

**THIRD ADDENDUM  
TO  
GOLF COURSE MANAGEMENT AGREEMENT**

THIS THIRD ADDENDUM TO INDIAN WELLS RESORT GOLF COURSE MANAGEMENT AGREEMENT (the "**Third Addendum**") is executed as of January 1, 2014, by and between the **CITY OF INDIAN WELLS**, a California municipal corporation (the "**City**"), whose address is 44-950 Eldorado Drive, Indian Wells, California 92210, and **TROON GOLF, L.L.C.**, a Delaware limited liability company ("**Troon**"), whose address is 15044 N. Scottsdale Road, Suite 300, Scottsdale, Arizona, 85254, with respect to the following recitals:

**RECITALS**

A. City and Troon are parties to that certain Indian Wells Resort Golf Course Management Agreement dated as of June 1, 2009 ("**Agreement**") and that certain Restaurant Lease Agreement dated as of June 1, 2009 ("**Lease**").

B. On May 1, 2012, City and Troon entered into that certain First Addendum to the Agreement extending the term of the Agreement and the Lease to May 31, 2014. On March 21, 2013, City and Troon entered into that certain Second Addendum to the Agreement extending the term of the Agreement and the Lease to May 31, 2015.

B. City and Troon desire to extend the term of the Agreement and the Lease and make other revisions to the Agreement in accordance with the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Troon agree as follows:

1. Recitals. The foregoing recitals are incorporated herein by this reference. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

2. Effective Date. The Effective Date of this Third Addendum shall be January 1, 2014.

3. Definition of Management Fee. The definition of "Management Fee" in Section 1.1 is hereby deleted and shall hereafter mean the Annual Base Fee.

4. Extension of Term. The Term of the Agreement and Lease (pursuant to the Second Addendum) expires on May 31, 2015. Section 6.1 of the Agreement and Section 1.1 of the Lease (as amended) shall be amended by deleting the reference to "May 31, 2015" as the termination date and inserting "June 30, 2019" as the termination date in its place. The Agreement may extend for an additional term of three (3) years to and including June 30, 2022 upon mutual agreement of City and Troon. Troon shall provide written notice to City on or about

June 30, 2018 regarding the June 30, 2019 expiration date of the Agreement and Lease and thereafter, City shall respond to Troon's written notice on or before September 30, 2018, notifying Troon of its intent to renew or not renew the Agreement and Lease. In the event the term is extended to June 30, 2022, the Agreement and Lease may be extended for additional successive terms of three years each by complying with the process described above. Specifically, Troon shall provide City with written notice approximately one year in advance of the expiration date of the extended term and City shall respond to such notice on or before ninety days after receipt of the written notice from Troon.

5. Annual Base Fee. Section 7.1 of the Agreement shall be deleted in its entirety and replaced with the following:

"Commencing on January 1, 2014, City shall pay to Troon a base fee (the "**Annual Base Fee**") equal to Two Hundred Eighty Five Thousand Dollars (\$285,000) per full Operational Year (pro-rated for any partial Operational Year). The Annual Base Fee shall be paid in equal monthly installments of \$23,750 each, with such payments to be made in advance on the first (1st) day of each month during the Term. The Annual Base Fee shall be comprehensive of all of Troon's administrative expenses. Except as expressly set forth herein (e.g. Section 3.10 regarding Centralized Services), in the Annual Plan, or as otherwise approved by City, no administrative expenses or additional overhead or other direct or indirect costs of Troon shall be billed directly or indirectly to the Golf Resort. Beginning on January 1, 2016 and on each January 1 thereafter, the Annual Base Fee amount for the immediately preceding Operational Year shall be increased by the lesser of (a) three percent (3%), or (b) the amount of the percentage increase, if any, in the CPI for the immediately preceding Operational Year. For purposes hereof, "**CPI**" means the Consumer Price Index for All Urban Consumers (1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics. If such index shall be discontinued, then it shall mean such substitute index as shall be designated by Troon, and approved by Owner, which approval shall not be unreasonably withheld."

6. Annual Incentive Fee. Section 7.2 of the Agreement shall be deleted in its entirety. No Annual Incentive Fee shall be payable to Troon for the 2013-2014 Operational Year or any year thereafter.

7. Employees. Article V of the Agreement shall be deleted in its entirety and replaced with the following:

"5.1 Golf Resort Employees. Troon shall use established procedures, techniques and programs to hire and evaluate qualified employees. Subject to the obligation of Troon to observe applicable laws regarding such matters, the Annual Plan, and the City's right (as set forth in this Agreement) to approve the hiring or termination of any Executive Employee, and other terms of this Agreement, Troon shall have the authority to hire, establish Compensation and benefits for, promote, discharge, and supervise all employees in accordance with guidelines and employment policies (which shall include, without limitation, policies

regarding safety in the workplace, equal employment opportunities, and job discrimination) proposed by Troon and agreed to by the City. Troon acknowledges and agrees that the City approval of policies and procedures is intended to ensure Troon Golf Quality Standards and compliance with Troon's obligations pursuant to this Agreement and that Troon remains responsible for Golf Resort employees. As set forth with particularity elsewhere in this Agreement, including the Annual Plan, City shall be responsible for the payment of all costs and expenses incurred in connection with or relating to Golf Resort employees which are provided by Troon in accordance with the terms of this Agreement.

