

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO**

In re: QUINTESS, LLC, a Delaware corporation, Debtor.	Case No. 16-19955-JGR Chapter 11
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EXPEDITED FIRST DAY MOTION FOR ORDER APPROVING STIPULATION (A) TO PROVIDE POST-PETITION FINANCING AND (B) FOR USE OF CASH COLLATERAL AND ADEQUATE PROTECTION

Quintess, LLC, (the “Debtor”), hereby files this *Expedited First Day Motion For Order Approving Stipulation (A) To Provide Post-Petition Financing And (B) For Use Of Cash Collateral And Adequate Protection* (the “Motion”). The Motion is supported by the Declaration of Pete Estler in Support of First Day Motions (the “Estler Declaration”) and by the entire record of this case. In further support, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this case under 28 U.S.C. §§ 157 and 1334 and the automatic reference of all bankruptcy cases to this Court pursuant to Rule 83.3 of the Local Rules of Practice of the United States District Court for the District of Colorado – Civil.
2. This matter is a core proceeding under 28 U.S.C. § 157(b)(2).
3. Venue of this case and related proceedings is proper in this District under 28 U.S.C. §§ 1408 and 1409.

BACKGROUND INFORMATION

4. The Debtor is wholly owned by Vacation Group, LLC, which is wholly owned by the Lender. On or about May 31, 2016, the Debtor entered into a Loan Agreement and Promissory Note whereby the Lender agreed to loan up to \$3 million to the Debtor. Pursuant to a Security Agreement, the Debtor granted the Lender a lien and security interest upon substantially all of the Debtor’s assets as security for its obligations to the Lender (“Collateral”).

The material loan documents (“Loan Documents”) are attached to the Stipulation, consisting of a “Loan Agreement” (Exhibit “A”), a “Promissory Note” (Exhibit “B”), a “Security Agreement” (Exhibit “C”), the “First Amendment to Loan Documents” (Exhibit “D”) and a Uniform Commercial Code financing statement recorded in the State of Delaware (Exhibit “E” which also includes a certified search by the Delaware Secretary’s Office of all financing statements recorded against the Debtor).

5. As of the Petition Date, the Debtor owed approximately \$2,662,500 plus accrued interest, fees and costs thereon (collectively, “Prepetition Indebtedness”). Additionally, under the Loan Documents, the Lender agreed to advance the principal sum of \$337,500 after October 7, 2016 on a secured basis (“Post-Petition Loans”) which is required by the Debtor to operate its and stay in business.

6. The Debtor is in the business of selling memberships in a luxury destination club operating under the names “Quintess” and “Quintess Collection.” Additional information regarding the Debtor’s operations is set forth in the Debtor’s *Motion For Confirmation Of Debtor’s Prepackaged Chapter 11 Plan Of Reorganization And Related Relief*.

7. The Debtor has been collecting assessments, dues and other amounts due to it and uses those collections to operate its business. All of the funds collected by the Debtor constitute the Lender’s “Cash Collateral” within the meaning of 11 U.S.C. §363(a). The Lender’s Cash Collateral may not be used unless (a) the Lender consents, or (b) the Court authorizes such use.

8. The Lender has agreed to make the Post-Petition Loans on a secured basis, and has consented to the Debtor’s use of Cash Collateral subject to the terms and conditions of the Stipulation. The parties believe that the entry of an order approving the Stipulation is in their best interests and the best interests of the Debtor’s bankruptcy estate and creditors thereof.

THE PRIMARY TERMS OF THE STIPULATION

9. The primary terms of the Stipulation are as follows:

- a. Post-Petition Loans. Subject to approval of the Stipulation by the Court, Lender agrees to make the Post-Petition Loans on a secured basis, on the terms and

conditions set forth in the Loan Documents. The Post-Petition Loans shall be secured by a first priority security interest and lien upon all prepetition and postpetition assets and property of the Debtor, senior to any existing security interest or lien upon such assets and property, and shall be deemed valid, enforceable and perfected without the need or requirement of having to file or record any financing statement or document with any governmental office or of having to provide or give notice to any party or person. Other than the lien asserted by the Lender¹, there is no other creditor with a lien on the Debtor's assets. Additional information regarding the terms of the Post-Petition Loans is set forth below.

