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*Counsel to the Debtors and
Debtors-in-Possession*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:	Chapter 11
Mountain Creek Resort, Inc., <i>et al.</i> , ¹	Case No. 17-19899 (SLM)
Debtors.	Jointly Administered
	Hearing Date: March 6, 2018, at 11:00 a.m. (ET) Objection Deadline: February 27, 2018 at 4:00 p.m. (ET)

**NOTICE OF DEBTORS’ MOTION FOR ENTRY OF AN ORDER (A) FURTHER
EXTENDING THE DEBTORS’ EXCLUSIVE PERIODS TO FILE A CHAPTER 11
PLAN AND SOLICIT ACCEPTANCES THEREOF PURSUANT TO SECTION 1121 OF
THE BANKRUPTCY CODE AND (B) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on **March 6, 2018 at 11:00 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard, the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), by and through their undersigned counsel, shall move (the “Motion”) before the Honorable Stacy L. Meisel, United States Bankruptcy Judge, in Courtroom 3A of the United States Bankruptcy Court for the District of New Jersey, 50 Walnut Street, 3rd Floor, Newark, New Jersey 07102, for entry of an order, substantially in the form submitted herewith, (a) further extending the period during which the Debtors have the exclusive

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Mountain Creek Resort, Inc. (4557), Mountain Creek Services Inc. (3228), Mountain Creek Management, LLC (1394), Mountain Creek Mountainslide, LLC (1545), Mountain Leasing LLC (6057), and Appalachian Liquors Corporation (9542).

right to file a chapter 11 plan (the “Exclusive Filing Period”) by approximately 45 days, from March 8, 2018 through and including April 23, 2018, and extending the period during which the Debtors have the exclusive right to solicit votes thereon (the “Exclusive Solicitation Period,” and together with the Exclusive Filing Period, the “Exclusive Periods”) by an additional 45 days, from May 7, 2018 through and including June 21, 2018, without prejudice to the Debtors’ right to seek further extensions of the Exclusive Periods; and (b) granting related relief.

PLEASE TAKE FURTHER NOTICE that the Debtors shall rely upon the Motion filed herewith. No brief is necessary as no novel issues of fact or law are presented by the Motion. A proposed form of order is also submitted herewith. Oral argument is requested in the event an objection is timely filed.

PLEASE TAKE FURTHER NOTICE that any objections to the Motion must be filed with the Clerk of the Court together with proof of service thereof, and served so as to be **actually received** no later than **February 27, 2018 at 4:00 p.m. (Eastern Time)** by: (i) counsel to the Debtors, Lowenstein Sandler LLP, One Lowenstein Drive, Roseland, New Jersey 07068, Attn.: Kenneth A. Rosen, Esq. and Jeffrey D. Prol, Esq.

PLEASE TAKE FURTHER NOTICE that objections to the Motion, if any, must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the District of New Jersey; and (c) state with particularity the legal and factual basis for the objection.

PLEASE TAKE FURTHER NOTICE that unless an objection is timely filed and served in accordance with this notice, it may not be considered by the Bankruptcy Court. In the event no objections are filed, the relief requested in the Motion may be granted without a hearing.

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Dated: February 13, 2018

Respectfully submitted,

LOWENSTEIN SANDLER LLP

/s/ Kenneth A. Rosen

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Mountain Creek Resort, Inc., <i>et al.</i> , ¹	Case No. 17-19899 (SLM)
Debtors.	Jointly Administered
	Hearing Date: March 6, 2018, at 11:00 a.m. (ET) Objection Deadline: February 27, 2018 at 4:00 p.m. (ET)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER (A) FURTHER EXTENDING THE
DEBTORS' EXCLUSIVE PERIODS TO FILE A CHAPTER 11 PLAN AND SOLICIT
ACCEPTANCES THEREOF PURSUANT TO SECTION 1121 OF THE BANKRUPTCY
CODE AND (B) GRANTING RELATED RELIEF**

