business Administration on September 1, 2010 at Record Book 589, Page 786. SEDA-COG also holds an Assignment of Rents dated August 31, 2010 based upon a Commercial Lease Agreement between HMF and WGC recorded at Record Book 589, Page 792.

11. Respondent, United States Small Business Administration, maintains a place of business or mailing address c/o SEDA-COG, 201 Furnace Road, Lewisburg, Pennsylvania 17837. In addition to the Mortgage lien against the Real Property as described in the preceding paragraph, the United States Small Business Administration holds a UCC-1 Financing Statement as a secured party on the Debtor’s personal property recorded with the Pennsylvania Secretary of State at Financing Statement No. 2010082705702 on August 27, 2010 and continued at Financial Statement No. 2015061001236 on June 5, 2015.

12. Respondents Michael F. Hughes and Joyce I. Hughes reside at 287 Argeon Hill Road, Franklin, PA 16323, and hold a Mortgage against the Real Property in the original amount of \$170,396.95, recorded July 1, 2011 at Venango County Record Book 623, Page 347.

13. Respondent, Township of Cornplanter, c/o Ms. Becky Klapec, tax collector, has offices located at 82 Horne Lane, Oil City, Pennsylvania 18301. There are unpaid real estate taxes due to the Township in the amount of at least \$206.94.

14. Respondent, City of Oil City, has offices located at 21 Seneca Street, Oil City, Pennsylvania 16301. There are unpaid real estate taxes due to the City in the amount of at least \$381.69.

15. Respondent Borough of Sugarcreek, has offices located at 212 Fox Street, Franklin, Pennsylvania 16323. There are unpaid real estate taxes due to the Borough in the amount of approximately \$30,394.00.

16. Respondent, the United States Internal Revenue Service, has a mailing address of P.O. Box 7346, Philadelphia, PA 19101-7346, and holds a secured claim against WGC in the amount of \$251,875.54 (Proof of Claim No. 3 in Case No. 16-10347). There are Federal Tax Liens recorded against WGC in Venango County on June 15, 2015 at Case No. 2015-00741 in the amount of \$188,402.46 and on February 12, 2016 at Case No. 2016-00139 in the amount of \$24,878.41.

17. Respondent, the Pennsylvania Department of Revenue is a state agency with a mailing address of PO Box 280946, Harrisburg, PA 17128-0946, and holds a secured claim against WGC in the amount of \$6,561.49 (Proof of Claim No. 2 in Case No. 16-10347.) There was a judgment filed against WGC on August 24, 2016 in Venango County at Case No. 2016-00877 in the amount of \$4,980.73 for sales and employer taxes for the third quarter of 2015.

18. Respondent, the Pennsylvania Department of Labor & Industry, has a mailing address of 651 Boas Street, Room 702, Harrisburg, PA 17121, and holds a secured claim against WGC in the amount of \$65,017.68 (Proof of Claim No. 1 in Case No. 16-10347.) There were judgments entered against WGC in Venango County on May 12, 2015 in the amount of \$49,345.26 at Case No. 2015-00588 for employer withholding taxes due from 2015--2014; on July 17, 2014 in the amount of \$11,667.46 at Case No. 2014-00818 for unemployment

compensation fund taxes; on February 11, 2016 in the amount of \$11,580.16 at Case No. 2016-00131 for 2015 unemployment compensation fund taxes; and, on May 3, 2016 in the amount of \$1,724.89 at Case No. 2016-00462 for unemployment compensation fund taxes.

19. Respondent, Wells Fargo Bank, NA (“Wells Fargo”), is a financial institution doing business in Pennsylvania with a mailing address of 9062 Old Annapolis Road, Columbia, MD 21045. Wells Fargo allegedly holds a secured claim against the Real Property in the amount of \$261,711.85. Wells Fargo has not yet filed a proof of claim in either case.

20. The Debtor HMF is a Pennsylvania Limited Liability Corporations whose mailing addresses are care of Brian C. Thompson, Esquire, Thompson Law Group, P.C., 125 Warrendale-Bayne Road, Suite 200, Warrendale, Pennsylvania 15086.

21. Respondent, Todd McLaughlin, is an equity security interest holder, with a mailing address of 904 MacCalmont Road, Tionesta, Pennsylvania 16353.

