

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF GOLF TOWN CANADA HOLDINGS INC., GOLF TOWN CANADA INC. AND  
GOLF TOWN GP II INC.**

Applicants

**MOTION RECORD OF THE APPLICANTS  
(Motion for Assignment Order Returnable October 27, 2016)**

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Court File No. CV-16-11527-00CL

**ONTARIO  
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**IN THE MATTER OF THE *COMPANIES' CREDITORS*  
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Applicants

**NOTICE OF MOTION  
(Motion for Assignment Order Returnable October 27, 2016)**

Golf Town Canada Holdings Inc., Golf Town Canada Inc. ("**GT Canada**"), Golf Town GP II Inc., Golf Town Operating Limited Partnership ("**Golf Town LP**") and Golfsmith International Holdings LP (collectively, the "**Golf Town Entities**") will make a motion before a Judge of the Ontario Superior Court of Justice on October 27, 2016 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1. an Order (the "**Assignment Order**"), *inter alia*, assigning 13 real property leases listed on Schedule "A" to the Assignment Order (the "**Assigned Leases**") to the Purchaser (as defined below) in connection with the completion of the Golf Town Transaction; and
2. such further and other relief as this Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**<sup>1</sup>

1. The Golf Town Entities obtained protection pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to an Initial Order of this Court dated September 14, 2016;
2. On September 30, 2016, the Court issued the Approval and Vesting Order, *inter alia*, authorizing the going concern sale (the “**Golf Town Transaction**”) of substantially all of the assets of Golf Town to Golf Town Limited (formerly 9918167 Canada Inc.) (the “**Purchaser**”) pursuant to a Purchase Agreement dated as of September 14, 2016 (the “**Purchase Agreement**”) between GT Canada and Golf Town LP (together, the “**Vendors**”) and the Purchaser;
3. Since the granting of the Approval and Vesting Order, representatives of the Purchaser, with the assistance of the Vendors, have engaged in extensive discussions with Golf Town’s landlords to determine which of Golf Town’s current retail stores the Purchaser will continue to operate (the “**Retained Locations**”) and to obtain landlord agreement to the assignment, amendment or renegotiation of the real property leases in respect of the Retained Locations;
4. Pursuant to the Purchase Agreement, the Purchaser must designate, on or before October 26, 2016, which of the real property leases and other contracts that the Purchaser will assume on completion of the Golf Town Transaction (the “**Assumed Contracts**”), and which of the Assumed Contracts shall constitute Material Contracts, the assignment of which (through consent or Court order) is a condition to closing of the Golf Town Transaction;
5. At this time, the Purchaser has indicated that, subject to finalization of acceptable lease arrangements, it intends to continue operations at 48 of the 55 retail locations operated by Golf Town at the commencement of the CCAA proceedings;

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<sup>1</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them, as applicable, in the affidavit of David Roussy sworn September 13, 2016 or the Purchase Agreement.

6. The Vendors, with the consent of the Monitor, have issued notices to disclaim seven leases that the Purchaser has indicated it will not be assuming;
7. The Purchaser has reached, or expects to reach, agreement with landlords with respect to lease arrangements for the balance of the Retained Locations. The Vendors are bringing this motion, as required pursuant to the terms of the Purchase Agreement, to obtain the assignment of the leases for a subset of the Retained Locations;
8. The terms of the DIP Agreement and related milestones require the Golf Town Entities to bring this motion on or before October 21, 2016 and to obtain the Assignment Order, if necessary, on or prior to October 28, 2016;
9. The Purchaser, with the assistance of the Vendors as required, will continue to advance discussions with landlords with whom agreement has not yet been reached, including landlords in respect of the proposed Assigned Leases, in an effort to reach agreement with respect to lease arrangements at the Retained Locations and avoid the need for Assignment Orders;
10. In the event that certain real property leases have not been assumed by the Purchaser upon the closing of the Golf Town Transaction but the Purchaser wishes to continue discussions with landlords under such leases, the Purchaser may occupy certain store premises for up to 60 days post-closing (as contemplated by the Purchase Agreement) to determine whether it can reach arrangements for the assignment of such leases (through agreement or subsequent Court order) or whether such leases may be disclaimed pursuant to the CCAA;
11. Upon completion of the Golf Town Transaction, the Golf Town Business will have a significantly improved financial position and will be operated by an experienced and well-capitalized ownership group. Accordingly, the Golf Town Entities believe that the Purchaser has the capacity to perform its obligations in respect of the Assigned Leases;
12. The Purchase Agreement and the proposed Assignment Order provide for the payment of all amounts necessary to cure any monetary defaults under the Assigned Leases in connection with the closing of the Golf Town Transaction;

13. The Monitor supports the assignment of the Assigned Leases and will be filing its Third Report prior to the return of the motion;
14. The Golf Town Entities believe that the assignment of the 13 Assigned Leases pursuant to the Assignment Order is appropriate in the circumstances and in the best interests of the Golf Town Entities and their stakeholders for a variety of reasons, including:
  - (a) upon completion of the Golf Town Transaction, the Purchaser will step into the shoes of the Vendors and continue to operate a substantial majority of Golf Town's existing retail locations;
  - (b) the continued operation of the Retained Locations for which the Assignment Order is sought will preserve employee, supplier and customer relationships and facilitate the completion of the Golf Town Transaction;
  - (c) to the extent that the Purchaser designates certain of the Assigned Leases as Material Contracts on or prior to October 26, 2016, the assignment of such Material Contracts (pursuant to the Assignment Order or otherwise) will be a condition precedent for the completion of the Golf Town Transaction; and
  - (d) absent the assignment of the Assigned Leases to the Purchaser and the completion of the Golf Town Transaction, it is very likely that the Assigned Leases would be disclaimed and operations at the underlying retail stores would be discontinued;
15. The provisions of the CCAA and this Court's equitable and statutory jurisdiction thereunder;
16. Rules 1.04, 1.05, 2.03, 3.02, 16, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
17. Such further and other grounds as counsel may advise and this Court may permit.



**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of this Motion:

1. An affidavit to be sworn by David Roussy, Chief Executive Officer of Golf Town Canada Inc.;
2. The Monitor's Third Report; and
3. Such further and other materials as counsel may advise and this Court may permit.

Date: October 21, 2016

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TO: THE SERVICE LIST

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

Court File No: CV-16-11527-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF GOLF TOWN CANADA HOLDINGS INC., GOLF TOWN CANADA INC. AND GOLF TOWN GP II INC.**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

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(Motion Returnable October 27, 2016)**

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Court File No.: CV-16-11527-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

<b>THE HONOURABLE</b>	)	<b>THURSDAY, THE 27<sup>TH</sup></b>
	)	
<b>JUSTICE NEWBOULD</b>	)	<b>DAY OF OCTOBER, 2016</b>

**IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

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**ASSIGNMENT ORDER**

**THIS MOTION**, made by Golf Town Canada Holdings Inc., Golf Town Canada Inc. (“**GT Canada**”), Golf Town GP II Inc., Golf Town Operating Limited Partnership (“**Golf Town LP**”) and Golfsmith International Holdings LP (collectively, the “**Golf Town Entities**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an Order approving the assignment of certain real property leases (the “**Assignment**”) to Golf Town Limited (formerly 9918167 Canada Inc.) (the “**Purchaser**”) as contemplated by a Purchase Agreement dated as of September 14, 2016 (the “**Purchase Agreement**”) between GT Canada and Golf Town LP (together, the “**Vendors**”) and the Purchaser was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavits of David Roussy sworn September 13, 2016 and October 21, 2016, the affidavit of Robert White sworn September 23, 2016 and the third report (the “**Third Report**”) of FTI Consulting Canada Inc., in its capacity as monitor of the Golf Town Entities (the “**Monitor**”) in the within proceedings, and on hearing the submissions of counsel

for the Golf Town Entities, the Purchaser and the Monitor and such other counsel as were present and wished to be heard:

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used and not otherwise defined herein shall have the meanings given to them, as applicable, in the Approval and Vesting Order granted in these proceedings on September 30, 2016 (as amended, the “**Approval and Vesting Order**”) or the Purchase Agreement.

### **ASSIGNMENT OF AGREEMENTS**

3. **THIS COURT ORDERS** that upon delivery of the Monitor’s Certificate referred to in the Approval and Vesting Order (the “**Monitor’s Certificate**”), all of the rights and obligations of the Vendors under the real property leases set out in Schedule “A” hereto, including all associated or related agreements, schedules, appendices, addendum, amendments, supplements, restatements or other modifications (each an “**Assigned Lease**” and collectively, the “**Assigned Leases**”) shall be assigned to the Purchaser pursuant to section 11.3 of the CCAA.

4. **THIS COURT ORDERS** that upon delivery of the Monitor’s Certificate, the Purchaser shall be entitled to all of the rights and benefits and subject to all of the obligations and restrictions as tenant pursuant to the terms of the Assigned Leases and registrations thereof and may enter into and upon and hold and enjoy each such premises contemplated by the Assigned Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Assigned Leases, without any interruption from the Vendors, any landlord under an Assigned Lease or any other person claiming through or under the Vendors or a landlord under the Assigned Leases.

5. **THIS COURT ORDERS** that the assignment of the Assigned Leases to the Purchaser pursuant to this Order is valid and binding upon all of the counterparties to the Assigned Leases

notwithstanding any restriction or prohibition contained in any such Assigned Leases relating to the assignment thereof, including, without limitation, any provision requiring the consent of any party to the assignment.

6. **THIS COURT ORDERS** that the Vendors' right, title and interest in and to the Assigned Leases shall vest absolutely in the Purchaser as Purchased Assets in accordance with the provisions of the Approval and Vesting Order, provided that, except as may otherwise be agreed to by the Purchaser and the applicable counterparty to an Assigned Lease (a "**Landlord**"), nothing in the Approval and Vesting Order shall affect the rights and remedies of such Landlord against the Purchaser that may exist or arise under or in respect of an Assigned Lease.

7. **THIS COURT ORDERS** that each Landlord is prohibited from exercising any right or remedy as against the Purchaser by reason of any defaults thereunder arising from the assignment of the Assigned Lease, the insolvency of the Vendors, the commencement of these CCAA proceedings or proceedings in respect of affiliates of the Vendors pursuant to chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 ("**Chapter 11**"), or the Vendors having breached a non-monetary obligation under the Assigned Lease, unless such non-monetary breach arises or continues after the Assigned Lease is assigned to the Purchaser, such non-monetary default is capable of being cured by the Purchaser, and the Purchaser has failed to remedy the default after having received notice of such default pursuant to the terms of the Assigned Lease. For clarification purposes, no Landlord shall rely on a notice of default sent to the Vendors to terminate an Assigned Lease as against the Purchaser.

8. **THIS COURT ORDERS** that all monetary defaults in relation to an Assigned Lease existing prior to Closing, if applicable, other than those arising by reason only of the insolvency of the Vendors or their affiliates, the commencement of the CCAA or Chapter 11 proceedings, or the failure to perform a non-monetary obligation under the Assigned Lease, shall be paid to the applicable Landlord no later than three (3) business days following the delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** the Vendors to send a copy of this Order to each Landlord to an Assigned Lease.

10. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchaser to assume the Assumed Liabilities and to perform its obligations in respect of the Assigned Leases pursuant to the Purchase Agreement.

11. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to take such actions as it deems necessary or appropriate in the circumstances to assist the Vendors in the assignment and transfer of the Assigned Leases.

#### **GENERAL**

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or in any other foreign jurisdiction, to give effect to this Order and to assist the Golf Town Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Golf Town Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding or to assist the Golf Town Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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**SCHEDULE A  
ASSIGNED LEASES**

<b>Store No.</b>	<b>City and Province</b>	<b>Address</b>	<b>Lease Date</b>	<b>Landlord / Notice Party</b>
503	Woodbridge, ON	55 Colossus Dr., Unit 122	Feb. 7, 2000	RioCan Real Estate Investment Trust
504	Calgary, AB	47 Shawville Blvd. SE	Sept. 23, 2000	Telsec Property Corporation & Dallas Development Corporation Inc.
505	Edmonton, AB	1940 99th St. NW	Jan. 11, 2001	Riokim Holdings (Alberta) Inc
507	Richmond, BC	9751 Bridgeport Rd., Unit 130	Apr. 9, 2001	Cape Development Corp.
515	St. Hubert, QC	1571 Boulevard des Promenades	July 5, 2001	Capital Property Development CPD Inc.
519	Montreal, QC	6745 Metropolitaine Est	July 4, 2000	Marche de la Tour
524	Coquitlam, BC	2929 Barnet Highway, Unit 2142	Nov. 17, 2004.	Morguard Investments Limited
525	London, ON	1250 Fanshawe Park Rd. W, Unit B3	Mar. 28, 2005	Smart Centres Management Inc.
527	Calgary, AB	11450 Sarcee Trail	May 15, 2006	RioCan Real Estate Investment Trust
535	Windsor, ON	1695 Manning Rd.	Dec. 13, 2006	Calloway REIT
536	Saskatoon, SK	3015 Clarence Ave. S, Unit 110	Nov. 3, 2006	Smart Centres Management Inc.
549	Toronto, ON	147 Laird Dr., Unit 600	Dec. 22, 2006	Smart Centres Management Inc.
560	Edmonton, AB	5000 Emerald Dr., #300	Sept. 26, 2011	Morguard Investments Limited



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**AFFIDAVIT OF DAVID ROUSSY**  
(sworn October 24, 2016)

I, David Roussy, of the City of Austin, in the State of Texas, MAKE OATH AND SAY:

1. I am the Chief Executive Officer of Golf Town Canada Inc. ("**GT Canada**") and Golfsmith International Holdings, Inc. and have served in that capacity since June 2015. As such, I have personal knowledge of the Golf Town and Golfsmith corporate group and the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.
  
2. On September 14, 2016, Golf Town Canada Holdings Inc., GT Canada and Golf Town GP II Inc. (collectively, the "**Applicants**") sought and obtained an Order of this Court (the "**Initial Order**") providing creditor protection to the Applicants under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The protections and

authorizations in the Initial Order were also extended to Golf Town Operating Limited Partnership (“**Golf Town LP**”) and Golfsmith International Holdings LP (collectively with the Applicants, the “**Golf Town Entities**”). Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor (the “**Monitor**”) of the Golf Town Entities in the CCAA proceedings.

3. On September 30, 2016, this Court issued an Order (the “**Approval and Vesting Order**”) approving the going concern sale of the Golf Town Business (the “**Golf Town Transaction**”) to Golf Town Limited (formerly 9918167 Canada Inc.) (the “**Purchaser**”), an entity owned by Fairfax Financial Holdings Limited (“**Fairfax**”) and certain investment funds managed by CI Investments Inc. (“**CI**”), pursuant to a Purchase Agreement dated as of September 14, 2016 (the “**Purchase Agreement**”) between GT Canada and Golf Town LP (together, the “**Vendors**”) and the Purchaser.

4. Additional information with respect to the Golf Town Transaction and the background to these CCAA proceedings is set out in my affidavit sworn September 13, 2016 (the “**Initial Affidavit**”) and in the affidavit of Robert White sworn September 23, 2016 (the “**White Affidavit**”) in connection with the motion for approval of the Golf Town Transaction and, unless relevant to the present motion, is not repeated here. The Initial Affidavit and the White Affidavit, in each case without exhibits, are attached hereto as Exhibits “A” and “B”, respectively. Capitalized terms used but not defined herein have the meanings ascribed to them, as applicable, in my Initial Affidavit or the Purchase Agreement.

5. This affidavit is sworn in support of the Golf Town Entities’ motion for an Order (the “**Assignment Order**”), among other things, assigning 13 real property leases and related

agreements (the “**Assigned Leases**”) to the Purchaser in connection with the completion of the Golf Town Transaction. The Assigned Leases, which relate to certain of Golf Town’s existing retail locations, are listed on Schedule “A” to the Assignment Order. At this time, the Vendors are not seeking the assignment of any contracts other than such real property leases.

6. Since the granting of the Approval and Vesting Order, representatives of the Purchaser, with the assistance of the Vendors, have engaged in extensive discussions with Golf Town’s landlords to determine which of Golf Town’s retail stores the Purchaser will continue to operate (the “**Retained Locations**”) and to obtain landlord agreement to the assignment, amendment or renegotiation of the real property leases in respect of the Retained Locations.

7. As noted in my affidavit sworn October 20, 2016, the Golf Town Entities, with the consent of the Monitor, delivered notices on October 14, 2016 to disclaim the leases and related agreements in respect of five Golf Town locations that the Purchaser indicated it would not acquire, and in respect of a sixth location at which the Golf Town Entities had ceased operations in advance of the CCAA proceedings. On October 21, 2016, the Golf Town Entities, with the consent of the Monitor, delivered notices to disclaim the leases and related agreements in respect of two additional Golf Town locations that the Purchaser has indicated it will not acquire in connection with the Golf Town Transaction.

8. At this time, the Purchaser has indicated that, subject to finalization of acceptable lease arrangements, it intends to continue operations at 48 of the 55 retail locations operated by Golf Town at the commencement of the CCAA proceedings (Golf Town also leases the premises at

which it operates the Canadian corporate head office).<sup>1</sup> The Purchaser has reached, or expects to reach, agreement with landlords with respect to lease arrangements for the balance of the Retained Locations, including with respect to certain of the Assigned Leases that are the subject of this motion. However, the milestones in the DIP Agreement required the Company to bring a motion on or before October 21, 2016 (returnable not later than October 28, 2016) seeking the Assignment Order in respect of any agreement for which such relief may be required. The Purchaser, with the assistance of the Vendors as necessary, will continue to work with landlords through to the hearing of this motion with a view to reaching agreement on post-closing lease arrangements such that the Assignment Order is not required with respect to all or certain of the Assigned Leases.

9. The Golf Town Entities believe that the assignment of the Assigned Leases pursuant to the Assignment Order is appropriate in the circumstances. The Purchaser, which is financed by leading Canadian asset management firms with significant retail operating experience, will acquire substantially all of the assets of the Golf Town Business and continue operations at the vast majority of Golf Town's existing retail locations. The continued operation of the Retained Locations for which the Assignment Order is sought will preserve employee, supplier and customer relationships and facilitate the completion of the Golf Town Transaction for the benefit of the Golf Town Entities and their creditors. I understand that the Monitor supports the assignment of the Assigned Leases and will be filing the Monitor's Third Report prior to the return of the motion for the Assignment Order.

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<sup>1</sup> Pursuant to the Purchase Agreement, the Purchaser has until October 26, 2016 to make final determinations with respect to the Assumed Real Property Leases and other Assumed Contracts to be assumed by the Purchaser at closing.

**I. KEY TERMS OF THE PURCHASE AGREEMENT WITH RESPECT TO CONTRACTUAL ASSIGNMENTS**

10. The Purchase Agreement contains the following key provisions with respect to the assignment of Assumed Contracts:

- (a) the Purchaser has the right until October 26, 2016 to designate each contract of the Vendors that shall constitute an Assumed Contract (which includes Assumed Real Property Leases) for purposes of the Golf Town Transaction;
- (b) the Vendors are required to use commercially reasonable efforts to obtain, at or prior to closing, requisite Third Party Consents or the Assignment Order to effectuate the assignment of the Assumed Contracts;
- (c) for Assumed Contracts that are designated as Material Contracts by the Purchaser, the assignment of such Material Contracts to the Purchaser through Third Party Consents or the Assignment Order is a condition to the completion of the Golf Town Transaction;
- (d) the Purchaser shall assume all obligations and liabilities in respect of the Assumed Contracts due or accruing due after October 31, 2016;
- (e) all Cure Costs in respect of the Assumed Contracts will be satisfied in connection with the completion of the Golf Town Transaction; and
- (f) in the event that certain real property leases have not been assumed by the Purchaser at closing, the Purchaser shall have the option to occupy designated premises (at its sole cost and expense) for a maximum of 60 days following

closing (the “**Post-Closing Occupancy Period**”), during which period the Purchaser shall reach final decisions as to whether the Purchaser will continue operations at the designated locations.

## **II. NEGOTIATION AND FINALIZATION OF LEASE ARRANGEMENTS**

11. Since the execution of the Purchase Agreement, the parties have engaged in extensive discussions and negotiations with the Vendors’ landlords and other contractual counterparties with respect to the assignment and/or amendment of the Assumed Contracts. The Purchase Agreement authorizes the Purchaser and its representatives to engage in discussions with the Vendors’ landlords, suppliers and other persons with whom the Vendors have material commercial dealings with respect to any Assumed Contract, including with respect to the assignment, novation or related arrangements in respect thereof. The Purchaser, at its request, has taken a leading role in connection with the process to obtain the assignment and/or amendment of the Vendors’ leases and other contracts.

12. I am informed by representatives of the Purchaser that the Purchaser has been working diligently to obtain consents to the assignment and/or amendment of the Assumed Contracts in connection with the closing of the Golf Town Transaction. Representatives of the Purchaser have contacted substantially all of the counterparties to the Assigned Leases and other Assumed Contracts to discuss the assignment and/or amendment of agreements and to finalize appropriate documentation with respect to the arrangements. As a result of these efforts, the Purchaser has reached, or expects to reach, agreement with landlords with respect to lease arrangements, effective on the closing of the Golf Town Transaction, for the balance of the Retained Locations that are not the subject of this motion. The Assignment Order seeks the assignment of leases for



a subset of the Retained Locations for which there are not post-closing arrangements with landlords at this time.

13. The Purchaser has made substantial progress, in little more than a month since the execution of the Purchase Agreement, to obtain agreement with respect to the assignment and/or amendment of the leases for a majority of the Retained Locations. The Purchaser, with the assistance of the Vendors as required, will continue to advance discussions with landlords with whom agreement has not yet been reached, including landlords in respect of the proposed Assigned Leases, in an effort to reach agreement with respect to lease arrangements at the Retained Locations and avoid the need for the Assignment Order. To the extent that the Purchaser is able to obtain such consents prior to the return date of this motion, the relevant Assigned Lease will be removed from the schedule of Assigned Leases pursuant to the Assignment Order.

