Court File No. CV-16-11582-00CL

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 PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

(the "**Applicants**")

MOTION RECORD
(Returnable on a date to be determined)

December 8, 2016

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter F.C. Howard LSUC#: 22056F
Tel: (416) 869-5613
E-mail: phoward@stikeman.com

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
E-mail: kesaw@stikeman.com

Vlad A. Calina LSUC# 69072W
Tel: (416) 869-5202
Fax: (416) 947-0866
E-mail: vcalina@stikeman.com

Lawyers for the Applicants

TO THE SERVICE LIST:

Court File No. CV-16-11582-00CL

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 PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

Applicants

SERVICE LIST

GENERAL	
STIKEMAN ELLIOTT LLP Barristers & Solicitors 5300 Commerce Court West 199 Bay Street Toronto, Canada M5L 1B9 **Canadian Counsel for the Applicants**	**Peter Howard** Tel: (416) 869-5613 Email: phoward@stikeman.com **Maria Konyukhova** Tel: (416) 869-5230 Email: mkonyukhova@stikeman.com **Kathryn Esaw** Tel: (416) 869-6820 Email: kesaw@stikeman.com **Lee Nicholson** Tel: (416) 869-5604 Email: leenicholson@stikeman.com **Vlad Calina** Tel: (416) 869-5202 Email: vcalina@stikeman.com Fax: (416) 947-0866 **Jonah Mann** Tel: (416) 869-5518 Email: jmann@stikeman.com **Frank Selke** Tel: (416) 869-6828 Email: fselke@stikeman.com

ERNST & YOUNG INC. 222 Bay Street Toronto, ON M5K 1J7 800 boul Rene-Levesque Ouest Bureau 1900 Montréal, QC H3B 1X9 **Monitor**	**Brian Denega** Tel: (416) 943-3058 Email: brian.m.denega@ca.ey.com Fax: (416) 943-3300 **Martin Daigneault** Tel: (514) 875-6060 Email: martin.daigneault@ca.ey.com Fax: (514) 395-4933 **Jean-Daniel Breton** Tel: (514) 874-4455 Email: jean-daniel.breton@ca.ey.com Fax: (514) 395-4933
THORNTON GROUT FINNIGAN LLP 100 Wellington Street West P.O. Box 329 Toronto, ON M5K 1K7 **Canadian Counsel for the Monitor**	**Robert Thornton** Tel: (416) 304-0560 Email: rthornton@tgf.ca **D.J Miller** Tel: (416) 304-0559 Email: djmiller@tgf.ca **Rachel Bengino** Tel: (416) 304-1153 Email: rbengino@tgf.ca Fax: (416) 304-1313 **Asim Iqbal** Tel: (416) 304-0595 Email: aiqbal@tgf.ca
ALLEN & OVERY LLP 1221 Avenue of the Americas New York, NY 10020 **U.S. Counsel for the Monitor**	**Ken Coleman** Tel: (212) 610-6434 Email: Ken.Coleman@AllenOvery.com **Daniel Guyder** Tel: (212) 756-1132 Email: Daniel.Guyder@AllenOvery.com

CHOATE, HALL & STEWART LLP Two International Place Boston, MA 02110 **U.S. Counsel for the ABL Lenders**	**John F. Ventola** Tel: (617) 248-5085 Email: jventola@choate.com **Doug Gooding** Tel: (617) 248-5277 Email: dgooding@choate.com Fax: (617) 248-4000
BANK OF AMERICA, N.A. 225 Franklin Street Boston, MA 10055 **Administrative Agent and Collateral Agent under the ABL Facility**	**Gregory Kress** Tel: (617) 346-1181 Email: gregory.kress@baml.com Fax: (312) 453-4396
GOODMANS LLP Bay Adelaide Centre 333 Bay Street Toronto, ON M5H 2S7 **Canadian Counsel for the Term Loan Lenders**	**Joe Latham** Tel: (416) 597-4211 Email: jlatham@goodmans.ca **Brendan O'Neill** Tel: (416) 849-6017 Email: boneill@goodmans.ca **Ryan Baulke** Tel: (416) 849-6954 Email: rbaulke@goodmans.ca Fax: (416) 979-1234
WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, NY 10153-0119 **U.S. Counsel for the Term Loan Lenders**	**Matt Barr** Tel: (212) 310-8010 Email: matt.barr@weil.com **Gabriel Morgan** Tel: (212) 310-8863 Email: gabriel.morgan@weil.com **David Cohen** Tel: (212) 310-8107 Email: davidj.cohen@weil.com Fax: (212) 310-8007

BAL GLOBAL FINANCIAL CORPORATION 300 The East Mall, Suite 120 Toronto, ON M9B 6B7	
EMC CORPORATION 1400 - 120 Adelaide Street West Toronto, ON M5H 1T1	
SHARP ELECTRONICS OF CANADA 335 Britannia Road East Mississauga, ON L4Z 1W9	
GM FINANCIAL CANADA LEASING LTD. 600 - 2001 Sheppard Avenue East Toronto, ON M2J 4Z8	
FORD CREDIT CANADA 17187 114 Ave NW Edmonton, AB T5S 2N5	
G.N. JOHNSTON EQUIPMENT CO. LTD. 5000 Levy St-Laurent, QC H4R 2P1	
BNP PARIBAS 155 Wellington Street West, Suite 3110 Toronto, ON M5V 3H1 BNP PARIBAS 1981 Avenue McGill College Montreal, QC H3A 2W8	

GOWLING WLG (CANADA) LLP 1 First Canadian Place, Suite 1600 100 King Street West Toronto, ON M5X 1G5 **Canada Counsel for Q30 Sports Science, LLC and Q30 Sports LLC**	**Jennifer Stam** Tel: (416)-862-5697 Email: jennifer.stam@gowlingwlg.com Fax: (416) 862-7661
VENABLE LLP 2049 Century Park East Suite 2300 Los Angeles, CA 90067 **U.S. Counsel for Q30 Sports Science, LLC and Q30 Sports LLC**	**Jennifer L. Nassiri, Esq.** Tel: (310) 229-0326 Email: jlnassiri@venable.com Fax: (310) 229-9901
SCARFONE HAWKINS LLP One James Street South, 14th Floor P. O. Box 926, Sept 1 Hamilton, ON L8N 3P9 Lawyers for Sports Distributors of Canada Limited, a creditor of the Applicant	**Joseph G. Speranzini** Tel: (905) 523-1333 Email: speranzini@shlaw.ca Fax: (905) 523-5878
LANGLOIS LAWYERS LLP 1250 René-Lévesque Blvd. West 20th Floor Montréal, QC H3B 4W8 Canadian counsel for Smart & Biggar/Fetherstonhaugh	**Gerry Apostolatos** Tel: (514) 282-7831 Email: gerry.apostolatos@langlois.ca Fax: (514) 845-6573
MCMILLAN LLP Brookfield Place 181 Bay Street, Suite 4400 Toronto, ON M5J 2T3 Counsel to Official Committee of Equity Holders	**Andrew Kent** Tel: (416) 865-7160 Email: andrew.kent@mcmillan.ca **Jeffrey Levine** Tel: (416) 865-7791 Email: jeffrey.levine@mcmillan.ca **Caitlin Fell** Tel: (416) 865-7841 Email: caitlin.fell@mcmillan.ca

REVENU QUÉBEC 1265, boul. Charest Quest, secteur C65-61 Quebec, QC G1N 4V5	**Pierre Jobidon** Tel: (418) 577-0289 Email: Pierre.Jobidon@revenuquebec.ca
NOVA SCOTIA DEPARTMENT OF JUSTICE 1690 Hollis Street, P.O. Box 7 Halifax, NS B3J 2L6	
NOVA SCOTIA DEPARTMENT OF FINANCE AND TREASURY BOARD 1723 Hollis Street, P.O. Box 187 Halifax, NS B3J 2N3	
TORONTO WEST TAX SERVICES OFFICE 5800 HURONTARIO STREET, 7TH FLOOR MISSISSAUGA, ON L5R 4B4	**Brian Webb**
LOCAL 967, UNITED STEELWORKERS' UNION OF AMERICA 5100-565 Crémazie Boulevard East Montreal, QC H2M 2V8 **Union Chapter for Employees at Blainville Facility**	

INDEX

Court File No. CV-16-11582-00CL

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 PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

(the "**Applicants**")

MOTION RECORD
(Returnable on a date to be determined)

INDEX

TAB 1

Court File No. CV-16-11582-00CL

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 PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

(Applicants)

NOTICE OF MOTION
(Returnable on a date to be determined)

Performance Sports Group Ltd. ("**PSG**"), Bauer Hockey Corp., Bauer Hockey Retail Corp., Bauer Performance Sports Uniform Corp., BPS Canada Intermediate Corp., BPS Diamond Sports Corp., Easton Baseball/Softball Corp., KBAU Holdings Canada, Inc., Performance Lacrosse Group Corp., PSG Innovation Corp., Bauer Hockey Retail Inc., Bauer Hockey Inc., Bauer Performance Sports Uniforms Inc., BPS Diamond Sport Inc., BPS US Holdings Inc., Easton Baseball/Softball Inc., Performance Lacrosse Group Inc., and PSG Innovation Inc. (collectively, the "**Applicants**" or the "**PSG Entities**"), will make a motion to a judge presiding over the Commercial List on a date to be determined at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order substantially in the form of the draft Order included at Tab 3 of the Applicants' Motion Record approving the engagement letter dated August 19, 2016 (the "**CV Engagement Letter**") between the Applicants and Centerview Partners LLC ("**Centerview**") and extending the Administration Charge to fees and compensation owing under the CV Engagement Letter, including the success fee contemplated therein; and such further and other relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

Background

2. The Applicants were granted protection from their creditors pursuant to the Order of Justice Newbould dated October 31, 2016 (the "**Initial Order**"), under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") and pursuant to a voluntary petition for relief in the U.S. Bankruptcy Court for the District of Delaware (the "**U.S. Court**") under Chapter 11 of the United States Bankruptcy Code, filed on October 31, 2016 (the "**Chapter 11 Proceedings**" and collectively with the Canadian proceedings, the "**Restructuring Proceedings**");

3. Pursuant to the Initial Order, Ernst & Young Inc. was appointed as monitor (the "**Monitor**") of the Applicants;

4. On November 30, 2016, through a joint-hearing with the U.S. Court, this Court approved a "stalking horse" asset purchase agreement for a going-concern sale to 9938982 Canada Inc. and bidding procedures for the purposes of creating a "stalking horse" sales process (the "**Sales Process**"). On that same date, the U.S. Court granted equivalent relief with respect to the Sales Process;

The Centerview Engagement

5. The Applicants are seeking approval of the CV Engagement Letter and the fees therein, all of which are proposed to be secured by the Administration Charge granted under the Initial Order;

6. Prior to commencing the CCAA Proceedings, the special committee to the board of directors of PSG (the "**Special Committee**") retained Centerview to assist the Applicants in evaluating their strategic alternatives. To date, Centerview has played an integral role in these proceedings, assisting the Applicants in negotiating the stalking horse agreement, securing interim debtor-in-possession financing, and designing the bidding procedures and the Sales Process that were approved by this Court on November 30, 2016;

7. The compensation set out in the CV Engagement Letter was the subject of significant negotiation between Centerview and PSG, with the assistance of counsel, and was approved by the Special Committee prior to the commencement of these proceedings;

8. The Applicants have sought and obtained approval of the CV Engagement Letter and the fees therein by order of the U.S. Court on December 6, 2016;

<u>General</u>

9. The provisions of the CCAA, including section 11 thereof, and the inherent and equitable jurisdiction of this Court;

10. Rules 1.05, 2.03, 3.02 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

11. 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 the motion:

12. The Affidavit of Brian J. Fox sworn December, 8, 2016 and the Exhibits attached thereto; and

13. Such further and other materials as counsel may advise and this Court may permit.

December 8, 2016

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter F.C. Howard LSUC#: 22056F
Tel: (416) 869-5613
e-mail: phoward@stikeman.com

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
e-mail: kesaw@stikeman.com

Vlad A. Calina LSUC# 69072W
Tel: (416) 869-5202
Fax: (416) 947-0866
e-mail: vcalina@stikeman.com

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-16-11582-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD. ET. AL.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter F.C. Howard LSUC#: 22056F
Tel: (416) 869-5613
e-mail: phoward@stikeman.com

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
e-mail: kesaw@stikeman.com

Vlad A. Calina LSUC# 69072W
Tel: (416) 869-5202
Fax: (416) 947-0866
e-mail: vcalina@stikeman.com

Lawyers for the Applicants

6653741 v1

TAB 2

Court File No. CV-16-11582-00CL

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 PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

(Applicants)

AFFIDAVIT OF BRIAN J. FOX
(Sworn December 8, 2016)

I, BRIAN J. FOX, of the City of Port Washington, in the State of New York, MAKE OATH AND SAY:

1. I am a Managing Director with Alvarez & Marsal North America LLC ("**A&M**") and the Chief Restructuring Officer of Performance Sports Group Ltd. ("**PSG**"), Bauer Hockey Corp., Bauer Hockey Retail Corp., Bauer Performance Sports Uniforms Corp., BPS Canada Intermediate Corp., BPS Diamond Sports Corp., Easton Baseball/Softball Corp., KBAU Holdings Canada, Inc., Performance Lacrosse Group Corp., PSG Innovation Corp., Bauer Hockey Retail Inc., Bauer Hockey, Inc., Bauer Performance Sports Uniforms Inc., BPS Diamond Sports Inc., BPS US Holdings Inc., Easton Baseball/Softball Inc., Performance Lacrosse Group Inc., and PSG Innovation Inc. (collectively, the "**Applicants**" or the "**PSG Entities**").

2. As a result of my engagement with the Applicants I have knowledge of the Applicants' business, operations, properties and finances and as such have knowledge of the matters to which I hereinafter depose. I have also reviewed the books and records of the Applicants and have spoken with certain of the directors, officers, employees and/or

advisors of the Applicants as necessary and applicable, and where I have relied upon such information, I have set forth the source and believe such information to be true.