22. Respondent, Steve Shingledecker, is an equity security interest holder, with a mailing address of 183 Doerr Road, Franklin, PA 16323.

23. Respondent, Matthew Hart, is an equity security interest holder, with a mailing address of 2753 Route 157, Venus, Pennsylvania 16364.

24. Respondent, Frances Fitzgerald, is an equity security interest holder, with a mailing address c/o Steve Shingledecker, 183 Doerr Road, Franklin, PA 16323.

25. Respondents have asserted interests, claims or encumbrances against the Debtor which may extend to the property to be sold by this Sale Motion.

### **PROPOSED SALE ORDER**

26. The Debtor, pursuant to sections 105(a), 363(f) and 365(a) of Title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002 and 6004 of the Federal Rules of

Bankruptcy Procedure and W.PA.LBR 9013-3(c) and 6004-1 (collectively, the “Bankruptcy Rules”), hereby move for entry of an order (the “Sale Order”):

- a. Approving of the sale (the “Sale”) of the Real Property and Assets to the Buyer, or another Successful Bidder (as defined in the Motion for Order Approving Bidding Procedures Regarding Sale of Property of the Estate), (“Bid Procedures Motion”), submitting the highest and best bid at the sale hearing in accordance with the bidding procedures approved by this Court, free and clear of any liens, claims and encumbrances of the Respondents to this Sale Motion.
- b. Determining that the Buyer is a good faith purchaser entitled to the protections of Bankruptcy Code § 363(m).
- c. Approving the assumption and assignment of executory contracts and unexpired leases of the Debtor, including the Commercial Lease Agreement between HMF and WGC, for assignment to the Buyer or other Successful Bidder, as may be identified by the Buyer or other Successful Bidder, in its sole discretion, for assignment thereto.
- d. Authorizing the undersigned to sign the sale documents on behalf of the Debtor and authorizing the Estates to retain the net sale proceeds pending further Order of Court.

#### **PROPERTY TO BE SOLD AND TERMS OF SALE**

27. By this Sale Motion, the Debtor seeks this Court’s approval and authority to sell and assign the Debtor’s interests in the Real Property and Assets. Complete terms and conditions

of the proposed sale are set forth in the Agreement of Sale entered into between the Debtor and the Buyer, which is attached hereto as Exhibit "A."

28. The Debtor proposes to sell and assign the Assets and Real Property (excluding the Debtor's downtown property) to the Buyer for Five Hundred Thousand Dollars (\$500,000.00) (the "Purchase Price") to be paid in cash at closing. Closing shall be held on or before Friday, March 31, 2017. Notwithstanding the foregoing, upon reasonable notice to Debtor, Buyer may elect to close sooner at any time after the Order approving the sale of the Real Property and Assets becomes a final and non-appealable Order. Buyer's offer is further subject to and conditioned upon the following:

- a. Buyer has deposited Twenty-Five Thousand Dollars (\$25,000.00) (hereinafter referred to as "Hand Money") with Brian C. Thompson, counsel to the Debtor, which has been placed in his firm's escrow account.
- b. Effective as of the date of the Agreement of Sale (the "Effective Date") and until the closing date, the premises will be kept in "as is" condition and that all acts required with respect to any portion of the Premises will be done in order to correct any violations of which Debtor has received, or shall receive after the Effective Date, written notice from any governmental body having jurisdiction over the premises and in order to allow Debtor to deliver the Real Property and Assets to Buyer.
- c. The Real Property and Assets shall be conveyed to the Buyer with good and marketable title as is insurable by a reputable title insurance company at the regular rates, and shall be free and clear of any and all liens, encumbrances and claims.

d. The Hand Money shall be applicable to the Purchase Price at closing.

29. The Debtor and the Buyer shall evenly divide responsibility of payment (1/2 paid by Debtor and 1/2 paid by Buyer) of any applicable realty transfer stamps tax, unless the sale of the Real Property shall be exempt from realty transfer stamps tax pursuant to Bankruptcy Code §1146(c). Also, the real estate taxes shall be prorated as of the closing date for the calendar year in which the closing date occurs based upon real estate taxes levied in that year by each taxing body. The other costs of sale, including attorney fees as may be approved by the Court, after notice and hearing on application, shall be paid in advance of any distribution to creditors.