- b. Definition of Cash Collateral. The term "Cash Collateral," as used in the Stipulation, is defined to include, without limitation, all cash (including all annual dues and the proceeds of the Post-Petition Loans), negotiable instruments, documents of title, securities, chattel paper, deposit accounts, or other cash equivalents whenever acquired in which the Debtor has an interest, and includes any and all proceeds, products, offspring, rents or profits of property and all fees, charges, accounts or other payments on the Collateral or otherwise generated by or derived from the Collateral (collectively, "Cash Collateral").
- c. Indebtedness, Lien Perfection and Priority. The Debtor acknowledges and agrees that it is liable to the Lender in the amount of the Prepetition Indebtedness. The Debtor, for itself only, acknowledges and agrees that the Prepetition Indebtedness constitutes an allowed claim under the Bankruptcy Code, and that the Prepetition Indebtedness is secured by a valid, enforceable, perfected, unavoidable and infeasible first priority security interest and lien upon all of the Collateral including Cash Collateral. Notwithstanding the foregoing, the validations

¹ While the UCC-1 search reflects a purchase money security interest asserted by Dell Financial Services ("Dell"), that financing statement was recently terminated by Dell as the Debtor's obligation to Dell has been repaid.

contained herein shall not be binding upon creditors or other parties in interest except as set forth in paragraph 10 of the Stipulation.

- d. Term. The Debtor's authority to use Cash Collateral shall terminate ("Termination Event") on the earlier of: (i) the effective date of any confirmed plan of reorganization, (ii) conversion of the Debtor's case to Chapter 7, (iii) dismissal of the Debtor's case, or (iv) upon default by the Debtor of any provision, term, or condition of this Stipulation which is not timely cured as hereinafter provided. Notwithstanding a Termination Event, the parties may extend the term of the Stipulation to allow for the Debtor's continued use of Cash Collateral under the terms and conditions of the Stipulation by written agreement of the parties and without further order of the Court or a hearing.
- e. Use of Cash Collateral. The Debtor shall be authorized to use Cash Collateral upon the following terms and conditions:
- i. All Cash Collateral shall be deposited, upon receipt, in appropriate debtor in possession bank accounts or pre-petition bank accounts which the Debtor has been authorized to maintain by the Court or the United States Trustee. The Debtor shall provide the Lender with the identity and location of all debtor in possession bank accounts and any pre-petition bank accounts which the Debtor has been authorized to maintain by the Court or the United States Trustee.
 - ii. The Debtor shall be entitled to the use of the Cash Collateral to pay the reasonable, ordinary, and necessary expenses of operating and maintaining its business ("Ordinary Expenses"), subject to each of the following terms and conditions:
 1. the Debtor may use Cash Collateral for the items contained in the Budget attached as Exhibit "F" to the Stipulation. The Debtor shall update the Budget as and when necessary and submit the

updated Budget to the Lender for approval. If approved, the updated Budget will thereafter govern subsequent Cash Collateral use. No Court order is required to substitute an updated Budget. If the parties cannot agree on an updated Budget, the matter will be promptly submitted to the Bankruptcy Court for determination on an expedited basis and until such determination, absent consent by the Lender, the Debtor will continue to abide by the terms of the then-existing and approved Budget;

2. The Debtor's use of Cash Collateral is expressly limited to the specific items and amounts for each item as set forth in the Budget, except that the Debtor may exceed the budgeted sum in any single month for any itemized expense category by no more than 15% plus any prior period expense item that was incurred but not paid in such prior period (subject to the same 15% limitation). If actual expenditures for any line items are less than the Budget, the difference shall carryover to the following months; and
3. If the Debtor proposes to spend Cash Collateral in any manner not set forth herein, then the Debtor shall submit a written request to the Lender specifying the item(s) that it desires to pay. The Lender shall review and respond to the Debtor's written request within 3 business days, unless in the written request the Debtor sets forth exigent circumstances which require a more expedited response from the Lender in which case the Lender shall respond to such written request within the exigent time frame set forth by the Debtor. If the Lender does not respond within 3 business days (or such shorter time if exigent circumstances are present as described above), then the Lender shall be deemed to have approved the

request. The Debtor may request a hearing on appropriate notice to seek Bankruptcy Court approval of the payment of any bill or expense rejected for payment by the Lender. If the Lender rejects the request for payment, the Debtor agrees not to expend such funds unless and until Court approval has been obtained.