The debtors and debtors-in-possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (collectively, the "Chapter 11 Cases"), by and through their undersigned counsel, submit this motion (the "Motion") for entry of an order, substantially in the form submitted herewith, further extending the period during which the Debtors have the exclusive right to file a chapter 11 plan (the "Exclusive Filing Period") by approximately 45 days, from March 8, 2018 through and including April 23, 2018, and extending the period during

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Mountain Creek Resort, Inc. (4557), Mountain Creek Services Inc. (3228), Mountain Creek Management, LLC (1394), Mountain Creek Mountainslide, LLC (1545), Mountain Leasing LLC (6057), and Appalachian Liquors Corporation (9542).

which the Debtors have the exclusive right to solicit votes thereon (the “Exclusive Solicitation Period,” and together with the Exclusive Filing Period, the “Exclusive Periods”) by an additional 45 days, from May 7, 2018 through and including June 21, 2018, without prejudice to the Debtors’ right to seek further extensions of the Exclusive Periods. In support of this Motion, the Debtors respectfully state as follows:

JURISDICTION

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered on July 23, 1984, and amended on September 18, 2012. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. The statutory predicates for the relief requested herein are section 1121(d) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”) and Rule 9006 of the Federal Rules of Bankruptcy Procedure.

BACKGROUND

I. General Background

3. On May 15, 2017 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), commencing the Chapter 11 Cases in the United States Bankruptcy Court for the District of New Jersey (the “Court”).

4. The Debtors are operating their businesses and managing their property as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the filing of this Motion, no request has been made for the appointment of a trustee or examiner in the Chapter 11 Cases.

5. On May 24, 2017, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”) in these Chapter 11 Cases. *See Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 66].

II. The Debtors' Business

6. The Debtors own a four-season resort (the "Resort") located in Vernon, New Jersey. The Resort is the New York/New Jersey Metro area's closest ski resort with 167 skiable acres on four mountain peaks, 1,040 vertical feet, 46 trails, and 11 lifts. In addition to these vast winter operations, the Resort also offers substantial summer operations including a 25 acre waterpark, an alpine roller coaster, a bike park, and a zip line park.

7. The Resort also includes multiple hotels that are structured as residential condominiums sold to individuals (the "Condo Owners"). These Condo Owners have the option of placing their unit within a hotel rental pool operated by the Resort, in which units are offered as part of the full-service hotel.

III. The Debtors' Prepetition Capital Structure

8. Pursuant to the terms of a loan and security agreement and related documents dated June 4, 2015, between M&T Bank ("M&T") and Debtor Mountain Creek Resort, Inc. ("MCRI"), M&T holds a claim of approximately \$22.7 million, which is secured by a first priority lien on substantially all of the personal and real property of MCRI. M&T has been receiving post-petition interest on account of its claim since the Petition Date.

9. Additionally, on September 20, 2010, M&T issued an irrevocable standby letter of credit in favor of Vernon Township (the "Township") in the approximate amount of \$1.97 million in connection with a certain sewer agreement dated October 24, 2005 (the "Sewer Agreement").

10. Under the Sewer Agreement, the Debtors agreed to reimburse the Township for certain costs associated with the expansion of sewer capacity for the Township and the Debtors by the Sussex County Municipal Utilities Authority (the "SCMUA"), and to reimburse the Township for payments due to the SCMUA on certain bonds issued in connection with increasing sewer capacity. *Id.* at ¶ 40. On November 13, 2017, the Township and the Vernon Township Municipal Utility Authority (the "Vernon MUA") each filed proofs of claim (collectively, the "Vernon Claims") against MCRI in the amount of \$28,345,874.94, asserting

that portions of the claims are secured by MCRI's real estate. The Vernon Claims, however, do not state what portions of the claims are allegedly secured and what portions are not. The Debtors dispute the extent, validity, and priority of the Vernon Claims.

11. In addition to the debt owed to M&T, MCRI is also a party to prepetition promissory notes, mortgages, and security agreements with HSK Adventure, Inc. ("HSK") and Kuzari Investor 27335 LLC ("Kuzari," and together with HSK, the "Prepetition Subordinated Lenders").