30. Administrative expenses for Debtor's attorney fees to Thompson Law Group, P.C. in the approximate amount of \$25,000.00, and accountant fees to Richar & Associates in the approximate amount of \$17,650.00, are to be paid as a carve-out of the proceeds paid to Wells Fargo Bank, N.A. under the Debtor's Chapter 11 Plan. And, to the extent necessary, any attorney's fees to Thompson Law Group, P.C. not paid as a carve-out from Wells Fargo are to be paid as a carve-out of the proceeds paid to Northwest Savings Bank under the Debtor's Chapter 11 Plans, as per agreement. In the alternative, said administrative expenses are to be paid by virtue of 11 U.S.C. § 506(c).

#### **GOOD FAITH PURCHASER**

31. Debtor requests that, as a part of the Court's approval of the sale under §363(f), the Buyer is found to be in "good faith". Such a finding is made in furtherance of §363(m) of the Code (11 U.S.C. §363(m)) which provides a safe harbor for the purchaser of property of the Debtor when such purchase is made in "good faith."

32. The Debtor believes that the Buyer has conducted itself in good faith with respect to the proposed sale. The negotiations between the Debtor and Buyer have been at all times

conducted at arms-length and in good faith. Buyer has no connection to the Debtor and is not an insider or affiliate of the Debtor.

33. Additionally, the proposed bidding procedures are intended to provide for an open and fair auction of the Real Property and Assets which will help to ensure an arms-length, good-faith sale. The bidding procedures are intended to encourage competitive bidding. Accordingly, the Debtor believes that whether the Buyer or another party is the successful bidder at the sale, the Court will be able to make the determination that the sale was conducted in “good faith” for purposes of §363(m) and controlling legal authority.

#### **BIDDING PROCEDURES**

34. Debtor has already filed a motion to approve bidding procedures.

35. The Bid Procedures Motion, if and when approved, and the Order of Court approving bidding procedures and other matters related to the sale process, will be posted on the Court’s EASI website at [www.pawb.uscourts.gov](http://www.pawb.uscourts.gov).

#### **REQUEST FOR AUTHORITY FOR DEBTOR’S ATTORNEY TO SIGN THE SALE AND CLOSING DOCUMENTS**

36. The Debtor also requests Court authority for its attorney, Brian C. Thompson, Esquire, PA ID No. 91197, to be authorized to sign the sale and closing documents, including but not limited to the sale contract, deed, bill of sale and settlement closing statement, notwithstanding any other applicable rule of corporate governance.

37. All of the equity security interest holders are being notified and served as named-Respondents.

WHEREFORE, the Debtor requests that this Honorable Court enter an Order making the following determinations: (i) approving the sale of the Real Property and Assets to the Buyer, free and clear of the liens, claims and encumbrances of the above-named Respondents; (ii)

divesting the liens, claims, encumbrances and interests and transferring them to the proceeds of sale to the extent that they are determined to be valid and enforceable; (iii) determining that the Buyer is a good faith purchaser entitled to the protections of Bankruptcy Code §363(m), (iv) authorizing the undersigned attorney for the Debtor to sign the sale and closing documents on the Debtor's behalf; and (iv) providing such other and further relief as the Court deems to be just and proper.

Respectfully submitted,

Date: February 16, 2017

s/Brian C. Thompson  
Brian C. Thompson, Esquire  
PA-91197  
THOMPSON LAW GROUP, P.C.  
125 Warrendale-Bayne Road, Suite 200  
Warrendale, Pennsylvania 15086  
(724) 799-8404 Telephone  
(724) 799-8409 Facsimile  
bthompson@thompsonattorney.com

# 1772514.v2

**ARTICLES OF AGREEMENT FOR THE SALE OF ASSETS**

This Agreement is made and entered into as of the 10<sup>th</sup> day of February, 2017, by and between HMF Golf, Inc. (“HMF”) and WGC, Inc. (“WGC”), sometimes hereinafter collectively referred to as “Debtors” or “Sellers”, in proceedings for a reorganization under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Pennsylvania at Erie, Chapter 11 Case Nos. 16-10346-TPA for HMF and 16-10347-TPA for WGC; and, Baron, Inc. of Oil City (or its assigns) hereinafter referred to as the “Buyer”.