14. The Purchaser may also indicate on or before October 26, 2016 that certain of the 13 Assigned Leases will not be Assumed Contracts for purposes of the Purchase Agreement, in which case the Golf Town Transaction will be completed without such Assigned Leases and such Assigned Leases may be disclaimed in the CCAA proceedings.

15. In the event that certain real property leases have not been assumed by the Purchaser upon the closing of the Golf Town Transaction, the Purchaser has the option pursuant to the Purchase Agreement to designate, at least two days prior to closing, premises that the Purchaser will occupy during the 60-day Post-Closing Occupancy Period at the Purchaser's sole cost and expense, including all occupancy and operating costs. During this period, operations would continue from the designated locations while the Purchaser determines whether it can obtain

acceptable lease arrangements with respect to such locations (whether through agreement with the applicable landlord or a subsequent assignment order pursuant to the CCAA) or whether the applicable real property leases may be disclaimed in the CCAA proceedings. While the Purchaser has indicated that its preference is to finalize lease arrangements with respect to all Retained Locations prior to closing, it will continue to evaluate whether it is necessary to make use of the Post-Closing Occupancy Period in respect of certain premises.

16. In the White Affidavit sworn in connection with the motion for approval of the Golf Town Transaction, the Golf Town Entities noted that they intended to bring a motion seeking an Assignment Order on or before October 28, 2016 to the extent necessary to effectuate any required assignments. In addition, I am informed by Melaney Wagner of Goodmans LLP, counsel to the Golf Town Entities, that each counterparty to an Assigned Lease or its counsel has been given notice of the Golf Town Entities' motion for the Assignment Order and that discussions have occurred with counsel for certain of the landlords with respect to the terms of the Assignment Order.

### **III. THE ASSIGNMENT ORDER SHOULD BE GRANTED**

#### **A. The Purchaser is Able to Perform the Obligations under the Assigned Leases**

17. The Purchaser has advised, and the Golf Town Entities believe, that the Purchaser has the financial ability to perform the obligations under the Assigned Leases. The Purchaser is an entity owned by Fairfax and CI, which are leading Canadian asset management firms. As set out in my Initial Affidavit, Fairfax's common shares are listed on the Toronto Stock Exchange and it has worldwide investments across a variety of sectors, including significant investments in the Canadian retail sector. CI is a subsidiary of CI Financial Corp., a diversified wealth management

fund listed on the Toronto Stock Exchange, and CI manages approximately C\$100 billion on behalf of two million Canadian investors.

18. In addition, the restructuring of the Golf Town Business undertaken in connection with the Golf Town Transaction and the CCAA proceedings will enhance the financial stability of the Golf Town Business and the Purchaser's ability to perform the obligations under the Assigned Leases moving forward. In particular:

- (a) the Golf Town Business will be acquired by the Purchaser free and clear of Golf Town's existing secured debt obligations and related debt service costs, to allow a sustainable capital structure moving forward;
- (b) the closure of underperforming stores in connection with the CCAA proceedings will improve profitability and free up working capital to support the operation of the Golf Town Business;
- (c) the Purchaser expects to have reached agreement on revised lease arrangements, effective on closing, with respect to a majority of the Retained Locations, which revised arrangements will reduce occupancy costs and enhance liquidity for the Golf Town Business; and
- (d) recent improvements in golf participation rates and the strategic initiatives undertaken by Golf Town to capitalize on market opportunities are expected to improve the financial performance of the Golf Town Business moving forward.

19. Upon its emergence from CCAA protection, the Golf Town Business will have a significantly improved financial position and will be operated by an experienced and well-capitalized ownership group. Accordingly, the Golf Town Entities believe that the Purchaser has the capacity to perform its obligations in respect of the Assigned Leases.

**B. Monetary Defaults in Respect of the Assigned Leases will be Remedied**

20. The Purchase Agreement and the proposed Assignment Order provide for the payment of all amounts necessary to cure any monetary defaults under the Assigned Leases at closing. Seller Cure Costs, comprised of all rent and additional rent payments owing at October 31, 2016 pursuant to Assumed Real Property Leases, are payable by the Vendors pursuant to the Purchase Agreement.

21. Prior to the return date of the motion for the Assignment Order, the Vendors intend to send a letter (the “**Landlord Letter**”) to each landlord under an Assumed Real Property Lease that, among other things, sets out the total Cure Costs in respect of such Assumed Real Property Lease based on the books and records of the Vendors. The Landlord Letter will request that the landlord sign and return a copy of the letter to the Vendors to evidence the landlord’s agreement with the quantification of applicable Cure Costs. For purposes of the Assignment Order, the Cure Costs payable in connection with the assignment of the Assigned Leases shall be the Cure Costs set forth in the Landlord Letter and confirmed by the applicable landlord, or as otherwise agreed by the parties.

22. The proposed Assignment Order provides that all monetary defaults in relation to an Assigned Lease existing prior to closing of the Golf Town Transaction, other than those arising by reason only of the insolvency of the Golf Town Entities or the U.S. Debtors, the initiation of

the CCAA or Chapter 11 proceedings, or the failure to perform a non-monetary obligation under the Assigned Lease, shall be paid to the applicable landlord under the Assigned Lease no later than three business days following the delivery of the Monitor's Certificate evidencing completion of the Golf Town Transaction.

23. Accordingly, all monetary defaults in respect of the Assigned Leases will be satisfied in connection with the closing of the Golf Town Transaction and the assignment of the Assigned Leases to the Purchaser.

**C. The Assignment of the Assigned Leases is Appropriate**

24. The assignment of the Assigned Leases is in the best interests of the Golf Town Entities and their stakeholders and the Golf Town Entities believe that the granting of the Assignment Order is appropriate for a number of reasons, including:

- (a) the Golf Town Transaction provides a going concern solution for the Golf Town Business that will maximize value and result in the continuation of the Golf Town Business for the benefit of a broad range of stakeholders;
- (b) upon completion of the Golf Town Transaction, the Purchaser will step into the shoes of the Vendors and continue to operate a substantial majority of Golf Town's existing retail locations;
- (c) the Purchaser is in a position to continue operations at the 13 Retained Locations for which the Assignment Order is sought provided that the underlying real property leases are assigned to the Purchaser;

- (d) the Court-ordered assignment of the Assigned Leases will preserve employment and customer relationships at the applicable Retained Locations;
- (e) to the extent that the Purchaser designates certain of the Assigned Leases as Material Contracts on or prior to October 26, 2016, the assignment of such Materials Contracts (pursuant to the Assignment Order or otherwise) will be a condition precedent for the completion of the Golf Town Transaction;
- (f) completion of the Golf Town Transaction is a condition to the completion of the Golfsmith Restructuring pursuant to the terms of the Support Agreement;
- (g) it is an event of default under the DIP Agreement if the Assignment Order is not granted on or prior to October 28, 2016;
- (h) absent the assignment of the Assigned Leases to the Purchaser and the completion of the Golf Town Transaction, it is very likely that the Assigned Leases would be disclaimed and monetary defaults would not be cured, and operations at the underlying retail stores would be discontinued;
- (i) monetary defaults in respect of the Assigned Leases will be paid in connection with the closing of the Golf Town Transaction;
- (j) none of the Assigned Leases are (i) agreements that have been entered into subsequent to the commencement of the CCAA proceedings; (ii) eligible financial contracts, or (c) collective agreements; and

(k) the advantages of assigning the Assigned Leases significantly outweigh any conceivable negative effects to the applicable landlords as a result of the assignment of the Assigned Leases.

**IV. CONCLUSION**

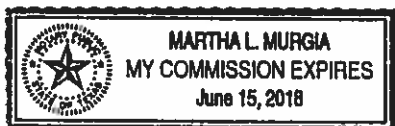
25. The Golf Town Entities and the Purchaser are working diligently to complete the Golf Town Transaction, pursuant to which the Purchaser will acquire substantially all of the assets of the Golf Town Business and continue operations at the vast majority of Golf Town's existing retail locations. The Purchaser expects to reach agreement with landlords regarding lease arrangements for substantially all of the Retained Locations and is seeking an Assignment Order with respect to a subset of the applicable real property leases. The granting of the Assignment Order will enable the Purchaser to carry on operations at the relevant locations upon completion of the Golf Town Transaction and will facilitate the completion of the Golf Town Transaction for the benefit of the Golf Town Entities and a broad range of their stakeholders.

26. Accordingly, I swear this affidavit in support of the Assignment Order and for no improper purpose.

SWORN BEFORE ME at the City of Austin, in the State of Texas, on October 24, 2016.

*Martha L. Murgia*  
A Commissioner for taking affidavits

*David Roussy*  
David Roussy



A



**THIS IS EXHIBIT "A"  
TO THE AFFIDAVIT OF DAVID ROUSSY  
SWORN BEFORE ME THIS 24<sup>TH</sup> DAY OF OCTOBER, 2016**

*Martha L. Murgia*  
\_\_\_\_\_  
Commissioner for Taking Affidavits



Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF GOLF TOWN CANADA HOLDINGS INC., GOLF TOWN CANADA INC. AND  
GOLF TOWN GP II INC.**

Applicants

**AFFIDAVIT OF DAVID ROUSSY**  
(sworn September 13, 2016)

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**ONTARIO**  
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Applicants

**AFFIDAVIT OF DAVID ROUSSY**  
(sworn September 13, 2016)

I, David Roussy, of the City of Austin, in the State of Texas, MAKE OATH AND SAY:

1. I am the Chief Executive Officer of Golf Town Canada Inc. ("**GT Canada**") and, together with its subsidiaries "**Golf Town**") and Golfsmith International Holdings, Inc. ("**GS Holdings**") and, together with its subsidiaries and Golf Town USA LLC, "**Golfsmith**") and have served in that capacity since June 2015. As such, I have personal knowledge of the Golf Town and Golfsmith corporate group (the "**Company**") and the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.
2. This affidavit is sworn in support of an application for an Order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

(the “**CCAA**”), in respect of Golf Town Canada Holdings Inc. (“**Golf Town Holdings**”), GT Canada and Golf Town GP II Inc. (collectively, the “**Applicants**”). The Applicants also request that this Court exercise its jurisdiction to extend the protections and authorizations under the proposed Initial Order to Golf Town Operating Limited Partnership (“**Golf Town LP**”) and Golfsmith International Holdings L.P. (“**Holdings LP**” and, together with the Applicants and Golf Town LP, the “**Golf Town Entities**”).

3. The Golf Town Entities are initiating these CCAA proceedings at this time to implement a sale (the “**Golf Town Transaction**”) of Golf Town’s Canada-based business (the “**Golf Town Business**”) to an entity (the “**Purchaser**”) owned by Fairfax Financial Holdings Limited (“**Fairfax**”) and certain investment funds managed by CI Investments Inc. (“**CI**”). The Golf Town Transaction will maximize value, provide the Golf Town Business with a sustainable capital structure and retail footprint moving forward, and create stability for the Golf Town Business and its key stakeholders, including its employees, suppliers, customers and other key stakeholders.

4. Concurrently with this application, certain Golfsmith entities (the “**U.S. Debtors**”) will file voluntary petitions for relief pursuant to title 11, chapter 11 (“**Chapter 11**”) of the *United States Code* (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) to provide stability to Golfsmith’s U.S.-based business (the “**Golfsmith Business**”) while the U.S. Debtors advance and implement a restructuring of the Golfsmith Business (the “**Golfsmith Restructuring**”). The Golfsmith Restructuring will achieve a going concern restructuring of the Golfsmith Business, a significant deleveraging of

the Company's capital structure, and the refinancing or repayment in full of the Company's first lien Credit Facility.

5. The Company believes that the Golf Town Transaction and the Golfsmith Restructuring are the best available outcome for the Company and its stakeholders in the circumstances. Fairfax and CI, which collectively hold approximately 40% of the Company's second lien Secured Notes (as defined below), have entered into an agreement (the "**Support Agreement**") pursuant to which they and other Secured Noteholders that enter into the Support Agreement following its announcement (collectively, the "**Supporting Noteholders**") will support the Golf Town Transaction and the Golfsmith Restructuring on the terms set forth in the Support Agreement.

6. If implemented, the transactions will result in the going concern sale of the Golf Town Business and a reorganization of the Golfsmith Business. The transactions provide a broad overall solution for the Company for the benefit of its suppliers, employees, customers and other key stakeholders. As part of its interim financing arrangements, the Company has agreed to undertake a dual track sale process in the Chapter 11 proceedings to explore the potential for an alternative transaction for the Golfsmith Business that maximizes value for the benefit of stakeholders. Concurrently with these efforts, the Company intends to advance the Golfsmith Restructuring with the Supporting Noteholders and to take steps to refinance or repay the Credit Facility obligations in connection with the completion of the restructuring.

7. The Golf Town Transaction and the Support Agreement are the result of an extensive exploration of strategic alternatives carried out by the Company and its professional advisors to address the financial and operational challenges of the Golf Town Business and the Golfsmith

Business (together, the “**Business**”) and to maximize value for the benefit of stakeholders. The comprehensive Operational and Strategic Review (as defined below) has included the review of operations, cost reduction initiatives, discussions and negotiations with key stakeholders, the pursuit of recapitalization and restructuring alternatives, and the Sale Process.

8. The transactions will stabilize and, on a go forward basis, improve the liquidity and financial position of the Golf Town Business and the Golfsmith Business, while also allowing the continued operation of a significant number of the Company’s existing retail locations and corresponding continuation of supplier, employee and customer relationships. Given the Company’s current financial circumstances and the need to preserve the stability and value of the Business pending the completion of a comprehensive restructuring of the Company, the Company is seeking to implement the Golf Town Transaction in the CCAA proceedings and to advance and implement the Golfsmith Restructuring in the Chapter 11 proceedings.

## **I. OVERVIEW**

9. The Company is a leading specialty retailer of golf equipment, consumables, apparel and accessories in North America. The Company sells a broad selection of golf products from leading national brands and its own private labels and operates through an extensive retail store network and direct-to-consumer channels. The Golf Town Business operates 55 stores across nine Canadian provinces and the Golfsmith Business operates 109 stores across 29 U.S. states. The Company’s retail stores offer a full range of golf-related merchandise, service and activities.

10. Recent improvements in golf participation rates and market dynamics are expected to result in future growth for the golf industry and retailers of golf equipment and merchandise. However, the Company has experienced financial and liquidity challenges as a result of its

leveraged capital structure and weakness over the past number of years in the golf industry and the broader economy. These challenges have made it difficult for the Company to access required working capital to support its seasonal Business, sustain its expansive retail network and support its debt service costs. As described further below, the Company's primary secured indebtedness, which is secured against substantially all of Golf Town and Golfsmith's assets and property in Canada and the United States, consists of:

- (a) a first-ranking secured credit facility (the "**Credit Facility**") with aggregate obligations (the "**Credit Facility Obligations**") of approximately US\$106 million; and
- (b) second-ranking secured notes (the "**Secured Notes**"), bearing interest at 10.5% and maturing in 2018, in the aggregate principal amount outstanding of C\$125 million.

11. The Company's capital structure and working capital requirements cannot be supported by current operating performance. As a result of industry and competitive trends, the Company's net sales have declined in each of the past three fiscal years and its margins have come under pressure. Following the merger of Golf Town and Golfsmith in 2012 (the "**Merger**"), the Company's 2012 adjusted consolidated earnings before interest, taxes and depreciation ("**EBITDA**")<sup>1</sup> was approximately US\$46.6 million. However, as a result of industry and operational challenges, the Company's EBITDA declined to approximately US\$13 million in 2015, while its debt service costs in respect of the Credit Facility and the Secured Notes exceed US\$16 million annually. The Company has a leveraged capital structure of approximately 15x

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<sup>1</sup> "Adjusted EBITDA" is EBITDA adjusted for non-recurring store level costs.



adjusted EBITDA based on 2015 financial results. In these circumstances, the Company's capital structure and working capital requirements, exacerbated by the seasonality of the Business, are not sustainable and restrict the Company's ability to undertake initiatives necessary to support and grow the Business.

12. In response to a substantial decline in EBITDA from 2012 to 2014, the Company, with the assistance of its advisors, made significant efforts to explore and advance operational and strategic alternatives to identify business enhancements, address its liquidity challenges, deleverage its balance sheet and position the business for future growth (the "**Operational and Strategic Review**"). The Operational and Strategic Review has included:

- (a) the engagement of Alvarez & Marsal North America LLC (together with its affiliates, "**A&M**") in 2014 to assist the Company in performing a review of possible business enhancements and cost reduction initiatives, developing and improving controls for forecasting and monitoring cashflows, and strengthening stakeholder communications;
- (b) the transition to a new senior leadership team in 2015 and development and implementation of the Company's "Next Generation Strategy" to capitalize on market opportunities;
- (c) the engagement of A&M in 2016 to assist the Company in an in-depth review of the Company's business, operations, financial outlook and strategic alternatives, including a comprehensive review of the Company's retail store network

analysing, among other things, operating performance, lease and occupancy costs on a store-by-store basis, and attractiveness and significance of local golf markets;

- (d) the exploration of various restructuring and recapitalization initiatives for the Business, including the development and advancement of potential restructuring and recapitalization alternatives with certain of the Company's key stakeholders in an effort to deleverage the Company's balance sheet, enhance its liquidity, and position it for improved financial performance; and
- (e) the engagement of Jefferies LLC ("**Jefferies**") in June 2016 to assist the Company in its ongoing review of strategic alternatives and to undertake a comprehensive Sale Process to solicit interest in sale or other restructuring transactions in respect of the Company and its business and assets.

13. The ongoing Operational and Strategic Review indicates that the Company's capital structure and expansive store footprint is impeding its ability to sustain the liquidity necessary to support the Business and achieve strong financial performance. Both a financial and operational restructuring is necessary to enable the Company to address its liquidity challenges and to invest in its strategic growth initiatives.

14. In the exercise of their business judgment, the directors of Golfsmith International Holdings GP Inc. ("**Holdings GP**") and the Golf Town Entities believe that the Golf Town Transaction, together with the Golfsmith Restructuring, represents the best available outcome for the Company and its stakeholders in the circumstances. The Sale Process, conducted in two phases over three months, generated significant interest. Following the Company's extensive

review of the offers received in the Sale Process, with the assistance of Jefferies, A&M, FTI Consulting Canada Inc. (“**FTI**”) (as the proposed Monitor in these proceedings) and legal counsel, the Company resolved to proceed with (i) the Golf Town Transaction and enter into an asset purchase agreement (the “**Golf Town APA**”) with the Purchaser, and (ii) the Golfsmith Restructuring and enter into the Support Agreement.

15. The Golf Town Transaction will result in, among other things:

- (a) the acquisition of the Golf Town Business on a going concern basis, including the acquisition of inventory and other working capital assets and the anticipated continuance of operations at the majority of the existing retail locations of the Golf Town Business, subject to the Purchaser and applicable landlords reaching satisfactory arrangements on amended lease terms;
- (b) the anticipated continued employment of a majority of the employees of the Golf Town Business and the preservation of supplier and customer relationships;
- (c) proceeds to repay a substantial portion of the Credit Facility and to reduce the Company’s leverage and interest costs while the Company advances and implements the Golfsmith Restructuring.

16. The Golfsmith Restructuring allows for, among other things:

- (a) a restructured Golfsmith or newly-incorporated company (“**Restructured Golfsmith**”) will operate the Golfsmith Business following the completion of a

financial and operational restructuring of the Golfsmith Business that will result in a rationalization of Golfsmith's retail store footprint;

- (b) a deleveraging of the Golfsmith Business through an exchange of the Secured Notes for new second lien notes issued by Restructured Golfsmith (the "**New Secured Notes**") and 100% of the equity in Restructured Golfsmith;
- (c) the New Secured Notes will have a principal amount of US\$35 million (a reduction of approximately US\$60 million relative to the principal amount of the Secured Notes), an extended maturity date of three years from the completion of the Golfsmith Restructuring, and an option for the Company to pay interest in kind rather than in cash;
- (d) the refinancing of the remaining portion of the Credit Facility following the application of the proceeds of the Golf Town Transaction; and
- (e) the optionality to maximize value through a possible alternative transaction, including a sale of the Golfsmith Business in the Chapter 11 proceedings.

17. The completion of the Golf Town Transaction is a condition to the completion of the Golfsmith Restructuring. However, the Golf Town Transaction can proceed even where the Golfsmith Restructuring is not completed. The Support Agreement provides the Company with the flexibility to complete the Golfsmith Restructuring or to effectuate a sale of the Golfsmith Business for the benefit of all stakeholders.

18. Despite significant interest in the Company in connection with the Sale Process, the results of the Sale Process and the value of the Golf Town Transaction and the Golfsmith Restructuring indicate that there is likely to be insufficient value to repay in full the obligations under the second lien Secured Notes. Accordingly, is it not anticipated that there will be any value for unsecured creditors of the Company in connection with the transactions.

19. The objective of these CCAA proceedings is to ensure stability and protect the value of the Golf Town Business pending the completion of the Golf Town Transaction and to complete an orderly wind-down of those aspects of the Golf Town Business that are not being acquired by the Purchaser in connection with the Golf Town Transaction. While the Golf Town Transaction is expected to result in the continued operation of the majority of Golf Town's existing retail locations subject to the Purchaser and applicable landlords reaching satisfactory arrangements on amended lease terms, it is anticipated that certain Golf Town locations (the "**Excluded Locations**") will not be acquired by the Purchaser.

20. In order to provide the Company with immediate liquidity to operate the Business while the Company seeks to complete the Golf Town Transaction and advance the Golfsmith Restructuring, the lenders of the Company's Credit Facility (the "**First Lien Lenders**") have committed to provide the Company with interim financing on a senior secured basis (the "**DIP Facility**"), with payments to be made in accordance with the Approved Budget (as defined in the DIP Agreement). The DIP Facility is described in more detail below.

21. In these circumstances, the Company is seeking the Initial Order to maintain stability and continuity of the Business for the benefit of stakeholders while the Golf Town Transaction and the Golfsmith Restructuring are completed. The Golf Town Transaction and the Golfsmith

Restructuring provide an overall going concern outcome with significant Secured Noteholder support that protects the interests of customers, suppliers and employees of the Business.