3. This affidavit is sworn in support of the Applicants' motion seeking an Order substantially in the form of the draft Order included at Tab 3 of the within motion record approving the engagement letter dated August 19, 2016 (the "**CV Engagement Letter**") between the Applicants and Centerview Partners LLC ("**Centerview**") and extending the Administration Charge to fees and compensation owing under the CV Engagement Letter, including the success fee contemplated therein, and such further and other relief as this Court deems just.

A. Background

4. On October 31, 2016, the Applicants sought and obtained an Order (the "**Initial Order**") of this Court (the "**Canadian Court**") providing creditor protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") to facilitate a going-concern sale transaction for the benefit of the Applicants' stakeholders. On the same date, the PSG Entities also filed for creditor protection (the "**Chapter 11 Proceedings**") in the United States ("**U.S.**") Bankruptcy Court for the District of Delaware (the "**U.S. Court**" and, together with the Canadian Court, the "**Courts**") under Chapter 11 of Title 11 of the U.S. Code (the "**U.S. Bankruptcy Code**").

5. Pursuant to the Initial Order, Ernst & Young Inc. was appointed as monitor (the "**Monitor**") of the Applicants in these CCAA proceedings (the "**CCAA Proceedings**" and with the Chapter 11 Proceedings, the "**Restructuring Proceedings**"). A copy of the Initial Order (as amended and restated on November 30, 2016) is attached hereto and marked as **Exhibit "A"**.[1]

6. On November 30, 2016, this Court and the U.S. Court approved a sales process (the "**Sales Process**") governing the Restructuring Proceedings, including bidding procedures and an asset purchase agreement dated October 31, 2016 for the sale of substantially all of

[1] The Initial Order, as well as all other filings in these proceedings, were posted on the Monitor's website at: www.ey.com/ca/psg.

the Applicants' assets to 9938982 Canada Inc., an acquisition vehicle to be co-owned by affiliates of Sagard Capital Partners, L.P. and Fairfax Financial Holdings Limited.

7. Further background on the Restructuring Proceedings is set out in the affidavit of Mark Vendetti sworn October 31, 2016 in support of the Initial Order and my affidavits sworn November 13, 2016 and November 21, 2016 all of which are available on the Monitor's website.

B. The Centerview Engagement

a. CV Engagement Letter

8. The PSG Entities are seeking an order approving their engagement of Centerview, a well-known and respected investment bank, *nunc pro tunc*. Centerview has been engaged since August 2016 by the special committee of PSG's board of directors ("**Special Committee**") to act as the Applicants' strategic financial advisor and investment banker.

9. Pursuant to the CV Engagement Letter, a copy of which is attached hereto as **Exhibit "B"**, Centerview provides corporate advisory and investment banking services to the PSG Entities, including advice relating to:

(a) **Restructuring**: the potential recapitalization or restructuring of the PSG Entities' secured term loan or asset-based revolving credit facilities as well as the potential amendment of the material terms of those same credit facilities;

(b) **Financing**: the viability of financing transactions (e.g., by way of public or private issue, sale or placement of equity, equity-linked or debt securities or through a further loan or rights offering); and

(c) **Sale**: the possibility of a sale transaction (i.e., any transaction or series of related transactions involving an acquisition, merger, consolidation, or any other business combination under which a majority of the business, equity or assets of the Applicants are, directly or indirectly, sold).

10. The PSG Entities are in the midst of the Sales Process in which Centerview plays a significant role. Without Centerview's assistance, this process would be considerably more difficult.

11. Centerview is soliciting interest in the Applicants' business, negotiating non-disclosure agreements and facilitating due diligence with interested potential bidders and is working to create a competitive dynamic that will maximize value for the Applicants' assets through the Sales Process. As at December 7, 2016, Centerview has contacted 132 potentially interested parties and executed non-disclosure agreements with 34 Preliminary Interested Investors (as defined in the Court-approved bidding procedures), each of whom now have access to the data room and have received a copy of the confidential information memorandum. Centerview will also assist the PSG Entities with the other phases of the Sales Process, including the auction.

12. Given its prior familiarity with the PSG Entities' business, Centerview is knowledgeable about entities who may have an interest in the Applicants' business and therefore may be potential bidders in the Applicants' sale process. Centerview's knowledge of and experience with the Applicants would be lost if the Applicants were deprived of the benefit of Centerview's continued advice and assistance and were required to retain a new financial advisor.

13. In my assessment, without continuity of Centerview's information and expertise, the Applicants would likely be unable to meet the conditions of their debtor-in-possession ("**DIP**") interim financing credit facilities and the stalking horse agreement underpinning the Sale Process, which would in turn place the success of the Restructuring Proceedings at risk.

14. Centerview's retention was approved by the U.S. Court by order dated December 6, 2016, a copy of which is attached hereto as **Exhibit "C"**. Leading up to the approval by the U.S. Court, the United States Trustee for the District of Delaware (the "**U.S. Trustee**") and the Unsecured Creditors Committee (the "**UCC**") both initially objected to the relief, but the parties reached a settlement pursuant to which, among other things, Centerview has agreed to credit 50% of its Financing Fee against any Sale Fees or Restructuring Fees (as these terms

are defined and described below). As a result, the U.S. Trustee and the UCC withdrew their objections. No other objections to the U.S. Order were filed.

b. Approval of Fees

15. The fee structure contained in the CV Engagement Letter was the subject of negotiations between PSG (with the assistance of counsel) and Centerview and was approved by the Special Committee prior to the commencement of the CCAA Proceedings. Under the CV Engagement Letter, Centerview is entitled to be paid:

(a) **Monthly Fee:** A monthly financial advisory fee of $150,000 (all figures US unless otherwise noted). The amount of any monthly advisory fee paid to Centerview after three months will be 50% credited (one time) against any Restructuring Fee or Sale Fee (as those terms are defined below) payable to Centerview as described in subparagraphs (d) or (e) hereof.

(b) **Amendment Fee:** If the PSG Entities consummate an Amendment (as defined in the Centerview Engagement Letter), Centerview shall be entitled to receive an amendment fee, contingent upon the consummation of an Amendment and payable at the closing thereof equal to $2,000,000. The amount of any amendment fee paid to Centerview will be 100% credited (one time) against any Restructuring Fee or Sale Fee payable described in subparagraphs (d) or (e) hereof.

(c) **Financing Fee:** If at any time during Centerview's engagement (or within a certain tail period after the engagement ends, subject to certain terms and conditions, the "**Fee Period**"), the PSG Entities consummate any Financing (as defined in the Centerview Engagement Letter) Centerview shall be entitled to receive, among other things:

(i) 0.5% of the aggregate amount of financing commitments of any indebtedness (including any DIP financing) issued to Sagard Capital Partners, L.P. ("**Sagard**") and/or Power Corporation of Canada ("**Power**") or their respective affiliates, and any non-institutional investors associated with Sagard or Power or their respective affiliates (collectively, the "**Listed Investors**");

(ii) 1% of the aggregate amount of financing commitments of any indebtedness (including any debtor-in-possession financing) issued to investor(s) other than Listed Investors; and

(iii) 50% of financing fees, other than DIP Financing Fees, shall be credited against any Restructuring Fee or Sale Fee (as these terms are defined below).

(d) **Restructuring Fee:** If at any time during the Fee Period, the PSG Entities consummate any Restructuring, Centerview shall be entitled to receive a transaction fee, contingent upon the consummation of a Restructuring and payable at the closing thereof equal to $5,000,000 (unless the restructuring is effected by way of proceedings under the U.S. Code or the CCAA, in which case the restructuring fee will be payable in tranches depending on the form of plan of arrangement agreed to by the PSG Entities and their creditors).

(e) **Sale Fee:** If at any time during the Fee Period, the PSG Entities consummates a sale, they shall pay Centerview a sale fee equal to 1% of the Aggregate Consideration (as defined in the CV Engagement Letter) (the "**Sale Fee**"). The Sale Fee is contingent upon the consummation of a sale and payable at the closing thereof. If fees are payable under both subparagraph (d) and (e), only the higher of the two fees shall be payable to Centerview.

16. As noted above at paragraph 14, 50% of the Financing Fee earned for securing the debtor-in-possession financing in the Restructuring Proceedings will be credited against any Restructuring or Sale Fees earned. The remaining portion of the Financing Fee will be paid upon the conclusion of the Restructuring Proceedings.

17. To date, Centerview has earned and been paid fees in the amount of $3.975 million, representing a Financing Fee with respect to the DIP financing in the amount of $3.525 million and monthly advisory fees for August, September and October in the aggregate amount of $450,000, plus expenses. In addition, Centerview was paid a retainer

in the amount of $150,000 which will be credited against future fees when earned. The total fee cap under the Centerview Engagement Letter is $8 million.

18. In addition to *nunc pro tunc* approval of the CV Engagement Letter, the PSG Entities seek to extend the Administration Charge to encompass the fees owing to Centerview.

c. **Conclusion**

19. For reasons detailed herein, the Applicants believe that the continued involvement of Centerview is essential to the completion of the Restructuring Proceedings. As this involvement is contingent on obtaining this Court's approval of Centerview's engagement and fees, as well as the extension of the Administration Charge over those fees, this relief should be granted.

SWORN BEFORE ME at the City of Exeter, State of New Hampshire, on December 8, 2016. Kathleen Jewkes Commissioner for Taking Affidavits	BRIAN J. FOX

KATHLEEN A. JEWKES, Notary Public
My Commission Expires April 6, 2021

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

Court File No: CV-16-11582-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD. ET. AL.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

AFFIDAVIT OF BRIAN J. FOX
(SWORN DECEMBER 8, 2016)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter F.C. Howard LSUC#: 22056F
Tel: (416) 869-5613
e-mail: phoward@stikeman.com

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
e-mail: kesaw@stikeman.com

Vlad A. Calina LSUC# 69072W
Tel: (416) 869-5202
Fax: (416) 947-0866
e-mail: vcalina@stikeman.com

Lawyers for the Applicants

TAB A

THIS IS EXHIBIT "A" REFERRED TO
IN THE AFFIDAVIT OF BRIAN J. FOX,
SWORN BEFORE ME,
THIS 8th DAY OF DECEMBER, 2016

KATHLEEN A. JEWKES, Notary Public
My Commission Expires April 6, 2021

Court File No. CV-16-11582-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	MONDAY, THE 31ST
	)	
JUSTICE NEWBOULD	)	DAY OF OCTOBER, 2016

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 PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

(Applicants)

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Mark Vendetti sworn October 31, 2016 (the "**Vendetti Affidavit**") and the Exhibits thereto, the affidavit of Brian J. Fox sworn November 13, 2016 and the Exhibits thereto, the affidavit of Brian J. Fox sworn November 21, 2016, the prefiling report of Ernst & Young Inc. ("**EY**") in its capacity as proposed monitor (the "**Monitor**") to the Applicants dated October 31, 2016, and the first report of the Monitor dated November 28, 2016 and on hearing the submissions of counsel for the Applicants, the Monitor, the ABL DIP Lenders (as defined below), Sagard Capital Ltd. ("**Sagard**"), Fairfax Financial Holdings Limited ("**Fairfax**"), the ad hoc committee of certain Pre-Filing Term Lenders (as defined below) (the "**Ad Hoc Committee of Pre-Filing Term Lenders**"), the directors of Performance Sports Group Ltd. ("**PSG**"), the Official Committee of Unsecured Creditors (the "**UCC**"), the ad hoc committee of certain equityholders of PSG (the "**Ad Hoc Committee of Equityholders**"), Q30 Sports, LLC and Q30 Sports Science, LLC and MIPS AB, no one appearing for any other party although duly served as appears from the affidavits of service, filed, and on reading the consent of EY to act as the Monitor:

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (the

"**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Vendetti Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as defined below) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that, subject to the terms of the ABL DIP Agreement (as defined below) and the Term Loan DIP Credit Agreement (as defined below) and the Budget (as defined in the ABL DIP Agreement), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

(b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges;

(c) amounts owing for goods and services actually supplied to the Applicants, or to obtain the release of goods contracted for prior to the date of this Order:

(i) by common carriers, dedicated carriers, freight-forwarders, ocean and lake carriers, parcel carriers, consolidators, brokers and customs agents, with the prior consent of the Monitor for any amounts in excess of $5,000 per transaction, if, in the opinion of the Applicants, it is necessary to prevent the possibility of possessory liens being asserted against any raw materials or finished products ("**Merchandise**") and to continue their business uninterrupted;

(ii) by third-party warehousers, distributors and logistics providers, based at various locations, with the prior consent of the Monitor for any amounts in excess of $5,000, if, in the opinion of the Applicants, it is necessary to prevent the possibility of possessory liens being asserted against any Merchandise and to continue their business uninterrupted;

(iii) by third parties such as contractors, builders, and repairers, who may potentially assert liens under applicable law against the Applicants, with the prior consent of the Monitor and in the aggregate maximum amount of $3,000,000, if, in the opinion of the Applicants, it is necessary to prevent the possibility of liens, whether possessory or non-possessory, being asserted against any Property and to continue their business uninterrupted;

(iv) by non-United States or Canadian suppliers from which the Applicants source their manufacturing operations who the Applicants have determined to be critical to the continued operations of the their business, with the prior consent of the Monitor for any amounts in excess of $10,000;

(v) with the prior consent of the Monitor for amounts in excess of $5,000, by any suppliers who delivered goods to the U.S. PSG Entities (as defined in the Vendetti Affidavit) in the twenty days before their filing date in the United States, provided that such suppliers are entitled to be paid pursuant to section 503(9) of Chapter 11 of Title 11 of the United States Code ("**U.S. Code**");

(vi) by any other suppliers, with the prior consent of the Monitor for any amounts in excess of $10,000, if, in the opinion of the Applicants, the supplier is critical to the business and ongoing operations of the Applicants;

(d) any amounts owing in connection with the Applicants' customer programs, which include gift cards, loyalty programs, discounts, warranties allowing refunds and exchanges, and other offers or accommodations the Applicants, in their business judgment, provide to their wholesale customers and/or directly to retail customers;

(e) any province, state or federal taxes or fees up to an individual amount of $1,000 and up to $15,000 in the aggregate; and