**I. PURCHASE**

(a) The Sellers agree to sell to the Buyer, and the Buyer agrees to purchase from the Sellers, substantially all of the assets of the above-referenced Debtors, including the real and personal property of the Debtors described on Exhibit A attached (or to be attached) hereto and made a part hereof, including but not limited to the golf course real estate (but not including the Debtors’ downtown real estate) and improvements located in Venango County, Pennsylvania, the clubhouse, pro shop building, equipment building and golf course; all of the rights, titles, ownership interests, naming rights, copyrights, software and assets (tangible and intangible) including the fixtures, furniture, electronic equipment (phone, television, security system, music system), equipment, supplies and inventory owned by the Debtors, including all personal property owned by the Debtors and/or used in connection with the operation of the golf course, restaurant, lounge and/or pro shop, including but not limited to the 2017 membership dues, liquor license, flags, pins, mowers, irrigation system, tees, fairways and rough (hereinafter cumulatively referred to as the “Assets”).

(b) The purchase price for the Assets shall be the sum of \$500,000 Dollars, payable by Buyer in cash or its equivalent, without third party financing of any kind, including a refundable down payment in the amount of \$25,000 to be held in escrow by Sellers' attorney. The balance of the purchase price shall be paid in cash on termination of settlement as provided herein.

(c) The purchase price shall be allocated between the Debtors, as follows:

HMF Golf, Inc.	Real estate and improvements	\$TBD
WGC, Inc.	Personal property	\$TBD

(d) If and to the extent that the 2017 membership dues have been collected by the Debtors and not turned-over at the closing, that amount shall be credited and off-set against the purchase price.

## **II. SETTLEMENT**

(a) Settlement shall be held on or before March 31, 2017 at the law offices of Knox McLaughlin Gornall & Sennett, P.C. in Erie, Pennsylvania at a mutually agreed upon date and time for all of the parties, following completion of the activities described in Article IV of this Agreement regarding Conduct Pending Closing.

(b) The obligations of the parties to consummate the sale are conditioned on:

(i) Conveyance of the Assets to Buyer, by good and marketable title, free and clear of all liens, claims, encumbrances and other interests;

(ii) Approval of the United States Bankruptcy Court for the Western District of Pennsylvania for the sale and transfer of the Assets to Buyer, free and clear of all liens, claims, encumbrances and other interests, within thirty (30) days of the date of this Agreement, including a determination by the Bankruptcy Court that Buyer is a good faith purchaser in accordance with 11 U.S.C. §363(m);

(iii) Approval by the Bankruptcy Court of assumption and assignment to Buyer of any executory contracts or unexpired leases which Buyer may identify as a part of the sale;

(iv) Maintenance of the golf course fairways, rough, greens and tees in the same condition as per the maintenance schedule of past seasons including watering, mowing and fertilizing;

(v) Retention of utilities including: electric, gas, water and sewer;

(vi) Maintenance of the real estate, golf course, restaurant and lounge equipment, including but not limited to the mowers, golf carts, kitchen freezers, coolers, refrigerators, ovens and heating systems and buildings in the same working condition until settlement; and,

(vii) All 2017 membership dues, regardless on when paid, shall be the property of the Buyer.

(c) Buyer agrees to waive the fourteen (14) day appeal period provided for in Bankruptcy Rule 6004(h).

(d) If the Sellers are unable to obtain Bankruptcy Court approval as set forth above, this Agreement shall be null and void (unless the Buyer agrees in writing otherwise), and Sellers shall refund to Buyer the down-payment required in this Agreement.

(e) If any of the other conditions set forth in Section II(b) are not met, Buyer may exercise its discretion and void this Agreement, and Sellers shall refund to Buyer the down-payment required in this Agreement.

(f) Each party represents and warrants to the other that no sales commission is owed with respect to the sale and transfer of the Assets.