22. The Golf Town Entities are not seeking approval of the Golf Town Transaction as part of the Initial Order. However, if this Court grants the Initial Order, the Golf Town Entities intend to bring a motion before this Court as soon as possible and on notice to all affected parties to seek approval of the Golf Town Transaction and other related relief (the “**Sale Approval Motion**”).

## **II. BACKGROUND REGARDING THE COMPANY AND ITS BUSINESS**

### **A. Formation of the Company**

23. Golf Town was founded in 1998 and opened its first store in 1999. Since its founding, Golf Town has expanded across Canada and has become the only standalone national golf speciality retailer in Canada. OMERS Private Equity, the private equity investment arm of the OMERS pension plan, acquired Golf Town Income Fund (a predecessor to Golf Town) through a go-private transaction in 2007.

24. Golfsmith was established in 1967 as a clubmaking company, offering custom-made clubs, components and repair services. It opened its first retail store in 1972 and commenced a direct sale catalogue business in 1975. Golfsmith has operated storefront and direct-to-consumer businesses in the United States for over 40 years and is the largest multi-channel golf speciality retailer in the United States.

25. In 2012, Golfsmith merged with Golf Town and the Company, comprised of the Golf Town Business and the Golfsmith Business, became the largest specialty golf retailer in North

America. Golf Town and Golfsmith are important specialty retail players in Canada and the United States, respectively. As described further below, an indirect subsidiary of OMERS Administration Corp. (“OMERS”) holds substantially all of the ultimate economic interest in the Company.

## **B. The Business**

26. The Company generates substantially all of its revenue from the sale of golf-related equipment, apparel and accessories. The Company sells a broad selection of golf products from leading national brands and also develops, promotes and sells golf products featuring its own proprietary private label brands. The Company operates through its extensive retail store network and through direct channels consisting of its e-commerce and catalogue platforms.

27. The Company operates 164 retail stores in Canada and the United States and has a diversified geographic footprint with an established presence in key markets. Golf Town operates 55 stores across nine Canadian provinces and Golfsmith operates 109 stores across 29 U.S. states and is concentrated in California, Florida, Texas, Illinois and key northeastern markets. The Company’s retail stores have an average size of approximately 21,500 square feet and carry an extensive selection of golf products and accessories. The Company’s retail stores also offer a full range of golf-related services and activities, including onsite club making, club fitting and club repair services; putting greens, golf simulators and hitting bays; and teaching academies staffed by certified golf professionals. With the exception of a retail store located at the Company’s Austin head office, the Company leases all of its retail store locations. Certain of the Golf Town and Golfsmith retail locations also sublease space to GolfTec Learning Centres,

which are at arm's length to the Company and provide precision club-fitting and professional golf instruction to customers.

28. The Golf Town Entities maintain a Canadian corporate office in Vaughan, Ontario and retail locations in nine Canadian provinces. Ontario has more Golf Town stores than any other province and Ontario stores produce the largest share of retail store revenue. The following table provides a breakdown by province of Golf Town's retail locations and associated employment levels:

<b>Province</b>	<b>Number of Retail Stores</b>	<b>Number of Retail Store Employees<sup>2</sup></b>
Alberta	8	258
British Columbia	7	170
Manitoba	2	63
New Brunswick	1	21
Newfoundland and Labrador	1	16
Nova Scotia	1	22
Ontario	23	584
Quebec	10	209
Saskatchewan	2	56
<b>TOTAL</b>	<b>55</b>	<b>1,399</b>

29. The Company's direct-to-consumer sales channel consists of a growing e-commerce platform and a catalogue business focused primarily on the sale of component parts to clubmakers. The Company's direct-to-consumer channel accounts for approximately 10% of the

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<sup>2</sup> This table reflects employment levels at Golf Town's retail stores as of June 30, 2016 and does not include non-retail store employees, such as those employed at the Canadian corporate office.



Company's sales, and growing and integrating the e-commerce business with the Company's existing retail network is an important element in the Company's business strategy.

(i) Suppliers

30. The Company has developed strong relationships with a broad range of suppliers of golf equipment, apparel and accessories, including the leading national golf brands. These relationships have enhanced the Company's ability to ensure product availability and reliability of supply, obtain access to high-demand and limited availability products, and receive pricing concessions and other support from suppliers. Although the Company has more than 330 suppliers, products supplied by its top ten suppliers account for more than 60% of all merchandise purchases by the Company in 2015.

31. While the majority of the suppliers of the Golf Town Business contract directly with the Golf Town Entities, certain suppliers supply products to Golf Town pursuant to formal agreements between such suppliers and the Golfsmith entities. Where payments are made by Golfsmith entities for inventory that is supplied to and used in the Golf Town Business, the Company has appropriate controls to track and account for such transactions. The Company believes that the continuation of these intercompany supply arrangements during the CCAA proceedings is in the best interests of all parties and will minimize the disruption that would result from the negotiation of amended supply arrangements between suppliers and the Golf Town Entities.

32. While the Company is actively managing its supplier relationships, certain of its suppliers have tightened credit terms or reduced shipments as a result of the Company's recent liquidity

challenges. It is critical to the preservation of the value of the Business that the Business is able to continue its relationships with key suppliers without disruption and on existing terms pending the completion of the Golf Town Transaction and the Golfsmith Restructuring. The proposed Initial Order authorizes the Golf Town Entities, subject to the Approved Budget, to pay certain pre-filing amounts to suppliers, with the consent of the Monitor and where necessary to maintain the uninterrupted operation of the Business.

(ii) *Distribution and Logistics – Golf Town*

33. The Company's retail locations are supplied through a combination of direct-to-store supplier shipments and shipments from centralized warehouses in Austin, Texas and Toronto, Ontario (the "**Toronto Warehouse**"). A portion of the Golf Town Business is supplied by the Toronto Warehouse, which is operated by National Logistics Services, Inc. ("**NLS**"), a third-party logistics provider. Golf Town retail locations receive approximately 80% of their inventory directly from suppliers and approximately 20% of their inventory through shipments from the Toronto Warehouse.

34. NLS was engaged to provide logistics services to the Golf Town Entities commencing in March 2015. NLS is responsible for all services required to operate the Toronto Warehouse, including receiving, verifying and inspecting shipments; preparing outbound shipments to third party transportation providers; and inventory management. The Toronto Warehouse receives inventory on a daily basis and replenishes inventory levels at Golf Town's retail stores on a weekly basis. The Toronto Warehouse also provides order fulfillment services for the e-commerce sales of the Golf Town Business and ships products directly to end consumers on a daily basis.

35. Golf Town uses the services of a number of third-party transportation service providers to transport goods between suppliers, the Toronto Warehouse, Golf Town retail stores and customers. Golf Town does not have its own transportation capability. Small shipments, including e-commerce purchases, are shipped primarily by UPS Canada at negotiated rates pursuant to a long-term contract with Golf Town. For larger shipments that require full or partial truckloads, Golf Town uses a number of third-party carriers to ship goods at tariffs that are published by the carriers (at negotiated rates) or facilitated through freight brokers. There are no long-term agreements between Golf Town and these carriers. Invoices are processed and paid by Golf Town's freight audit and pay partner, EnVista Concepts, LLC ("**EnVista**").

36. Freight forwarding services for the Golf Town Business are provided by BDP International ("**BDP**"), which arranges for the importation into Canada of certain products and inventory for the operation of the Golf Town Business. BDP is paid based on its published tariffs and its invoices are processed and paid by EnVista.

37. The continued supply of products to Golf Town's retail stores and customers during the CCAA proceedings is critical to the preservation of value and the continued operation of the Golf Town business without disruption pending the completion of the Golf Town Transaction and the orderly wind-down of the remaining Golf Town Business. Accordingly, the proposed Initial Order authorizes the Golf Town Entities, subject to the Approved Budget and with the consent of the Monitor, to make payments, if needed, to logistics and supply chain providers for services supplied to the Golf Town Entities prior to the date of the Initial Order.

(iii) Customer Payments, Programs and Gift Cards

38. Customers of the Golf Town Business purchase products using a number of payment methods, including payment by cash, credit card and gift cards. All customer credit card payments in respect of the Golf Town Business (including for retail store and e-commerce sales) are processed by a division of TD Bank, American Express or Discover. The related credit card processing fees are charged to Golf Town monthly in arrears and are settled on the first business day of each month through the application of funds in the Golf Town bank accounts at TD Bank. The proposed Initial Order authorizes the Golf Town Entities, subject to the Approved Budget and with the consent of the Monitor, to make payments, if needed, to providers of payment processing services (including credit card processing services) in respect of services supplied to the Golf Town Entities prior to the date of the Initial Order.

39. As is common throughout the retail industry, Golf Town maintains a variety of customer incentive and protection programs (the “**Customer Programs**”) to generate sales revenue and maximize customer loyalty. Golf Town’s Customer Programs include refund, return, exchange and price adjustment policies; seasonal discounts, competitor price matching, online promotion and discount codes, and free shipping on qualifying purchases; and warranty programs. In connection with the sale of certain custom-made products, Golf Town also requires customers to provide deposits (the “**Customer Deposits**”) to Golf Town in advance of the final delivery of such products. The proposed Initial Order provides that, subject to the Approved Budget, Golf Town is authorized, but not required, to continue to honour and fulfill its obligations in respect of the Customer Programs and Customers Deposits, including those relating to the pre-filing period, during the CCAA proceedings.

40. Golf Town also operates a prepaid gift card program. The gift cards are sold by Golf Town at its retail locations and through its e-commerce business. Golf Town also uses the services of certain third parties that arrange for the sale of Golf Town gift cards, on a commission basis, through authorized distribution channels, including at authorized retailers (such as grocery stores, convenience stores, and mass merchant retailers) and through various incentive and loyalty programs. The gift cards are redeemable for consumer purchasers at Golf Town stores (and not at Golfsmith stores) in the ordinary course of retail business. Golf Town uses the services of a third-party administrator to track sales and usage of gift cards. The proposed Initial Order provides that Golf Town is authorized, but not required, to honour its obligations in respect of gift cards issued prior to the granting of the Initial Order. The Golf Town Entities intend to continue selling gift cards following the initiation of these CCAA proceedings.

(iv) Employees

41. Golf Town employs approximately 350 full-time employees and 1,100 part-time employees on an aggregate basis at its retail locations and Canadian corporate office. The Golf Town employees are employed by Golf Town LP. Golfsmith employs approximately 1,050 full-time employees and 1,250 part-time and seasonal employees. The majority of the Golfsmith employees are employed by Golfsmith International, Inc. and senior management of the Company is employed by GS Holdings.

42. A significant majority of the Company's employees are paid on an hourly basis, and the Company generally supplements its workforce with part-time and seasonal employees at peak times due to the seasonality of its business. None of the Company's employees are unionized.

43. Golf Town uses the services of Payworks Canada, a payroll services provider, to manage payroll functions on behalf of Golf Town, including payroll processing and the collection and remittance of all related source deductions. Golf Town is current with respect to the remittance of employee source deductions and sales tax remittances.

44. Golf Town sponsors a group registered retirement savings plan (the “**Group RRSP**”) for eligible Canadian employees employed by Golf Town LP, which is administered by Great-West Life Assurance Company (“**Great-West Life**”). Golf Town collects employee contributions through payroll deductions and remits the employee contributions to the Group RRSP. Golf Town does not make employer contributions to the Group RRSP. There are approximately 80 employees enrolled in the Group RRSP at this time. Golf Town does not sponsor any registered pension plans.

45. Golf Town also sponsors a deferred profit sharing plan (the “**DPSP**”) for eligible employees, to which Golf Town makes contributions determined as a proportion of employee contributions to the Group RRSP, subject to Business profitability and annual maximums. The contributions are held in trust for beneficiaries of the DPSP by Investors Group Trust Co. Ltd, the trustee of the DPSP. The DPSP is administered by Great West-Life.

46. Golf Town sponsors certain benefit plans (including medical, dental and vision care and other benefits) for full-time employees and eligible part-time employees. The benefit plans are also administered by Great-West Life.

47. The proposed Initial Order authorizes, but does not require, the Golf Town Entities to make all outstanding and future employee benefit payments and all outstanding and future

contributions to or payments in respect of the Group RRSP and the DPSP in the ordinary course of business and consistent with existing compensation policies and arrangements.

48. Golfsmith maintains defined contribution plans for eligible employees in accordance with section 401(k) of the *Internal Revenue Code*, as well as certain employee benefit plans, which will be addressed in the Chapter 11 proceedings.

### C. Corporate Structure

49. A simplified corporate organizational chart (the “**Corporate Chart**”) indicating the corporate structure of the Company is attached hereto as Exhibit “A”.

50. All of the beneficial interests in Golf Town and Golfsmith are held, directly or indirectly, by Holdings LP, a Canadian limited partnership. The general partner of Holdings LP is Holdings GP., a corporation incorporated under the laws of Ontario. An entity controlled by OMERS holds substantially all of the limited partnership interests in Holdings LP and certain former members of management of the Company hold a *de minimis* interest in Holdings LP.

#### (i) Golf Town – Canada

51. Holdings LP owns 100% of the beneficial interest in Golf Town Holdings, a corporation incorporated under the laws of Ontario, which in turn owns 100% of the issued shares of GT Canada. GT Canada is incorporated under the laws of Canada and is the Canadian issuer of the Secured Notes.

52. The primary operating entity of the Golf Town Business is Golf Town LP, an Ontario limited partnership. The limited partner of Golf Town LP is GT Canada. The general partner of

Golf Town LP is Golf Town GP II Inc., which is incorporated under the laws of Ontario and is a wholly-owned subsidiary of GT Canada.

53. GT Canada also owns all of the issued shares of Golf Town USA Holdco Limited (“**USA Holdco**”), a corporation incorporated pursuant to the laws of Delaware. USA Holdco is a legacy entity that historically operated a promotional products business. USA Holdco is a U.S. Debtor for purposes of the Chapter 11 proceedings and is not an applicant in these proceedings.

54. Golf Town Holdings, GT Canada and Golf Town GP II Inc. are the Applicants in these proceedings. Since Golf Town LP and Holdings LP are partnerships and not “companies” pursuant to the CCAA, they are not Applicants in these proceedings. However, as more fully set out below, the Applicants are requesting an extension of the protections and authorizations in the Initial Order to Golf Town LP and Holdings LP in order to preserve and protect the Business and the value of the Company.

(ii) Golfsmith – United States

55. Holdings LP owns 100% of the beneficial interest in Golf Town USA Holdings Inc., a Delaware corporation, which owns all of the issued shares of GS Holdings. GS Holdings is a Delaware corporation and is the U.S. issuer of the Secured Notes. Golf Town USA Holdings Inc. also owns all of the issued shares of Golf Town USA, L.L.C., a Delaware limited liability corporation.

56. GS Holdings also owns all of the issued shares of Golfsmith International, Inc., a Delaware corporation, which in turn owns all of the issued shares of GMAC Holdings, L.L.C.; Golfsmith Licensing, L.L.C.; Golfsmith NU, L.L.C.; Golfsmith Europe, L.L.C.; Golfsmith USA,



L.L.C., and Golfsmith 2 GP, L.L.C. (each of which are limited liability corporations incorporated under the laws of Delaware) and Golfsmith Incentive Services, L.L.C. (a limited liability corporation incorporated under the laws of Texas). Golfsmith International, Inc. is the limited partner of Golfsmith International, L.P. (“**Golfsmith LP**”), a Delaware limited partnership.

57. Each of Golfsmith International, Inc., Golfsmith USA, L.L.C., Golfsmith NU, L.L.C. and Golfsmith LP are lessors in respect of certain of the leased properties from which the Golfsmith Business is operated. As described further below, the cash resources of the Golfsmith Business are held in and disbursed primarily from accounts in the name of Golfsmith LP.

58. Each of the Golfsmith Entities noted above and USA Holdco is expected to be a U.S. Debtor for purposes of the Chapter 11 proceedings. The Golfsmith entities are not applicants in these CCAA proceedings.

59. Each of the Golf Town and Golfsmith entities listed in this section II.C, with the exception of Holdings GP and Holdings LP, is an obligor (whether as borrower, issuer or guarantor) in respect of the Credit Facility and the Secured Notes.

#### **D. Capital Structure**

60. The Company’s existing capital structure originated at the time of the Merger in order to finance the acquisition of Golfsmith and to provide working capital to support the operation of the Business. The Company’s capital structure consists principally of the Credit Facility and the Secured Notes.

(i) Credit Facility

61. The Credit Facility is provided pursuant to a credit agreement dated July 24, 2012 (as amended, the “**Credit Agreement**”) between each of the entities listed on the Corporate Chart other than Holdings LP (in their capacities as borrowers or guarantors under the Credit Agreement, the “**First Lien Credit Parties**”), the First Lien Lenders, and Antares Capital LP, as agent (the “**First Lien Agent**”). The Credit Facility consists of a revolving credit facility (the “**Revolving Facility**”) with a maximum total commitment of US\$135 million and a non-revolving first-in last-out term loan facility (the “**FILO Facility**”) with a maximum total commitment of C\$15 million.

62. Availability under the Revolving Facility is determined by a borrowing base (the “**Borrowing Base**”) which is calculated based on the eligible accounts, inventory and real estate of Golf Town and Golfsmith (on a consolidated basis) on a weekly basis. The Borrowing Base is reduced by certain prescribed reserves and other reserves established from time to time by the First Lien Agent in its reasonable credit judgment (the “**Borrowing Base Reserves**”). Given the amount of its current Borrowing Base, the Company is therefore unable to access the full US\$135 million availability under the Revolving Facility.

63. The Revolving Facility terminates on the earlier of (a) July 24, 2017, (b) six months prior to the maturity date of the Secured Notes (which is currently January 24, 2018), and (c) the occurrence of a termination event as provided under the Credit Agreement. The FILO Facility terminates on the earlier of (a) July 24, 2017 and (b) six months prior to the maturity date of the Secured Notes. Accordingly, all of the Credit Facility Obligations will become due on July 24, 2017 or earlier.

64. The Credit Facility was amended as of October 14, 2014 (the “**First Amendment**”) to, among other things, increase the availability under the Revolving Facility from US\$135 million to US\$155 million for the period from February 1, 2015 to June 30, 2015. As a condition to the increased availability under the Revolving Facility, OCPI GT SPV Limited (the “**OMERS Guarantor**”), a special purpose entity and an indirect wholly-owned subsidiary of OMERS, entered into a limited recourse guarantee dated October 14, 2014 (the “**Limited Recourse Guarantee**”) pursuant to which it guaranteed all of the Credit Facility Obligations. The recourse of the First Lien Agent under the Limited Recourse Guarantee is limited to an irrevocable standby letter of credit issued by Royal Bank of Canada in the original amount of US\$15 million, on behalf of Borealis Infrastructure Management Inc., in favour of the First Lien Agent (the “**OMERS LC**”). The OMERS LC was subsequently reduced to US\$11,533,681.98 in connection with permanent repayments of the Credit Facility by the Company.

65. As described further below, the Credit Facility was further amended as of August 10, 2016 (the “**Second Amendment**”) in response to the Company’s liquidity challenges and to preserve the stability of the Business during the continuation of the Sale Process. Pursuant to the Second Amendment, the Credit Facility was amended to provide that, until the earliest to occur of (i) September 6, 2016, and (ii) the occurrence of an event of default under the Credit Facility, the First Lien Agent would not establish any additional Borrowing Base Reserves and would not modify any existing Borrowing Base Reserves or related eligibility criteria if the effect of such modification was to decrease availability under the Credit Facility.

66. As a condition to the Second Amendment, the OMERS Guarantor entered into an Amended and Restated Limited Recourse Guarantee dated August 10, 2016 and caused the

principal amount of the OMERS LC to be increased by US\$5 million, to US\$16,533,681.98. The Second Amendment sets out certain conditions under which the First Lien Agent is entitled to draw on the OMERS LC. Upon the closing of the DIP Facility, the OMERS LC will be amended and the conditions pursuant to which it can be drawn will be governed solely by the DIP Agreement.

67. As of September 12, 2016, the Credit Facility Obligations are approximately US\$106 million, comprised of obligations of approximately US\$94 million under the Revolving Facility (including outstanding letters of credit) and US\$12 million under the FILO Facility.

68. The Credit Facility Obligations are secured by security interests in favour of the First Lien Agent over substantially all of the present and after-acquired tangible and intangible assets of the First Lien Credit Parties.

(ii) Secured Notes

69. The Secured Notes in the aggregate principal amount of C\$125 million were issued pursuant to an indenture dated as of July 24, 2014 (the “**Notes Indenture**”) among GT Canada as Canadian issuer (in such capacity, the “**Canadian Issuer**”), GS Holdings as U.S. issuer (in such capacity, the “**U.S. Issuer**”), and each of the other entities listed on the Corporate Chart other than Holdings LP, as guarantors (the “**Secured Notes Guarantors**”), and BNY Trust Company of Canada and The Bank of New York Mellon, as trustee and collateral agent (the “**Notes Trustee**”). The Secured Notes bear interest at 10.50% per annum payable semi-annually in arrears on January 24 and July 24. A semi-annual interest payment under the Secured Notes is approximately C\$6.6 million. The Secured Notes mature on July 24, 2018.

70. The Secured Notes are issued in the form of “**Units**”, with each Unit consisting of C\$0.64 in principal amount of Secured Notes issued by the Canadian issuer (the “**Golf Town Notes**”) and C\$0.36 in principal amount of Secured Notes issued by the U.S. issuer (the “**Golfsmith Notes**”). The Golf Town Notes and the Golfsmith Notes constituting each Unit are not separable and are transferrable only as a Unit.

71. The obligations under the Secured Notes are secured by liens over substantially all of the present and after-acquired tangible and intangible assets of the Canadian Issuer, the U.S. Issuer and the Secured Notes Guarantors.