12. As of the Petition Date, the MCRI's indebtedness to HSK and Kuzari was \$7 million and \$2 million, respectively (the "Prepetition Subordinated Obligations"). The Prepetition Subordinated Obligations are secured by liens on MCRI's real and personal property that are junior in priority to those held by M&T.

13. The Debtors also have incurred secured indebtedness to approximately 13 other creditors (the "Other Secured Lenders") to finance the acquisitions of certain individual amenities of the Resort, such as the Sojourn Chairlift, Mountain Coaster, Zero G waterslide, Atlantic Health Building, rental and demo ski equipment, vehicles, machinery and equipment. These face amount of these claims total approximately \$4 million.

14. MCRI is also indebted to prior owners (collectively, the "Prior Owner Noteholders") of the Resort pursuant to eight (8) unsecured notes dated June 4, 2015 in the aggregate original principal sum of \$3.38 million which are due and payable on December 31, 2022 (the "Prior Owner Notes"). As of the Petition Date, the amount owing under the Prior Owner Notes is approximately \$3.15 million (the "Prior Owner Note Obligations").

15. Finally, the Debtors listed in excess of \$30 million in unsecured debt in their Schedules of Assets and Liabilities, which includes the unsecured claims of the Township, Prior Owner Noteholders, trade creditors, and claims on account of professional fees, utilities costs, insurance obligations, and employee-related expenses. Additionally, there are also approximately fifteen claimants alleging personal injury or employment litigation claims against the Debtors, most of which are disputed and have not yet been liquidated.

16. Further details regarding the Debtors' business, prepetition capital structure, and the facts surrounding the commencement of the Chapter 11 Cases is set forth in the *Declaration of Jeffrey Koffman in Support of Debtors' Chapter 11 Petitions and First Day Pleadings* [Docket No. 16] and the Debtors' motion for authorization to obtain post-petition financing and use cash collateral [Docket No. 12], which are incorporated herein by reference.

IV. Progress in the Chapter 11 Cases

17. The Debtors have made significant progress during the initial eight (8) months of their Chapter 11 Cases including, but not limited to the following matters:

- a) resolving operational issues such as obtaining authorization to draw up to \$5 million in debtor-in-possession financing and receiving authorization for the use of cash collateral through eight interim orders approving financing and use of cash collateral (the "Interim DIP Orders");
- b) negotiating and obtaining court approval of agreements with critical vendors, utility providers, convenience class creditors, and insurance providers;
- c) preparing the Debtors' Schedules of Assets and Liabilities (the "Schedules") and Statements of Financial Affairs (the "Statements," and together with the Schedules, the "Schedules and Statements"), and preparing amendments to the Schedules and Statements;
- d) meeting all requirements in the UST Guidelines and complying reporting requirements in connection with the Interim DIP Orders;
- e) establishing a General Bar Date of September 11, 2017, and a Governmental Bar Date of November 13, 2017;
- f) negotiating and obtaining court approval [Docket No. 296] of a significant lease agreement (the "Snow Lease") with Snow Creek, LLC, pursuant to which Snow Creek has leased and is operating portions of the Debtors' winter operations in exchange for a fixed fee, as well as additional fees based on revenue targets;
- g) retaining a special financial advisor, Acacia Financial Group, Inc. ("Acacia"), for the purpose of assessing the possibility of restructuring the Debtors' obligations under the Sewer Agreement

and for preparing certain reports for use in negotiations with M&T, the Committee, and other key stakeholders;

- h) reviewing and assessing executory contracts and leases, negotiating with certain counterparties to such contracts and leases, and filing a motion to assume certain unexpired leases [Docket No. 381] on November 14, 2017, which motion was granted by order entered on December 5, 2017 [Docket No. 410]; and
- i) attending to various other issues in connection with the daily operation of the Debtors' businesses and navigating these Chapter 11 Cases.