f. Adequate Protection of Lender's Interests. As protection for the interests of the Lender, in compliance with Section 506(b) of the Bankruptcy Code, and in consideration of the consent to the Debtor's use of the Cash Collateral as set forth in the Stipulation:

i. During the term of the Stipulation and as adequate protection of the Lender's interest in the Cash Collateral and Debtor's use of the same during its case, the Lender is hereby granted a replacement lien upon all postpetition assets of the Debtor's estate to the same extent, validity and priority of the Lender's prepetition liens upon and security interests in the Debtor's assets and to the extent of the diminution in the value of the prepetition Collateral without necessity of filing any additional UCC-1 financing statements or any other public filings. This postpetition replacement lien shall also extend to any and all Cash Collateral which is on deposit in any debtor-in-possession bank accounts in any banking institution approved by the United States Trustee, without necessity of a written deposit control agreement among the Debtor, Lender and depository institution.

ii. Under Section 507(b) of the Bankruptcy Code, if the protection granted above is insufficient to satisfy in full the claims of the Lender, the Lender shall be granted an allowed claim under Section 503(b) of the Bankruptcy Code in the amount of any such insufficiency. Such claim shall have the super-priority provided by Section 507(b) of the Bankruptcy Code, and no

claim for costs or expenses of administration that have been or may be incurred in this case, any conversion of this case to a case under chapter 7 of the Bankruptcy Code, or otherwise, and no priority claims, are or will be senior to or on a parity with any such claim of Bank, subject only to fees payable to the U.S. Trustee under 28 U.S.C. § 1930, fees or costs owing to the Clerk of the Court, and the “Carve-Out” as described below.

- g. Reporting Requirements. During the term of the Stipulation, the Debtor shall continue to provide Lender with all documents and reports required under the Loan Documents. The Debtor shall also deliver to the Lender (i) all monthly operating reports and interim operating statements as and when filed by the Debtor with the Office of the United States Trustee; and (ii) within 30 days after the end of each month, reconciliations based on actual receipts and expenditures and a comparison with the Budget. In addition, the Debtor shall provide Lender with prompt access to the Debtor’s books and records, and all of Debtor’s financial, accounting and management personnel.
- h. No Waiver. Nothing contained in the Stipulation and the order thereon shall be deemed or construed to waive, reduce, or otherwise diminish the rights and claims of the Lender against the Debtor or other third party. Nothing in the Stipulation shall be construed as an extension of any maturity date relative to the Loan Documents or a waiver of any defaults which currently exist.
- i. Default. The occurrence of any one or more of the following events shall constitute an “Event of Default” under the Stipulation: (i) the Debtor fails to perform any of its obligations in accordance with the terms hereof or otherwise defaults hereunder or breaches any provision hereof, including (A) the use and disbursement of Cash Collateral except as expressly permitted hereunder; (B) the actual expenditure of Cash Collateral by the Debtor in excess of the budgeted expenditure in the Budget, without the written consent of the Lender or order of