(iii) Intercreditor Agreement

72. The respective rights and priorities of the secured creditors of the Company with respect to the security interests granted in respect of the Credit Facility and the Secured Notes are governed by an Intercreditor Agreement dated July 24, 2012 (the “**Intercreditor Agreement**”) between the First Lien Agent, the Notes Trustee, and the Credit Parties (as defined in the Intercreditor Agreement).

73. Among other things, the Intercreditor Agreement provides that the liens securing the Credit Facility rank in priority to the liens securing the Secured Notes, provided that any liens securing Credit Facility Obligations that exceed a maximum amount determined by formula in the Intercreditor Agreement (the “**Maximum Priority Amount**”) rank junior to the liens securing obligations in respect of the Secured Notes, notwithstanding, *inter alia*, the date, time, method, manner or order of grant, attachment or perfection, or the validity or enforceability or failure to perfect, of such liens. By operation of the formula in the Intercreditor Agreement, the

Maximum Priority Amount cannot be less than the sum of US\$135 million plus C\$15 million. As the Credit Facility Obligations were US\$106 million as of September 12, 2016, all of the Credit Facility Obligations have priority over the Secured Notes obligations pursuant to the Intercreditor Agreement.

(iv) Other Secured Creditors

74. Other than obligations with respect to the Credit Facility and the Secured Notes, the Golf Town Entities do not have any other material secured obligations. Golf Town leases certain equipment and other personal property in connection with the operation of the Golf Town Business, and a limited number of lessors have effectuated *Personal Property Security Act* registrations in various provinces in respect of certain leased assets of the Golf Town Entities. The Golf Town Entities do not intend to provide advance notice of the CCAA application to secured creditors other than the First Lien Agent, the Notes Trustee and the Supporting Noteholders, and are therefore not seeking, as part of this initial application, for the proposed Court-ordered Charges to rank in priority to secured obligations of the Golf Town Entities other than those in respect of the Credit Facility and the Secured Notes.

(v) Intercompany Note

75. GT Canada is indebted to Holdings LP pursuant to an amended and restated unsecured subordinated promissory note dated July 24, 2012 (the “**Intercompany Note**”) in the principal amount of approximately C\$118 million, which Intercompany Note arose in connection with the Merger. Payment of the Intercompany Note is subordinated in right of payment to the prior payment in full of the Credit Facility and the Secured Notes. The Intercompany Note bears

interest at 12.95% per annum payable on September 25 of each year and matures on September 28, 2032. Holdings LP intends to waive and forgive interest on the Acquisition Note for the 2016 fiscal year, as it has done in each of the past two fiscal years.

**E. Financial Position of the Company**

*(i) Financial Statements*

76. The Company prepares financial statements for Holdings LP that report the consolidated financial position and performance of Golf Town and Golfsmith. Attached as Exhibit “B” to this affidavit are the audited financial statements of Holdings LP for the fiscal year ended January 2, 2016.

77. Financial statements are also prepared for Golf Town on a non-consolidated basis. Attached as Exhibit “B” to this affidavit are unaudited financial statements for Golf Town for the seven months ended July 30, 2016 and for the fiscal year ended January 2, 2016.

*(ii) Financial Performance of the Business*

78. For the 2015 fiscal year, Golf Town had net sales of US\$219.3 million and adjusted EBITDA of US\$6.8 million and Golfsmith had net sales of US\$492.9 million and adjusted EBITDA of US\$6.2 million. As a result of debt service costs, capital expenditures and other cash outlays, the Company incurred a net loss on an overall basis in 2015 and had negative free cash flow.

(iii) Assets and Liabilities of the Company

79. As at July 30, 2016, which is the date of Golf Town's most recent financial statements, Golf Town had assets with a stated book value of approximately C\$186.9 million. This amount included (all amounts approximate) accounts receivable of C\$2.8 million, inventory of C\$86.5 million, prepaid expenses and other current assets of C\$5.3 million, property, plant and equipment of C\$15.3 million (net of accumulated depreciation), intangible assets and goodwill of C\$75.7 million (net of accumulated amortization), and other long term assets of approximately C\$1.2 million. As at July 31, 2016, Golf Town had total liabilities with a book value of approximately C\$282.2 million, including accounts payable and other current liabilities of approximately C\$75.6 million.

(iv) Cash Management System

80. The Company's cash management system (the "**Cash Management System**") is centrally managed at the Company's head office in Austin, Texas. However, the Cash Management System operates largely on a geographic basis, such that cash management for the Canada-based Golf Town Business is largely separated from cash management for the U.S.-based Golfsmith Business. Within each country, the Cash Management System is consolidated to enable the efficient utilization of funds and to minimize the Company's borrowing requirements. As described below, in the limited circumstances where cash is transferred between the Golf Town and Golfsmith entities, such transfers are tracked and appropriate accounting entries are made to evidence the transfers.



81. Cash management for the Golf Town Business is undertaken primarily in the name of Golf Town LP through bank accounts at The Toronto-Dominion Bank (“**TD Bank**”). Golf Town LP maintains a deposit account to which all cash receipts from Golf Town retail stores are transferred (the “**Golf Town Deposit Account**”), a master operating account from which payroll, tax and other operating expenditures are paid (the “**Golf Town Operating Account**”) and a number of other operating accounts from which other operating expenditures, including supplier expenses, are paid. Receipts from the Golf Town e-commerce business are deposited into a Canadian dollar account at TD Bank that is nominally an account of Golfsmith International, Inc.; however, amounts received in this account are transferred to other TD Bank accounts maintained by Golf Town entities and used in the Golf Town Business. Golfsmith International, Inc. also maintains a Canadian dollar account with TD Bank to facilitate payments to Canadian suppliers of the Golfsmith Business. This account is funded through transfers from other TD Bank accounts maintained by Golf Town LP, which transfers are tracked and give rise to corresponding intercompany receivables/payables.

82. Borrowings under the Credit Facility in respect of Golf Town are made through the Golf Town Operating Account, and transfers are made between the Golf Town Operating Account and the other accounts with TD Bank maintained by Golf Town LP and Golfsmith International, Inc. As required pursuant to the Credit Facility, the Golf Town Deposit Agreement and an inactive account maintained by GT Canada (together, the “**Golf Town Blocked Accounts**”) are subject to a Blocked Account Agreement dated as of July 24, 2012 (the “**Golf Town Account Agreement**”) among GT Canada, Golf Town LP, the First Lien Agent, the Notes Trustee and TD Bank.

83. Cash management for the Golfsmith Business is undertaken primarily in the name of Golfsmith LP through bank accounts at Wells Fargo Bank, National Association (“**Wells Fargo**”). Golfsmith LP maintains a main deposit account to which all cash receipts from Golfsmith retail stores are transferred (the “**Golfsmith Deposit Account**”), a master operating account (the “**Golfsmith Operating Account**”) and a number of other operating accounts from which other operating expenditures, including supplier and payroll expenses, are paid. Golf Town LP also maintains a U.S. dollar account with Wells Fargo to facilitate payments to U.S. suppliers of the Golf Town Business. This account is funded through transfers from the Golfsmith Operating Account, which transfers are tracked and give rise to corresponding intercompany receivables/payables.

84. Borrowings under the Credit Facility in respect of Golfsmith are made through the Golfsmith Operating Account, and transfers are made between the Golfsmith Operating Account and the other accounts with Wells Fargo maintained by Golfsmith LP and Golf Town LP. As required pursuant to the Credit Facility, the Golfsmith Deposit Account and the Golfsmith Operating Account (together, the “**Golfsmith Blocked Accounts**”) are subject to a Deposit Control Account Agreement dated as of September 20, 2012 (the “**Golfsmith Account Agreement**”) among Golfsmith LP, the First Lien Agent, the Notes Trustee and Wells Fargo.

85. On July 25, 2016, the First Lien Agent gave notice to the Company and TD Bank and Wells Fargo, as applicable, that it was exercising its rights under the Golf Town Account Agreement and the Golfsmith Account Agreement to exercise control (“**Cash Dominion**”) in respect of the Golf Town Blocked Accounts and the Golfsmith Blocked Accounts (collectively, the “**Blocked Accounts**”). As a result, the Blocked Accounts are now under the control of the

First Lien Agent and all funds on deposit in the Blocked Accounts are transferred on a daily basis to collection accounts maintained by the First Lien Agent for repayment of the Credit Facility.

86. In connection with the CCAA proceedings, the Golf Town Entities are seeking the authority to continue to operate the Cash Management System to maintain the funding and banking arrangements already in place, including the exercise of Cash Dominion by the First Lien Agent as required pursuant to the terms of the DIP Agreement (as defined below). The U.S. Debtors will seek similar relief in the Chapter 11 proceedings. The continued operation of the Cash Management System offers a number of benefits to the Company and its stakeholders, including minimizing the disruption to the Business caused by the CCAA and Chapter 11 proceedings and avoiding the need to negotiate and implement alternative banking arrangements. The Cash Management System includes the necessary accounting controls to enable the Company, the Monitor (as defined below) and the Court to trace funds and ensure that all transactions are adequately documented and readily ascertainable.

(v) Corporate Shared Services

87. In addition to the Cash Management System, the Company has centralized a number of corporate functions and services to enable the cost-effective and consistent performance of such functions across the entire Business. The shared services are undertaken at the Company's Austin, Texas head office and include services such as finance, accounting, payroll, human resources and merchandising functions. Payments to certain third-party service providers that support both the Golf Town Business and the Golfsmith Business are also centrally coordinated from the Austin head office. These payments are either made directly from bank accounts

maintained by the applicable Golf Town or Golfsmith entity for whose benefit they were made, or are reflected in intercompany charges described below.

88. Executive management functions for the Company are also undertaken on a shared services basis pursuant to management services agreements. GT Canada, Golf Town LP and GS Holdings are party to a management services agreement dated as of July 24, 2012 (the “**Management Services Agreement**”) pursuant to which such entities receive and provide the services of their respective senior management and boards of directors with respect to, among other things, strategic planning, business development, operational analysis and ad hoc initiatives. The Management Services Agreement provides for the payment by the recipient of management services to the provider of such services of a management fee equal to the provider’s direct cost of providing the applicable services, plus a mark-up of costs to be agreed by parties by reference to amounts charged for similar services in arms-length transactions. The Management Services Agreement automatically renews on an annual basis unless terminated by the parties in accordance with its provisions.<sup>3</sup>

89. To ensure that the costs and expenses for shared services are appropriately allocated within the corporate group, the Company closely monitors the provision of shared services and utilizes an allocation methodology to transfer costs and expenses to the appropriate Golf Town and Golfsmith entities based on the shared services they receive. The costs of shared services

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<sup>3</sup> In addition to the Management Services Agreement, GT Canada, Golf Town LP and GS Holdings are also party to a management services agreement with OMERS Private Equity Inc. (“**OPE**”) dated as of July 24, 2012 (the “**External Management Services Agreement**”) pursuant to which OPE and its affiliates provide consulting and management advisory services with respect to, among other things, strategic and corporate planning, operational support, corporate finance and strategic governance. The External Management Services Agreement provides for the payment by the Company to OPE of an annual fee not to exceed US\$1 million. By agreement of the parties, no fees have been paid under the External Management Services Agreement since July 2013 and no fees are expected to be paid during the CCAA proceedings.

are allocated primarily on a cost basis, determined by reference to amounts charged for similar services in arms-length transactions. Accounting entries are made to recognize corresponding intercompany receivables and payables. While intercompany claims have not historically been settled through intercompany fund transfers, during the CCAA and Chapter 11 proceedings the Company intends to satisfy intercompany claims on a net basis through intercompany fund transfers. Golf Town is a net recipient of shared services averaging approximately US\$900,000 on a monthly basis (including shared services pursuant to the Management Services Agreement).

(vi) Intercompany Charge

90. To ensure payment for shared services and other intercompany transfers during the CCAA proceedings, the proposed Initial Order provides that, to the extent that the Golf Town Entities receive a transfer from, or become indebted to, a U.S. Debtor after the granting of the Initial Order, including in connection with the provision of goods or services by a U.S. Debtor or the operation of the Cash Management System, the U.S. Debtor will be granted a charge (an “**Intercompany Charge**”) over the assets, property and undertaking of the Golf Town Entities (the “**Golf Town Property**”). The Intercompany Charge is intended to formalize existing practices with respect to intercompany transfers during the CCAA proceedings. The Initial Order provides that the U.S. Debtors are not entitled to exercise any right or remedy to enforce an Intercompany Charge without further order of the Court.

91. The U.S. Debtors will seek similar relief in their “First Day Motions” in the Chapter 11 proceedings to provide the Golf Town Entities with the benefit of a priority charge over the assets of the U.S. Debtors to secure the payment of all intercompany amounts payable by the U.S. Debtors to the Golf Town Entities arising following the initiation of the Chapter 11

proceedings. The Company believes that the establishment of the intercompany charges in the CCAA and Chapter 11 proceedings will preserve the relative value of the Golf Town and Golfsmith estates and ensure that stakeholders of the respective businesses are not prejudiced as a result of the continuation of shared services, the Cash Management System and other intercompany transfers during the proceedings.

### **III. INDUSTRY, BUSINESS AND FINANCIAL CHALLENGES**

#### **A. Golf Industry Challenges**

92. As a specialty golf retailer, the Company's performance is impacted by the performance of the broader golf industry and general economic conditions. The golf industry experienced significant growth in the years prior to the 2008 recession, driven by the growing popularity of the sport and the visibility of high-profile professional golfers. During this period of outsized industry growth, both Golf Town and Golfsmith expanded their retail footprints to capitalize on growing demand for golf products in North America.

93. The golf industry experienced a contraction beginning in 2008, as the global recession adversely impacted discretionary consumer spending and golf participation rates. The number of rounds played by North American golfers declined in the post-recession period, leading to decreased demand for golf products even as the Company and other industry competitors continued to expand their retail networks. In addition, many golf equipment manufacturers shortened their product cycles during this period of reduced demand, leading to excess inventory and discounting by retailers of golf equipment. These industry challenges have directly affected the Company's ability to generate sufficient revenue and cash flow to invest in growth initiatives

and support its existing capital structure. The Company's net sales have decreased in each year since 2012.

94. The Company's ability to support its capital structure is also constrained by the scope and cost structure of its current network of retail stores. Following the Merger, the Company pursued a growth strategy focused on larger store formats and opening additional stores in existing high-performance markets to capture additional sales. Certain of the Company's stores and markets have not performed as expected, resulting in high and unsustainable lease and other occupancy costs relative to net sales. As described in additional detail below, the Company's expansive store footprint has become an impediment to the performance and long-term sustainability of the Business and will need to be rationalized in connection with the CCAA and Chapter 11 proceedings.

95. Despite the industry challenges noted above, there are signs of recent improvement in the golf market and expectations for future industry growth. Golf participation has stabilized and total rounds played in the United States increased year-over-year in 2015 for only the second time since 2007. In 2015, new golfers took up the game at near record rates not seen since the height of golf's popularity in the pre-recession period. Young golfers are taking up the sport in increasing numbers and further growth in rounds played is expected as a result of increases in the retirement age population.

#### **B. Challenges with Financial Arrangements**

96. Despite the Company's efforts to date to improve its financial performance and manage its financial challenges, the Company has struggled to access sufficient liquidity to operate the

Business given the interest service costs in respect of its secured indebtedness, restrictions on obtaining additional financing, and the seasonal nature of its Business and cash flows.

97. The Company has experienced significant liquidity challenges in recent years. In 2014, it became apparent that the Company would require additional liquidity to operate the Business. The Company, with the assistance of its advisors, pursued a variety of potential alternatives to obtain additional financing, including through enhanced availability under the Credit Facility and the issuance of additional secured indebtedness. Given the Company's financial circumstances and the terms of the Credit Facility, the Notes Indenture and the Intercreditor Agreement, the Company ultimately determined that an increase in availability under the Credit Facility was the best available alternative for the Company in the circumstances.

98. In October 2014, the First Amendment to the Credit Agreement was executed to increase availability under the Revolving Facility by US\$20 million (to US\$155 million) until June 30, 2015. The availability under the Revolving Facility supported the Company's funding requirements in 2015 and early 2016. However, the Company has continued to experience liquidity challenges as a result of the underperformance of certain aspects of its Business and the costs associated with sustaining its expansive network of retail stores.

99. The Company's liquidity challenges are intensified by the seasonal nature of its Business, which leads to substantial variability in revenue generation and working capital requirements during the fiscal year. Seasonal slowdowns exacerbate the challenges associated with servicing the Company's secured indebtedness and investing in the Business. The Company requires significant working capital to build inventory levels in advance of the peak retailing season, which traditionally runs from April to July, and the late-November and December holiday retail



season. An inability to maintain appropriate inventory levels would cause a reduction in revenue and profitability and impair the Company's customer and supplier relationships.

100. The Company has made extensive efforts to manage its liquidity situation, including by improving its inventory management processes, negotiating certain payment terms with its vendors to provide incremental liquidity during seasonal slowdowns, reducing employee headcount and selling non-core assets. Despite these extensive efforts, the Company has continued to experience difficulties in accessing sufficient working capital to support the Business and to undertake the operational improvements necessary to position the Company for growth and increased profitability moving forward.

101. The Company's ability to access working capital under the Credit Facility is limited by its Borrowing Base and the ability of the First Lien Agent, in its reasonable credit judgment, to impose Borrowing Base Reserves that further restrict availability. Over the past year, the First Lien Agent has established additional Borrowing Base Reserves that have reduced availability under the Credit Facility.

102. In an effort to maintain the stability and value of the Business pending the outcome of the Sale Process and the further exploration of strategic alternatives, the Company recently sought certain concessions from the First Lien Agent with respect to availability under the Credit Facility. As a result of these efforts, the First Lien Agent agreed to enter into the Second Amendment in August 2016 pursuant to which, among other things, the First Lien Agent agreed to refrain, for a limited period of time, from imposing additional Borrowing Base Reserves or altering eligibility criteria in a manner that would decrease availability under the Credit Facility.

103. The First Amendment and Second Amendment to the Credit Facility, together with other initiatives undertaken by the Company, have enabled the Company to continue to operate the Business in the normal course despite its liquidity challenges. However, a permanent and sustainable liquidity solution is required to support and grow the Business moving forward.

#### **IV. ASSESSMENT OF STRATEGIC ALTERNATIVES AND RESTRUCTURING EFFORTS TO DATE**

##### **A. Operational and Strategic Review**

104. In light of the ongoing challenges facing the Company, including as a result of its leveraged capital structure and weakness in the golf industry and the broader economy, the Company, with the assistance of its professional advisors, has over the past number of years pursued and implemented strategic initiatives to enhance its business performance, undertaken an extensive review of its operations and financial position, and actively explored strategic alternatives to address the Company's constrained liquidity position, stabilize the Business and maximize value for stakeholders.

##### *(i) Operational / Financial Review*

105. The Company has been actively developing and implementing strategic initiatives to enhance its performance and operations and to position the Business for improved performance moving forward.

106. The Company engaged A&M in 2014 to assist it in performing a review of possible business enhancements and cost reduction initiatives to improve its liquidity and business performance. The Company, with the assistance of A&M in certain matters, pursued a broad

range of initiatives, including engaging in strategic negotiations with landlords to secure improved lease terms and accelerated lease buyouts; securing improved payment terms with key suppliers during off-season periods; effecting targeted reductions to employee headcounts; and selling non-core assets to generate additional capital and refocus the Company on its core retail operations. While this process led to certain business and liquidity improvements, the Company was not able to fully optimize its lease portfolio or retail footprint in connection with these initiatives.

107. In January 2016, the Company further engaged A&M to act as its financial advisor and to assist with its review of the Company's business, operations, financial outlook and assessment of strategic alternatives. The Company, with the assistance of A&M, assessed operational and financial restructuring initiatives for the Business and undertook a comprehensive review of the Company's network of retail stores, including a store-by-store analysis of operating performance, lease and occupancy costs, and the attractiveness and competitiveness of local golf markets.

108. The results of the operational and financial review make clear that the long-term sustainability of the Company requires a deleveraging of its capital structure and a rationalization of its retail footprint. Despite recent improvements in the golf industry, the Company continues to generate insufficient EBITDA and experience negative free cash flows, constraining its ability to support its existing capital structure and fund annual debt service costs that exceed US\$16 million.

109. The comprehensive review of the Company's retail network indicates that the financial performance and sustainability of the Business is adversely impacted by a subset of

underperforming locations with high occupancy and overhead costs relative to their sales and profit levels. Certain of the urban markets in which the Company operates have become oversaturated or less attractive and are not capable of supporting the existing Business presence in those markets. The closure of certain underperforming stores, combined with improvements in the cost structure of other stores with above-market occupancy costs, would enhance EBITDA and financial performance and free up working capital to invest in high-performing stores and strategic growth initiatives. Accordingly, the review indicates that the rationalization of the retail footprint of the Business is a necessary element of efforts to address the Company's liquidity challenges on a sustainable basis.

(ii) Next Generation Strategy

110. In 2015, the Company transitioned to a new senior leadership team with extensive retail industry experience. In addition to managing the Company's liquidity and financial challenges, the Company's new leadership team has been focused on developing and beginning to implement the Company's "Next Generation Strategy" to capitalize on market opportunities, which includes:

- (a) the rationalization of the Company's retail footprint through targeted store closures and the "right-sizing" of certain existing locations;
- (b) the creation of smaller format stores with an emphasis on interactive environments and technologies, higher-value services, reduced occupancy costs and higher margins;

- (c) incremental investments to drive higher sales growth and margin rates across retail store and e-commerce platforms and to provide customers with a seamless experience across platforms; and
- (d) creating and expanding partnerships with leading service providers to enhance operational capabilities and customer experiences.

111. The Company believes that these and other initiatives will strengthen the Business and enable it to compete effectively in the new industry environment. As a result of its important position in the North American golf market, the Business is well-positioned to capitalize on industry growth following an operational and financial restructuring in connection with the CCAA and Chapter 11 proceedings.