18. The Debtors have also continued the process of negotiating, litigating, or otherwise resolving the various claims against the estates. For example, Debtors have spent a significant amount of time reviewing, assessing, and responding to various requests and motions by personal injury and employment litigation plaintiffs seeking stay relief or other resolutions to their claims. The Debtors are continuing to negotiate with certain of these claimants and applicable insurance carriers regarding consensual resolutions of these claimants' requests for stay relief.

19. The Debtors also negotiated with Route 94 Vernon Associates, LLC ("Route 94") and resolved Route 94's motion (the "Route 94 Motion") [Docket No. 365] to compel the Debtors to assume or reject their real property lease with Route 94 via a consent order entered on January 10, 2018 [Docket No. 448] rejecting the lease and establishing deadlines for Route 94 to file unsecured and administrative expense claims.

20. Furthermore, the Debtors have continued to litigate the two adversary proceedings which are pending under Adv. Pro. Nos. 17-1719 (the "Worksite Proceeding")² and Adv. No. 17-1724 (the "Prior Owner Noteholders Proceeding," and together with the Worksite Proceeding, the "Adversary Proceedings"). On January 11, 2018, the Debtors filed an amended complaint in the Worksite Proceeding. Moreover, the Debtors are negotiating with the Prior Owner

² In the Worksite Proceeding, the Debtors are seeking, among other things, turnover of turnover of \$345,002.17 in advance payments held by Worksite under section 542(a) of the Bankruptcy Code.

Noteholders regarding a resolution of the Prior Owner Noteholders' pending state court action and the Prior Owner Noteholders Proceeding.³

21. The Debtors accomplished all of the aforementioned tasks while continuing to manage their businesses and navigate their Chapter 11 Cases. They have successfully met the projections set forth in the budgets approved by the Interim DIP Orders while paying all post-petition obligations on a timely basis. Similarly, the Debtors have negotiated with relevant parties and substantially resolved the terms of a final order (the "Final DIP Order") authorizing the Debtors' post-petition financing and use of cash collateral.

22. Finally, and perhaps most importantly, since the last motion to extend the Exclusive Periods was filed on December 26, 2017, the Debtors have prepared a draft plan of reorganization which they have shared with M&T, the Committee, and Vernon Township. The Debtors have also had a preliminary discussion with the Prior Owner Noteholders regarding their proposed treatment under the Plan. The Debtors are in the process of revising the draft plan and preparing a disclosure statement with respect thereto that they will share with major creditor constituencies. The Debtors remain hopeful that each of the foregoing parties will engage in substantive discussions towards a consensual plan.

23. While the Debtors hope to be in a position to file a plan of reorganization by March 8, 2018 (the existing exclusivity deadline), this motion is being filed out of an abundance of caution to provide flexibility in the event that discussions are ongoing or if additional time is otherwise required to complete the plan and disclosure statement.

RELIEF REQUESTED

24. By this Motion, the Debtors seek entry of an order, substantially in the form submitted herewith, (a) further extending the Debtors' Exclusive Filing Period by approximately 45 days, from March 8, 2018 through and including April 23, 2018, and the Debtors' Exclusive

³ In the Prior Owner Noteholders Proceeding, the Debtors are seeking an injunction under sections 105 and 362 of the Bankruptcy Code to preclude the Prior Owner Noteholders from continuing to prosecute a state court action alleging, among other things, that certain of the Debtors' current principals/owners are liable on guaranties on the Prior Owner Notes.

Solicitation Period by 45 days, from May 8, 2018 through and including June 21, 2018, without prejudice to the Debtors' right to seek further extensions of the Exclusive Periods; and (b) granting related relief.

BASIS FOR RELIEF

25. Pursuant to section 1121(b) of the Bankruptcy Code, a debtor has the exclusive right to propose and file a chapter 11 plan during the first 120 days of a chapter 11 case. Section 1121(c)(3) of the Bankruptcy Code extends exclusivity for an additional 60 days (to an initial maximum of 180 days from commencement of a case) to solicit and obtain acceptances of that plan. The purpose of the exclusivity period is "to promote an environment in which the debtor's business may be rehabilitated and a consensual plan may be negotiated." *In re Burns and Roe Enters., Inc.*, 2005 WL 6289213, at *4 (D.N.J. Nov. 2, 2005).