(f) amounts owing to employees or former employees of the Applicants on account of termination or severance obligations in connection with the termination of such employees' employment with Applicants, up to the amount if US $12,850.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "**Sale Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that until a real property lease in respect of property located in Canada is disclaimed or resiliated in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, in accordance with the terms of the lease, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court:

(a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date, provided however that the Applicants are hereby authorized and directed to make: (i) all such payments under the ABL DIP Agreement (as defined below), including amounts under the pre-filing asset-based revolving credit facility and interest thereon; and (ii) all payments authorized under the Term Loan DIP Credit Agreement (as defined below), including the payments necessary to complete the Refinancing (as defined in the Term Loan DIP Credit Agreement) and (iii) all payments of interest (at the applicable default rate), fees, costs, expenses (including professional advisor fees and expenses) indemnities and other amounts owing under the term loan credit agreement dated April 15, 2014 (as amended, restated and otherwise modified, the

"**Term Loan Agreement**") between PSG, as borrower, and a syndicate of lenders, as lenders, (the "**Pre-Filing Term Lenders**"); provided that the lenders ("**Pre-Filing ABL Lenders**") under the Applicants' revolving ABL credit facility dated as of April 15, 2014 (the "**Pre-Filing ABL Facility**") shall be entitled to apply receipts and deposits (not including any deposits on account of any advances made under any DIP facility) made to the Applicants' bank accounts against the indebtedness of the Applicants pursuant to their pre-filing ABL credit agreement, whether such indebtedness arose before or after the date of this Order;

(b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property other than as may be contemplated by the U.S. Court (as defined below) in respect of the Applicants' proceedings under Chapter 11 of the U.S. Code; and

(c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the ABL DIP Definitive Documents or Term Loan DIP Definitive Documents (as defined below), have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding $250,000 in any one transaction or $1,000,000 in the aggregate;

(b) terminate the employment of such of their employees or temporarily lay off such of its employees as it deems appropriate; and

(c) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises in Canada at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the Canadian leased premises to observe such removal and, if the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim or resiliate the lease governing such Canadian leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such

landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including November 30, 2016, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**" and collectively "**Proceedings**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of

this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of USD $7.5 million, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 57 and 60 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or

claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPROVAL OF ENGAGEMENT OF CHIEF RESTRUCTURING OFFICER

23. **THIS COURT ORDERS** that the agreement dated as of October 24, 2016 (the "**CRO Engagement Letter**") pursuant to which the Applicants have engaged the services of Brian J. Fox to act as the chief restructuring officer of the Applicants (the "**CRO**"), is hereby approved as of the date of the CRO Engagement Letter, including, without limitation, the payment of fees and expenses contemplated thereby, and the Applicants are authorized to continue the engagement of the CRO on the terms set out in the CRO Engagement Letter.

24. **THIS COURT ORDERS** that the CRO shall be entitled to the benefit of the Administration Charge (as defined below) in respect of any obligations of the Applicants under the CRO Engagement Letter, whether for payment of compensation, fees, expenses, indemnities or otherwise.

25. **THIS COURT ORDERS** that any claims of the CRO under the CRO Engagement Letter shall be treated as unaffected and may not be compromised in any Plan or proposal filed under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**") in respect of the Applicants.

26. **THIS COURT ORDERS** that the CRO shall incur no liability or obligations as a result of its engagement or the carrying out of its mandate under the CRO Engagement Letter, save and except for gross negligence or willful misconduct on its part.

APPROVAL OF CLAIMS AND NOTICING AGENT

27. **THIS COURT ORDERS** that the agreement dated as of September 29, 2016 (the "**Prime Clerk Engagement Letter**"), pursuant to which the Applicants have engaged Prime Clerk LLC to act claims and noticing agent in the United States (the "**Claims and Noticing Agent**") is hereby approved as of the date of the Prime Clerk Engagement Letter, including without limitation, the payment of fees and expenses contemplated thereby, and the Applicants are authorized to continue the engagement of the Claims and Noticing Agent on the terms set out in the Prime Clerk Engagement Letter.

BID PROTECTION CHARGE

28. **THIS COURT ORDERS** that 9938982 Canada Inc. shall be entitled to the benefits of and are hereby granted a charge on the Property for the Break Fee and the expense reimbursement payable under the Stalking Horse Agreement as those terms are defined and referred to in paragraph 161 of the Vendetti Affidavit (the "**Bid Protection Charge**"), which charge shall not exceed USD $20.75 million in respect of all the Property. The Bid Protection Charge shall have the priority set out in paragraphs 57 and 60 herein.

ABL ESCROW

29. **THIS COURT ORDERS** that the Applicants shall pay to the Pre-Filing ABL Lenders the sum of US $250,000 to be held in segregated account to secure contingent indemnification obligations arising under or related to the Pre-Filing ABL Facility (the "**ABL Escrow**"), which shall be released to the Applicants promptly following the expiration of the Challenge Period (as that term is defined in paragraph 53 herein).

APPOINTMENT OF MONITOR

30. **THIS COURT ORDERS** that EY is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the

Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

31. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the ABL DIP Lenders, the Term Loan DIP Lenders, the Pre-Filing ABL Lenders, the Pre-Filing Term Lenders (until the Refinancing been completed), the UCC and Ad Hoc Committee of Equityholders and their respective counsel, financial and other information as agreed to between the Applicants and the ABL DIP Lenders, the Term Loan DIP Lenders, the Pre-Filing ABL Lenders, and the Pre-Filing Term Lenders (until the Refinancing has been completed) which may be used in these proceedings including reporting on a basis to be agreed with the ABL DIP Lenders, the Term Loan DIP Lenders, and the Pre-Filing ABL Lenders and the UCC;

(d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the ABL DIP Lenders and the Term Loan DIP Lenders, which information shall be reviewed with the Monitor and delivered to the ABL DIP Lenders, the Term Loan DIP Lenders, the Pre-Filing ABL Lenders, the UCC and the Ad Hoc Committee of Equityholders and their respective counsel;

(e) advise the Applicants in their development of the Plan and any amendments to the Plan;

(f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform their duties arising under this Order;

(h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(i) monitor and have full access to and transparent and timely information regarding the sale process of the Applicants; and

(j) perform such other duties as are required by this Order or by this Court from time to time.

32. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

33. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or

other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

34. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants, including the Pre-Filing ABL Lenders, the Pre-Filing Term Lenders, the ABL DIP Lenders and the Term Loan DIP Lenders, with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

35. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

36. **THIS COURT ORDERS** that the Monitor, United States and Canadian counsel to the Monitor, United States and Canadian counsel to the Applicants, and counsel to the directors of PSG (the "**Case Professionals**") shall be paid their reasonable fees and disbursements in respect of work done in relation to these CCAA proceedings, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Case Professionals on a weekly basis and, in addition, the Applicants are hereby authorized to pay to the Case Professionals retainers in amounts of CAD $100,000 for each Canadian counsel and for the Monitor and USD $100,000 for each United States counsel, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

37. **THIS COURT ORDERS** that the Monitor and its United States and Canadian counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its United States and Canadian counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

38. **THIS COURT ORDERS** that the Case Professionals and the CRO shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed USD $3.75 million in respect of the Fixed Asset (Term) Priority Collateral (as defined in the Vendetti Affidavit), USD $3.75 million in respect of the ABL Priority Collateral (as defined in the Vendetti Affidavit) for an aggregate amount of USD $7.5 million on all Property (including the Fixed Asset (Term) Priority Collateral and the ABL Priority Collateral), in each case plus all accrued and unpaid fees, disbursements, costs and expenses incurred by the Case Professionals and the CRO as at the date on which notice is delivered in the Chapter 11 Proceedings (as defined in the Vendetti Affidavit) requiring the Applicants to fund the Carve-Out, as security for their professional fees and disbursements incurred at the standard rates and charges of the Case Professionals and the CRO. The Administration Charge shall have the priority set out in paragraphs 57 and 60 herein. For greater

certainty, the Administration Charge includes the funds in the Carve-Out and may be satisfied, in whole or in part, from such funds.

ABL DIP FINANCING

39. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility (the "**ABL DIP Facility**") from the lenders party to the ABL DIP Agreement (as defined below) (collectively, the "**ABL DIP Lenders**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed USD $200 million unless permitted by further Order of this Court.

40. **THIS COURT ORDERS** that the ABL DIP Facility shall be on the terms and subject to the conditions set forth in the Superpriority Debtor-In-Possession ABL Credit Agreement dated as of October 31, 2016 between the Applicants and the ABL DIP Lenders (the "**ABL DIP Agreement**") as modified by the US Final DIP Order (defined below).

41. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**ABL DIP Definitive Documents**"), as are contemplated by the ABL DIP Agreement or as may be reasonably required by the ABL DIP Lenders pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the ABL DIP Lenders under and pursuant to the ABL DIP Agreement and the ABL DIP Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

42. **THIS COURT ORDERS** that the ABL DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the "**ABL DIP Charge**") on the Property, which ABL DIP Charge shall not secure an obligation that exists before the date of this Order. The ABL DIP Charge shall have the priority set out in paragraphs 57 and 60 herein.

43. **THIS COURT ORDERS** that, subject to the ABL/Term Intercreditor Agreement dated as of October 31, 2016 (the "**Post-Filing ICA**"), notwithstanding any other provision of this Order:

(a) the ABL DIP Lenders may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the ABL DIP Charge or any of the ABL DIP Definitive Documents;

(b) upon the occurrence of an event of default under the ABL DIP Definitive Documents or the ABL DIP Charge, the ABL DIP Lenders, upon 7 days' notice to the Applicants the Monitor and the UCC, may , unless this Court orders otherwise, exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the ABL DIP Agreement, ABL DIP Definitive Documents and the ABL DIP Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the ABL DIP Lenders to the Applicants against the obligations of the Applicants to the ABL DIP Lenders under the ABL DIP Agreement, the ABL DIP Definitive Documents or the ABL DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the ABL DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

44. **THIS COURT ORDERS AND DECLARES** that the ABL DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the BIA, with respect to any advances made under the ABL DIP Agreement and the ABL DIP Definitive Documents.

TERM LOAN DIP FINANCING

45. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility (the "**Term Loan DIP Facility**") from 9938982 Canada Inc. and the other lenders party to the Term Loan DIP Credit Agreement (as defined below) (collectively, the "**Term Loan DIP Lenders**") in order to complete the Refinancing (as defined below) and to finance the Business and general corporate purposes and capital expenditures of the Applicants, provided that (a) the Applicants shall not be permitted to borrow under any Delayed Draw Term Loans (as defined in the Term Loan DIP Credit Agreement) until the Refinancing has been completed; and (b) borrowing under such credit facility shall not exceed USD $361.3 million unless permitted by further order of this Court.

46. **THIS COURT ORDERS** that the Term Loan DIP Facility shall be on the terms and subject to the conditions set forth in the Superpriority Debtor-In-Possession Term Loan Credit Agreement dated as of October 31, 2016 between the Applicants and the Term Loan DIP Lenders (the "**Term Loan DIP Credit Agreement**") as modified by the U.S. Final DIP order.

47. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees, amendments and other definitive documents (collectively, the "**Term Loan DIP Definitive Documents**"), as are contemplated by the Term Loan DIP Credit Agreement or as may be reasonably required by the Term Loan DIP Lenders pursuant to the terms thereof, and the

Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the Term Loan DIP Lenders under and pursuant to the Term Loan DIP Credit Agreement and the Term Loan DIP Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

48. **THIS COURT ORDERS** that the Term Loan DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the "**Term Loan DIP Charge**") on the Property, which Term Loan DIP Charge shall not secure an obligation that existed before the date of this Order. The Term Loan DIP Charge shall have the priority set out in paragraphs 57 and 60 herein.

49. **THIS COURT ORDERS** that, subject to the Post-Filing ICA, notwithstanding any other provision of this Order:

(a) the Term Loan DIP Lenders may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect or any of the Term Loan DIP Definitive Documents;

(b) upon the occurrence of an event of default under the Term Loan DIP Definitive Documents or the Term Loan DIP Charge, Term Loan DIP Lenders, upon 7 days' notice to the Applicants, the Monitor and the UCC, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Term Loan DIP Credit Agreement and Term Loan DIP Definitive Documents or the Term Loan DIP Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the Term Loan DIP Lenders to the Applicants against the obligations of the Applicants to the Term Loan DIP Lenders under the Term Loan DIP Credit Agreement, the Term Loan DIP Definitive Documents or the Term Loan DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the Term Loan DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

50. **THIS COURT ORDERS AND DECLARES** that the Term Loan DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the BIA, with respect to any advances made under the Term Loan DIP Credit Agreement and the Term Loan DIP Definitive Documents.

51. **THE COURT ORDERS** that the Company in consummating the transactions contemplated by the Term Loan DIP Agreement, which is a "related party transaction" for purposes of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**") and subject to a court order under applicable bankruptcy or insolvency laws, is not required to comply with both the formal valuation and minority approval requirements under Sections 5.4 and 5.6, respectively, of MI 61-101.

REFINANCING

52. **THIS COURT ORDERS** that the Refinancing is hereby approved and the Applicants are authorized and directed to carry out the Refinancing in accordance with the terms of the Term Loan DIP Credit Agreement and are further authorized and empowered to complete all transactions and take all actions necessary or desirable to complete the Refinancing.

53. **THIS COURT ORDERS** that, subject to the terms of the Term Loan DIP Credit Agreement and paragraph 54 hereof, the Applicants shall (a) repay in full the obligations outstanding under the Term Loan Agreement (the "**Pre-Filing Term Loan**

Obligations") by distributing the proceeds of the applicable refinancing loans advanced under the Term Loan DIP Facility pursuant to the Term Loan DIP Credit Agreement to the administrative agent under the Term Loan Agreement (the "**Pre-Filing Term Loan Agent**"), and (b) pay in full all of the reasonable and documented fees and expenses of the Pre-Filing Term Loan Agent and of the professional advisors retained by the Ad Hoc Committee of Pre-Filing Term Lenders or the Pre-Filing Term Loan Agent, and (c) upon receipt of the Applicants' payment in satisfaction of the Pre-Filing Term Loan Obligations contemplated in subparagraph (a) above, the Pre-Filing Term Loan Agent shall be authorized and directed to make distributions to the Pre-Filing Term Lenders in accordance with the Term Loan Agreement.