(iii) Exploration of Restructuring and Recapitalization Alternatives

112. In connection with the exploration of strategic alternatives, the Company has explored the potential for recapitalization and restructuring transactions in respect of the Company. The Company has actively developed and explored market interest in potential transactions providing for, among other things, a conversion of the Secured Notes into equity, an investment of new capital to refinance the Credit Facility and to enhance liquidity, and a rationalization of the Company's retail footprint. The Company and its advisors have engaged in discussions with certain secured lenders, including the First Lien Agent and the Supporting Noteholders, key stakeholders and other potential financing sources with respect to these initiatives, and potential transactions were advanced through ongoing discussions, due diligence and the exchange of term sheets. The Sale Transaction, the Support Agreement and the contemplated Golfsmith

Restructuring are the result of the Company's extensive exploration of strategic alternatives in respect of the Business.

(iv) Sale Process

113. In June 2016, the Company engaged Jefferies to provide investment banking and financial advisory services to the Company and to conduct a Sale Process to identify potential sale or other restructuring transactions in respect of the Company and its Business. Following extensive preparatory work with senior management, A&M and the Company's legal counsel, Jefferies formally commenced the Sale Process in June 2016.

114. Following the commencement of the Sale Process, Jefferies contacted 214 potential buyers, comprised of 37 potential strategic buyers and 177 potential financial buyers. After initial contact, 67 parties entered into non-disclosure agreements ("NDAs") and were provided with access to a confidential data site containing non-public information regarding the Company and the Business. On July 1, 2016, parties that had executed NDAs received a process letter setting out a two-phase process requiring the submission of non-binding initial indications of interest by July 20, 2016 ("**Phase 1**") and the submission of final bids in the form of definitive transaction agreements by August 25, 2016, which date was subsequently extended to August 29, 2016 on notice to potential bidders ("**Phase 2**").

115. As of the Phase 1 deadline, the Company received twelve non-binding indications of interest in respect of the Business. As permitted pursuant to the process letter, certain of the indications of interest were for transactions in respect of the entire Business and certain of the

indications were for transactions in respect of the Golf Town Business or the Golfsmith Business on a standalone basis.

116. Following an extensive review of the indications of interest by the Company and Jefferies, seven prospective buyers were invited to advance to Phase 2 of the Sale Process. In Phase 2, prospective buyers were given the opportunity to participate in management presentations to receive detailed information regarding the Company's corporate strategy, operations, growth prospects and financial information. Phase 2 of the Sale Process also involved more extensive due diligence, site visits, and detailed discussions between the Company, the interested parties and their respective advisors. Potential purchasers participating in Phase 2 were asked to provide final bids consisting of definitive transaction agreements in a form provided by the Company. At the conclusion of Phase 2 of the Sale Process, the Company received final bids with respect to the Golf Town Business from multiple parties. The bid received by the Purchaser also indicated the Supporting Noteholders' interest in advancing and finalizing arrangements with respect to the Golfsmith Restructuring. Following Phase 2 of the Sale Process, a number of bidders expressed an interest in acquiring the Golfsmith Business in a standalone transaction or acquiring both the Golf Town Business and the Golfsmith Business in a consolidated transaction.

117. The Company, with the assistance of Jefferies, A&M, FTI (as proposed Monitor) and legal counsel, evaluated the final bids based on relevant factors, including valuation, transaction structure, due diligence requirements, impact on stakeholders, and the capability of the submitting party to finance and implement the proposed transaction. Bids were also assessed for their interaction and feasibility with other bids and restructuring options in respect of the

Company. The Company's advisors also had follow-up meetings with the leading bidders to provide them with the opportunity to address certain matters and to improve the economics and other material conditions of their bids. Following this extensive review and discussion process, it became clear that (a) the value of the Company would be maximized through the sale of the Golf Town Business on a standalone basis, (b) the final bid submitted by the Purchaser represented the superior transaction for the Golf Town Business, and (c) the advancement of the Golfsmith Restructuring with the support of the Supporting Noteholders represented the best available option for the Golfsmith Business.

118. The Purchaser was notified that it was the successful bidder with respect to the Golf Town Business and the Company and Fairfax and CI, in their capacities as Purchaser and Supporting Noteholders, have negotiated and finalized the Golf Town APA and the Support Agreement, the details of which are set out in greater detail below.

**B. The Golf Town Transaction**

119. The sale of the Golf Town Business to the Purchaser (the "**Golf Town Transaction**") consists of a going concern sale of the Golf Town Business that is expected to result in the continued operation of a majority of Golf Town's existing retail locations. The terms of the Golf Town Transaction are set forth in the Golf Town APA between GT Canada and Golf Town LP (together, the "**Sellers**") and the Purchaser, which will be filed with the Court in connection with the Sale Approval Motion.

120. The following is a summary of the Golf Town Transaction:



- (a) the Purchaser will acquire certain assets of the Golf Town Business (the “**Purchased Assets**”) in exchange for all-cash consideration containing a fixed component and a variable component determined based on adjustments for prepaid rent, certain cure costs and the net operating performance of the Golf Town Business following the Effective Closing Date (as defined below);
- (b) the Purchased Assets include:
  - (i) the leases (the “**Assumed Leases**”) for certain of Golf Town’s store locations (the “**Assumed Locations**”) and certain of Golf Town’s contracts and agreements (the “**Assumed Contracts**”), in each case as determined by the Purchaser on or prior to October 26, 2016;
  - (ii) all inventory, supplies, equipment, furnishings and other tangible personal property of the Golf Town Business, regardless of whether located at the Assumed Locations, Excluded Locations, or otherwise;
  - (iii) all accounts receivable and customer deposits in respect of the Golf Town Business; and
  - (iv) all of Golf Town’s right, interest and benefits in intellectual property used in the Golf Town Business;
- (c) the Purchaser will assume certain obligations of the Golf Town Business, including:

- (i) all obligations in respect of Assumed Leases and Assumed Contracts in respect of the post-closing period;
  - (ii) all outstanding Golf Town gift cards;
  - (iii) all cure costs in respect of Assumed Leases and Assumed Contracts, excluding rent payable in respect of Assumed Leases prior to closing;
  - (iv) all obligations to employees that accept the Purchaser's offer of employment at closing; and
  - (v) all of Golf Town's product and service warranty claims;
- (d) the Purchaser intends to offer employment to employees at the Assumed Locations and may make offers to certain other employees at Golf Town's head office and Excluded Locations;
- (e) closing of the transaction is subject to certain closing conditions, including:
- (i) Court approval of the Golf Town Transaction;
  - (ii) the assignment of certain material contracts through third-party consents or Court order;
  - (iii) the execution of a transition services agreement between the Purchaser and the applicable Golfsmith entities (the "**Transition Services Agreement**") providing for the provision to the Purchaser of certain transition services for a one year term following closing (which term is subject to certain

- extensions at the option of the Purchaser on pricing terms set out in the Golf Town APA);
- (iv) the approval of the Transition Services Agreement in connection with the Chapter 11 proceedings; and
  - (v) the receipt of necessary regulatory approvals, including approval pursuant to the *Competition Act* (Canada); and
  - (f) the transaction is expected to close by October 31, 2016. If the transaction does not close by that date, the Golf Town APA provides for an effective closing date of October 31, 2016 (the “**Effective Closing Date**”) and an adjustment to the purchase price to take into account the net operating costs of the Golf Town Business from and after the Effective Closing Date. The purchase price adjustment is determined by reference to, among other things, occupancy costs, inventory and supply purchases, human resources costs, taxes and amounts payable in respect of Assumed Contracts, less gross cash receipts from the sale of inventory and supplies, the collection of accounts receivable and the sale of gift cards.

121. The Purchaser of the Golf Town Business is an entity to be formed by Fairfax and CI. Fairfax has been under present management since 1985 and it is headquartered in Toronto. Fairfax’s common shares are listed on the Toronto Stock Exchange and it has worldwide investments across a variety of sectors, including investments in the Canadian retail sector, including Sporting Life, Cara, and The Keg. CI is one of Canada’s largest investment fund

companies and manages approximately C\$100 billion on behalf of two million Canadian investors. CI is a subsidiary of CI Financial Corp., a diversified wealth management firm listed on the Toronto Stock Exchange.

122. The Golf Town Transaction and the terms of the Golf Town APA will be described in greater detail in connection with the Sale Approval Motion.

**C. The Golfsmith Restructuring and the Support Agreement**

123. As described above, the Company has undertaken an extensive exploration of strategic alternatives with respect to the Golfsmith Business, including conducting the Operational and Strategic Review, advancing recapitalization and restructuring initiatives with its secured lenders and other key stakeholders, and soliciting interest in sale transactions in respect of the Golfsmith Business in connection with the Sale Process. The results of this comprehensive process indicate that a financial and operational restructuring of the Golfsmith Business is necessary to enable Golfsmith to address its liquidity challenges and revitalize the Golfsmith Business.

124. In connection with their bid for the Golf Town Business, the Supporting Noteholders indicated their interest in working with the Company to advance and implement a going concern restructuring of the Golfsmith Business. The Company believes that the Golfsmith Restructuring represents the best available alternative for the Golfsmith Business at this time and accordingly has worked with the Supporting Noteholders to negotiate and finalize the Support Agreement, a copy of which is attached as Exhibit "C" to this affidavit. As more fully set out in the Support Agreement, the Golfsmith Restructuring contemplates:

- (a) Restructured Golfsmith will operate the Golfsmith Business following the completion of a restructuring and recapitalization undertaken in connection with the Chapter 11 proceedings;
- (b) completion of the Golf Town Transaction;
- (c) the Secured Notes and all obligations owing to Secured Noteholders under the Secured Notes (including all guarantee obligations) will be cancelled in exchange for the New Secured Notes and 100% of the equity in Restructured Golfsmith;
- (d) the New Secured Notes will have, *inter alia*, a principal amount of US\$35 million, an extended maturity date of three years from the completion of the Golfsmith Restructuring, and an interest rate of 12% per annum with an option for the Company to pay interest in kind rather than in cash. The terms of the New Secured Notes are set out more fully on Schedule B to the Support Agreement;
- (e) Golfsmith will enter into the Transition Services Agreement with the Purchaser on terms consistent with the Golf Town APA;
- (f) the Credit Facility will be refinanced with a new first lien asset-based revolving facility for Restructured Golfsmith (the “**New Credit Facility**”);
- (g) the Golfsmith Restructuring will be achieved through a Chapter 11 plan of reorganization (the “**Plan of Reorganization**”) or in another manner acceptable to the Company and the Supporting Noteholders; and

- (h) any Plan of Reorganization shall have been confirmed by the Bankruptcy Court pursuant to a final order by no later than December 23, 2016 and the Golfsmith Restructuring shall have been implemented by no later than February 15, 2017.

125. If implemented, the Golfsmith Restructuring would result in a going concern reorganization of the Golfsmith Business and an overall solution for the Company for the benefit of its suppliers, employees, customers and other key stakeholders. As part of its interim financing arrangements, the Company has agreed to undertake a dual track sale process in the Chapter 11 proceedings to explore the potential for an alternative transaction for the Golfsmith Business that maximizes value for the benefit of stakeholders. Concurrently with these efforts, the Company intends to advance the Golfsmith Restructuring with the Supporting Noteholders and to take steps to refinance or repay the Credit Facility obligations in connection with the completion of the restructuring. The Company is permitted under the terms of the Support Agreement to enter into an alternative transaction that provides a superior outcome for the Company and its stakeholders, including the Secured Noteholders.

126. The completion of the Golfsmith Restructuring is conditional on certain conditions set forth in the Support Agreement, including:

- (a) approval of the Reorganization Plan by the Bankruptcy Court and the requisite majority of affected creditors;
- (b) Restructured Golfsmith shall have entered into a New Credit Facility acceptable to Golfsmith and the Supporting Noteholders;

- (c) the Transition Services Agreement shall have been approved by the Bankruptcy Court and shall remain in full force and effect;
- (d) the Golf Town Transaction shall have been approved by this Court and completed; and
- (e) the receipt of all required regulatory consents and approvals.

127. The Support Agreement has been executed by Fairfax and CI, which collectively hold in excess of 40% of the Secured Notes. Other Secured Noteholders will also have the opportunity to become Supporting Noteholders by executing the Support Agreement. The Company will work with other Secured Noteholders to obtain their support for the Support Agreement, the Golf Town Transaction and the Golfsmith Restructuring.

128. The Company believes that the execution of the Support Agreement and the agreement of the Company and the Supporting Noteholders to work together to support and implement the Golfsmith Restructuring is in the best interests of Golfsmith and its stakeholders. The initiation of the Chapter 11 proceedings will provide stability and breathing room for the Golfsmith Business while Golfsmith works with its key stakeholders, including the Supporting Noteholders, to finalize and implement the Golfsmith Restructuring. The terms of the Support Agreement also maintain the ability of Golfsmith to consider and, with the consent of the Supporting Noteholders, proceed with an alternative transaction. Accordingly, the Company believes that proceeding with the Support Agreement and the finalization and implementation of the Golfsmith Restructuring is in the best interests of Golfsmith and its stakeholders at this time.

**D. Implementation in the CCAA and Chapter 11 Proceedings**

129. Having regard to the financial circumstances of the Company and the need to continue the Business without disruption, the Company has determined that court-supervised restructuring proceedings are the most appropriate manner for implementing the Golf Town Transaction and the Golfsmith Restructuring. The Company is experiencing liquidity challenges that have the potential to impair operations and adversely impact the value of the Business. The Company requires immediate additional liquidity that, given its financial circumstances, can only be accessed in connection with the DIP Facility advanced in connection with creditor protection proceedings. Accordingly, the Company is seeking protection pursuant to the CCAA proceedings in Canada and the Chapter 11 proceedings in the United States to provide it with stability and breathing room and to protect the value of the Business while the Sale Transaction and Golfsmith Restructuring are implemented.

130. While the Golf Town Transaction and the Golfsmith Restructuring are expected to result in the continuation of a sizeable portion of the Business on a going concern basis, certain of the assets and obligations of Golf Town and Golfsmith, including certain retail locations, will not be retained in connection with the transactions. The CCAA and Chapter 11 proceedings will provide the Company with the appropriate forums in which to wind-down certain aspects of its operations in an orderly manner that maximizes value for stakeholders. Accordingly, the Company believes that seeking CCAA protection for the Golf Town Business and Chapter 11 protection for the Golfsmith Business is in the best interests of the Company and its stakeholders at this time.



## V. CCAA PROCEEDINGS

### A. The Golf Town Entities are Insolvent

131. Despite its extensive efforts, the Company is unable to resolve its liquidity challenges or implement a sustainable restructuring of the Business outside of a CCAA process and a concurrent Chapter 11 proceedings in respect of the U.S. Debtors.

132. The Company's liquidity challenges have worsened in recent months and the Company is facing an imminent liquidity crunch. Without the benefit of creditor protection and access to the DIP Facility on an immediate basis, the Company will not have sufficient working capital to operate the Business in the coming weeks. The Golf Town Entities are insolvent and require CCAA protection at this time. In particular:

- (a) the Golf Town Entities have experienced a significant contraction in supplier trade terms in recent months and certain suppliers have required advance payment for inventory shipments as a result of the Company's current financial position. Without access to funding under the DIP Facility, the Golf Town Entities will not have sufficient funding to acquire the inventory necessary to support the Golf Town Business or to pay their suppliers in the ordinary course;
- (b) the imposition of Borrowing Base Reserves under the Credit Facility has intensified the liquidity challenges of the Golf Town Entities and limited their ability to access working capital to support the Golf Town Business;

- (c) the Company's Business operations, which had limited EBITDA and negative free cash flow in 2015, cannot sustain the Company's highly-leveraged capital structure and associated debt service costs;
- (d) the seasonal downturn in the Business that is expected in the coming months will further constrain the Company's liquidity position;
- (e) despite extensive efforts undertaken by the Company and its advisors to obtain additional financing, the Company is not able, other than pursuant to a DIP Facility under the CCAA and concurrent Chapter 11 proceedings, to obtain additional or alternative financing on acceptable terms given its current financial circumstances and existing debt structure; and
- (f) the results of the Sale Process and the value of the Golf Town Transaction indicate that the aggregate value of the Golf Town Property, taken at fair value, is not sufficient to enable the Golf Town Entities to pay all of their obligations, due and accruing due, including the Credit Facility Obligations that become due July 24, 2017 or earlier and the Secured Notes.

133. The boards of directors of Holdings GP and each of the Applicants have thoroughly considered the circumstances and the alternatives available in the present circumstances. In exercise of their business judgment and with the assistance of their legal and financial advisors, the directors have determined that it is in the best interests of the Golf Town Entities to file for CCAA protection at this time. By pursuing the implementation of the Golf Town Transaction in the CCAA proceedings, the Golf Town Business can continue as a going concern while the

majority of Golf Town's assets and employment obligations are transferred to and assumed by the Purchaser. The implementation of the Golf Town Transaction in the CCAA proceedings is the best available alternative for the Golf Town Entities at this time.

**B. Stay of Proceedings under the CCAA**

134. In light of the Company's financial circumstances, I believe that without the benefit of CCAA protection there could be an immediate and significant erosion of the value of the Business and the Company's ability to complete the Golf Town Transaction on a going concern basis. In particular, the Golf Town Entities are mindful of the following risks that could materialize without the benefit of a stay of proceedings and the other relief sought under the CCAA:

- (a) vendors ceasing to supply the Golf Town Entities with the inventory needed to operate the Golf Town Business or tightening credit terms in a manner that further exacerbates the liquidity challenges of the Golf Town Entities;
- (b) potential defaults under the Credit Facility and the Notes Indenture, the acceleration of amounts owing in respect of these financing arrangements, and the commencement of related enforcement actions against the Golf Town Entities and their assets; and
- (c) the potential termination of agreements that are critical to the operation of the Business and valuable assets to be acquired in connection with the Golf Town Transaction, including leases with respect to the retail locations to be acquired by the Purchaser and supply agreements with suppliers of the Golf Town Business.

135. Although Golf Town LP and Holdings LP are not applicants in these proceedings (since each is a limited partnership rather than a “company” to which the CCAA applies), the extension of the stay of proceedings to Golf Town LP and Holdings LP is essential because:

- (a) Golf Town LP is the operating entity of the Golf Town Business, meaning the entire Golf Town Business would be at risk if the benefits of the Initial Order are not extended to Golf Town LP;
- (b) Golf Town LP holds substantially all of the assets of the Golf Town Business, including substantially all of its cash resources, and is liable for substantially all of the trade liabilities of the Golf Town Business;
- (c) since substantially all of the purchased assets under the Golf Town Transaction are held by Golf Town LP, it is necessary for Golf Town LP to be subject to the CCAA proceedings to enable the vesting of the purchased assets in the Purchaser free and clear of liens and encumbrances;
- (d) Golf Town LP is a guarantor of the Credit Facility and the Secured Notes;
- (e) GT Canada, which owns all of the partnership units in Golf Town LP, is an Applicant in these proceedings;
- (f) Golf Town GP II Inc., which is the general partner of Golf Town LP, is an Applicant in these proceedings;

- (g) Holdings LP owns all of the beneficial interest in Golf Town and Golfsmith, including all of the issued shares of Golf Town Holdings, which is an Applicant in these proceedings;
- (h) if any proceedings were commenced against Golf Town LP or Holdings LP, it would have a detrimental effect on the Company's ability to complete the Golf Town Transaction and the Golfsmith Restructuring and could lead to a significant erosion of value of the Business to the detriment of all stakeholders; and
- (i) a stay of proceedings that extends to Golf Town LP and Holdings LP is necessary to maintain stability with respect to the Business and maintain value for the benefit of the Company's stakeholders.

136. For these reasons, the Applicants believe that an extension of the stay of proceedings to Golf Town LP and Holdings LP is essential for the preservation of value and the successful completion of the Golf Town Transaction on a going concern basis. Accordingly, the proposed Initial Order provides that Golf Town LP and Holdings LP shall have the benefit of the same protections and authorizations provided to the Applicants under the Initial Order. The Applicants believe that the commencement of the CCAA proceedings and the stay of proceedings in respect of the Golf Town Entities are necessary to protect and preserve the value of the Business while the Golf Town Entities complete the proposed Golf Town Transaction and restructure their affairs within the CCAA proceedings.

**C. Funding of the Company**

*(i) Cash Flow Forecast and the DIP Facility*

137. As indicated in the cash flow forecast attached hereto as Exhibit “D” (the “**Cash Flow Forecast**”), the Golf Town Entities require immediate additional funding at the commencement of the CCAA proceedings. The Golf Town Entities’ principal use of cash during these proceedings will consist of the costs associated with the ongoing operation of the Golf Town Business, including amounts paid to suppliers, employees and landlords. In addition to these regular course operating expenditures, the Golf Town Entities will also incur administrative expenses in connection with these CCAA proceedings, the completion of the proposed Golf Town Transaction and the wind-down of the remaining aspects of the Golf Town Business. The U.S. Debtors also require immediate additional funding at the commencement of the Chapter 11 proceedings to fund the operation and restructuring of the Golfsmith Business.

138. In advance of the initiation of the CCAA and Chapter 11 proceedings, the Company and its professional advisors engaged with the First Lien Agent and other potential financing sources to ascertain their interest in providing interim financing to the Company. Three parties entered into NDAs for the purpose of evaluating the interim financing opportunity and three additional parties that had executed NDAs in connection with the Sale Process also had discussions with Jefferies with respect to providing interim financing.

139. I am informed by Jefferies that certain potential financing sources indicated that they were not prepared to advance an interim financing proposal given their assessment that the Company’s First Lien Lenders were unlikely to support a third party interim financing proposal

that would rank in priority to the Credit Facility. The Company received one written proposal for interim financing, which was provided by the First Lien Agent on behalf of the First Lien Lenders. The financing to be provided by the First Lien Lenders (in such capacity, the “**DIP Lenders**”) pursuant to the DIP Facility is essential to address the Company’s immediate liquidity challenges and to enable the continued operation of the Business while the Golf Town Entities seek to complete the Golf Town Transaction.