the Court; and (C) the failure to provide any report, document, or information to the Lender as required hereby; (ii) the Debtor's bankruptcy case is converted to a case under Chapter 7 or is dismissed; (iii) the order approving the Stipulation is reversed, vacated, stayed, amended, or supplemented without the consent of the Lender; or (vi) relief from the automatic stay is granted to any party to permit the exercise of remedies with respect to any property of the Debtor's estate. If an Event of Default occurs under the Stipulation, the Lender shall give written notice via facsimile or overnight express of any such default to the Debtor's counsel of record in the bankruptcy case by electronic mail or facsimile ("Default Notice"). Upon receipt of such notice, the Debtor shall have ten (10) business days to cure the Event of Default. The Debtor shall have continuing authority to use Cash Collateral during the cure period. Upon the expiration of the fifth business day after delivery of the Default Notice, if the Debtor has not (i) cured the Event of Default that is the subject of the Default Notice, or (ii) noticed an expedited hearing before the Court with respect to the Event of Default that is the subject of the Default Notice, the Debtor's rights to use Cash Collateral shall immediately cease without further notice. Regardless of the occurrence of any Event of Default, the Lender may move the Court on regular notice for an order terminating the Debtor's right to use Cash Collateral for any appropriate reason, including, but not limited to, lack of adequate protection, relief from the automatic stay being granted to any party to permit the exercise of remedies with respect to any property of the Debtor's estate, and/or failure to obtain Court approval of the terms of the Stipulation.

- j. Rights of Estate to Review and Challenge. The terms and conditions of the Stipulation and the order entered hereon shall be binding upon the Debtor. However, creditors and other parties in interest shall have until the final hearing hereon to object to continued use of Cash Collateral pursuant to the terms of this

Stipulation and 60 days from the date of the Stipulation to challenge the validity, priority, avoidability or amount of the Lender's liens and claims. If no such objections or challenges are timely filed, then all creditors and other parties in interest shall be bound by the provisions of the Stipulation and Lender's claims and liens shall not be subject to later challenge.

- k. Carve-Out. The Lender's liens and security interests shall be subject and subordinate to a carve-out (the "Carve-Out") for all allowed professional fees and disbursements of professionals retained, pursuant to Bankruptcy Code §§ 327, 328 or 1103(a) by Debtor ("Debtor's Professionals"), and (b) quarterly fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court. The Lender further agrees and acknowledges that it asserts no lien or claim against: (i) the prepetition retainer paid to Levene, Neale, Bender, Yoo & Brill L.L.P. ("LNBYB") other than a lien against any unused portion thereof which LNBYB returns to the Debtor; or (ii) the prepetition retainer paid to Shapiro Beging Barber Otteson LLP ("SBBO") other than a lien against any unused portion thereof which SBBO returns to the Debtor. The Lender reserves the right to object to the amount of fees and expenses sought by any of the professionals in this case.
- l. Bankruptcy Court Order. The Stipulation is subject to approval of the Bankruptcy Court pursuant to Federal Rule of Bankruptcy Procedure 4001(d).
- m. No Implied Authorization. Except for transactions in the ordinary course of business or as authorized by the Court, the Debtor shall not sell, transfer, lease, encumber, or otherwise dispose of any of the property of the estate without the prior written consent of the Lender, and no such consent shall ever be implied from any other action, inaction, or acquiescence by the Lender.

- n. Section 364(e) of the Bankruptcy Code. Having been found to have acted in good faith in agreeing to the terms of the Stipulation, Lender shall be entitled to the full protection of Section 364(e) of the Bankruptcy Code with respect to the Debtor's grant of the replacement lien created and authorized by the Stipulation in the event that the Stipulation or any authorization contained in the Stipulation is stayed, vacated, reversed, or modified on appeal.
- o. 506(c) Waiver. The Debtor, on behalf of itself and the estate, shall not seek any right to surcharge the Lender under Section 506(c) of the Bankruptcy Code or other applicable law for any fees or compensation to attorneys or other professionals employed by the Debtor except as set forth in the Stipulation.
- p. No Deemed Lender Control. The Lender shall not be deemed to be in "control" of the operations of the Debtor, or to be acting as a "responsible person" or "owner" or "operator" with respect to the operation or management of the Debtor solely by reason of any credit extended to Debtor under the Loan Documents, or the grant to and/or exercise by any successor-in-interest of any rights or remedies hereunder or thereunder.
- q. Reservation of Rights. The Stipulation and the order approving the Stipulation do not prejudice the right of Lender to seek relief from the automatic stay of Section 362 of the Bankruptcy Code, or any other relief in this case, including demands for further adequate protection, objections and claims relating to applications or motions for adequate protection, or the use, sale, or other disposition of the Cash Collateral or any postpetition collateral. The Stipulation is also without prejudice to the rights of any party to oppose any such relief requested. Except as otherwise expressly set forth in the Stipulation, the Stipulation is not a waiver or modification of any of the rights of Lender, including by way of example and without limitation all rights set forth in the Loan Documents, and Lender does not have any obligation or duty to any other entity to exercise any of its rights,