54. **THIS COURT ORDERS** that notwithstanding:

(a) the pendency of these proceedings

(b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the BIA and any order issued pursuant to any such petition;

(c) any application for a receivership order; or

(d) any provisions of any federal or provincial legislation;

the payments, distributions, and disbursements to or for the account of the Pre-Filing Term Lenders, the Pre-Filing Term Loan Agent and the professionals retained by the Ad Hoc Committee of Pre-Filing Term Lenders or the Pre-Filing Term Loan Agent in connection with the Refinancing, shall be made indefeasibly, free and clear of any Encumbrances (as defined below), including the Charges, shall be binding on any trustee in bankruptcy, interim receiver or receiver that may be appointed in respect of any of the Applicants, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Applicants, the Monitor, the Term Loan DIP Lenders and the Pre-Filing Term Lenders and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation; provided, however, that nothing in this paragraph 54 shall derogate from any rights which a Challenge Party may have to commence a Challenge during the Challenge Period (as such terms are defined in the *Final Order (I) Authorizing the Debtors to Obtain Post-Petition Secured Financing Pursuant to 11 U.S.C. § 364, (II) Authorizing the Debtors' Use of Cash Collateral Pursuant to 11 U.S.C. § 363; (III) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. § § 361, 362, 363 and 364; and (IV) Granting Related Relief, issued by the U.S. Court dated November 30, 2016* (the "**U.S. Final DIP Order**")), but strictly and solely pursuant to paragraph 31 of the U.S. Final DIP Order, or from the ability of this Court or the U.S. Court to fashion an appropriate remedy in respect of a successful Challenge, and provided further that nothing herein or in the U.S. Final DIP Order shall derogate from the rights of the Pre-Filing Term Lenders and the Pre-Filing Term Loan Agent in response to any such Challenge and the Pre-Filing Term Loan Agent and the Pre-Filing Term Lenders reserve all such rights. Any stakeholder may also reserve its rights with respect to the allocation of any property of the Applicants between jurisdictions.

55. **THIS COURT ORDERS** that, upon completion of the Refinancing, the Pre-Filing Term Loan Agent and the Pre-Filing Term Lenders shall be entitled to and are hereby granted a charge (the "**Pre-Filing Term Loan Charge**") on the Property, which Pre-Filing Term Loan Charge shall secure any indemnification or other obligations (including as to the payment of reasonable and documented legal fees) which may arise under the Term Loan Agreement in the period from and after the Refinancing and throughout the Challenge Period and any related Challenge proceedings, and which Pre-Filing Term Loan Charge shall have the priority set out in paragraphs 57 and 60 herein.

INTERCOMPANY FINANCING

56. **THIS COURT ORDERS** that to the extent that any one or more of the Applicants (the "**Lending Applicant**") after the date of this Order, makes any payment or incurs or discharges any obligation that is a payment or obligation of any one or more of the other Applicants or otherwise transfers value to or for the benefit of one or more of the other Applicants, each of the Lending Applicants are hereby granted a charge (the "**Intercompany Charge**") on all of the Property in the amount of such payment or obligation or transfer. The Intercompany Charge shall have the priority set out in paragraphs 57 and 60 herein.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

57. **THIS COURT ORDERS** that, until further Order of this Court and subject to paragraph 58 of this Order, the priorities of the Directors' Charge, the Administration Charge, the ABL DIP Charge, Term Loan DIP Charge, the Bid Protection Charge, the Pre-Filing Term Loan Charge, and the Intercompany Charge, as among them and certain existing encumbrances, shall be, with respect to the type of collateral at issue, as follows:

(a) With respect to the Fixed Asset (Term) Priority Collateral:

First – the Administration Charge (to the maximum amount of USD $3.75 million plus all accrued and unpaid fees, disbursements, costs and expenses incurred by the Case Professionals and the CRO as at the date on which notice is delivered in the Chapter 11 Proceedings requiring the Applicants to fund the Carve-Out in respect of the Property specifically in respect of the Fixed Asset (Term) Priority Collateral);

Second – the Term Loan DIP Charge;

Third- the Pre-Filing Term Loan Facility Security (as defined in the Vendetti Affidavit) prior to the completion of the Refinancing, and the Pre-Filing Term Loan Charge from and after the completion of the Refinancing;

Fourth - the ABL DIP Charge;

Fifth - the Pre-Filing ABL Facility Security (as defined in the Vendetti Affidavit);

Sixth - the Bid Protection Charge;

Seventh - the Directors' Charge; and

Eighth - the Intercompany Charge.

(b) With respect to the ABL Priority Collateral:

First - the Administration Charge (to the maximum amount of USD $3.75 million plus all accrued and unpaid fees, disbursements, costs and expenses incurred by the Case Professionals and the CRO as at the date on which notice is delivered in the Chapter 11 Proceedings requiring the Applicants to fund the Carve-Out in respect of the Property specifically in respect of the ABL Priority Collateral);

Second - the ABL DIP Charge;

Third - the Pre-Filing ABL Facility Security;

Fourth - the Pre-Filing Term Loan Facility Security (prior to the Refinancing);

Fifth - the Term Loan DIP Charge;

Sixth – the Bid Protection Charge;

Seventh – the Directors' Charge; and

Eighth – the Intercompany Charge.

(c) With respect to the assets, property and undertakings of PSG Innovation Corp. and PSG Innovation Inc. (the "**PSG Innovation Collateral**"):

First – the Administration Charge;

Second – the Term Loan DIP Charge;

Third – the ABL DIP Charge;

Fourth – the Bid Protection Charge;

Fifth – the Directors' Charge; and

Sixth – the Intercompany Charge.

(d) With respect to all other Property that is not Fixed Asset (Term) Priority Collateral or ABL Priority Collateral or PSG Innovation Collateral:

First – the Administration Charge;

Second – the Term Loan DIP Charge;

Third – the ABL DIP Charge;

Fourth – the Bid Protection Charge;

Fifth – the Directors' Charge; and

Sixth – the Intercompany Charge.

provided, however, that (i) as between the Pre-Filing ABL Lenders, the ABL DIP Lenders and the Term Loan DIP Lenders, nothing in this Order shall derogate from the priorities agreed to by them in the Post-Filing ICA; and (ii) to the extent the PSG Innovation Collateral or the Property described in Paragraph 57(d) above would otherwise constitute ABL Priority Collateral, it shall be treated as such (and otherwise shall be treated as Fixed Asset (Term) Priority Collateral as reflected above).

58. **THIS COURT ORDERS** that, upon completion of the Refinancing, until further Order of this Court, the priorities of the Directors' Charge, the Administration Charge, the ABL DIP Charge, Term Loan DIP Charge the Bid Protection Charge, the Pre-Filing Term Loan Charge, and the Intercompany Charge, as among them and certain existing encumbrances, shall be, with respect to the ABL Priority Collateral:

> First – the Administration Charge (to the maximum amount of USD $3.75 million specifically in respect of the ABL Priority Collateral);
>
> Second – the ABL DIP Charge;
>
> Third – the Pre-Filing ABL Facility Security;
>
> Fourth – the Term Loan DIP Charge;
>
> Fifth – the Directors' Charge (to the maximum amount of USD $7.5 million);
>
> Sixth – the Intercompany Charge;
>
> Seventh – the Pre-Filing Term Loan Charge; and
>
> Eighth – the Bid Protection Charge.

59. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the ABL DIP Charge, the Term Loan DIP Charge, the Bid

Protection Charge, the Pre-Filing Term Loan Charge, the Intercompany Charge or the Director's Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

60. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person except as specifically as set out in paragraph 57.

61. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain the prior written consent of the Monitor, the ABL DIP Lenders, the Term Loan DIP Lenders and the beneficiaries of the Intercompany Charge, the Directors' Charge and the Administration Charge, or further order of this Court.

62. **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the Term Loan DIP Credit Agreement, the Term Loan DIP Definitive Documents, the Term Loan DIP Charge, the ABL DIP Agreement, the ABL DIP Definitive Documents and the ABL DIP Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the ABL DIP Lenders and the Term Loan DIP Lenders thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors

made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the ABL DIP Agreement, the ABL DIP Definitive Documents, the Term Loan DIP Credit Agreement and Term Loan DIP Definitive Documents, shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants' execution, delivery or performance of the ABL DIP Agreement, the Term Loan DIP Credit Agreement, the creation of the Charges, or the execution, delivery or performance of the ABL DIP Definitive Documents or the Term Loan DIP Definitive Documents; and

(c) the payments made by the Applicants pursuant to this Order, ABL DIP Agreement, the ABL DIP Definitive Documents, the Term Loan DIP Credit Agreement and the Term Loan DIP Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law subject to paragraph 54 hereof.

63. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

CROSS BORDER PROTOCOL

64. **THIS COURT ORDERS** that the cross border protocol, in the form attached as Schedule "1" hereto, is hereby approved and shall become effective upon its approval by the U.S. Court and the parties to these proceedings and any other Person shall be governed by it and shall comply with same.

MARSHALLING

65. **THIS COURT ORDERS THAT** none of the Term Loan DIP Lenders, the ABL DIP Lenders, Pre-Filing Term Lenders or the Pre-Filing ABL Lenders shall be subject to the equitable doctrine of "marshaling" or any other similar doctrine; provided, however, that, notwithstanding the foregoing, (i) at any time, upon the occurrence or continuation of an Event of Default under either DIP Facility, any stakeholder retains the right to argue, and the Court retains the right to so order, that the proceeds of assets, property and undertakings which are not Fixed Asset (Term) Priority Collateral or ABL Priority Collateral (the "**Unencumbered Assets**") should only be used to satisfy the obligations under the ABL DIP Facility or Term Loan DIP Facility to the extent such obligations cannot be satisfied in full first from other collateral and/or to argue that such Unencumbered Assets should be sold separately and no earlier than the sale, transfer, foreclosure or other disposition of such other collateral; and (ii) the Applicants, Term Loan DIP Lenders, the ABL DIP Lenders, the Pre-Filing Term Lenders and the Pre-Filing ABL Lenders each reserve their rights to oppose such arguments.

SERVICE AND NOTICE

66. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the national edition of *The Globe and Mail*, the *Wall Street Journal* and *Le Devoir* a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor

who has a claim against the Applicants of more than $5,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that, for the purposes of this list, the Monitor shall not make the names and addresses of creditors who are individuals publicly available.

67. **THIS COURT ORDERS** that the Applicants shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Case Website (as defined below) as part of the public materials to be recorded thereon in relation to this proceeding. Notwithstanding the foregoing, the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

68. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website (the "**Case Website**") shall be established in accordance with the Protocol with the following URL: www.ey.com/ca/psg.

69. **THIS COURT ORDERS** that the Claims and Noticing Agent is entitled to serve and distribute all motion materials and other notices in these proceedings on behalf of

the Applicants and the Monitor (when and if so instructed by the Applicants or the Monitor) by electronic service in accordance with the Protocol.

70. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants, the Monitor and the Claims and Noticing Agent are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

71. **THIS COURT ORDERS** that, except with respect to urgent motions, all motions in this proceeding are to be brought on not less than seven (7) days' notice to all persons on the Service List and shall specify a date and time for the hearing of the motion.

GENERAL

72. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

73. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

74. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

75. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

76. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

77. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

Dies J.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 30 2016

PER / PAR:

Schedule 1

Cross-Border Restructuring Protocol

Between the United States Bankruptcy Court for the District of Delaware (Case No. 16-12373 (KJC)) and the Ontario Superior Court of Justice (Court File No. CV-16-11582-00CL)

This cross-border insolvency protocol (the "**Protocol**") shall govern the conduct of all parties in interest in the Restructuring Proceedings (as such term is defined herein).

The Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases (the "**Guidelines**") attached hereto as Schedule "A" are hereby incorporated by reference and form part of this Protocol. Where there is any discrepancy between the Protocol and the Guidelines, this Protocol shall govern.

A. Background

1. Performance Sports Group Ltd. ("**PSG**"), a company incorporated in the Province of British Columbia, is the ultimate parent company of an international enterprise that designs, develops and manufactures high performance sports equipment and related apparel through its various subsidiaries and affiliates in the United States of America (the "**U.S.**"), Canada and other countries. On October 31, 2016 (the "**Filing Date**"), PSG and its direct and indirect subsidiaries listed on Schedule "B" (collectively, the "**Debtors**") commenced cases (the "**Chapter 11 Cases**") under chapter 11 of title 11 of the United States Bankruptcy Code (the "**Bankruptcy Code**") in the U.S. in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**") and commenced a reorganization proceeding in Canada (the "**Canadian Proceeding**" and together with the Chapter 11 Cases, the "**Restructuring Proceedings**") by filing an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, (the "**CCAA**") with the

Ontario Superior Court of Justice (the "**Canadian Court**" and together with the U.S. Court, the "**Courts**" and each individually, a "**Court**").

2. On the Filing Date, the Canadian Court issued an Order (as may be amended from time to time, the "**Initial Order**") which, *inter alia*: (a) granted the Debtors relief under the CCAA; (b) appointed Ernst & Young Inc. as monitor of the Debtors (in that capacity, the "**Monitor**"), with the rights powers, duties and limitations upon liabilities set forth in the CCAA and the Initial Order; and (c) granted a stay of proceedings in respect of the Debtors.

3. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession under the supervision of the Courts pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the CCAA and the Initial Order. In connection with the Restructuring Proceedings, a Superpriority Debtor-In-Possession Term Loan Credit Agreement dated as of October 31, 2016, was entered into between the Debtors and 9938982 Canada Inc. and the other lenders party to such agreement (collectively, the "**Term Loan DIP Lenders**").

4. The Office of the United States Trustee (the "**U.S. Trustee**") has appointed an official committee of unsecured creditors (the "**Creditors' Committee**") in the Chapter 11 Cases.