5.2 Liability for Golf Resort Employees; Indemnity. Troon shall be solely responsible for any employment related liability, fine, penalty or award (including the cost of defense and attorney fees) with respect to claims, demands, arbitration or litigation brought by an employee or employees of Troon at the Golf Resort for any reason, including without limitation, (a) employment claims arising out of the improper acts or omissions of a Troon employee; (b) the failure of an Executive Employee to properly supervise the Golf Resort employees or properly administer employment practices in accordance with the Golf Resort employment manual approved by City; or (c) the violation of federal, state or local laws, ordinances or regulations governing the employment or working conditions of the employees at the Golf Resort (collectively, "Claims"). Troon agrees to indemnify, defend and hold harmless City and its officials, officers, employees, agents and volunteers from and against any and all Claims. Except for the proceeds of any insurance coverage described in Section 9.1, Troon shall not be entitled to any reimbursement by City for Claims. As consideration for Troon's assumption of increased liability for its employees as set forth herein, Troon and City agree that City will pay to Troon an amount equal to Fifteen Thousand Dollars (\$15,000) per full Operational Year for insurance deductible funding. The annual insurance deductible funding expense shall be a Golf Resort Expense as defined in the Agreement.

5.3 Exclusions. In no event shall Troon be required to implement any policy or procedure with respect to operation of the Golf Resort which Troon reasonably believes would result in employee liability or a violation of applicable labor laws provided that Troon provides written notification of such objection in writing. Furthermore, Troon shall not be responsible for any Damages to the extent that such Damages are the result of working conditions at the Golf Resort which were identified in writing as non-compliant by Troon and the City failed to provide the requisite funding to remedy such conditions after written notice to City which clearly identifies that Troon disclaims liability pursuant to this Article V.

5.4 Restaurant Lease. Troon acknowledges that the obligations of Troon pursuant to this Article V shall apply to all employees who are engaged in F/B Operations pursuant to the Restaurant Lease Agreement between the City and Troon."

8 Troon's Indemnity. Section 11.1 of the Agreement shall be deleted in its entirety and replaced with the following:

"11.1 Troon's Indemnity. Troon agrees to indemnify and hold harmless City and its officials, officers, employees, agents and volunteers from and against any and all claims, demands, actions, lawsuits, proceedings, damages liabilities, judgments, penalties, fines, attorneys' fees, costs, and expenses;

(a) which result from any act or omission constituting active or passive negligence (including acts or omissions that do not meet industry standards), gross negligence, fraud or willful misconduct by a Troon employee; or

(b) which result from any action taken by Troon or a Troon employee relating to the Golf Resort **(i)** that is expressly prohibited by this Agreement, or **(ii)** that is not within the scope of Troon's duties under this Agreement, or **(iii)** that is not within Troon's delegated authority under this Agreement; or

(c) subject to Article V above, which result from Troon's material breach of any covenant or obligation contained in this Agreement. For purposes of this Section, the term "material" shall mean any breach resulting in liability in excess of \$5,000.00.

Troon's indemnity obligations under this Section 11.1 shall not apply to Claims which are covered by the indemnity in Section 5.2 or to any acts taken (or omissions not taken) either at the written direction of City or with the approval of City, provided, however, that the approval of the Annual Plan, or any other general operating policy or procedure by City shall not be interpreted as "direction" or "approval" of a specific act or omission unless such act or omission is clearly and unambiguously contemplated thereby."

9. Competitive Pricing. The following provision shall be inserted in the Agreement as follows:

"16.13 Competitive Pricing. Beginning on January 1, 2014 and continuing throughout the remaining Term of this Agreement, should Troon and/or its Affiliates, without the prior written consent of City, enter into, amend or renew any agreement to manage any other daily fee/resort golf facility within the continental United States that **(i)** has annual gross revenues greater than Ten Million Dollars (\$10,000,000) and **(ii)** the ratio (expressed as a percentage) of the annual base management and incentive fee under such agreement to the annual gross revenues (determined in a manner consistent with Gross Revenues) of such other facility is less than the ratio (expressed as a percentage) of the annual Management Fee under this Agreement to the annual Gross Revenues of the Facility (the "**Facility Percentage**") then City will have its Management Fee reduced to such lower fee for the remainder of the Term. Troon shall warrant annually that it has complied with this undertaking. For example, if, at the applicable time of determination, the annual Base Management Fee under this

Agreement is \$285,000 and the annual Gross Revenues of the Facility are \$13,000,000, then the Facility Percentage would be two percent (2%) [i.e., 285,000/13,000,000]. If Troon were presented with the opportunity to manage another daily fee/resort golf facility within the continental United States with annual gross revenues equal to or greater than Ten Million Dollars (\$10,000,000) and the negotiated Facility Percentage was lower than 2% (2% is used for purposes of this example only) for such facility, Troon would be required to adjust City's fees to the lower applicable percentage as of the date of entering into the agreement with the other party."

10. No Other Changes

Except as set forth in this Third Addendum, all terms and conditions of the Agreement and the Lease shall remain in full force and effect during the Term.

IN WITNESS WHEREOF, the City and Troon have executed this Third Addendum as of the date first above written.

"CITY"

CITY OF INDIAN WELLS,  
a California Municipal Corporation

By: Wade G. McKinney  
Name: Wade G. McKinney  
Its: City Manager

Approved as to form:

By: Stephen P. Deitsch  
Stephen P. Deitsch, City Attorney

Attest:

By: Anna Grandys  
Anna Grandys, Chief Deputy City Clerk

"TROON"

TROON GOLF, L.L.C.,  
a Delaware limited liability company

By: Tim Schantz  
Name: Tim Schantz  
Its: Executive Vice President/  
Global Development Officer