remedies, claims, powers, benefits, and privileges. Lender expressly reserves, and may assert, all rights, claims, remedies and defenses. Delay in or failure to exercise any of its rights, remedies, claims, powers, benefits, or privileges does not constitute a waiver, nor subject Lender to any liability to any entity, and no other entity may rely upon any such delay or failure or in any way seek to assert a defense to any obligation owing based on any such delay or failure.

- r. Successors and Assigns; Survival. The provisions of the Stipulation shall be binding and inure to the benefit of Lender, the Debtor and its estate, and the respective successors and assigns of each of the foregoing.
- s. Modification of Stipulation and Effect of Modification of Order. Except as provided in the Stipulation, the terms and conditions set forth in the Stipulation may not be altered, modified, or affected without the prior written consent of the Debtor and Lender. If any or all of the provisions of the order approving this Stipulation are hereafter modified, vacated, terminated, amended or stayed, the consent to the Debtor's use of Cash Collateral shall cease immediately thereupon; provided, however, that no such occurrence shall affect, limit or modify (a) the validity of any claim for any amounts of Cash Collateral used pursuant to the Stipulation and the order approving the Stipulation, or (b) the validity, enforceability, priority or perfection of any lien or security interest granted under the Stipulation and the order approving the Stipulation.
- t. Unenforceability. If the Court does not approve the Stipulation for any reason, then the Stipulation has no effect, and neither the Stipulation nor any action or procedure taken, nor any statement made, in connection with the negotiation, preparation, formulation or seeking approval of the Stipulation may be referred to by any entity in connection with any proceeding or action, whether in this case or elsewhere.

- u. No Agreement to Provide Financial Accommodation. No provision of the Stipulation and the order approving the Stipulation shall in any way impose upon the Lender any duty or obligation to provide any financing or financial accommodation to the Debtor or any other party, to collect, sell, lease or otherwise dispose of any of the Lender's collateral, to proceed against any party, person, individual or entity to proceed against or exhaust any security held by the Lender, or any other party, person, individual or entity, or to otherwise pursue any action, right or remedy in the Lender's power whatsoever.
- v. Consent and Mutual Agreement. Whenever any action may be taken under the Stipulation upon the prior written consent of the Lender or the prior mutual written agreement of the parties, the action may be taken without any further notice or action or order of the Court.
- w. Survival of Obligations. The provisions of the Stipulation and any actions taken in accordance with the Stipulation shall survive entry of any order that may be entered: (a) confirming any plan in any case of any Debtor; (b) converting this Chapter 11 case to a case under Chapter 7 of the Bankruptcy Code; or (c) dismissing this case. Unless otherwise ordered by the Court, the claims and liens on the Cash Collateral and the postpetition collateral continue in full force and effect and maintain their priority until all the obligations owed under the terms of the Loan Documents and this Stipulation are paid in full.

ADDITIONAL INFORMATION REGARDING THE POST-PETITION LOANS

8. The Lender has agreed to make the Post-Petition Loans (up to the principal sum of \$337,500) on the terms and conditions set forth in the Loan Documents. As set forth in the Budget attached as Exhibit F to the Stipulation, the Debtor projects that some of the Post-Petition Loans will be funded starting the first week of November (\$100,000 in "Week 4" of the Budget; \$125,000 in "Week 5" of the Budget; \$62,500 in "Week 6" of the Budget; and \$50,000 in "Week 12" of the Budget).