26. The Court, however, may extend a debtor's exclusivity periods "for cause" under section 1121(d)(1) of the Bankruptcy Code. Specifically, section 1121(d) provides that "on request of a party in interest made within the respective periods . . . of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section." 11 U.S.C. § 1121(d).

27. Although the term "cause" is not defined by the Bankruptcy Code, it should be viewed flexibly in this context "in order to allow the debtor to reach an agreement." H.R. Rep. No. 95, 95th Cong., 1st Sess. 232 (1997); *see also In re Public Serv. Co. of New Hampshire*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988) ("legislative intent . . . [is] to promote maximum flexibility"). It is imperative that a debtor be given a reasonable opportunity to negotiate an acceptable plan with creditors and to prepare adequate information concerning the ramifications of any proposed plan for disclosure to creditors. *See, e.g., In re Texaco, Inc.*, 76 B.R. 322, 327 (Bankr. S.D.N.Y. 1987).

28. Courts within various jurisdictions, including the Third Circuit, have held that the decision to extend a debtor's exclusivity periods should be based on the totality of the circumstances and is within the sound discretion of the bankruptcy court. *See, e.g., In re Burns*

and Roe Enterprises, Inc. 2005 WL 6289213, at *3 (D.N.J. Nov. 2, 2005); *First Am. Bank of N.Y v. Sw. Gloves & Safety Equip., Inc.*, 64 B.R. 963, 965 (D. Del. 1986); *In re Express One Int'l. Inc.*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996); *In re McLean Indus., Inc.*, 87 B.R. 830, 834 (Bankr. S.D.N.Y. 1987). Factors courts consider when deciding whether a debtor has had adequate opportunity to draft, negotiate, and propose a chapter 11 plan and, thus, whether cause exists to extend a debtor's exclusivity periods include:

- (a) the size and complexity of the case;
- (b) the existence of good faith progress in the case;
- (c) the necessity of sufficient time to negotiate and prepare adequate information;
- (d) whether creditors are prejudiced by the extension;
- (e) whether the debtor is paying its debts as they become due;
- (f) whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- (g) whether the debtor has made progress negotiating with creditors;
- (h) the length of time a case had been pending;
- (i) whether the debtor is seeking an extension to pressure creditors;
and
- (j) whether or not unresolved contingencies exist.

See In re Cent. Jersey Airport Servs., LLC, 282 B.R. 176, 183 (Bankr. D.N.J. 2002); *McLean Indus.*, 87 B.R. at 834.

29. Because each case is unique, not all of these factors are relevant in each case and courts will only consider those factors that are relevant in the case at hand. *See, e.g., Express One*, 194 B.R. at 100 (identifying only four of the factors as relevant to its analysis as to whether cause existed to extend the exclusivity periods); *see also Pine Run Trust, Inc.*, 67 B.R. 432, 435

(Bankr. E.D. Pa. 1986) (relying on only two of the factors in deciding to extend the exclusivity periods).

30. The Debtors submit that sufficient “cause” exists to extend the Exclusive Periods under section 1121(d) of the Bankruptcy Code because, on balance, the relevant factors weigh decidedly in favor of the modest extension requested by the Debtors.

31. These Chapter 11 Cases involve six (6) debtors that have diverse creditor groups and interests. The Chapter 11 Cases are large and complex, involving multiple layers of funded secured debt (M&T, Kuzari and HSK), obligations to municipal authorities, noteholders, personal injury claimants, and trade debt. Particularly, in addition to addressing the substantial secured debt owed to M&T and other parties, the Debtors must address or otherwise resolve the substantial Vernon Claims, various stay relief requests from personal injury and other litigation claimants, and issues regarding the Prior Owner Notes. The Debtors will use the extended Exclusive Periods to address these issues and claims.