140. The Cash Flow Forecast attached to this affidavit sets out projected cash flows for the seven week period ending October 29, 2016 (the “**Cash Flow Period**”). As set out in the Cash Flow Forecast, the Golf Town Entities are expected to have sufficient liquidity to operate to the end of the Cash Flow Period, which coincides with the October 31, 2016 target date and Effective Closing Date for the completion of the Golf Town Transaction. If the closing of the Golf Town Transaction is delayed or the liquidity needs of the Business during the Cash Flow Period exceed the amounts projected in the Cash Flow Forecast, the Company could experience liquidity challenges beyond the Cash Flow Period as a result of the inability to access additional advances under the DIP Facility due to borrowing base restrictions. The Company typically has elevated working capital requirements in early to mid-November to build inventory in advance of the holiday sales period, offset by increased sale activity in late November and throughout December.

141. To date, the Company has not been able to secure a commitment from the DIP Lenders to permit temporary enhanced availability under the DIP Facility in the event that the Golf Town Transaction is not completed within the Cash Flow Period. The Company will continue to work with the DIP Agent on DIP Facility arrangements. The Company believes that certain

arrangements may only be achievable as matters progress and the parties have the benefit of real time information in discussing liquidity and timing matters, including the status of the Golf Town Transaction and the Golfsmith Restructuring. The Golf Town Entities, with the assistance of the Monitor, will continue to closely monitor their liquidity situation and pursue available options, including potentially seeking relief from this Court regarding the use of the Deposit in respect of the Golf Town Transaction, with a view to protecting the operations and value of the Golf Town Business pending the completion of the Golf Town Transaction. The Golf Town Entities will provide further updates to this Court with respect to their liquidity situation as the CCAA proceedings progress.

142. Given its current financial situation and existing circumstances, the Company believes that obtaining financing pursuant to the DIP Facility is the best available alternative for the Company at this time. The Company is seeking approval of the DIP Facility in both the CCAA and Chapter 11 proceedings. The terms of the DIP Facility will be contained in a Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement in substantially the form attached hereto as Exhibit "E" (the "**DIP Agreement**"), which is in substantially the same form as the Credit Agreement, amended to reflect the nature of the interim financing and the current circumstances of the Company. The Company and the DIP Agent and their respective advisors continue to have discussions with respect to the finalization of the DIP Agreement, including matters with respect to the Milestones (as defined below). Certain matters with respect to the DIP Facility are confidential and are contained in the confidential supplement to this affidavit (the "**Confidential Supplement**").



143. The material terms of the DIP Facility include:<sup>4</sup>

- (a) each of the borrowers under the Credit Facility is a borrower under the DIP Facility (in their capacity as borrowers under the DIP Facility, the “**Borrowers**”), including GT Canada, Golf Town GP II Inc., and Golf Town LP. Golf Town Holdings is a guarantor of the DIP Facility. The obligations under the DIP Facility (the “**DIP Obligations**”) are guaranteed by the Credit Parties on a joint and several basis.
- (b) consistent with the Credit Facility, the DIP Facility is provided on a consolidated basis based on a borrowing base calculated by reference to the consolidated assets of Golf Town and Golfsmith. Total availability under the DIP Facility is the lesser of (i) US\$135 million (the “**Maximum Amount**”) and (ii) a borrowing base calculated based on the eligible accounts, inventory and real estate of the Company on a consolidated basis, less any reserves established by Antares Capital LP in its capacity as agent under the DIP Agreement (the “**DIP Agent**”). In connection with the determination of the DIP Facility borrowing base, the DIP Agent has agreed to release certain reserves that were recently imposed in connection with the determination of the Credit Facility Borrowing Base;<sup>5</sup>
- (c) the DIP Facility includes (i) a revolving subfacility with maximum availability of the Canadian-dollar equivalent of US\$60 million (the “**Canadian Subfacility**”),

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<sup>4</sup> Capitalized terms used but not defined in paragraph have the meanings given to them in the DIP Agreement.

<sup>5</sup> The DIP Agreement provides that these reserves may be re-imposed in the DIP Agent’s reasonable credit judgment based on circumstances, conditions, events or contingencies arising after the closing date of the DIP Facility or that were unknown to the DIP Agent prior to such closing.

- (ii) letter of credit and swingline subfacilities of the Canadian Subfacility (together with the Canadian Subfacility, the “**Canadian Facilities**”), and
- (iii) letter of credit and swingline subfacilities of the DIP Facility denominated in U.S. Dollars. Each of the Canadian Facilities is denominated in Canadian Dollars.
- (d) the DIP Facility shall bear interest, at the Borrowers’ option, at a fluctuating rate equal to:
- (i) for U.S. Dollar denominated loans, (A) the Base Rate plus 1.25% per annum, or (B) LIBOR plus 2.25% per annum; and
  - (ii) for the Canadian Facilities, (A) the Canadian Prime Rate plus 1.25% per annum, or (B) the BA Rate plus 2.25% per annum.
- (e) the maturity date of the DIP Facility is the earliest to occur of (i) six months from the closing of the DIP Facility; and (ii) the date on which the commitments are terminated in accordance with the DIP Agreement, after an event of default or otherwise.
- (f) the fees payable by the Borrowers under the DIP Facility include:
- (i) a non-refundable closing fee of 1.75% of the Maximum Amount;
  - (ii) an unused commitment fee equal to 0.375% per annum of the average unused daily balance of the DIP Facility; and

- (iii) an administration fee of US\$75,000 payable to the DIP Agent on the Closing Date and on each anniversary thereof.
  
- (g) availability under the DIP Facility is subject to certain conditions, including:
  - (i) approval of the DIP Facility by this Court and the Bankruptcy Court; and
  - (ii) delivery to the DIP Agent on the Closing Date of an Approved Budget depicting cash revenues, receipts, expenses and disbursements for the applicable cash flow period, which shall be in form and substance acceptable to, and approved by, the DIP Agent in its discretion, which Approved Budget shall be updated on a monthly basis.
  
- (h) the proceeds of the DIP Facility shall be used solely for (i) working capital and letters of credit, (ii) general corporate purposes, and (iii) payment of administrative costs related to the CCAA and Chapter 11 proceedings, in each case solely to the extent set forth in the Approved Budget and subject to permitted variances.
  
- (i) the DIP Agreement contains reporting requirements for the Borrowers, including the delivery to the DIP Agent on a weekly basis of a borrowing base certificate, inventory summary, accounts receivable and accounts payable aging listings, and an Approved Budget reconciliation report.

- (j) as adequate protection for any reduction in the value of the First Lien Lenders' collateral as a result of the DIP Facility, the First Lien Lenders will continue to receive interest payments in respect of the outstanding Credit Facility Obligations.
- (k) initial availability under the DIP Facility is subject to certain conditions precedent, including the issuance of orders by each of the CCAA Court and the Bankruptcy Court authorizing the DIP Facility and granting a superiority charge over the present and future real and personal property of the Golf Town Entities and the U.S. Debtors, as applicable, to secure the DIP Obligations;
- (l) the DIP Agreement contains events of default, including:
  - (i) the failure of the Debtors to comply with the Milestones (as defined below);
  - (ii) the conversion of the Chapter 11 proceedings to Chapter 7 proceedings or the conversion of the CCAA proceedings to proceedings under the *Bankruptcy and Insolvency Act (Canada)*;
  - (iii) the appointment of a receiver and manager, receiver, interim receiver or similar official over all or any substantial portion of the assets of any Debtor;
  - (iv) the filing of any plan of reorganization in the Chapter 11 proceedings that does not propose to indefeasibly repay in full in cash the DIP Facility

obligations and the Credit Facility Obligations to which the DIP Agent does not consent;

- (v) the granting of any lien or charge that is *pari passu* with or senior to the liens securing the DIP Obligations (other than liens or charges securing the obligations under the Credit Facility or charges created pursuant to the Initial Order); and
- (vi) the granting of any order by this Court or the Bankruptcy Court amending, staying, vacating or otherwise modifying the DIP Agreement, the Initial Order or other related orders without the consent of the DIP Agent.

(ii) Milestones in the DIP Facility

144. The DIP Agreement contains certain milestones (the “**Milestones**”) pertaining to the development and completion of transactions in respect of both the Golf Town Business and the Golfsmith Business.<sup>6</sup> The Milestones remain subject to discussion and finalization by the Company and the DIP Agent. The Milestones include a requirement to obtain Court approval of the Golf Town Transaction on or prior to October 4, 2016. The Milestones also currently include a number of steps and activities with respect to the Golfsmith Business, including:

- (a) with the prior approval of the Bankruptcy Court, Golfsmith shall commence a process to liquidate certain underperforming Golfsmith stores, which process shall be completed by October 28, 2016;

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<sup>6</sup> This affidavit provides a high-level summary of the Milestones, which will be more fully set-out in Schedule 4.21 to the DIP Agreement.

- (b) Golfsmith shall have received Bankruptcy Court approval by October 4, 2016 to conduct concurrent sale processes to solicit bids relating to (i) the sale of the Golfsmith Business on a going concern basis (the “**Golfsmith Sale**”), and (ii) the liquidation of Golfsmith’s retail stores (the “**Golfsmith Liquidation**”);
- (c) Golfsmith shall receive approval from the Bankruptcy Court by October 28, 2016 for the Golfsmith Sale (if a going concern bidder is selected), and the Golfsmith Liquidation (as a back-up in the event that Golfsmith is unable to complete the Golfsmith Sale); and
- (d) by October 30, 2016, Golfsmith shall have entered into definitive documentation with respect to the Golfsmith Sale and/or Golfsmith Liquidation and the aggregate proceeds in respect of such transaction(s) shall be sufficient to repay in full in cash the DIP Facility obligations and the Credit Facility Obligations, or the DIP Facility obligations and the Credit Facility Obligations shall have been refinanced in full in cash.

145. The Company intends to explore the potential for an alternative transaction for the Golfsmith Business as required by the DIP Facility. Concurrently, the Company intends to work with the Supporting Noteholders and other stakeholders to advance the Golfsmith Restructuring on the terms set forth in the Support Agreement. If the Company decides to proceed with the Golfsmith Restructuring following the exploration of alternative transactions, the Company will work with the DIP Agent on arrangements, with the benefit of real time information in evaluating potential transactions and timelines, to achieve a restructuring or transaction that is in the best interests of Golfsmith and its stakeholders.

(iii) DIP Lenders' Charge

146. It is contemplated that the DIP Lenders would be granted a Court-ordered charge over the Golf Town Property in the CCAA proceedings up to a maximum of US\$135 million to secure amounts advanced and owing pursuant to the DIP Facility (the “**DIP Lenders' Charge**”). The DIP Lenders' Charge will only secure post-filing advances made pursuant to the DIP Facility; it will not secure any obligation that existed prior to the Initial Order, including the Credit Facility Obligations. As a result of the current financial circumstances of the Company, the DIP Lenders have indicated that they are not prepared to advance additional funds to the Company without the security of court-ordered priority charges in the CCAA and Chapter 11 proceedings.

(iv) Repayment of Credit Facility Obligations from Cash Generated in the Business

147. In accordance with the requirements of the DIP Facility, all cash generated from the operation of the Golf Town Business and the Golfsmith Business during the CCAA and Chapter 11 proceedings will be used to permanently repay the Credit Facility Obligations. The repayments will be effectuated through the continuation of Cash Dominion by the First Lien Agent during the proceedings.

148. As the Credit Facility is secured by a valid first-ranking charge over substantially all of the Property of the Company (as confirmed in the Monitor's Pre-Filing Report), the continued repayment of the Credit Facility Obligations from proceeds generated through the operation of the Business maintains the existing priorities as among the Credit Facility, the Secured Notes and the Company's unsecured obligations. The continued repayment of the Credit Facility Obligations from proceeds generated in the operation of the Business is consistent with existing

arrangements and is a result of the terms of the Credit Facility and related lending and enforcement agreements in effect prior to the CCAA filing. The DIP Agreement expressly provides that the Company may not use advances under the DIP Facility to repay any indebtedness, including the Credit Facility Obligations, outstanding prior to the commencement of the CCAA and Chapter 11 proceedings.

149. The DIP Facility is essential to preserve the value of the Golf Town Business and to ensure that the Golf Town Entities can continue operating without disruption while they seek to implement the Golf Town Transaction. Given their present financial circumstances, the Golf Town Entities cannot obtain alternative financing outside of a CCAA process that would be acceptable to their existing secured lenders. As a result, I believe that the DIP Facility and the DIP Lenders' Charge are necessary and in the best interests of the Golf Town Entities and their stakeholders.

**D. Payments During the CCAA Proceedings**

150. As set out in the proposed Initial Order and described in greater detail elsewhere in this affidavit, the Golf Town Entities are seeking the authorization, subject to the Approved Budget, to pay certain expenses, whether incurred prior to or after the date of the Initial Order, in respect of:

- (a) outstanding and future wages, salaries, commissions, compensation, incentive payments, employee benefits, vacation pay and expenses payable to employees, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;



- (b) all outstanding and future contributions to or payments in respect of the Group RRSP and the DPSP in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (c) the fees and disbursements of any Assistants (as defined in the Initial Order) retained or employed by the Golf Town Entities;
- (d) all outstanding and future amounts owing in respect of Customer Programs and Customer Deposits or other amounts on account of similar customer programs or obligations;
- (e) all outstanding and future amounts related to honouring gift cards; and
- (f) with the consent of the Monitor, amounts owing for goods or services supplied to the Golf Town Entities prior to the Initial Order by:
  - (i) logistics or supply chain providers, including transportation providers and freight forwarders;
  - (ii) providers of credit, debit, gift card or other payment process services; and
  - (iii) other third party suppliers if, in the opinion of the Golf Town Entities, such payment is necessary to maintain the uninterrupted operations of the Business or the Golf Town Entities during the CCAA proceedings.

151. The authority to make the foregoing payments is necessary for the continued operation of the Golf Town Business and in connection with the CCAA proceedings, the completion of the

Golf Town Transaction and the restructuring of the Golf Town Entities. The Golf Town Entities believe that it is in the best interests of their stakeholders that the Golf Town Entities have the authority to continue to pay these expenses in the normal course, regardless of whether such expenses were incurred prior to, on or after the date of the Initial Order.

152. The Golf Town Entities are also seeking the authority to pay all reasonable expenses incurred in carrying on the Golf Town Business in the ordinary course after the date of the Initial Order, including expenses and capital expenditures reasonably necessary for the preservation of the Golf Town Business and payment for goods and services supplied to the Company during the CCAA proceedings.

153. The ability of the Golf Town Entities to satisfy customer demand and operate the Business is dependent on their ability to obtain an uninterrupted supply of certain inventory and services. As noted above, the Golf Town Entities have maintained long-term relationships with key industry suppliers, many of which are critical to the operation of the Golf Town Business. These supplier relationships have enhanced the ability of the Golf Town Entities to ensure product availability and reliability of supply and to obtain access to high-demand and limited availability products. The Golf Town Entities have already experienced a significant tightening of trade terms in advance of these proceedings and are concerned that certain suppliers may discontinue supplying on existing preferred terms if the Golf Town Entities cease to pay them in the ordinary course. Any such discontinuance could have a material adverse impact on the operation and value of the Golf Town Business and the completion of the Golf Town Transaction.

154. If the Golf Town Entities are unable to obtain uninterrupted access to goods and services from their key suppliers on acceptable terms during the CCAA proceedings, it may become necessary for the Golf Town Entities to bring a motion seeking the designation of certain suppliers as critical suppliers of the Golf Town Business and related relief pursuant to section 11.4 of the CCAA.

**E. Key Employee Incentive Plan**

155. In connection with the Company's exploration of strategic options and restructuring alternatives, the Company identified four senior-level management employees (the "**Key Management Employees**") whose concerted efforts in connection with the process would enhance the Company's ability to identify, develop and implement transactions and initiatives that maximize value for the benefit of the Company and its stakeholders. The Key Management Employees have significant knowledge and responsibility with respect to the Company and their commitment to the Company's restructuring efforts and Business operations is of vital importance to the Company. I am one of the four Key Management Employees.

156. In recognition of the importance of providing the Key Management Employees with appropriate incentives with respect to the operation of the Business and the exploration of strategic alternatives, the board of directors of GP Holdings approved a Key Employee Incentive Plan (the "**KEIP**") structured to provide the Key Management Employees with an incentive payment upon the completion of certain performance outcomes relating to the completion of a successful restructuring of the Company. The KEIP was established in June 2016 with input from the Company's professional advisors.

157. The terms of the KEIP are set out in letters to the Key Management Employees dated June 24, 2016 (the “**KEIP Letters**”). I understand that the KEIP Letters will be attached as confidential Exhibit “F” to this affidavit and included in the Confidential Supplement. The maximum aggregate incentive payments payable pursuant to the KEIP are US\$1,803,750. As all of the Key Management Employees are formally employed by GS Holdings, the primary obligor with respect to the KEIP payments is GS Holdings. However, the Key Management Employees provide strategic direction in respect of the entire Company, including Golf Town, and certain of the Key Management Employees are officers and/or senior management of the Golf Town Entities. Accordingly, the KEIP Letters provide for the guarantee of the KEIP obligations by GT Canada and its Canadian affiliates. By guarantee dated as of June 24, 2016, GT Canada and Golf Town LP guaranteed the obligations of GS Holdings under the KEIP (the “**KEIP Guarantee**”).

158. It is contemplated that the obligations of GT Canada and Golf Town LP pursuant to the KEIP Guarantee would be secured by a Court-ordered charge in the amount of US\$1,803,750 (the “**KEIP Guarantee Charge**”) over the Golf Town Property. The board of directors of Holdings GP believes that the KEIP and the KEIP Guarantee Charge are necessary to provide appropriate incentives to the Key Management Employees in connection with a restructuring of the Company and that the scope of the eligible employees and incentive payments under the KEIP is appropriately tailored in the circumstances. The Key Management Employees have been and will continue to be essential for the preservation of the value of the Business, the completion of the Golf Town Transaction and the restructuring of the Golf Town Business. It is in the best interests of the Company and its stakeholders that this Court ratify the KEIP Guarantee and grant the KEIP Guarantee Charge to ensure that the Key Management Employees

have certainty with respect to the KEIP arrangements as they continue their efforts to complete a successful restructuring of the Company.

159. In order to prevent private and confidential information from being disclosed publicly, the Golf Town Entities are requesting that the Court seal the KEIP Letters as part of the Confidential Supplement.

**F. Transition Employee Plan**

160. The proposed Initial Order also includes approval of a transition employee plan (the “**Transition Employee Plan**”). The Transition Employee Plan was developed by the Golf Town Entities, in consultation with their professional advisors and the proposed Monitor, to facilitate and encourage the continued participation of certain employees of the Golf Town Entities (the “**Transition Employees**”) in connection with the completion of the Golf Town Transaction and the orderly liquidation and closure of the Excluded Locations. The Transition Employees have significant knowledge with respect to the Golf Town Business and its store-level operations and there is a significant risk that Transition Employees will discontinue their employment given the current circumstances of the Golf Town Business and the anticipated closure of the Excluded Locations. An inability to retain the Transition Employees until the store closure process is complete would impair the ability of the Golf Town Entities to complete the wind-down process in an orderly manner and to maximize remaining value for the benefit of stakeholders.

161. The Transition Employee Plan provides that the Transition Employees will be designated by the Golf Town Entities with the consent of the Monitor. While the Golf Town Entities have already identified the majority of the Transition Employees that will be entitled to payments

under the proposed Transition Employee Plan, the program is designed to be flexible and to permit the designation of Transition Employees in response to future circumstances and developments with respect to the store closure and wind-down process. It is expected that the Transition Employees will consist primarily of operational and store-level management involved in the process to transition stores to the Purchaser and to oversee the closure of the Excluded Locations. The Golf Town Entities expect that there will be fewer than 150 Transition Employees under the Transition Employee Plan.

162. All payments under the Transition Employee Plan are conditional upon the applicable Transition Employee continuing to provide services to the Golf Town Entities until such time as the Transition Employee is advised that his or her services are no longer required by the Golf Town Entities. It is contemplated that Transition Employees would be paid their Transition Employee Plan entitlement in connection with their final pay. Transition Employees that resign their positions or are terminated for cause will not be eligible for incentive payments under the Transition Employee Plan. The Golf Town Entities are seeking authorization pursuant to the Initial Order to make aggregate incentive payments under the Transition Employee Plan of up to C\$80,000.

163. The Golf Town Entities are seeking a charge over the Golf Town Property (the “**Transition Employee Charge**”) in favour of the Transition Employees to secure the payments under the Transition Employee Plan. The Golf Town Entities believe that the Transition Employee Plan and the Transition Employee Charge are necessary to ensure the retention of the Transition Employees during the critical period in which the Golf Town Entities work to

implement the Golf Town Transaction and complete an orderly wind-down of the remaining aspects of the Golf Town Business to maximize value for the benefit of stakeholders.

**G. Approval of the Engagement of Jefferies**

164. As noted above, the Company engaged Jefferies in June 2016 to undertake the Sale Process and to assist the Company in the identification and analysis of strategic alternatives. Jefferies has played a critical role in the conduct of the Sale Process and the development and negotiation of the Golf Town Transaction and the Support Agreement. Jefferies will continue to have an important role in the CCAA and Chapter 11 proceedings in connection with the implementation of the proposed restructuring transactions. Accordingly, the Company is seeking the Court's confirmation of the retention of Jefferies and the approval of its engagement letter in the Initial Order. The U.S. Debtors will also be seeking approval of the continued retention of Jefferies in the Chapter 11 proceedings.

165. Pursuant to the Company's engagement letter with Jefferies dated as of June 6, 2016 (the "**Jefferies Engagement Letter**") attached hereto as confidential Exhibit "G" and included in the Confidential Supplement, the Company shall pay Jefferies certain fees, including a monthly fee and a transaction fee payable upon the completion of a sale, recapitalization, merger or acquisition, financing or other restructuring transaction (the "**Transaction Fee**").<sup>7</sup> The proposed Initial Order provides that Jefferies' monthly fees will be secured by the Administration Charge (as defined below) and that the portion of the Jefferies' Transaction Fee

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<sup>7</sup> The Jefferies Engagement Letter provides that 50% of all monthly fees paid to Jefferies from and after September 6, 2016 shall be credited against the Transaction Fee.

allocated to Canada will be secured by a charge in the maximum amount of US\$1,062,500 over the Golf Town Property (the “**Financial Advisor Charge**”) with the priority described below.