9. The primary terms of the Loan Documents (capitalized terms not otherwise defined have the same meaning ascribed to such terms in the Loan Documents) are as follows:

- a. **Funding In Increments.** The Lender shall make disbursements of the Loan proceeds to the Debtor on an as-needed basis, if agreed to by both the Lender and the Debtor. Notwithstanding anything in the Loan Documents to the contrary, the Lender shall have the right, but not the obligation to fund the Post-Petition Loans in its sole and absolute discretion.
- b. **Repayment Upon Maturity; Prepayment.** The outstanding principal balance of the Post-Petition Loans and all accrued and unpaid interest thereon shall become due and payable on May 31, 2021. Subject to the terms of the Loan Documents and the Stipulation, the Debtor may prepay the Post-Petition Loans, in whole or in part, at its sole option, and without obligation to do so, at any time and from time to time, without penalty or premium, upon 10 days' prior written notice to the Lender, and if the Post-Petition Loans are prepaid in full, the maturity date of the Post-Petition Loans will be deemed to have occurred on the date of such prepayment in full.
- c. **Interest Rate.** Interest on the Post-Petition Loans shall accrue at a rate of 8% per annum.
- d. **Security.** The Post-Petition Loans shall be secured by a first priority security interest and lien upon all prepetition and postpetition assets and property of the Debtor, senior to any existing security interest or lien upon such assets and property, and shall be deemed valid, enforceable and perfected without the need or requirement of having to file or record any financing statement or document with any governmental office or of having to provide or give notice to any party

or person. Other than the lien asserted by the Lender², there is no other creditor with a lien on the Debtor's assets.

- e. **Events Of Default.** Events of default are specified in the Loan Agreement, section 6. Each of the following applicable events constitutes an "Event of Default" under the Loan Documents:
- i. The Debtor engages in any liquidation, dissolution, or winding up;
 - ii. The Debtor fails to make payments under the Note within five (5) days after the date such payments are due;
 - iii. The Debtor is in violation, breach or default of, or fails to perform, observe or comply with any covenant, obligation or agreement set forth in the Loan Documents and such failure shall not be cured within ten (10) days from the earlier of the date of knowledge by the Debtor or the date of written notice from the Lender;
 - iv. Any representation, statement or warranty made or deemed made by the Debtor in the Loan Documents is not true and correct in all material respects or is false or misleading in any material respect on the date when made or deemed to have been made (except to the extent already qualified by materiality, in which case it shall be true and correct in all respects and shall not be false or misleading in any respect) except those made as of a specific date (which shall be true and correct on such specific date);
 - v. A Change in Control Transaction occurs;
 - vi. A Default or an Event of Default under any loan Document occurs and continues past any cure period and shall not have been waived in writing;

² While the UCC-1 search reflects a purchase money security interest asserted by Dell Financial Services ("Dell"), that financing statement was recently terminated by Dell as the Debtor's obligation to Dell has been repaid.

- vii. The Loan Documents that purport to create a Lien securing the Post-Petition Loans, shall, for any reason, fail or cease to create a valid and perfected first priority Lien on the Collateral.

**FINANCING AND CASH COLLATERAL PROVISIONS REFERENCED IN LOCAL
BANKRUPTCY RULE 4001-3**

10. The Stipulation and Post-Petition Loan terms do **not** include any cross-collateralization clauses, provisions that operate to divest the Debtor of any discretion in the formulation of a plan, administration of the estate or limit access to the court to seek any relief under other applicable provisions of law, waivers of avoidance actions, automatic relief from stay upon default, conversion to chapter 7, or appointment of a trustee, waivers of the procedural requirements for foreclosure mandated under applicable law, adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code, waivers of the Debtor's right to move for Court authority to use cash collateral in the absence of the Lender, or findings of fact on matters extraneous to the approval process.