32. The Debtors have made good faith progress during the Chapter 11 Cases. The Debtors have, among other things: (i) obtained relief necessary to transition into and operate during the Chapter 11 Cases; (ii) implemented new business strategies (such as entering into the Snow Lease) in order to maximize value and enhance the profitability of their businesses; (iii) reviewed and assessed various executory contracts and unexpired leases, negotiated the assumption and/or rejection of same, and successfully moved to assume certain unexpired leases; (iv) continued to review and evaluate claims filed in the Chapter 11 Cases; (v) continued to negotiate and/or reach agreements with insurance carriers and various state court litigants to allow for the determination of such litigants’ claims to proceed in state court; (vi) negotiated with relevant parties and reached a resolution of the Route 94 Motion; (vii) initiated and continued to litigate the Adversary Proceedings for the purpose of facilitating their reorganization efforts and maximizing value for the estates; and (viii) continued to negotiate and substantially resolved the terms of a potential Final DIP Order.

33. The Debtors accomplished these tasks while managing their businesses and meeting all of their obligations in the Chapter 11 Cases. The Debtors have complied with their reporting requirements during the Chapter 11 Cases and have paid, and intend to continue to pay, all of their post-petition obligations on a timely basis.

34. Finally, and most significantly, the Debtors have continued the process of considering chapter 11 alternatives and made efforts to engage in discussions with their key stakeholders, including M&T, Vernon Township, the Prior Owner Noteholders, and the Committee. Indeed, as noted above, a draft plan has been shared with key stakeholders and the Debtors are attempting to engage in negotiations in an effort to achieve a consensual plan.

35. While the Debtors aspire to file their plan by the existing March 8, 2018 exclusivity deadline, they filed this motion in the event additional time is needed to engage with and negotiate with their key stakeholders.

36. The 45-day extension of the Exclusive Periods sought herein is not intended to pressure creditors. Rather, the Debtors are seeking additional time to negotiate with creditors, and creditors will not be prejudiced by the requested extension.

37. In sum, an analysis of the relevant factors discussed above demonstrates that the Debtors have and are proceeding in good faith to facilitate a successful conclusion to these Chapter 11 Cases and that “cause” exists for extending the Exclusive Periods by two months. Relief similar to that requested by the Debtors herein has been granted by other courts in this District and Circuit. *See, e.g., In re EOGH Liquidation, Inc.*, No. 15-31232 (Bankr. D.N.J. May 4, 2016) (granting an additional extension of the exclusivity periods of 60 days); *In re G-I Holdings Inc.*, No. 01-30135 (RG) (Bankr. D.N.J. Jan. 9, 2002) (granting an additional extension of the exclusivity periods of approximately nine months); *In re Energy Future Holdings Corp.*, No. 14-10979 (CSS) (Bankr. D. Del. Feb. 10, 2015) (granting an additional extension of the exclusivity periods of approximately 120 days).

38. Accordingly, the Debtors respectfully request that the Court grant the Debtors’ request for an additional 45 day extension of each Exclusive Period.

NO PRIOR REQUEST

39. This is the Debtors' fourth request for an extension of the Exclusive Periods. On August 16, 2017, the Debtors filed their first motion [Docket No. 251] to extend the Exclusive Periods, which was granted by order entered on September 6, 2017 [Docket No. 276] extending the Exclusive Periods for two months, through and including November 22, 2017 and January 22, 2018. On October 31, 2017, the Debtors filed their second motion [Docket No. 366] to extend the Exclusive Periods for another two months. The second motion was granted by order entered on November 28, 2017 [Docket No. 400] extending the Exclusive Periods through and including January 22, 2018 and March 23, 2018, respectively. On December 26, 2017, the Debtors filed their third motion [Docket No. 428] to extend the Exclusive Periods for an additional two months. The third motion was granted by order entered on January 16, 2018 [Docket No. 451] extending the Exclusive Periods through March 8, 2018 and May 7, 2018, respectively. No other motion for the relief sought herein has been made to this or any other court.