B. Purpose and Goals

5. While the Chapter 11 Cases and the Canadian Proceeding are full and separate proceedings pending in the U.S. and Canada, the implementation of administrative procedures and cross-border guidelines is both necessary and desirable to coordinate certain activities in the Restructuring Proceedings, protect the rights of parties thereto, ensure the maintenance of each Court's respective independent

jurisdiction and give effect to any applicable doctrines, including, comity. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in the Restructuring Proceedings:

a. harmonize and coordinate activities in the Restructuring Proceedings before the Courts;

b. promote the orderly and efficient administration of the Restructuring Proceedings to, among other things, maximize the efficiency of the Restructuring Proceedings, reduce the costs associated therewith and avoid duplication of effort;

c. honor the independence and integrity of the Courts and other courts and tribunals of the U.S. and Canada, respectively;

d. promote international cooperation and respect for comity among the Courts, the Debtors, the Creditors' Committee, the U.S. Representatives (defined below), the Canadian Representatives (defined below), the U.S. Trustee, the Term Loan DIP Lenders and other creditors and interested parties in the Restructuring Proceedings;

e. facilitate the fair, open and efficient administration of the Restructuring Proceedings for the benefit of all of the Debtors' creditors and other interested parties, wherever located; and

f. implement a framework of general principles to address basic administrative issues arising out of the cross-border nature of the Restructuring Proceedings.

As the Restructuring Proceedings progress, the Courts may also jointly determine that other cross-border matters that may arise in the Restructuring Proceedings should be dealt with under and in accordance with the principles of this Protocol. Subject to the provisions of this Protocol, where an issue is to be addressed only to one Court, in rendering a determination in any cross-border matter, such Court may: (a) to the extent practical or advisable, consult with the other Court; and (b) in its sole discretion while considering principles of comity, either (i) render a binding decision after such consultation; (ii) defer to the determination of the other Court by transferring the matter, in whole or part, to the other Court; or (iii) seek a joint hearing of both Courts.

C. Comity and Independence of the Courts

6. The approval and implementation of this Protocol shall not divest nor diminish the U.S. Court's and the Canadian Court's respective independent jurisdiction of the subject matter of the Chapter 11 Cases and the Canadian Proceeding, respectively. By approving and implementing this Protocol, neither the U.S. Court, the Canadian Court, the Debtors, the Canadian Representatives (as defined below), the U.S. Representatives (as defined below), nor any creditors or interested parties shall be deemed to have approved or engaged in any infringement on the sovereignty of the U.S. or Canada.

7. The U.S. Court shall have sole and exclusive jurisdiction and power over the conduct of the Chapter 11 Cases and the hearing and determination of matters arising in the Chapter 11 Cases. The Canadian Court shall have sole and exclusive jurisdiction and power over the conduct of the Canadian Proceeding and the hearing and determination of matters arising in the Canadian Proceeding.

8. In accordance with the principles of comity and independence recognized herein, nothing contained herein shall be construed to:

a. increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the U.S. Court, the Canadian Court or any other court or tribunal in the U.S. or Canada, including the ability of any such court or tribunal to provide appropriate relief under applicable law on an *ex parte* or "limited notice" basis;

b. require the U.S. Court to take any action that is inconsistent with its obligations under the laws of the U.S.;

c. require the Canadian Court to take any action that is inconsistent with its obligations under the laws of Canada or the laws of the applicable Province therein;

d. require the U.S. Representatives, the Canadian Representatives (collectively, the "**Estate Representatives**"), the Debtors, the Monitor, the Creditors' Committee, or the U.S. Trustee to take any action or refrain from taking any action that would result in a breach of any duty imposed on them by any applicable law;

e. authorize any action that requires the specific approval of one or both of the Courts under the Bankruptcy Code or the CCAA after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or

f. preclude the Debtors, the Monitor, the Creditors' Committee, the Estate Representatives, the U.S. Trustee, the Term Loan DIP Lenders, any creditor or other interested party from asserting such party's substantive rights under the applicable laws of the U.S., Canada or any other relevant jurisdiction including, without limitation, the rights of parties in interest to appeal from the decisions taken by one or both of the Courts.

9. The Debtors, the Creditors' Committee, the Estate Representatives and their respective employees, members, agents and professionals shall respect and comply with the independent, non-delegable duties imposed upon them by the Bankruptcy Code, the CCAA, the Initial Order, other applicable laws and orders of the Courts.

D. Cooperation

10. To assist in the efficient administration of the Restructuring Proceedings and in recognizing that the Debtors may each be creditors of another Debtor's estate, each of the Debtors and its respective Estate Representatives shall, where appropriate: (a) cooperate with the others in connection with actions taken in both the U.S. Court and the Canadian Court; and (b) take any other appropriate steps to coordinate the

administration of the Restructuring Proceedings for the benefit of the Debtors' respective estates and stakeholders.

11. To harmonize and coordinate the administration of the Restructuring Proceedings, the U.S. Court and the Canadian Court each may coordinate activities and consider whether it is appropriate to defer to the judgment of the other Court. In furtherance of the foregoing:

a. The U.S. Court and the Canadian Court may communicate with one another, with or without counsel present, with respect to any procedural matter relating to the Restructuring Proceedings.

b. If the issue of the proper jurisdiction of either Court to determine an issue is raised by an interested party in either of the Restructuring Proceedings or a written request for a Joint Hearing (as defined below) is made with respect to any relief sought in either Court, the Courts may consult with one another to determine an appropriate process by which the issue of jurisdiction will be determined. Such process shall be subject to submissions by the Debtors, the U.S. Trustee, the Creditors Committee, the Estate Representatives, the Monitor, the Term Loan DIP Lenders and any interested party prior to any determination on the issue of jurisdiction or Joint Hearing request being made by either Court, and such issue of jurisdiction or Joint Hearing request shall be decided prior to the adjudication of the matter in the Court such matter was originally brought.

c. The Courts may, but are not obligated to, coordinate activities in the Restructuring Proceedings such that the subject matter of any particular action, suit, request, application, contested matter or other proceeding is determined in a single Court.

d. The U.S. Court and the Canadian Court may conduct joint hearings (each a "**Joint Hearing**") with respect to any matter relating to the conduct, administration, determination, or disposition of any aspect of the Chapter 11 Cases or the Canadian Proceeding, including, the interpretation or implementation of this Protocol, where both Courts consider such a Joint Hearing to be necessary or advisable, or as otherwise provided herein. With respect to any Joint Hearings, unless otherwise ordered or otherwise agreed to by the Courts, the following procedures will be followed:

i. A telephone or video link shall be established so that both the U.S. Court and the Canadian Court shall be able to simultaneously hear the proceedings in the other Court.

ii. Notices, submissions, motions or applications by any party (collectively, the "**Pleadings**") that are or become the subject of a Joint Hearing shall be made or filed initially only to the Court in which such party is appearing and seeking relief. Promptly after the scheduling of any Joint Hearing, the party submitting such Pleadings to one Court shall file courtesy copies with the other Court. In any event, Pleadings in respect of relief sought from both Courts shall be filed with both Courts.

iii. Any party intending to rely on any written evidentiary materials in support of a submission to the U.S. Court or the Canadian Court in connection with any Joint Hearing or application (collectively, the "**Evidentiary Materials**") shall file or otherwise submit such materials to both Courts in advance of the Joint Hearing. To the fullest extent possible, the Evidentiary Materials filed in each Court shall be identical and shall be consistent with the procedural and evidentiary rules and requirements of each Court.

iv. If a party has not previously appeared in or attorned or does not wish to attorn to the jurisdiction of a Court, it shall be entitled to file Pleadings or Evidentiary Materials in connection with the Joint Hearing without, by the mere act of such filings or appearance, being deemed to have attorned to the jurisdiction of the Court in which such material is filed, so long as it does not request in its materials or submissions any affirmative relief from such Court.

v. The Judge of the U.S. Court and the Justice of the Canadian Court who will preside over the Joint Hearings shall be entitled to communicate with each other in advance of any Joint Hearing, with or without counsel being present, to: (a) establish guidelines for the orderly submission of Pleadings, Evidentiary Materials, and other papers and for the rendering of decisions by the Courts; and (b) to address any related procedural, administrative or preliminary matters.

vi. The Judge of the U.S. Court and the Justice of the Canadian Court who preside over any Joint Hearing, shall be entitled to communicate with each other during or after any Joint Hearing, with or without counsel present, for the purposes of (a) determining whether consistent rulings can be made by both Courts; (b) coordinating the terms upon the Courts' respective rulings; and (c) addressing any other procedural or administrative matters.

12. Notwithstanding the terms of paragraph 11 above, this Protocol recognizes that the U.S. Court and the Canadian Court are independent courts. Accordingly, although the Courts will seek to cooperate and coordinate with each other in good faith, each Court shall be entitled at all times to exercise its independent jurisdiction and authority with respect to: (a) matters presented to and properly before such Court; and (b) the conduct of the parties appearing in such matters.

13. Notwithstanding the foregoing, or anything to the contrary herein, in the interest of cooperation and coordination of these proceedings, each Court shall recognize and consider all privileges applicable to communications between counsel and parties, including those contemplated by the "common interest doctrine " or like privileges, which would be applicable in each respective Court. Such privileges in connection with communications shall be applicable in both Courts with respect to all parties to these proceedings having any requisite common interest.

14. Where one Court has jurisdiction over a matter which requires the application of the law of the jurisdiction of the other Court in order to determine an issue before it, the Court with jurisdiction over such matter may, among other things,

hear expert evidence or seek the advice and direction of the other Court in respect of the foreign law to be applied, subject to paragraph 30 herein.

E. Recognition of Stay of Proceedings

15. The Canadian Court hereby recognizes the validity of the stay of proceedings and actions against or respecting the Debtors and their property under section 362 of the Bankruptcy Code (the "**U.S. Stay**"). In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding: (a) the interpretation, extent, scope and applicability of the U.S. Stay and any orders of the U.S. Court modifying or granting relief from the U.S. Stay; and (b) the enforcement of the U.S. Stay in Canada.

16. The U.S. Court hereby recognizes the validity of the stay of proceedings and actions against or respecting the Debtors, their property and the directors and officers of the Debtors under the CCAA and the Initial Order (the "**Canadian Stay**"). In implementing the terms of this paragraph, the U.S. Court may consult with the Canadian Court regarding: (a) the interpretation, extent, scope and applicability of the Canadian Stay and any orders of the Canadian Court modifying or granting relief from the Canadian Stay; and (ii) the enforcement of the Canadian Stay in the U.S.

17. Nothing contained herein shall affect or limit the Debtors' or other parties' rights to assert the applicability or nonapplicability of the U.S. Stay or the Canadian Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located. Subject to the terms hereof, (a) any motion with respect to the application of the stay of proceedings issued by the Canadian Court in the CCAA shall be heard and determined by the Canadian Court and (b) any motion with respect

to the application of the stay under section 362 of the Bankruptcy Code shall be heard and determined by the U.S. Court.

F. Retention and Compensation of Representatives and Professionals

18. The Monitor, its officers, directors, employees, counsel, agents, and any other professionals retained therefor, wherever located, (collectively, the "**Monitor Parties**") and any other estate representatives in the Canadian Proceeding, including any Company representatives who appear in the Canadian Proceeding (collectively, the "**Canadian Representatives**") shall be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including: (a) the Canadian Representatives' appointment and tenure in office; (b) the retention and compensation of the Canadian Representatives; (c) the Canadian Representatives' liability, if any, to any person or entity, including the Debtors and any third parties, in connection with the Restructuring Proceedings; and (d) the hearing and determination of any other matters related to the Canadian Representatives arising in the Canadian Proceeding under the CCAA or other applicable Canadian law. Additionally, the Canadian Representatives: (x) shall not be required to seek approval of their retention in the U.S. Court for services rendered to the Debtors; (y) shall be compensated for their services solely in accordance with the CCAA, the Initial Order and other applicable laws of Canada and the applicable Provinces, or orders of the Canadian Court; and (z) shall not be required to seek approval of their compensation in the U.S. Court.

19. The Monitor Parties shall be entitled to the protections of section 306 of the Bankruptcy Code, the same protections and immunities in the U.S. as those granted to them under the CCAA and the Initial Order. In particular, except as otherwise provided in any subsequent order entered in the Canadian Proceeding, the Monitor

Parties shall incur no liability or obligations as a result of the appointment of the Monitor, the carrying out of its duties or the provisions of the CCAA and the Initial Order by the Monitor Parties, except any such liability arising from actions of the Monitor Parties constituting gross negligence or willful misconduct.

20. Any estate representative appointed in the Chapter 11 Cases, including without limitation, any restructuring officer appointed under section 363 of the Bankruptcy Code and any examiners or trustees appointed in accordance with section 1104 of the Bankruptcy Code (collectively, the "**U.S. Representatives**") shall be subject to the sole and exclusive jurisdiction of the U.S. Court with respect to all matters, including: (a) the U.S. Representatives' appointment and tenure in office; (b) the retention and compensation of the U.S. Representatives; (c) the U.S. Representatives' liability, if any, to any person or entity, including the Debtors and any third parties, in connection with the Restructuring Proceedings; and (d) the hearing and determination of any other matters related to the U.S. Representatives arising in the Chapter 11 Cases under the Bankruptcy Code or other applicable laws of the U.S. Additionally, the U.S. Representatives and their counsel and other professionals retained therefor (in all cases, whether in Canada or U.S.): (x) shall not be required to seek approval of their retention in the Canadian Court; (y) shall be compensated for their services to the Debtors solely in accordance with the Bankruptcy Code and other applicable laws of the U.S. or orders of the U.S. Court; and (z) shall not be required to seek approval of their compensation in the Canadian Court.

21. Any professionals retained by or with the approval of the Debtors for activities performed in Canada or in connection with the Canadian Proceeding, including, in each case, counsel, financial advisors, accountants, consultants and experts

(collectively, the "**Canadian Professionals**") shall be subject to the sole and exclusive jurisdiction of the Canadian Court. Accordingly, the Canadian Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the Canadian Court under the CCAA, the Initial Order any other applicable Canadian law or orders of the Canadian Court; and (b) shall not be required to seek approval of their retention or compensation in the U.S. Court.