11. However, as disclosed above, the Stipulation includes provisions that bind the estate or all parties in interest with respect to the priority, validity, perfection or amount of the Lender's lien or debt. *See* Stipulation ¶¶ 3, 10. The Stipulation also includes provisions regarding waivers of 11 U.S.C. § 506(c). *See id.* ¶ 15. The Debtor submits that these provisions are reasonable and necessary under the circumstances. First, the Debtor does not dispute the priority, validity, perfection or amount of the Lender's lien or debt. Second, the Stipulation provides a sixty day time period for other parties in interest to review the Loan Documents and take appropriate action. Third, the Debtor submits that, given the Lender's willingness to provide the Carve-Out to the Debtor's Professionals, a waiver of the Debtor's rights under 11 U.S.C. § 506(c) is appropriate. Without these basic lender protections, the Lender would not be willing to fund the Post-Petition Loans which are necessary for the Debtor's continued viability and operations during this bankruptcy case. Indeed, based on the Budget, without the Post-

Petition Loans, the Debtor projects that it will not have sufficient funds to pay all of the expenses set forth in the Budget.

ADDITIONAL INFORMATION REGARDING THE BUDGET

12. A number of line items set forth in the Budget constitute transfers of cash to affiliated entities. These transfers are necessary for the payment of enterprise expenses which allow the Debtor to operate and generate revenue. Additional detail regarding these budgeted transfers is set forth hereinbelow:

a. **Transfers to CH Shared Services, LLC (listed as “CHSS” in the Budget).**

This entity does not generate revenue. The Debtor transfers funds to this entity for U.S. employee costs (wages, employer taxes, health benefits, etc.).

b. **Transfers to Monogram Real Estate (listed as “MRE” in the Budget).** This

entity does not generate revenue. The Debtor transfers funds to this entity so that it can pay rents and real estate expenses (such as occupancy taxes, real estate taxes, maintenance, etc.) for properties that the Debtor utilizes in its operations.

c. **Transfers to Club Holdings.** This entity does not generate revenue. The Debtor

transfers funds to this entity so that it can pay for certain overhead expenses such as corporate insurance, and tax return preparation.

d. **Transfers to Time and Place, LLC (listed as “T&P” in the Budget).** The

Debtor transfers funds to this entity for the portion of member dues used to book a reservation with T&P, certain rents and real estate expenses paid by T&P for properties used in the Debtor’s operations, and other shared operating expenses (housekeeping for shared properties, shared IT consulting costs, shared marketing costs, etc.).

e. **Transfers to Whim.** The Debtor transfer funds to Whim for shared operating expenses generally related to marketing or IT consulting

f. **Transfers to Quintess Services I.** This entity does not have revenue. The Debtor transfers funds to this entity for club operations in France (French employee

wages, social taxes, rents, housekeeping, local accountants, host petty cash reimbursements, etc.) 7.

g. Transfers to PM Los Cabos. This entity does not have revenue. The Debtor transfers funds for club operations in Mexico (Mexican employee wages, social taxes, housekeeping, gardening, maintenance items, host petty cash reimbursements, utilities, HOA fees, local accountants, etc.).

h. Transfers to Club Properties Europe. This entity does not have revenue. The Debtor transfers funds for club operations in the UK and Italy (UK employee wages, social taxes, rents in the UK and Italy, housekeeping, local accountants, host petty cash reimbursements, etc.).

i. Transfers to Services Italy. This entity does not have revenue. The Debtor transfers funds for club operations in Italy (Italian employee wages, social taxes, housekeeping, local accountants, host petty cash reimbursements, etc.).

13. Accordingly, the Debtor respectfully requests that this Court hold a hearing on this Motion and enter the proposed order attached as Exhibit “A” to the *Motion Seeking Expedited Entry Of First Day Order* filed concurrently herewith:

- a. granting this Motion;
- b. affirming the adequacy of the notice given;
- c. approving the Stipulation;
- d. authorizing the Debtor to use cash collateral pursuant to the terms of the Stipulation;
- e. authorizing the Debtor to borrow the Post-Petition Loans from the Lender pursuant to the terms of the Stipulation;
- f. setting a final hearing on the Motion; and

g. granting such other and further relief as the Court deems just and proper.

DATED this 12th of October, 2016.

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

By: /s/ Krikor J. Meshefejian

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