166. The approval of the engagement of Jefferies is appropriate in the circumstances as Jefferies has worked extensively with the Company to date in connection with the Sale Process, has extensive knowledge with respect to the Company and its Business, and will be instrumental in completing the Golf Town Transaction and the Golfsmith Restructuring and the successful transitioning of the Golf Town Business and the Golfsmith Business. The continued engagement of Jefferies is a condition of the DIP Facility. In addition, it is a condition of the Jefferies Engagement Letter that the Company seek court approval of the Jefferies Engagement Letter in connection with the initiation of any restructuring proceedings in respect of the Company.

**H. Approval of the Engagement of A&M and the CRO**

167. As described above, A&M was originally retained by the Company in 2014 and A&M has played a central role in advising and assisting the Company with respect to the Strategic and Operational Review and the exploration and development of strategic, business and operational initiatives. In connection with the initiation of the CCAA and Chapter 11 proceedings, the Company and A&M have entered into an engagement letter dated as of September 13, 2016 (the “**A&M Engagement Letter**”) with respect to A&M’s mandate with the Company moving forward. A copy of the A&M Engagement Letter is attached hereto as confidential Exhibit “H” and included in the Confidential Supplement.

168. Pursuant to the A&M Engagement Letter, A&M will continue to provide advisory services to the Company during the CCAA and Chapter 11 proceedings. Brian Cejka of A&M



will serve as the Chief Restructuring Officer (the “**CRO**”) of Golf Town and Golfsmith and will oversee and manage A&M’s U.S. engagement team, and Douglas McIntosh of A&M will oversee and manage A&M’s Canadian engagement team. The A&M Engagement Letter provides that A&M will be compensated based on the services of the CRO and the engagement team at their hourly rates, and that the Golf Town Entities shall be responsible for the payment of the fees and expenses of A&M for services provided by A&M to the Golf Town Entities or the Golf Town Business. A&M is not entitled to a success, transaction or similar fee in respect of the engagement.

169. In the proposed Initial Order, the Golf Town Entities are seeking the Court’s confirmation of the retention of A&M and the CRO and the approval of the A&M Engagement Letter. The U.S. Debtors will also be seeking confirmation of the retention of A&M and the CRO in the Chapter 11 proceedings. The approval of the engagement of A&M, including the CRO, is appropriate in the circumstances as A&M has worked extensively with the Company since 2014 and has significant knowledge with respect to the Company and its Business, operations and finances. A&M’s continued involvement will be critical to the successful completion of the Golf Town Transaction, the Golfsmith Restructuring and the other activities necessary to wind-down certain aspects of the Business in an orderly manner that maximizes value for stakeholders. In addition, the continued engagement of A&M is a condition of the DIP Facility. The Company believes that the retention of A&M, including the CRO, is in the best interests of the Company and its stakeholders.

170. The terms of the Jefferies Engagement Letter and the A&M Engagement Letter (together, the “**Engagement Letters**”) are commercially sensitive, and the disclosure of the commercial

terms of the Engagement Letters could affect the ability of Jefferies and A&M to negotiate compensation of their services in future engagements. Further, it does not appear that the sealing of the Jefferies Engagement Letter would materially prejudice any third parties. Accordingly, the Golf Town Entities are seeking to have the Engagement Letters sealed as part of the Confidential Supplement.

**I. Monitor and Administration Charge**

171. The Golf Town Entities seek the appointment of FTI as the CCAA monitor in these proceedings (the “**Monitor**”). FTI has consented to act as the Monitor of the Golf Town Entities in the within proceedings, subject to Court approval. A copy of its consent is attached at Tab “5” of the Application Record.

172. FTI became involved with the Company in August 2016 in the capacity as proposed Monitor in the event that it became necessary for the Company to commence CCAA proceedings. Since that time, FTI has been provided with regular updates regarding the Company’s financial and liquidity position, the conduct of the Sale Process, the development of the Golf Town Transaction and the Support Agreement, and the other relief requested by the Golf Town Entities in connection with the CCAA proceedings.

173. It is contemplated that a Court-ordered charge over the Golf Town Property would be granted in favour of the Monitor, counsel to the Monitor, counsel to the Company and A&M to secure the payment of their professional fees and disbursements (incurred at their standard rates and charges and on the terms set forth in their respective engagement letters) and in favour of Jefferies to secure its monthly fees and expenses (in accordance with the Jefferies Engagement

Letter) and whether incurred prior to, on or after the date of the Initial Order (the “**Administration Charge**”). The proposed Administration Charge is in an aggregate amount of C\$1.6 million. All of the beneficiaries of the Administration Charge have contributed, and will continue to contribute, to the Company’s restructuring efforts.

**J. Directors’ Charge**

174. The directors and officers of the Golf Town Entities and Holdings GP (the “**Directors and Officers**”) have been actively involved in efforts to address the current financial and operational challenges of the Business, including through overseeing the conduct of the Operational and Strategic Review, the exploration of strategic alternatives, the Sale Process, the negotiation of the Golf Town Transaction and the Support Agreement, communications with stakeholders and the preparation for and commencement of these CCAA proceedings.

175. The Directors and Officers have been mindful of their duties with respect to their supervision and guidance of the Company in advance of these CCAA proceedings. Nonetheless, it is my understanding, based on advice from counsel, that in certain circumstances, directors and officers can be held personally liable for certain corporate obligations, including in connection with salary and wages, payroll remittances, vacation pay, termination and severance obligations (in certain provinces), harmonized sales taxes, goods and services taxes, workers compensation remittances, and certain other obligations. Furthermore, I understand it may be possible for directors and officers of a corporation to be held personally liable for certain other employee-related obligations.

176. The Company maintains a directors and officers insurance policy (the “**D&O Policy**”) with Travelers Insurance Company of Canada that expires on November 15, 2016. The D&O Policy provides C\$5 million in coverage. The D&O Policy insures the Directors and Officers, as well as the directors and officers of the Golfsmith entities, for certain claims that may arise against them in their capacity as directors and/or officers; however, the D&O Policy contains several exclusions and limitations to the coverage provided, and there is a potential for there to be insufficient coverage in respect of claims against the Directors and Officers.

177. The Directors and Officers have expressed their desire for certainty with respect to potential personal liability if they continue in their current capacities. In order to continue to carry on business in the ordinary course during the CCAA proceedings and complete the Golf Town Transaction most effectively, the Golf Town Entities require the active and committed involvement of the Directors and Officers.

178. Accordingly, the Golf Town Entities request a Court-ordered charge in the amount of C\$3.7 million over the Golf Town Property to secure the indemnity of the Directors and Officers in respect of liabilities they may incur during the CCAA proceedings in their capacities as directors and officers with respect to any failure to pay wages and source deductions, vacation pay, severance and termination amounts, other employee-related obligations and Sales Taxes (as defined in the Initial Order) (the “**Priority Directors’ Charge**”), and a Court-ordered charge in the amount of C\$3.0 million over the Golf Town Property to secure the indemnity of the Directors and Officers in respect of liabilities they may incur during the CCAA proceeding in their capacities as directors and officers (the “**Directors’ Charge**” and, together with the “**Priority Directors’ Charge**”, the “**Directors’ Charges**”). The proposed ranking of the

Directors' Charges is set out below and in the proposed Initial Order. The amount of the Directors' Charges has been calculated based on the estimated exposure of the Directors and Officers and has been reviewed with the Monitor. The proposed Directors' Charges would apply only to the extent that the Directors and Officers do not have coverage under the D&O Policy.

179. The proposed Initial Order provides that the directors and officers of Holdings GP shall be entitled to the benefit of the Directors' Charges. I am a director of Holdings GP. Holdings GP is not a Golf Town Entity for which CCAA protection is sought. However, Holdings GP is the general partner of Holdings LP, which is a Golf Town Entity for purposes of the relief requested in the Initial Order and which owns all of the beneficial interest in Golf Town and Golfsmith. The directors and officers of Holdings GP provide important oversight and strategic direction to the entire Company and have been actively involved in efforts to address the current financial and operational challenges of the Business. The directors and officers of Holdings GP have expressed a desire for certainty with respect to addressing potential personal liability if they continue in their current capacities. Given the critical role played by the directors and officers of Holdings GP with respect to strategic oversight of the entire Company and the need to ensure the committed involvement of such individuals during the CCAA proceedings, the Golf Town Entities believe that the extension of the Directors' Charges to the directors and officers of Holding GP is in the best interests of the Golf Town Entities and their stakeholders.

**K. Priorities of Charges**

180. It is contemplated that the priorities of the various charges (collectively, the "Charges"), as among them, will be as follows:

- (a) First – the Administration Charge;
- (b) Second – the Priority Directors’ Charge;
- (c) Third – the DIP Lenders’ Charge;
- (d) Fourth – the Directors’ Charge;
- (e) Fifth – the KEIP Guarantee Charge and the Transition Employee Charge (*pari passu*);
- (f) Sixth – the Financial Advisor Charge; and
- (g) Seventh – the Intercompany Charge.

181. The Initial Order sought by the Company provides for the Charges to rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise (collectively, the “**Encumbrances**”) in favour of any person, notwithstanding the order of perfection or attachment, subject to the following:

- (a) any security interest of a “secured creditor” as defined in the CCAA as of the date of the Initial Order, other than any security interest in respect of the Credit Facility and the Secured Notes, shall rank in priority to the Charges;
- (b) the Administration Charge, the Priority Directors’ Charge and the DIP Lenders’ Charge shall rank in priority to any security interest securing the Credit Facility or the Secured Notes; and
- (c) the Directors’ Charge, the KEIP Guarantee Charge, the Transition Employee Charge, the Financial Advisor Charge and the Intercompany Charge shall rank

subordinate to any security interest securing the Credit Facility and in priority to any security interest securing the Secured Notes.

182. I am informed by counsel that the First Lien Agent and the Notes Trustee have been given notice of the initiation of these CCAA proceedings and the relief sought by the Golf Town Entities with respect to the Charges. The Intercreditor Agreement provides that, without any further action by or consent of the Notes Trustee or the Secured Noteholders, the Encumbrances securing the Secured Notes may be subordinated to the Administration Charge and the DIP Lenders' Charge, provided that certain adequate protection is extended to Secured Noteholders under the DIP Facility. I am informed by counsel to the Company that the DIP Facility includes such adequate protection.

183. The proposed Initial Order authorizes the Golf Town Entities to seek an Order granting priority of the Charges ahead of all or certain other Encumbrances on a subsequent motion in these proceedings.

184. The Golf Town Entities believe the amount of the Charges is fair and reasonable in the circumstances.

**L. Approval of the Golf Town Transaction**

185. The Golf Town Entities are not seeking approval of the Golf Town Transaction as part of the Initial Order. However, if this Court grants the Initial Order, the Golf Town Entities intend to bring the Sale Approval Motion as soon as possible to seek approval of the Golf Town Transaction and other related relief on notice to parties affected by the Golf Town Transaction.

**M. Orderly Wind-Down of Excluded Locations**

186. While the Golf Town Transaction is expected to result in the continued operation of the majority of Golf Town's retail locations on a going concern basis, certain Excluded Locations will not be acquired by the Purchaser. Under the terms of the Golf Town APA, the Purchaser is required to determine, by no later than October 26, 2016, which of Golf Town's retail leases will be acquired in connection with the Golf Town Transaction. Once the scope of the Excluded Locations is finalized, the Golf Town Entities intend to complete remaining wind-down activities in the CCAA proceedings, including the closure of Excluded Locations in a manner that maximizes value and is responsive to the interests of affected stakeholders.

**VI. CHAPTER 11 PROCEEDINGS**

187. The Company has determined that, given its current circumstances, the completion of the Golfsmith Restructuring cannot be achieved outside of a court-supervised process. The Company is of the view that the Golfsmith Restructuring will require judicial approval in the United States to address the business, assets and obligations of the Company in the United States. Accordingly, the U.S. Debtors are making a voluntary Chapter 11 petition to the Bankruptcy Court concurrently with the initiation of these CCAA proceedings. The U.S. Debtors will be seeking "First Day Motions" to obtain relief similar to that sought by the Golf Town Entities in these proceedings.

188. Given the existing integrated nature of the Business, the Company believes that a global restructuring is the best way to protect and maximize value for stakeholders. While the CCAA and Chapter 11 proceedings will be coordinated with a view to ensuring that the Business is restructured on a comprehensive basis, the Company expects that the CCAA and Chapter 11



proceedings can be undertaken on separate tracks that reflect the geographical bifurcation of the Business. There is no expected overlap in the Golf Town Entities that will be subject to the CCAA proceedings and the U.S. Debtors that will be subject to the Chapter 11 proceedings, although the provision of shared services between the Golf Town Entities and the U.S. Debtors will continue. The CCAA proceedings will be focused on the completion of the Golf Town Transaction and the restructuring of the Golf Town Business, and the Chapter 11 proceedings will be focused on the advancement and completion of the Golfsmith Restructuring. Accordingly, the Company is not seeking the approval of a cross-border protocol at this time.

## **VII. CONCLUSION**

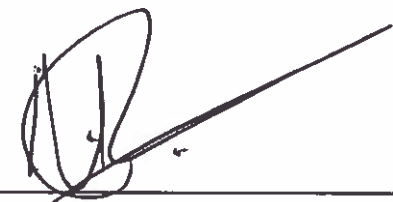
189. The Company and its professional advisors have extensively considered and explored a variety of strategic alternatives to achieve a restructuring of the Company that addresses the liquidity challenges of the Business, maximizes value for the benefit of stakeholders, and enables the continued operation of the Business on a going concern basis. The Company believes that the implementation of the Golf Town Transaction and the Golfsmith Restructuring represents the best available outcome for the Company and its stakeholders at this time.

190. Having regard to its challenged financial circumstances, the Company has determined that it is necessary to implement the Golf Town Transaction in connection with these CCAA proceedings. The CCAA proceedings and the relief sought in the Initial Order are necessary to stabilize the Golf Town Business and to enable Golf Town to continue operations without disruption while the Golf Town Transaction is completed.

191. I swear this affidavit in support of the relief sought by the Golf Town Entities and for no improper purpose.

SWORN before me at the City of  
Austin, in the State of Texas, on  
September 13, 2016.


  
A Commissioner for taking affidavits

  
David Roussy



B

**THIS IS EXHIBIT "B"**  
**TO THE AFFIDAVIT OF DAVID ROUSSY**  
**SWORN BEFORE ME THIS 24<sup>TH</sup> DAY OF OCTOBER, 2016**

  
Commissioner for Taking Affidavits



Court File No. CV-16-11527-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF GOLF TOWN CANADA HOLDINGS INC., GOLF TOWN CANADA INC. AND  
GOLF TOWN GP II INC.**

Applicants

**AFFIDAVIT OF ROBERT WHITE**  
(sworn September 23, 2016)

I, Robert White, of the City of Rye, in the State of New York, MAKE OATH AND SAY:

1. I am a Managing Director in the Global Financial Advisory Group at Jefferies LLC (“**Jefferies**”) and have served in that capacity since 2013. Jefferies was engaged by Golf Town and Golfsmith (collectively, the “**Company**”) in June 2016 to assist the Company in its ongoing review of strategic alternatives and to undertake a comprehensive sale process (the “**Sale Process**”) to solicit interest in sale or other restructuring transactions in respect of the Company and its business and assets. As such, I have personal knowledge of the Company and the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.

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2. On September 14, 2016, Golf Town Canada Holdings Inc., Golf Town Canada Inc. (“**GT Canada**”) and Golf Town GP II Inc. (collectively, the “**Applicants**”) sought and obtained an Order of this Court (the “**Initial Order**”) providing creditor protection to the Applicants under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). The protections and authorizations in the Initial Order were also extended to Golfsmith International Holdings LP (“**Holdings LP**”) and Golf Town Operating Limited Partnership (“**Golf Town LP**” and, together with the Applicants and Holdings LP, the “**Golf Town Entities**”). Pursuant to the Initial Order, FTI Consulting Canada Inc. (“**FTI**”) was appointed as monitor (the “**Monitor**”) of the Golf Town Entities in the CCAA proceedings.

3. At the time of the CCAA application, the Golf Town Entities advised the Court that they would be bringing a motion (the “**Sale Approval Motion**”) as soon as possible following the granting of the Initial Order seeking approval of the sale of the Golf Town Business (the “**Golf Town Transaction**”) to 9918167 Canada Inc. (the “**Purchaser**”), an entity owned by Fairfax Financial Holdings Limited (“**Fairfax**”) and certain investment funds managed by CI Investments Inc. (“**CI**”). This affidavit is sworn in support of the Sale Approval Motion and related relief.

4. Concurrently with the CCAA application, certain Golfsmith entities (the “**U.S. Debtors**”) initiated voluntary Chapter 11 proceedings in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) to provide stability to the Golfsmith Business while the U.S. Debtors advance and implement a restructuring of the Golfsmith Business (the “**Golfsmith Restructuring**”). Fairfax and CI, which collectively hold in excess of 40% of the Company’s second lien Secured Notes, have entered into a Support Agreement pursuant to which they and

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other Secured Noteholders that enter into the Support Agreement (collectively, the “**Supporting Noteholders**”) will support the Golf Town Transaction and the Golfsmith Restructuring on the terms set forth in the Support Agreement.

5. Capitalized terms used and not otherwise defined in this affidavit have the meanings given to them in the affidavit of David Roussy sworn September 13, 2016 (the “**Roussy Affidavit**”) or the Purchase Agreement.

6. In connection with the Sale Approval Motion, the Golf Town Entities are seeking an Order (the “**Approval and Vesting Order**”), among other things:

- (a) approving the Golf Town Transaction pursuant to the Purchase Agreement dated as of September 14, 2016 (the “**Purchase Agreement**”) between GT Canada and Golf Town LP (together, the “**Vendors**”) and the Purchaser and authorizing the Vendors to complete the Golf Town Transaction;
- (b) upon completion of the Golf Town Transaction in accordance with the terms of the Purchase Agreement, vesting the Vendors’ right, title and interest in and to the Purchased Assets (as defined in the Purchase Agreement) in the Purchaser, free and clear of all interests, liens, charges and encumbrances, other than permitted encumbrances;
- (c) providing certain protections to ensure that the Escrow Funds (as defined below) and the net proceeds of the Golf Town Transaction are available to satisfy the obligations of the Vendors and the Purchaser with respect to any working capital purchase price adjustment that may arise pursuant to the Purchase Agreement;

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- (d) authorizing and directing the Monitor, on behalf of the Golf Town Entities, to make certain distributions to the DIP Agent and the First Lien Agent from the net proceeds of the Golf Town Transaction; and
- (e) ordering the sealing of certain confidential commercial information with respect to the Golf Town Transaction.

7. The Golf Town Transaction is the result of an extensive exploration of strategic alternatives carried out by the Company and its professional advisors in recent years to address the financial and operational challenges of the Business. The Company has actively pursued recapitalization, restructuring and transaction alternatives with a view to maximizing value for the benefit of stakeholders and positioning the Golf Town Business for enhanced financial performance. As described in this affidavit, this process has included a comprehensive Sale Process, undertaken by the Company with the assistance of Jefferies, to identify, develop and implement one or more strategic transactions in respect of the Company and its Business.

8. Following an extensive process and the thorough analysis of available options and alternatives, the Company, with the advice and assistance of its professional advisors, has determined that proceeding with the Golf Town Transaction at this time is in the best interests of the Golf Town Entities and their stakeholders.

9. The Golf Town Transaction provides a going concern solution for the Golf Town Business that will maximize value, provide the Golf Town Business with a sustainable capital structure and retail footprint, and result in the continuation of the Golf Town Business for the benefit of a broad range of stakeholders, including employees, customers and suppliers. The



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Golf Town Transaction will result in the acquisition of substantially all of the assets of the Golf Town Business and the continued operation of a majority of Golf Town's retail locations by an entity backed by leading Canadian asset management firms.

10. The Golf Town Transaction is a critical component of the overall restructuring solution for the Company and its completion is a condition to the completion of the Golfsmith Restructuring pursuant to the terms of the Support Agreement. Completion of the Golf Town Transaction will enable the Company to significantly reduce its leverage and interest costs while it advances and implements the Golfsmith Restructuring or another value-maximizing alternative transaction in connection with Golfsmith's Chapter 11 proceedings.

11. Accordingly, the Golf Town Entities are seeking the Approval and Vesting Order to enable them to advance and complete the Golf Town Transaction on an expedited basis, which will provide the Golf Town Business with stability and a right-sized capital structure and operating footprint moving forward.

#### **I. BACKGROUND**

12. The Company is a leading specialty retailer of golf equipment, consumables, apparel and accessories in North America. The Company operates through an extensive retail store network and direct-to-consumer channels. Golf Town, the Company's Canada-based business, operates 55 stores across nine Canadian provinces. Golfsmith, the Company's U.S.-based business, operates 109 stores across 29 U.S. states. The Company's retail stores offer a full range of golf-related merchandise, service and activities.

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13. As more fully described in the Roussy Affidavit, the Company has experienced financial and operational challenges as a result of its leveraged capital structure and weakness in the golf industry and broader economy. These challenges have made it difficult for the Company to maintain sufficient liquidity to support and grow the Business. The Company's capital structure and working capital requirements cannot be supported by current operating performance.