WAIVER OF MEMORANDUM OF LAW

40. As the legal points and authorities upon which the Debtors rely are incorporated herein and this Motion does not raise any novel issues of law, the Debtors respectfully request that the requirement of filing a separate memorandum of law pursuant to D.N.J. LBR 9013-1(a) be deemed waived.

NOTICE

41. Notice of this Motion has been given to (i) the Office of the United States Trustee for the District of New Jersey, One Newark Center, Suite 2100, Newark, NJ 07102; (ii) Tarter Krinsky & Drogin LLP, 1350 Broadway, New York, New York 10018, Attention: Scott Markowitz, Esq. and Arthur Goldstein, Esq., attorneys for the DIP Lender; (iii) Trenk, DiPasquale, Della Fera & Sodono, P.C., 347 Mt. Pleasant Avenue, Suite 300, West Orange, New Jersey 07052, Attention: Joseph J. DiPasquale, Esq. and Adam D. Wolper, Esq., attorneys for the Committee; (iv) the Internal Revenue Service, 2970 Market Street, Mail Stop 5-Q30.133,

Philadelphia, PA 19104-5016; (v) the New Jersey Division of Taxation Compliance and Enforcement - Bankruptcy Unit, 50 Barrack Street, 9th Floor, Trenton, NJ 08695; (vi) the Office of the Attorney General of the State of New Jersey, Division of Law, Richard J. Hughes Justice Complex, 25 Market Street, Trenton, NJ 08625; (vii) the Office of the United States Attorney, Peter Rodino Federal Building, 970 Broad Street, Suite 700, Newark, NJ 07102; (viii) M&T Bank, PO Box 1302, Buffalo, NY 14240-1302; (ix) Greenberg Traurig, LLP, 2700 Two Commerce Square, 2001 Market Street, Philadelphia, PA 19103, Attention: Diane E. Vuocolo, Esq., attorneys for M&T Bank; (x) Head USA, Inc., 3125 Sterling Circle, Suite 101, Boulder, CO 80301; (xi) Alpina Sports Corp., 93 Etna Road, Lebanon, NH 03766; (xii) HSK Adventure, Inc., 300 Plaza Drive, Vestal, NY 13850; (xiii) Kuzari Investor 27335 LLC, 220 East 42nd Street, 29th Floor, New York, NY 10017; (xiv) Cole Schotz P.C., 25 Main Street, Hackensack, NJ 07601, Attention: Warren A. Usatine, counsel for Kuzari Investor 27335 LLC; (xv) Bank of America, N.A. Bank of America Corporate Center, 100 North Tryon St, Charlotte, NC 28255; (xvi) Vernon Township, 21 Church Street, Vernon, NJ 07462; (xvii) Highlands State Bank, PO Box 160, Vernon, NJ 07462; (xviii) Visions Federal Credit Union, 24 McKinley Ave, Endicott, NY 13760-5491; (xix) Axess North America, 6433 N Business Loop Rd, Park City, UT 84098; (xx) Proficio Bank, 6985 Union Park Center, Suite 150, Cottonwood Heights, UT 84047; (xxi) Dell Financial Services LLC, 12234 North Interstate 35, Suite 35B, Austin, TX 78753; (xxii) Marlin Business Bank, 300 Fellowship Rd, Mt Laurel, NJ 08054; (xxiii) Ally Financial Inc., Ally Detroit Center, 500 Woodward Ave, Detroit, MI 48226; (xxiv) Kubota Credit Corporation USA, 4400 Amon Carter Boulevard, Suite 100, Fort Worth, TX 76155; (xxv) GE Capital Information Technology Solutions, LLC, 300 E. John Carpenter Freeway, Irving, TX 75062-2712; (xxvi) Bank of the West, Dept. LA 23091, Pasadena, CA 91185-3091; (xxvii) those parties who have filed a notice of appearance and request for service of pleadings in these Chapter 11 Cases pursuant to Fed. R. Bankr. P. 2002; and (xxviii) the Debtors' twenty largest unsecured creditors on a consolidated basis. In light of the nature of the relief requested herein, the Debtors respectfully submit that no other or further notice is required.