22. Any professionals retained by or with approval of the Debtors for activities performed in the U.S. or in connection with the Chapter 11 Cases, including, in each case, counsel, financial advisors, accountants, consultants and experts (collectively, the "**U.S. Professionals**") shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Accordingly, the U.S. Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the U.S. or orders of the U.S. Court; and (b) shall not be required to seek approval of their retention of compensation in the Canadian Court.

23. Subject to paragraph 24 herein, any professional retained by the Creditors' Committee, including in each case, without limitation, counsel and financial advisors (collectively, the "**Committee Professionals**") shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Such Committee Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court; and (b) shall not be required to seek approval of their retention or compensation in the Canadian Court or any other court.

G. Appearances

24. Upon any appearance or filing, as may be permitted or provided for by the rules of the applicable Court, the Debtors, their creditors and other interested parties in the Restructuring Proceedings, including the Monitor Parties, Creditors Committee, the Estate Representatives, the U.S. Trustee and the Term Loan DIP Lenders, each of which parties shall have the right to appear and be heard in the Chapter 11 Cases and Canadian Proceeding, shall be subject to the personal jurisdiction of the Canadian Court or the U.S. Court, as applicable, with respect to the particular matters as to which they appear before that Court.

H. Claims Protocol

25. It may be necessary to implement a specific claims protocol to address, among other things and without limitation, the timing process, jurisdiction and applicable governing law to be applied to the resolution of claims filed by the Debtors' creditors (including intercompany claims) in the Canadian Proceeding and the Chapter 11 Cases. In such event, and in recognition of the inherent complexities of the inter-company claims that may be asserted in the Restructuring Proceedings, the Debtors shall use commercially reasonable efforts to negotiate a specific claims protocol, in form and substance satisfactory to the Debtors, the Monitor, and the Creditors' Committee, which protocol shall be submitted to the Canadian Court and the U.S. Court for approval. In the event that the Debtors fail to reach agreement among such parties, the Debtors shall file a motion in both the Canadian Court and the U.S. Court seeking approval of such claims protocol.

I. Notices

26. Notice of any Pleading or paper filed in one or both of the Restructuring Proceedings involving or relating to matters addressed by this Protocol and notice of any related hearings or other proceedings shall be given by appropriate means (including, where circumstances warrant, by courier, telecopier, email or other electronic forms of communication) to the following: (a) creditors and interested parties, in accordance with the practice and procedural rules of the jurisdiction where the papers are filed or the proceedings are to occur and orders of the applicable Court; and (b) to the extent not otherwise entitled to receive notice under clause (a) of this paragraph, to counsel to the (i) the Debtors; (ii) the Monitor; (iii) the U.S. Trustee; (iv) the Creditors' Committee; (v) the agents under the Debtors' debtor-in-possession financing facilities; (vi) the agent under the Debtors' prepetition term loan facility and counsel to the ad hoc committee of certain lenders under the prepetition term loan facility (until such facility has been refinanced); (vii) the agent under the Debtors' prepetition ABL facility; (viii) any other statutory committee appointed in the Restructuring Proceedings and such other parties as may be designated by either of the Courts from time to time. Notice in accordance with this paragraph shall be given by the party otherwise responsible for effecting notice in the jurisdiction where the underlying papers are filed or the proceedings are to occur. In addition to the foregoing, upon request by either Court, the Debtors shall provide the U.S. Court or the Canadian Court, as the case may be, with copies of any orders, decisions, opinions, or similar papers issued by the other Court in the Restructuring Proceedings.

27. When any cross-border issues or matters addressed by this Protocol are to be addressed before a Court, notices shall be provided in the manner and to the parties referred to in paragraph 26 above.

J. Effectiveness; Modification

28. This Protocol shall become effective only upon its approval by both the U.S. Court and the Canadian Court.

29. This Protocol may not be supplemented, modified, terminated, or replaced in any manner except upon the approval of both the U.S. Court and the Canadian Court after notice and a hearing. Notice of any legal proceedings to supplement, modify, terminate, or replace this Protocol shall be given in accordance with the notice provisions set forth in paragraph 26 above.

K. Procedure for Resolving Disputes Under This Protocol

30. Disputes relating to the terms, intent, or application of this Protocol may be addressed by interested parties to the U.S. Court, the Canadian Court, or both Courts upon notice in accordance with the notice provisions outlined in paragraph 26 above. In rendering a determination in any such dispute, the Court to which the issue is addressed: (a) shall consult with the other Court; and (b) may, in its sole and exclusive discretion, either: (i) render a binding decision after such consultation; (ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to such other Court; or (iii) seek a Joint Hearing of both Courts in accordance with paragraph 11 above. Notwithstanding the foregoing, in making a determination under this paragraph, each Court shall give due consideration to the independence, comity, and inherent jurisdiction of the other Court established under existing law.

31. In implementing the terms of this Protocol, the U.S. Court and the Canadian Court may, in their sole discretion, provide advice or guidance to the other Court with respect to legal issues in accordance with the following procedures:

a. the U.S. Court or the Canadian Court, as applicable, may determine that such advice or guidance is appropriate under the circumstances;

b. the Court issuing such advice or guidance shall provide it to the other Court in writing;

c. copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 26 hereof; and

d. the Courts may jointly decide to invite the Debtors, the Estate Representatives, the U.S. Trustee, the Monitor, the Creditors' Committee, the Term Loan DIP Lenders and any other affected or interested party to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

32. For clarity, the provisions of paragraph 31 shall not be construed to restrict the ability of either Court to confer as provided in paragraph 11 above whenever it deems it appropriate to do so.

L. Preservation of Rights

33. Except as specifically provided herein, neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall: (a) prejudice or affect the powers, rights, claims, and defenses of the Debtors and their respective estates, the Creditors' Committee, the Estate Representatives, the U.S. Trustee, the Term Loan DIP Lenders or any of the Debtors' creditors under applicable law, including the Bankruptcy Code and the CCAA, and the orders of the Courts; or (b) preclude or prejudice the rights

of any person to assert or pursue such person's substantive rights against any other person under the applicable laws of Canada or the U.S.

Schedule 1

Schedule "B" - List of Debtor Entities

Corporation(s) incorporated under the laws of British Columbia

1. Performance Sports Group Ltd.

Corporation(s) incorporated under the laws of Canada

2. KBAU Holdings Canada, Inc.
3. Bauer Hockey Corp.
4. Easton Baseball/Softball Corp.
5. BPS Diamond Sports Corp.
6. Bauer Hockey Retail Corp.
7. PSG Innovation Corp.
8. Bauer Performance Sports Uniforms Corp.
9. Performance Lacrosse Group Corp.
10. BPS Canada Intermediate Corp.

Corporation(s) incorporated under the laws of Vermont

11. Bauer Hockey, Inc.

Corporation(s) incorporated under the laws of Delaware

12. BPS U.S. Holdings Inc.
13. Easton Baseball/Softball Inc.
14. BPS Diamond Sports Inc.
15. Bauer Hockey Retail Inc.
16. PSG Innovation Inc.
17. Bauer Performance Sports Uniforms Inc.
18. Performance Lacrosse Group Inc.

Schedule 1

Schedule A

THE AMERICAN LAW INSTITUTE

in association with

THE INTERNATIONAL INSOLVENCY INSTITUTE

Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases

As Adopted and Promulgated in Transnational Insolvency: Principles of Cooperation Among the NAFTA Countries

BY

THE AMERICAN LAW INSTITUTE
At Washington, D.C., May 16, 2000

And as Adopted by

THE INTERNATIONAL INSOLVENCY INSTITUTE
At New York, June 10, 2001

The American Law Institute
4025 Chestnut Street
Philadelphia, Pennsylvania 19104-3099
Telephone: (215) 243-1600
Telecopier: (215) 243-1636
E-mail: ali@ali.org
Website: http://www.ali.org

The International Insolvency Institute
Scotia Plaza, Suite 2100
40 King Street West
Toronto, Ontario M5H 3C2
Telephone: (416) 869-5757
Telecopier: (416) 360-8877
E-mail: info@iiiglobal.org
Website: http://www.iiiglobal.org

THE AMERICAN LAW INSTITUTE

in association with

THE INTERNATIONAL INSOLVENCY INSTITUTE

Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases

As Adopted and Promulgated in Transnational Insolvency: Principles of Cooperation Among the NAFTA Countries

BY

THE AMERICAN LAW INSTITUTE
At Washington, D.C., May 16, 2000

And as Adopted by

THE INTERNATIONAL INSOLVENCY INSTITUTE
At New York, June 10, 2001

The *Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases* were developed by The American Law Institute during and as part of its Transnational Insolvency Project and the use of the *Guidelines* in cross-border cases is specifically permitted and encouraged.

The text of the *Guidelines* is available in English and several other languages including Chinese, French, German, Italian, Japanese, Korean, Portuguese, Russian, Swedish, and Spanish on the website of the International Insolvency Institute at http://www.iiiglobal.org/international/guidelines.html.

The American Law Institute
4025 Chestnut Street
Philadelphia, Pennsylvania 19104-3099
Telephone: (215) 243-1600
Telecopier: (215) 243-1636
E-mail: ali@ali.org
Website: http://www.ali.org

The International Insolvency Institute
Scotia Plaza, Suite 2100
40 King Street West
Toronto, Ontario M5H 3C2
Telephone: (416) 869-5757
Telecopier: (416) 360-8877
E-mail: info@iiiglobal.org
Website: http://www.iiiglobal.org

Foreword by the Director of The American Law Institute

In May of 2000 The American Law Institute gave its final approval to the work of the ALI's Transnational Insolvency Project. This consisted of the four volumes eventually published, after a period of delay required by the need to take into account a newly enacted Mexican Bankruptcy Code, in 2003 under the title of *Transnational Insolvency: Cooperation Among the NAFTA Countries.* These volumes included both the first phase of the project, separate Statements of the bankruptcy laws of Canada, Mexico, and the United States, and the project's culminating phase, a volume comprising *Principles of Cooperation Among the NAFTA Countries.* All reflected the joint input of teams of Reporters and Advisers from each of the three NAFTA countries and a fully transnational perspective. Published by Juris Publishing, Inc., they can be ordered on the ALI website (www.ali.org).

A byproduct of our work on the Principles volume, these *Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases* appeared originally as Appendix B of that volume and were approved by the ALI in 2000 along with the rest of the volume. But the *Guidelines* have played a vital and influential role apart from the *Principles*, having been widely translated and distributed, cited and applied by courts, and independently approved by both the International Insolvency Institute and the Insolvency Institute of Canada. Although they were initially developed in the context of a project arrived at improving cooperation among bankruptcy courts within the NAFTA countries, their acceptance by the III, whose members include leaders of the insolvency bar from more than 40 countries, suggests a pertinence and applicability that extends far beyond the ambit of NAFTA. Indeed, there appears to be no reason to restrict the *Guidelines* to insolvency cases; they should prove useful whenever sensible and coherent standards for cooperation among courts involved in overlapping litigation are called for. See, e.g., American Law Institute, International Jurisdiction and Judgments Project § 12(e) (Tentative Draft No. 2, 2004).

The American Law Institute expresses its gratitude to the International Insolvency Institute for its continuing efforts to publicize the *Guidelines* and to make them more widely known to judges and lawyers around the world; to III Chair E. Bruce Leonard of Toronto, who as Canadian Co-Reporter for the Transnational Insolvency Project was the principal drafter of the Guidelines in English and has been primarily responsible for arranging and overseeing their translation into the various other languages in which they now appear; and to the translators themselves, whose work will make the *Guidelines* much more universally accessible. We hope that this greater availability, in these new English and bilingual editions, will help to foster better communication, and thus better understanding, among the diverse courts and legal systems throughout our increasingly globalized world.

LANCE LIEBMAN
Director
The American Law Institute

January 2004

Foreword by the Chair of the International Insolvency Institute

The International Insolvency Institute, a world-wide association of leading insolvency professionals, judges, academics, and regulators, is pleased to recommend the adoption and the application in cross-border and multinational cases of The American Law Institute's *Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases.* The *Guidelines* were reviewed and studied by a Committee of the III and were unanimously approved by its membership at the III's Annual General Meeting and Conference in New York in June 2001.

Since their approval by the III, the *Guidelines* have been applied in several cross-border cases with considerable success in achieving the coordination that is so necessary to preserve values for all of the creditors that are involved in international cases. The III recommends without qualification that insolvency professionals and judges adopt the *Guidelines* at the earliest possible stage of a cross-border case so that they will be in place whenever there is a need for the courts involved to communicate with each other, e.g., whenever the actions of one court could impact on issues that are before the other court.

Although the *Guidelines* were developed in an insolvency context, it has been noted by litigation professionals and judges that the *Guidelines* would be equally valuable and constructive in any international case where two or more courts are involved. In fact, in multijurisdictional litigation, the positive effect of the *Guidelines* would be even greater in cases where several courts are involved. It is important to appreciate that the *Guidelines* require that all domestic practices and procedures be complied with and that the *Guidelines* do not alter or affect the substantive rights of the parties or give any advantage to any party over any other party.

The International Insolvency Institute expresses appreciation to its members who have arranged for the translation of the *Guidelines* into French, German, Italian, Korean, Japanese, Chinese, Portuguese, Russian, and Swedish and extends its appreciation to The American Law Institute for the translation into Spanish. The III also expresses its appreciation to The American Law Institute, the American College of Bankruptcy, and the Ontario Superior Court of Justice Commercial List Committee for their kind and generous financial support in enabling the publication and dissemination of the *Guidelines* in bilingual versions in major countries around the world.

Readers who become aware of cases in which the *Guidelines* have been applied are highly encouraged to provide the details of those cases to the III (fax: 416-360-8877; e-mail: *info@iiiglobal.org*) so that everyone can benefit from the experience and positive results that flow from the adoption and application of the *Guidelines*. The continuing progress of the *Guidelines* and the cases in which the *Guidelines* have been applied will be maintained on the III's website at *www.iiiglobal.org*.