(g) The expenses of settlement shall be paid in the following manner:

(i) The attorney's costs of preparing the deed, bill of sale, agreement of sale, transition agreement regarding the liquor license, bankruptcy documents, filing fees, recording costs, and other customary closing costs shall be paid by the Sellers;

(ii) The cost of filing any deeds or other instruments required to convey title to the Buyer or its nominee in the manner described in this Agreement shall be paid by the Buyer;

(iii) Buyer shall be responsible for the cost of any title insurance obtained by or for the Buyer;

(iv) Real estate transfer taxes (if not exempt, waived or deemed paid) shall be paid by the Buyer (1/2) and Sellers (1/2);

(v) The liquor license is to be conveyed to Buyer with the approval of the Pennsylvania Liquor Control Board and free of liens by any local municipality, county, state or federal entity including but not limited to liens from unpaid sales taxes, employee withholding taxes and any payment schedules with the aforementioned government agencies; the cost of and the fee to the Pennsylvania Liquor Control Board to transfer the Pennsylvania liquor license from the name of the Debtor to the name of the Buyer shall be paid by the Buyer; and, provided, however, that the annual liquor license fee shall be prorated as of closing between the Sellers and Buyer; and,

(vi) Each party shall bear its own additional costs associated with this Agreement and sale.

(h) Buyer reserves the right to assign this Agreement at the time of closing to a new entity to be formed for these purposes.

### **III. BREACH**

(a) Should the Sellers default on the full and timely performance of any of their obligations under the terms of this Agreement for any reason other than the Buyer's default, the Buyer may:

- (i) enforce specific performance of this Agreement; or,
- (ii) bring a suit for damages against the Sellers.

(b) Should the Buyer fail to consummate the purchase of the Assets, the conditions to the Buyer's obligations set forth in this Agreement having been satisfied and the Buyer being in default, the Sellers may bring suit for damages against Buyer and may apply the down payment against said damages. The amount of potential damages is not limited to the amount of the down-payment on deposit.

### **IV. CONDUCT PENDING CLOSING AND TRANSITION AFTER CLOSING**

(a) Buyer and Sellers agree to the following:

(i) Immediately following Bankruptcy Court approval, the Sellers may afford the Buyer with occupancy rights for limited purposes and thereupon the Buyer will be responsible for any associated risk of loss.

(ii) Immediately following Bankruptcy Court approval, Buyer and Sellers will jointly cooperate to expeditiously cause the liquor license to be transferred.

(iii) In regard to transfer of the liquor license, both parties agree and will cooperate to comply with the PLCB requirements. Buyer will manage the operation of the business under the Sellers' liquor license, pending official transfer of the liquor license to the Buyer, during which time the Buyer will assume the risk of loss during the period of transition.

If necessary and appropriate, the Sellers agree to place the liquor license in “safekeeping” with the PLCB.

**V. MISCELLANEOUS**

(a) This Agreement shall be binding on the respective heirs, executors, administrators, successors and assigns of the parties.

(b) The Buyer acknowledges that all of the Assets to be sold hereunder are being transferred and sold “as is, where is”, without warranty of any kind, except as to free and clear title.

(c) The Assets are held at the risk of the Sellers until settlement, except as may be otherwise provided herein.

(d) Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to the Sellers, or the Buyer, as the case may be, at the last known address of said party.

(e) This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Pennsylvania. All obligations of the parties created hereunder are performable in Pennsylvania.

(f) In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof; and, this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

(g) This Agreement constitutes the sole and only agreement between the Buyer and the Sellers, and supersedes any prior understandings or written or oral agreements between the Buyer and the Sellers, respecting the aforesaid subject matter.

(h) Words of any gender in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

(i) The descriptive headings used herein are for convenience only and are not intended to necessarily refer to the matter in sections which precede or follow them, and have no effect whatsoever in determining the rights or obligations of the parties.

(j) This Agreement has been duly authorized by or on behalf of the Buyer and Sellers, respectively.

(k) Buyer acknowledges that Sellers are required to present the proposed sale to the Bankruptcy Court for approval and that, as a part of the Bankruptcy Court procedure, Sellers are required to offer the Assets to other qualified bidders at a public auction to be conducted by the Bankruptcy Court. Sellers agree to request that the Bankruptcy Court approve a bidding procedure to be used at the sale confirmation hearing that is reasonably acceptable to the Buyer. Among other things, the bidding procedure will establish the requirements for an interested party to bid at the sale confirmation hearing.

IN WITNESS WHEREOF, the parties hereto, having been duly authorized and intending to be legally bound hereby, have hereunder set their hands and seals as of the day and year first above written.

**SELLERS:**

HMF GOLF, INC

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

WGC, INC.

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

**BUYER:**

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

# 1777362.v1