WHEREFORE, the Debtors respectfully request that this Court: (i) enter an order, substantially in the form submitted herewith, granting the relief requested herein; and (ii) grant the Debtors such other and further relief as the Court deems just and proper.

Dated: February 13, 2018

Respectfully submitted,

LOWENSTEIN SANDLER LLP

/s/ Kenneth A. Rosen

Kenneth A. Rosen, Esq.

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*Counsel to the Debtors and
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UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY Caption in Compliance with D.N.J. LBR 9004-1	
LOWENSTEIN SANDLER LLP Kenneth A. Rosen, Esq. Jeffrey D. Prol, Esq. Nicole Fulfree, Esq. Michael Papandrea, Esq. One Lowenstein Drive Roseland, New Jersey 07068 (973) 597-2500 (Telephone) (973) 597-2400 (Facsimile) <i>Counsel to the Debtors and Debtors-in-Possession</i>	
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Mountain Creek Resort, Inc., <i>et al.</i> , ¹	Case No. 17-19899 (SLM)
Debtors.	Jointly Administered

ORDER (A) FURTHER EXTENDING THE DEBTORS' EXCLUSIVE PERIODS TO FILE A CHAPTER 11 PLAN AND SOLICIT ACCEPTANCES THEREOF PURSUANT TO SECTION 1121 OF THE BANKRUPTCY CODE, AND (B) GRANTING RELATED RELIEF

The relief set forth on the following pages, numbered two (2) through and including three (3), is hereby **ORDERED**:

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Mountain Creek Resort, Inc. (4557), Mountain Creek Services Inc. (3228), Mountain Creek Management, LLC (1394), Mountain Creek Mountainslide, LLC (1545), Mountain Leasing LLC (6057), and Appalachian Liquors Corporation (9542).

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Debtors: Mountain Creek Resort, Inc., *et al.*

Case No.: 17-19899 (SLM)

Caption: Order (A) Further Extending the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof Pursuant to Section 1121 of the Bankruptcy Code, and (B) Granting Related Relief

This matter is before the Court upon the motion (the "Motion")² of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") in these chapter 11 cases (the "Chapter 11 Cases") requesting entry of an order (a) further extending the period during which the Debtors have the exclusive right to file a chapter 11 plan (the "Exclusive Filing Period") by approximately 45 days, from March 8, 2018 through and including April 23, 2018, and extending the period during which the Debtors have the exclusive right to solicit votes thereon (the "Exclusive Solicitation Period," and together with the Exclusive Filing Period, the "Exclusive Periods") by an additional 45 days, from May 7, 2018 through and including June 21, 2018, without prejudice to the Debtors' right to seek further extensions of the Exclusive Periods, and (b) granting related relief; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, as amended on September 18, 2012; and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion being sufficient under the circumstances; and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. Pursuant to section 1121(d) of the Bankruptcy Code, the Debtors' Exclusive Filing Period under section 1121(b) of the Bankruptcy Code is hereby extended through and including April 23, 2018.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

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Debtors: Mountain Creek Resort, Inc., *et al.*

Case No.: 17-19899 (SLM)

Caption: Order (A) Further Extending the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof Pursuant to Section 1121 of the Bankruptcy Code, and (B) Granting Related Relief

3. Pursuant to section 1121(d) of the Bankruptcy Code, the Debtors' Exclusive Solicitation Period under section 1121(c) of the Bankruptcy Code is hereby extended through and including June 21, 2018.

4. Nothing herein shall prejudice (a) the Debtors' right to seek further extensions of the Exclusive Periods consistent with 1121(d) of the Bankruptcy Code, or (b) the rights of any party in interest to object to any requests for further extensions.

5. This Order shall be immediately effective and enforceable upon its entry.

6. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

7. This Court shall retain exclusive jurisdiction to hear and decide any and all disputes related to or arising from the implementation, interpretation, or enforcement of this Order.