The III and all of its members are very pleased to have been a part of the development and success of the *Guidelines* and commend The American Law Institute for its vision in developing the *Guidelines* and in supporting their worldwide circulation to insolvency professionals, judges, academics, and regulators. The use of the *Guidelines* in international cases will change international insolvencies and reorganizations for the better forever, and the insolvency community owes a considerable debt to The American Law Institute for the inspiration and vision that has made this possible.

E. BRUCE LEONARD
Chairman
The International Insolvency Institute

Toronto, Ontario
March 2004

Judicial Preface

We believe that the advantages of co-operation and co-ordination between Courts is clearly advantageous to all of the stakeholders who are involved in insolvency and reorganization cases that extend beyond the boundaries of one country. The benefit of communications between Courts in international proceedings has been recognized by the United Nations through the *Model Law on Cross-Border Insolvency* developed by the United Nations Commission on International Trade Law and approved by the General Assembly of the United Nations in 1997. The advantages of communications have also been recognized in the European Union Regulation on Insolvency Proceedings which became effective for the Member States of the European Union in 2002.

The *Guidelines for Court-to-Court Communications in Cross-Border Cases* were developed in the American Law Institute's Transnational Insolvency Project involving the NAFTA countries of Mexico, the United States and Canada. The *Guidelines* have been approved by the membership of the ALI and by the International Insolvency Institute whose membership covers over 40 countries from around the world. We appreciate that every country is unique and distinctive and that every country has its own proud legal traditions and concepts. The *Guidelines* are not intended to alter or change the domestic rules or procedures that are applicable in any country and are not intended to affect or curtail the substantive rights of any party in proceedings before the Courts. The *Guidelines* are intended to encourage and facilitate co-operation in international cases while observing all applicable rules and procedures of the Courts that are respectively involved.

The *Guidelines* may be modified to meet either the procedural law of the jurisdiction in question or the particular circumstances in individual cases so as to achieve the greatest level of co-operation possible between the Courts in dealing with a multinational insolvency or liquidation. The *Guidelines,* however, are not restricted to insolvency cases and may be of assistance in dealing with non-insolvency cases that involve more than one country. Several of us have already used the *Guidelines* in cross-border cases and would encourage stakeholders and counsel in international cases to consider the advantages that could be achieved in their cases from the application and implementation of the *Guidelines.*

Mr. Justice David Baragwanath
High Court of New Zealand
Auckland, New Zealand

Chief Justice Donald I. Brenner
Supreme Court of British Columbia
Vancouver

Hon. Sidney B. Brooks
United States Bankruptcy Court
District of Colorado
Denver

Hon. Charles G. Case, II
United States Bankruptcy Court
District of Arizona
Phoenix

Mr. Justice Miodrag Dordević
Supreme Court of Slovenia
Ljubljana

Mr. Justice J.M. Farley
Ontario Superior Court of Justice
Toronto

Hon. James L. Garrity, Jr.
United States Bankruptcy Court
Southern District of New York (Ret'd)
Shearman & Sterling
New York

Hon. Allan L. Gropper
Southern District of New York
United States Bankruptcy Court
New York

Mr. Justice Paul R. Heath
High Court of New Zealand
Auckland, New Zealand

Hon. Hyungdu Kim
Supreme Court of Korea
Seoul

Chief Judge Burton R. Lifland
United States Bankruptcy Appellate
Panel for the Second Circuit
New York

Mr. Justice Gavin Lightman
Royal Courts of Justice
London

Hon. George Paine II
United States Bankruptcy Court
District of Tennessee
Nashville

Hon. Chiyong Rim
District Court
Western District of Seoul
Seoul, Korea

Mr. Justice Adolfo A.N. Rouillon
Court of Appeal
Rosario, Argentina

Hon. Shinjiro Takagi
Supreme Court of Japan (Ret'd)
Industrial Revitalization Corporation of Japan
Tokyo

Mr. Justice Wisit Wisitsora – At
Business Reorganization Office
Government of Thailand
Bangkok

Mr. Justice R.H. Zulman
Supreme Court of Appeal of South Africa
Parklands

Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases

Introduction:

One of the most essential elements of cooperation in cross-border cases is communication among the administrating authorities of the countries involved. Because of the importance of the courts in insolvency and reorganization proceedings, it is even more essential that the supervising courts be able to coordinate their activities to assure the maximum available benefit for the stakeholders of financially troubled enterprises.

These Guidelines are intended to enhance coordination and harmonization of insolvency proceedings that involve more than one country through communications among the jurisdictions involved. Communications by judges directly with judges or administrators in a foreign country, however, raise issues of credibility and proper procedures. The context alone is likely to create concern in litigants unless the process is transparent and clearly fair. Thus, communication among courts in cross-border cases is both more important and more sensitive than in domestic cases. These Guidelines encourage such communications while channeling them through transparent procedures. The Guidelines are meant to permit rapid cooperation in a developing insolvency case while ensuring due process to all concerned.

A Court intending to employ the Guidelines — in whole or part, with or without modifications — should adopt them formally before applying them. A Court may wish to make its adoption of the Guidelines contingent upon, or temporary until, their adoption by other courts concerned in the matter. The adopting

Court may want to make adoption or continuance conditional upon adoption of the Guidelines by the other Court in a substantially similar form, to ensure that judges, counsel, and parties are not subject to different standards of conduct.

The Guidelines should be adopted following such notice to the parties and counsel as would be given under local procedures with regard to any important procedural decision under similar circumstances. If communication with other courts is urgently needed, the local procedures, including notice requirements, that are used in urgent or emergency situations should be employed, including, if appropriate, an initial period of effectiveness, followed by further consideration of the Guidelines at a later time. Questions about the parties entitled to such notice (for example, all parties or representative parties or representative counsel) and the nature of the court's consideration of any objections (for example, with or without a hearing) are governed by the Rules of Procedure in each jurisdiction and are not addressed in the Guidelines.

The Guidelines are not meant to be static, but are meant to be adapted and modified to fit the circumstances of individual cases and to change and evolve as the international insolvency community gains experience from working with them. They are to apply only in a manner that is consistent with local procedures and local ethical requirements. They do not address the details of notice and procedure that depend upon the law and practice in each jurisdiction. However, the Guidelines represent approaches that are likely to be highly useful in achieving efficient and just resolutions of cross-border insolvency issues. Their use, with such modifications and under such circumstances as may be appropriate in a particular case, is therefore recommended.

Guideline 1

Except in circumstances of urgency, prior to a communication with another Court, the Court should be satisfied that such a communication is consistent with all applicable Rules of Procedure in its country. Where a Court intends to apply these Guidelines (in whole or in part and with or without modifications), the Guidelines to be employed should, wherever possible, be formally adopted before they are applied. Coordination of Guidelines between courts is desirable and officials of both courts may communicate in accordance with Guideline 8(d) with regard to the application and implementation of the Guidelines.

Guideline 2

A Court may communicate with another Court in connection with matters relating to proceedings before it for the purposes of coordinating and harmonizing proceedings before it with those in the other jurisdiction.

Guideline 3

A Court may communicate with an Insolvency Administrator in another jurisdiction or an authorized Representative of the Court in that jurisdiction in connection with the coordination and harmonization of the proceedings before it with the proceedings in the other jurisdiction.

Guideline 4

A Court may permit a duly authorized Insolvency Administrator to communicate with a foreign Court directly, subject to the approval of the foreign Court, or through an Insolvency Administrator in the other jurisdiction or through an authorized Representative of the foreign Court on such terms as the Court considers appropriate.

Guideline 5

A Court may receive communications from a foreign Court or from an authorized Representative of the foreign Court or from a foreign Insolvency Administrator and should respond directly if the communication is from a foreign Court (subject to Guideline 7 in the case of two-way communications) and may respond directly or through an authorized Representative of the Court or through a duly authorized Insolvency Administrator if the communication is from a foreign Insolvency Administrator, subject to local rules concerning ex parte communications.

Guideline 6

Communications from a Court to another Court may take place by or through the Court:

(a) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings, or other documents directly to the other Court and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;

(b) Directing counsel or a foreign or domestic Insolvency Administrator to transmit or deliver copies of documents, pleadings, affidavits, factums, briefs, or other documents that are filed or to be filed with the Court to the other Court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;

(c) Participating in two-way communications with the other Court by telephone or video conference call or other electronic means, in which case Guideline 7 should apply.

Guideline 7

In the event of communications between the Courts in accordance with Guidelines 2 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by either of the two Courts:

(a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;

(b) The communication between the Courts should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of both Courts, should be treated as an official transcript of the communication;

(c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of either Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to counsel for all parties in both

Courts subject to such Directions as to confidentiality as the Courts may consider appropriate; and

(d) The time and place for communications between the Courts should be to the satisfaction of both Courts. Personnel other than Judges in each Court may communicate fully with each other to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by either of the Courts.

Guideline 8

In the event of communications between the Court and an authorized Representative of the foreign Court or a foreign Insolvency Administrator in accordance with Guidelines 3 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by the Court:

(a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;

(b) The communication should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of the Court, can be treated as an official transcript of the communication;

(c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of the Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to the other Court and to counsel for all parties in both Courts subject to such Directions as to confidentiality as the Court may consider appropriate; and

(d) The time and place for the communication should be to the satisfaction of the Court. Personnel of the Court other than Judges may communicate fully with the authorized Representative of the foreign Court or the foreign Insolvency Administrator to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by the Court.

Guideline 9

A Court may conduct a joint hearing with another Court. In connection with any such joint hearing, the following should apply, unless otherwise ordered or unless otherwise provided in any previously approved Protocol applicable to such joint hearing:

(a) Each Court should be able to simultaneously hear the proceedings in the other Court.

(b) Evidentiary or written materials filed or to be filed in one Court should, in accordance with the Directions of that Court, be transmitted to the other Court or made available electronically in a publicly accessible system in advance of the hearing. Transmittal of such material to the other Court or its public availability in an electronic system should not subject the party filing the material in one Court to the jurisdiction of the other Court.

(c) Submissions or applications by the representative of any party should be made only to the Court in which the representative making the submissions is appearing unless the representative is specifically given permission by the other Court to make submissions to it.

(d) Subject to Guideline 7(b), the Court should be entitled to communicate with the other Court in advance of a joint hearing, with or without counsel being present, to establish Guidelines for the orderly making of submissions and rendering of decisions by the Courts, and to coordinate and resolve any procedural, administrative, or preliminary matters relating to the joint hearing.

(e) Subject to Guideline 7(b), the Court, subsequent to the joint hearing, should be entitled to communicate with the other Court, with or without counsel present, for the purpose of determining whether coordinated orders could be made by both Courts and to coordinate and resolve any procedural or nonsubstantive matters relating to the joint hearing.

Guideline 10

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, recognize and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in the other jurisdiction without the need for further proof or exemplification thereof.

Guideline 11

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, accept that Orders made in the proceedings in the other jurisdiction were duly and properly made or entered on or about their respective dates and accept that such Orders require no further proof or exemplification for purposes of the proceedings before it, subject to all such proper reservations as in the opinion of the Court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such Orders.

Guideline 12

The Court may coordinate proceedings before it with proceedings in another jurisdiction by establishing a Service List that may include parties that are entitled to receive notice of proceedings before the Court in the other jurisdiction ("Non-Resident Parties"). All notices, applications, motions, and other materials served for purposes of the proceedings before the Court may be ordered to also be provided to or served on the Non-Resident Parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the Court in accordance with the procedures applicable in the Court.

Guideline 13

The Court may issue an Order or issue Directions permitting the foreign Insolvency Administrator or a representative of creditors in the proceedings in the other jurisdiction or an authorized

Representative of the Court in the other jurisdiction to appear and be heard by the Court without thereby becoming subject to the jurisdiction of the Court.

Guideline 14

The Court may direct that any stay of proceedings affecting the parties before it shall, subject to further order of the Court, not apply to applications or motions brought by such parties before the other Court or that relief be granted to permit such parties to bring such applications or motions before the other Court on such terms and conditions as it considers appropriate. Court-to-Court communications in accordance with Guidelines 6 and 7 hereof may take place if an application or motion brought before the Court affects or might affect issues or proceedings in the Court in the other jurisdiction.

Guideline 15

A Court may communicate with a Court in another jurisdiction or with an authorized Representative of such Court in the manner prescribed by these Guidelines for purposes of coordinating and harmonizing proceedings before it with proceedings in the other jurisdiction regardless of the form of the proceedings before it or before the other Court wherever there is commonality among the issues and/or the parties in the proceedings. The Court should, absent compelling reasons to the contrary, so communicate with the Court in the other jurisdiction where the interests of justice so require.

Guideline 16

Directions issued by the Court under these Guidelines are subject to such amendments, modifications, and extensions as may be considered appropriate by the Court for the purposes described above and to reflect the changes and developments from time to time in the proceedings before it and before the other Court. Any Directions may be supplemented, modified, and restated from time to time and such modifications, amendments, and restatements should become effective upon being accepted by both Courts. If either Court intends to supplement, change, or abrogate Directions issued under these Guidelines in the absence of joint approval by both Courts, the Court should give the other Courts involved reasonable notice of its intention to do so.

Guideline 17

Arrangements contemplated under these Guidelines do not constitute a compromise or waiver by the Court of any powers, responsibilities, or authority and do not constitute a substantive determination of any matter in controversy before the Court or before the other Court nor a waiver by any of the parties of any of their substantive rights and claims or a diminution of the effect of any of the Orders made by the Court or the other Court.