14. The Company, with the assistance of its professional advisors, has made significant efforts over a number of years to explore and advance operational and strategic alternatives to identify business enhancements, address its liquidity challenges, deleverage its balance sheet and position the business for future growth (the "**Operational and Strategic Review**"). As described in the Roussy Affidavit, the Operational and Strategic Review has included:

- (a) the engagement of Alvarez & Marsal North America LLC (together with its affiliates, "**A&M**") in 2014 to assist the Company in performing a review of possible business enhancements and cost reduction initiatives, developing and improving controls for forecasting and monitoring cashflows, and strengthening stakeholder communications;
- (b) the transition to a new senior leadership team in 2015 and development and implementation of the Company's "Next Generation Strategy" to capitalize on market opportunities;
- (c) the engagement of A&M in 2016 to assist the Company in an in-depth review of the Company's business, operations, financial outlook and strategic alternatives, including a comprehensive review of the Company's retail store network

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analysing, among other things, operating performance, lease and occupancy costs on a store-by-store basis, and attractiveness and significance of local golf markets;

- (d) the exploration of various restructuring and recapitalization initiatives for the Business, including the development and advancement of potential restructuring and recapitalization alternatives with certain of the Company's key stakeholders in an effort to deleverage the Company's balance sheet, enhance its liquidity, and position it for improved financial performance; and
- (e) the engagement of Jefferies to assist the Company in its ongoing review of strategic alternatives and to undertake the Sale Process.

15. The Operational and Strategic Review and the other actions taken by the Company to address its financial and operational challenges are described in greater detail in the Roussy Affidavit.

## **II. JEFFERIES LLC**

16. In June 2016, the Company engaged Jefferies to provide investment banking and financial advisory services to the Company and to conduct a Sale Process to identify potential sale or other restructuring transactions in respect of the Company and its Business.

17. Jefferies is a global investment banking firm, with operations in all facets of corporate finance, mergers and acquisitions, restructurings and recapitalizations, debt and equity capital markets, investment research and investment management. In the last 12 months, Jefferies has completed nearly 400 merger and acquisition, restructuring and financing transactions totalling more than US\$220 billion in value. Jefferies has extensive experience in connection with

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restructuring and recapitalization transactions and in providing investment banking services to retail industry clients.

18. I have supervised a team of professionals at Jefferies as part of our engagement to undertake the Sale Process and to assist the Company in the identification and analysis of strategic alternatives. The Jefferies' engagement team includes professionals from both Jefferies' financial advisory group and retail group. Attached as Exhibit "A" to this affidavit is a copy of my professional biography.

### **III. THE SALE PROCESS**

19. Upon being engaged by the Company in June 2016, Jefferies commenced extensive preparatory work for the Sale Process in close consultation with the Company's senior management, legal counsel and A&M. During this period, Jefferies developed a teaser document describing the Company and its Business and highlighting potential transaction opportunities. Jefferies also undertook a comprehensive assessment of the Company and its Business, together with the Company and A&M, to identify potential purchasers that might be interested in considering an acquisition or investment transaction in respect of the Golf Town Business and/or the Golfsmith Business.

20. The Sale Process was structured as a two-phase process. The first phase of the Sale Process ("**Phase 1**") involved contacting potential purchasers, initial due diligence and the receipt by the Company of non-binding initial indications of interest ("**Indications of Interest**") by July 20, 2016 (the "**Phase 1 Bid Deadline**"). The second phase of the Sale Process ("**Phase 2**") involved additional due diligence, site visits, management presentations, advisor and principal discussions and the submission of final bids in the form of binding definitive

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documentation by August 25, 2016, which date was subsequently extended to August 29, 2016 on notice to potential bidders (the “**Phase 2 Bid Deadline**”). Attached as Exhibit “B” to this affidavit is the process letter (the “**Process Letter**”) dated July 1, 2016 provided to participants in Phase 1 of the Sale Process, which contained an overview of the Sale Process and instructions with respect to the submission and required content of Indications of Interest and final bids. The Process Letter indicated to potential purchasers that the Company would consider potential transactions in respect of all or part of the Company and its business and assets and Jefferies communicated to potential purchasers the willingness of the Company to consider transactions in respect of the Golf Town Business and the Golfsmith Business on a consolidated or standalone basis.

21. The Company, with the assistance of Jefferies and its other professional advisors, provided regular updates on the Sale Process to the board of directors of Golfsmith International Holdings GP (“**Holdings GP**”), which provides strategic direction for both Golf Town and Golfsmith. FTI, which became involved with the Company in August 2016 as the proposed Monitor in the event a CCAA filing became necessary, was provided with regular updates with respect to the Sale Process and the potential transactions being advanced by various parties. The First Lien Agent under the Credit Facility was also provided with periodic updates as the Sale Process advanced and prior to the execution of the Purchase Agreement.

22. I understand that the Monitor will provide its views on the Sale Process and the Golf Town Transaction in the Monitors’ First Report to be filed in connection with the Sale Approval Motion.

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**A. Phase 1 of the Sale Process**

23. Phase 1 of the Sale Process was formally commenced on June 13, 2016. During Phase 1, Jefferies contacted 214 potential buyers – comprised of 37 potential strategic buyers and 177 potential financial buyers located in Canada, the United States and elsewhere – to describe the transaction opportunity and to encourage them to participate in the Sale Process. Sixty-seven parties ultimately entered into non-disclosure agreements to receive confidential information with respect to the Company. Parties that executed non-disclosure agreements were provided with the teaser document and the Process Letter and were given access to a confidential data site containing non-public information regarding the Company and the Business.

24. The Company and Jefferies worked diligently with potential purchasers throughout Phase 1 of the Sale Process to respond to inquiries, discuss the Business and the acquisition opportunity, and to otherwise ensure that prospective purchasers had the information necessary to formulate an Indication of Interest in respect of a potential transaction involving Golf Town and/or Golfsmith.

25. As of the Phase 1 Bid Deadline, the Company received twelve Indications of Interest in respect of the Business, which included Indications of Interest for transactions involving the consolidated Business, as well as Indications of Interest for transactions involving either the Golf Town Business or the Golfsmith Business on a standalone basis. All of the Indications of Interest, with the exception of one bid, contemplated going concern transactions with respect to the relevant business.

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**B. Phase 2 of the Sale Process**

26. The Company, with the assistance of Jefferies, A&M and its legal advisors, undertook an extensive review of the Indications of Interest received in Phase 1 of the Sale Process. After considering, among other things, the amount and form of consideration, transaction structure, timing, conditionality and feasibility in connection with other potential transactions, it was determined that seven of the parties that had submitted Indications of Interest would be invited to participate in Phase 2 of the Sale Process (the “**Phase 2 Participants**”) and that the Indications of Interest submitted by the five other parties contained valuations that did not warrant advancing further discussions with such parties. Jefferies advised each of the parties that had submitted Indications of Interest whether or not they would be advancing to Phase 2 of the Sale Process. An updated Process Letter was also provided to Phase 2 Participants.

27. Phase 2 Participants were given access to an expanded data room, which contained, among other things, detailed operational, human resources, legal, customer and supplier information in respect of the Company and the Business. A management presentation was also developed and delivered by the Company’s senior management to provide Phase 2 Participants with in-depth information regarding, among other things, the Company’s corporate strategy, operations, financial condition, and industry opportunities and challenges. Phase 2 of the Sale Process also involved more extensive due diligence, site visits, and detailed discussions between the Company, the Phase 2 Participants and their respective advisors.

28. Following the initial management presentations, Phase 2 Participants conducted detailed due diligence, including reviewing materials in the Company’s data room, making additional information requests and participating in further meetings with the Company’s management and

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Jefferies. Certain of the Phase 2 Participants also engaged advisors to assist in their evaluation of the Company's Business and prospects and the formulation of their final bids.

29. Throughout Phase 2 of the Sale Process, the Company, Jefferies and the Company's other professional advisors continued to work diligently with the Phase 2 Participants to respond to information requests and inquires and to otherwise provide the Phase 2 Participants with the information necessary to formulate their final bids. For purposes of the submission of final bids, Phase 2 Participants were provided with three forms of asset purchase agreement relating to transactions in respect of the Golf Town Business, the Golfsmith Business and the consolidated Business.

30. At the conclusion of Phase 2 of the Sale Process on August 29, 2016, the Company received multiple bids, including for the Golf Town Business, the Golfsmith Business and both businesses on a consolidated basis. The bids were made up of both final bids and some further indications of interest. The final bid submitted by the Purchaser for the Golf Town Business also indicated the interest of Fairfax and CI in separately advancing and finalizing arrangements with respect to the Golfsmith Restructuring.

31. The Company, with the assistance of Jefferies, A&M and legal counsel, reviewed the final bids and indications of interest received in connection with Phase 2 of the Sale Process. Following this review, the Company or the Company's advisors had in-person meetings with prospective purchasers, including another significant Phase 2 bidder for the Golf Town Business, to discuss the structure and terms of their respective bids and, given the multiple competitive bids in respect of the Golf Town Business, such prospective purchasers were encouraged to consider enhancing the economics and other terms of their bids. The Company and its advisors



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continued to work with the prospective purchasers to respond to inquiries and to address various aspects of the proposed transactions.

32. The Purchaser and another significant bidder with respect to the Golf Town Business subsequently provided the Company with updated final bids in respect of the Golf Town Business on September 8, 2016 and September 9, 2016, respectively. The other significant bidder for the Golf Town Business had completed significant due diligence and business review activities and was in a position to enter into a binding agreement with the Golf Town Entities.

33. A party that had submitted a non-binding indication of interest for the purchase of the consolidated Business subsequently provided the Company with an updated indication of interest on September 9, 2016. To date, none of the parties that submitted non-binding indications of interest in connection with Phase 2 of the Sale Process have submitted binding transaction documentation capable of acceptance by the Company.

34. I understand that a summary of the final bids and indications of interest with respect to the Golf Town Business will be provided to the Court in a confidential supplement to the Monitor's First Report ("**Confidential Supplement No. 1**"). The Golf Town Entities are requesting that this Court seal Confidential Supplement No. 1 until further Order of the Court as it contains highly confidential information with respect to the terms of the Golf Town Transaction and the other bids advanced with respect to the Golf Town Business, the disclosure of which could affect the interests of the Golf Town Entities and their stakeholders.

35. The board of directors of Holdings GP (the "**Board**") was provided with frequent updates by management, Jefferies and the Company's legal and financial advisors throughout the Sale

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Process. At a series of Board meetings held during and following Phase 2 of the Sale Process, the Board, with the assistance of the Company's professional advisors, received updates with respect to the Sale Process, considered the transaction and restructuring options available to the Company and reviewed the various final bids, indications of interest and other transaction documents submitted or developed in connection with Phase 2 of the Sale Process.

36. At a meeting of the Board held on September 13, 2016, the directors of Holdings GP, with the assistance of Jefferies and the Company's other legal and financial advisors, reviewed the final bids, indications of interest and restructuring alternatives and documents based on relevant factors, including valuation (including amount, timing and certainty), transaction structure, due diligence requirements, timing and certainty of closing, conditionality, impact on stakeholders, and the identity of the submitting party and its capability to implement the proposed transaction. Potential transactions were also assessed for their interaction and feasibility with other bids and restructuring options in respect of the Company.

37. Following an extensive review and discussion process, the Board, with the advice and assistance of its professional advisors and in the exercise of its business judgment, determined that the Company should proceed with the sale of the Golf Town Business to the Purchaser and enter into the Support Agreement with the Supporting Noteholders to advance and implement the Golfsmith Restructuring as the best available options in the circumstances.

38. Following the Board's determination, Fairfax and CI were notified that the Company was prepared to proceed with the Golf Town Transaction and the Golfsmith Restructuring and the parties finalized and executed the Purchase Agreement and the Support Agreement.

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39. As a result of an extensive review of strategic options and the completion of the comprehensive Sale Process, the Golf Town Entities believe that the Golf Town Transaction represents the best available alternative for Golf Town and its stakeholders. The Golf Town Transaction will result in the going concern sale of substantially all of the assets of the Golf Town Business and is expected to result in the continued operation of a majority of Golf Town's existing retail locations. The Golf Town Transaction will benefit a broad range of Golf Town's stakeholders, including suppliers, employees and customers. In addition, the Golf Town Transaction is a critical component of a broader overall solution for the Company that, if implemented, will result in a financial and operational restructuring of the Golfsmith Business.

#### **IV. THE GOLF TOWN TRANSACTION AND THE PURCHASE AGREEMENT**

40. The terms of the Golf Town Transaction are set forth in the Purchase Agreement between the Vendors and the Purchaser, a partially redacted copy of which is attached hereto as Exhibit "C". An unredacted copy of the Purchase Agreement will be provided to the Court in a confidential supplement to the Monitor's First Report ("**Confidential Supplement No. 2**"). The Purchase Agreement contains sensitive commercial information that, if disclosed before closing of the Golf Town Transaction, could adversely impact the interests of the Golf Town Entities and their stakeholders. Accordingly, the Golf Town Entities are requesting that this Court order that Confidential Supplement No. 2 be sealed pending the completion of the Golf Town Transaction.

41. The material terms of the Golf Town Transaction, which are more fully set out in the Purchase Agreement, are summarized as follows:

- (a) the Purchaser will be a newly-incorporated entity owned by Fairfax and CI;

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- (b) the Purchaser will acquire certain assets of the Golf Town Business (the “**Purchased Assets**”) in exchange for (i) all-cash consideration consisting of a fixed component and a variable component determined based on certain financial adjustments, and (ii) the assumption of the Assumed Liabilities;
- (c) the Purchased Assets include:
  - (i) the leases (the “**Assumed Real Property Leases**”) for certain of Golf Town’s store locations (the “**Leased Locations**”) and certain of Golf Town’s contracts and agreements (the “**Assumed Contracts**”), in each case as determined by the Purchaser on or prior to October 26, 2016. The purchase price is unaffected by the number of Assumed Real Property Leases or other Assumed Contracts ultimately assigned to the Purchasers;
  - (ii) inventory, supplies and other tangible personal property of the Golf Town Business, wherever located (including at Leased Locations or Excluded Locations);
  - (iii) certain accounts receivable and customer deposits in respect of the Golf Town Business;
  - (iv) cash floats and petty cash located at the Leased Locations at Closing;
  - (v) prepaid expenses and deposits in respect of the Purchased Assets; and
  - (vi) Golf Town’s right, interest and benefits in intellectual property used exclusively in the Golf Town Business;

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- (d) the Purchased Assets include certain assets of the U.S. Debtors that are utilized in the Golf Town Business, to be transferred to the Vendors prior to Closing;
- (e) except as expressly set forth in the Purchase Agreement, the Purchased Assets are purchased on an “as is, where is” basis;
- (f) the Purchaser will assume certain obligations of the Golf Town Business, including:
  - (i) certain obligations in respect of Assumed Real Property Leases and Assumed Contracts in respect of the post-Closing period;
  - (ii) gift cards obligations;
  - (iii) obligations in respect of employees that accept the Purchaser’s offer of employment; and
  - (iv) Golf Town’s product and service warranty claims;
- (g) the Purchaser will make an offer of employment to the Vendors’ employees at the Leased Locations and may make offers to certain other employees at Golf Town’s head office and Excluded Locations, in each case effective as of the Closing Date and on substantially similar terms and conditions of employment in the aggregate as in effect immediately prior to the Closing;
- (h) completion of the transaction is subject to certain closing conditions, including:
  - (i) Court approval of the Golf Town Transaction;

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- (ii) the assignment of Material Contracts, including Assumed Real Property Leases, through third-party consents or an Order of this Court (the **“Assignment Order”**);
- (iii) the execution of a transition services agreement between the Purchaser and the applicable Golfsmith and Golf Town entities (the **“Transition Services Agreement”**) providing for:
  - (A) the provision by the Company to the Purchaser of post-Closing shared services and a right to use software and information technology systems used in the operation of the Golf Town Business, at no additional cost to the Purchaser, for a one year term following Closing (which term is subject to certain extensions at the option of the Purchaser on pricing terms set out in the Purchase Agreement); and
  - (B) the occupancy by the Purchaser, for a maximum period of up to 60 days post-Closing (the **“Post-Closing Occupancy Period”**), of certain premises used in the Golf Town Business (the **“Occupied Premises”**) that are not acquired or assumed by the Purchaser at Closing, provided that the Purchaser shall be responsible for all cost and expenses associated with such occupancy during the Post-Closing Occupancy Period;

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- (iv) the approval of the Transition Services Agreement in connection with the Chapter 11 proceedings; and
- (v) the receipt of necessary regulatory approvals, including approval pursuant to the *Competition Act* (Canada);
- (i) the transaction is expected to close by October 31, 2016.<sup>1</sup> If the transaction does not close by October 31, 2016, the Purchase Agreement provides for an effective closing date of October 31, 2016 (the “**Effective Closing Date**”) and for an increase to the purchase price to take into account the net operating costs of the Golf Town Business from and after the Effective Closing Date. The purchase price adjustment in favour of the Vendors is determined by reference to, among other things, specified occupancy costs, inventory and supply purchases, human resources costs, taxes and amounts payable in respect of Assumed Contracts, less gross cash receipts from the sale of inventory and supplies, the collection of accounts receivable and the sale of gift cards; and
- (j) the Purchaser shall remove all Purchased Assets from Excluded Locations within 30 days following Closing, provided that the Purchaser shall have until the end of the Post-Closing Occupancy Period to remove Purchased Assets from the Occupied Premises.

42. The Purchase Agreement contains a purchase price adjustment in the event that the Final Working Capital of the Golf Town Business as at the Closing Date or the Effective Closing Date,

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<sup>1</sup> The Purchase Agreement has a “sunset date” of December 1, 2016.

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as applicable, is outside of a range specified in the Purchase Agreement. Pursuant to the Purchase Agreement, a portion of the purchase price (the “**Escrow Funds**”) will be held in escrow by the Monitor pending the calculation of Final Working Capital in accordance with the Purchase Agreement. If Final Working Capital exceeds the maximum of the specified range, the Escrow Funds will be released to the Vendors and the Purchaser will make a payment to the Vendors equal to the amount by which Final Working Capital exceeds the maximum of the specified range; if Final Working Capital is within the specified range, the Escrow Funds will be released to the Vendors; and if Final Working Capital is less than the minimum of the specified range, the Escrow Funds will be released to the Purchaser to the extent of the deficiency, and any remaining deficiency that exceeds the amount of the Escrow Funds must be repaid to the Purchaser from the net proceeds of the Golf Town Transaction.

43. The Approval and Vesting Order contains provisions to ensure that the Escrow Funds and adequate reserves from the net proceeds of the Golf Town Transaction are available to satisfy the obligations of the parties with respect to the working capital purchase price adjustment in the Purchase Agreement. The Approval and Vesting Order also authorizes and directs the Monitor to make certain distributions on behalf of the Golf Town Entities to the DIP Agent and the First Lien Agent, subject to the holdback of reasonable reserves, as determined by the Monitor, in connection with these CCAA proceedings and the administration of the Golf Town Entities’ estate.

44. The Vendors and the Purchaser are working to finalize the terms of the Transition Services Agreement, the Escrow Agreement, and other ancillary agreements in connection with the Golf Town Transaction. The U.S. Debtors will be seeking approval of the Transition



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Services Agreement in the Chapter 11 proceedings and the Golf Town Entities will seek the assistance of this Court as necessary with respect to any ancillary matters.

45. I am also informed by Melaney Wagner of Goodmans LLP that the milestones in the DIP Agreement require:

- (a) approval of the Golf Town Transaction by this Court on or before September 30, 2016;
- (b) consummation of the Golf Town Transaction by October 31, 2016; and
- (c) on or before October 21, 2016, the Golf Town Entities shall have obtained the consents of all applicable counterparties to all Assumed Contracts and Assumed Real Property Leases to be assigned to the Purchaser pursuant to the Purchase Agreement, or alternatively shall have filed a motion, returnable not later than October 28, 2016, for an Assignment Order approving the assignment of Assumed Real Property Leases and other Assumed Contracts for which counterparty consents have not been obtained.

Accordingly, the Golf Town Entities intend to bring a motion seeking an Assignment Order on or before October 28, 2016 to the extent necessary to effectuate any required assignments. As the Purchaser has until October 26, 2016 pursuant to the Purchase Agreement to designate the Assumed Real Property Leases and other Assumed Contracts, the scope of required counterparty consents is not known with certainty at this time. I understand that it is the Purchaser's intention to discuss potential assignment arrangements with relevant stakeholders in order to reduce or eliminate the need for an Assignment Order.

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## V. CONCLUSION

46. The Golf Town Entities and their professional advisors have extensively considered and explored a wide variety of strategic alternatives over an extended period to achieve a transaction that addresses the financial and operational challenges of the Golf Town Business. In connection with this process, the Company conducted a comprehensive two-phase Sale Process that generated significant interest and resulted in multiple competitive offers involving the purchase of the Golf Town Business.

47. In connection with this process, the Golf Town Entities, with the advice and assistance of their professional advisors, have determined that the Golf Town Transaction is the best available alternative for the Golf Town Business and that completion of the Golf Town Transaction is in the best interests of the Golf Town Entities and their stakeholders. The Golf Town Transaction is a going concern outcome for the Golf Town Business that will provide the Golf Town Business with a sustainable capital structure and retail footprint, maximize and preserve value, and facilitate an overall solution for the Company for the benefit of a broad range of stakeholders, including employees, suppliers and customers.

48. I swear this affidavit in support of the Sale Approval Motion and for no improper purpose.

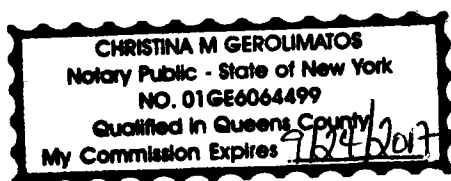
SWORN before me at the City of  
New York, in the State of New York,  
on September 23, 2016.

*Christina M. Gerolimos*

A Commissioner for taking affidavits

*Robert White*

Robert White



**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.  
C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF GOLF  
TOWN CANADA HOLDINGS INC., GOLF TOWN CANADA INC. AND GOLF TOWN GP II  
INC.**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**AFFIDAVIT OF DAVID ROUSSY  
(Sworn October 24, 2016)**

**GOODMANS LLP**

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Lawyers for the Applicants

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,  
c. C-36, AS AMENDED**

Court File No: CV-16-11527-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF GOLF  
TOWN CANADA HOLDINGS INC., GOLF TOWN CANADA INC. AND GOLF TOWN GP  
II INC.**

Applicants

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

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**MOTION RECORD OF THE APPLICANTS  
(Motion for Assignment Order)**

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**GOODMANS LLP**

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