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

Court File No. CV-16-11582-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD ET. AL.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter Howard LSUC#: 22056F
Tel: (416) 869-5613
Email: phoward@stikeman.com

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-5230
Email: kesaw@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicants

TAB B

THIS IS EXHIBIT "B" REFERRED TO
IN THE AFFIDAVIT OF BRIAN J. FOX,
SWORN BEFORE ME,
THIS 8th DAY OF DECEMBER, 2016

Kathleen Jewkes

KATHLEEN A. JEWKES, Notary Public
My Commission Expires April 6, 2021

August 19, 2016

Performance Sports Group Ltd.
100 Domain Drive
Exeter, NH 03833

Attention: Special Committee of the Board of Directors

Dear Sirs/Mesdames:

This letter (the "Agreement") confirms the terms under which Performance Sports Group Ltd. and its subsidiaries (collectively, the "Company") has engaged Centerview Partners LLC ("Centerview") for, and on behalf of, and at the direction of, the Special Committee (the "Committee") of the Board of Directors of the Company, it being understood and acknowledged that Centerview shall act on an exclusive basis as strategic financial advisor and investment banker with respect to a possible Amendment, Restructuring, Financing and/or Sale (each as defined below) and with respect to such other financial matters as to which the Company and Centerview may agree in writing during the term of this engagement. For purposes hereof, the term "Company" also includes any entity that the Company may form or invest in to consummate an Amendment, Restructuring, Financing and/or Sale, and shall also include any successor to or assignee of all or a portion of the assets and/or businesses of the Company, whether pursuant to a Plan (as defined below) or otherwise. If appropriate in connection with performing its services for the Company hereunder, Centerview may utilize the services of one or more of its affiliates, in which case references herein to Centerview shall include, as applicable, such affiliates. The terms of this Agreement shall apply to all services provided by Centerview to the Company in connection with the matters contemplated herein, including those provided prior to the date of this Agreement.

As used herein, the term "Amendment" shall mean any material modification or amendments to the terms, conditions or covenants of the Company's secured term loan and asset-based revolving credit facilities or other credit facilities (collectively, the "Credit Facilities"). For the purposes of this Agreement, the term Amendment shall not include any temporary waiver or forbearance or any series of temporary waivers or forbearance.

As used herein, the term "Restructuring" shall mean any recapitalization or restructuring (including, without limitation, through any exchange, conversion, cancellation, forgiveness, retirement· refinancing, and/or purchase or repurchase) of the Company's Credit Facilities, including pursuant to a repurchase or an exchange transaction, a Plan (as defined below) or a solicitation of consents, waivers, acceptances or authorizations, but excluding, for greater certainty, any Amendment.

As used herein, the term "Financing" shall mean a public or private issuance, sale or placement of equity, equity-linked or debt securities, instruments or obligations of the Company with one or more lenders and/or investors (each such lender or investor, an "Investor"), or any loan, rights offering or other financing, including any "debtor in possession financing" or "exit financing" in connection with a case under the United States Code, 11 U.S.C. §§ 101 et. seq. (the "Bankruptcy Code") or similar applicable bankruptcy or insolvency legislation in Canada.

As used herein, the term "Sale" shall mean any transaction or series of related transactions involving an acquisition, merger, consolidation, or any other business combination pursuant to which a majority of the business, equity or assets of the Company are, directly or indirectly, sold, purchased or combined with another entity or company.

1. Centerview, as exclusive strategic financial advisor and investment banker to the Committee, will assist the Committee in considering, exploring and evaluating strategic alternatives that may be available to, and appropriate for, the Company, and in connection thereof, perform the following financial advisory and investment banking services. Marc Puntus will lead Centerview's engagement team, as appropriate:

    a. General Financial Advisory and Investment Banking Services. To the extent requested by the Committee, Centerview shall:

        i. familiarize ourselves with the business, operations, properties, financial condition and prospects of the Company;

        ii. review the Company's financial condition and outlook;

        iii. assist in the development of financial data and presentations to the Committee and the Company's Board of Directors, various creditors and other parties;

        iv. evaluate the Company's debt capacity and alternative capital structures;

        v. participate in negotiations among the Company, and related creditors, suppliers, lessors and other interested parties with respect to any of the transactions contemplated by this Agreement; and

        vi. perform such other financial advisory services as may be specifically agreed upon in writing by the Committee and Centerview.

    b. Restructuring Services. To the extent requested by the Committee, Centerview shall:

        i. analyze various Restructuring scenarios and the potential impact of these scenarios on the value of the Company; and the recoveries of those stakeholders impacted by the Restructuring;

        ii. provide financial and valuation advice and assistance to the Committee in developing and seeking approval of a Restructuring plan (as the same may be modified from time to time, a "Plan");

iii. provide financial advice and assistance to the Committee in structuring any new securities to be issued pursuant to the Restructuring;

iv. assist the Committee and/or participate in negotiations with entities or groups affected by the Restructuring; and

v. if requested by the Committee, participate in hearings before the bankruptcy court with respect to the matters upon which Centerview has provided advice, including, as relevant, coordinating with the Company's counsel with respect to testimony in connection therewith.

c. Financing Services. To the extent requested by the Committee, Centerview shall:

i. provide financial advice and assistance to the Committee in structuring and effecting a Financing, identifying potential Investors and, at the Committee's request, contacting such Investors; and

ii. assist in the arranging of a Financing, the due diligence process and negotiating the terms of any proposed Financing.

d. Sale Services. To the extent requested by the Committee, Centerview shall:

i. provide financial advice and assistance to the Committee in connection with a Sale, identifying potential acquirors and, at the Committee's request, contacting such potential acquirors; and

ii. assist the Committee and/or participate in negotiations with potential acquirors.

In rendering its services to the Committee hereunder, Centerview is not assuming any responsibility for the Company's underlying business decision to pursue any business strategy or to effect any Amendment, Restructuring, Financing, and/or Sale. The Committee agrees that Centerview shall not have any obligation or responsibility to provide accounting, audit, "crisis management," or business consultant services for the Company, and shall have no responsibility for designing or implementing operating, organizational, administrative, cash management or liquidity improvements. Any fairness or valuation opinions requested by the Committee will be provided by a separate engagement letter to be agreed upon by the Committee and Centerview but subject to the fee cap set out in Section 2 below. The Committee acknowledges that Centerview is not providing any advice on tax, legal, regulatory or accounting matters, and the Committee agrees that it will seek and rely on the advice of its own professional advisors for such matters, and will make an independent decision with respect to the matters that are the subject of this engagement based on such advice.

In order to coordinate effectively the Committee's and Centerview's activities to consider and evaluate strategic alternatives, and if appropriate, effect an Amendment, Restructuring, Financing and/or Sale, the Committee will promptly inform Centerview of any discussions, negotiations or inquiries regarding a possible Amendment, Restructuring, Financing and/or Sale (including any such discussions, negotiations or inquiries that have occurred in the six month period prior to the date of this Agreement).

The Committee shall make (and shall cause the Company to make) available to Centerview all information in its possession concerning the business, assets, operations, financial condition and prospects of the Company that Centerview reasonably requests in connection with the services to be performed for the Committee hereunder, and shall provide Centerview with reasonable access to the Company's officers, directors, employees, independent accountants, and counsel, and other advisors, agents and other representatives of the Company as appropriate. To the best of the Committee's knowledge, all information furnished by or on its behalf to Centerview pertaining to the Company, when delivered, will be accurate and complete in all material respects. In addition, the Committee agrees that it will promptly notify Centerview of any material event or change in the business affairs, condition (financial or otherwise) of the Company that occurs during the term of the engagement hereunder, or if it learns of any material inaccuracy or misstatement in, or material omission from, any information theretofore delivered to Centerview. The Committee understands and agrees that, in performing our services hereunder, Centerview (a) will be using and relying on publicly available information and on materials, data and other information furnished to Centerview by or on behalf of the Company and such other parties as Centerview determines to be appropriate subject to the exercise of Centerview's professional judgment, (b) is entitled to, subject to the exercise of Centerview's professional judgment, assume and rely upon the accuracy and completeness of such publicly available information and the other information so furnished without having independently verified the same, and (c) does not assume any responsibility for the accuracy or completeness of such information. Centerview will not conduct an independent evaluation or appraisal of the assets or liabilities (including any contingent, derivative or off -balance sheet assets or liabilities) of the Company, or advise or opine on any solvency or viability issues, nor will it make an inspection of the properties or assets of the Company. With respect to any forecasts or projections that may be furnished to Centerview or discussed with the Company, Centerview will assume that they have been reasonably prepared on bases reflecting the best then currently available estimates and judgments of the management of the Company as to the matters covered thereby. In connection with the services described above, with the Committee's authorization, Centerview shall be entitled to transmit any memorandum prepared by the Company describing the Company and its assets, properties or businesses in connection with a Sale or a Financing to potential parties to a Sale or Financing. The Company will be solely responsible for the contents of this memorandum. Any proprietary or non public information concerning the Company shall be subject to the terms and conditions of the Confidential Disclosure Agreement, dated August 19, 2016 between the Company and Centerview.

2. As compensation for our services, the Company agrees to pay Centerview in cash, by wire transfer of immediately available funds when due, the following fees:

   a. A monthly financial advisory fee of $150,000 (the "Monthly Advisory Fee"), the first of which shall be due and paid by the Company upon execution of this Agreement and thereafter on each monthly anniversary thereof during the term of this engagement. The amount of any Monthly Advisory Fee paid to Centerview after three months will be 50% credited (but only once) against any Restructuring

Fee or Sale Fee payable to Centerview pursuant to subparagraphs 2(c) or 2(d) hereof.

b. If at any time during the term of this engagement the Company consummates an Amendment, Centerview shall be entitled to receive an amendment fee, contingent upon the consummation of an Amendment and payable at the closing thereof equal to $2,000,000 (the "Amendment Fee"). The amount of any Amendment Fee paid to Centerview will be 100% credited (but only once) against any Restructuring Fee or Sale Fee payable to Centerview pursuant to subparagraphs 2(c) or 2(d) hereof.

c. If at any time during the term of this engagement or within the eighteen full months following the termination of this engagement (the "Tail Period") other than a termination by Centerview or a termination by the Committee for Cause (as defined below) (the term of this engagement, together with the Tail Period, the "Fee Period"), the Company consummates any Restructuring, Centerview shall be entitled to receive a restructuring fee (a "Transaction Fee"), contingent upon the consummation of a Restructuring and payable at the closing thereof equal to $5,000,000. Notwithstanding anything to the contrary in this subparagraph 2(c), in connection with any Restructuring that is intended to be effected, in whole or in part, as a prepackaged, partial prepackaged or prearranged plan of reorganization anticipated to involve the solicitation of acceptances of such plan in compliance with the Bankruptcy Code or similar applicable bankruptcy or insolvency legislation in Canada, by or on behalf of the Company, from holders of any class of the Company's securities, indebtedness or obligations (a "Prepackaged Plan") the Transaction Fee shall be payable (x) (i) in the case of a Prepackaged Plan that takes the form of prepackaged or partial prepackaged plan or reorganization, 75% upon receipt of votes from the Company's creditors necessary to confirm such Prepackaged Plan or (ii) in the case of a Prepackaged Plan that takes the form of a prearranged plan of reorganization, 50% upon obtaining commitments of support from the Company's creditors that in the good faith judgment of the Board of Directors of the Company are sufficient to justify filing such Prepackaged Plan, and (y) the balance shall be payable upon consummation of such Restructuring. As used herein, the term "Cause" shall mean a final judicial determination that Centerview acted with bad faith, gross negligence or willful misconduct in the performance of its services hereunder, which bad faith, gross negligence or willful misconduct was not cured (if curable) within 30 days following written notice thereof by the Company.

d. If at any time during the Fee Period, the Company consummates any Sale, the Company shall pay Centerview a sale fee (a "Sale Fee") equal to 1% of the Aggregate Consideration (as defined below). Such Sale Fee shall be contingent upon the consummation of a Sale and payable at the closing thereof. If fees are payable under both 2(c) and 2(d) of this Agreement, only the higher of the two shall be payable.

For purposes of this Agreement, the term "Aggregate Consideration" shall mean the total amount of cash and the fair market value (on the date of payment and as determined by the Committee and Centerview in good faith) of all securities and other property paid or payable, directly or indirectly, by the acquiring party (the "Acquiror") to the acquired party or the seller of the acquired business (in either case, the "Acquired"), or to the Acquired's security (debt or equity) holders, claim holders or by the Acquired to the Acquired's security (debt or equity) holders and claim holders in connection with a Sale or a transaction related thereto (including, without limitation, amounts paid by the Acquiror to holders of any warrants, stock purchase rights, convertible securities or similar rights of the Acquired and to holders of any options or stock appreciation rights issued by the Acquired, whether or not vested), but excluding in all cases any payments or settlements made by, or on behalf of, the Company in connection with any civil litigation, class action lawsuits or regulatory proceedings. Aggregate Consideration shall also include the value of any liabilities (including obligations relating to any capitalized leases and the principal amount of any indebtedness for borrowed money) net of cash and cash equivalents (x) existing on the Acquired's balance sheet at the time of a Sale or repaid or retired in connection with a Sale (if such Sale takes the form of a merger or sale or exchange of stock) or (y) assumed directly or indirectly by the Acquiror in connection with a Sale (if such Sale takes the form of a sale or exchange of assets). Aggregate Consideration shall also include (i) the net value (on the closing date of the Sale and as determined by the Committee and Centerview in good faith), if positive, of any current assets not sold to the Acquiror. If a Sale takes the form of a joint venture, partnership or other entity, Aggregate Consideration shall mean the fair market value (equity plus debt) of the Company's interest in the joint venture, partnership or similar entity on the date of formation of such entity. In the event that any part of the consideration in connection with any Sale will be payable (whether in one payment or a series of two or more payments) at any time following the consummation thereof, the term Aggregate Consideration shall include the present value of such future payment or payments, as determined by the Committee and Centerview in good faith, except that amounts (if any) held in escrow shall be deemed to have been paid at closing. As used in this Agreement, the terms "payment," "paid" or "payable" shall be deemed to include, as applicable, the issuance or delivery of securities or other property other than cash.

e. If at any time during the Fee Period, the Company consummates any Financing, the Company will pay to Centerview the following:

  i. 0.5% of the aggregate amount of financing commitments of any indebtedness (including any debtor-in-possession financing) issued to Sagard Capital Partners, L.P. and/or Power Corporation of Canada and/or their respective affiliates, and any non-institutional investors associated with Sagard Capital Partners, L.P. or Power Corporation of Canada and/or their respective affiliates (collectively, the "Listed Investors");

  ii. 1% of the aggregate amount of financing commitments of any indebtedness (including any debtor-in-possession financing) issued to investor(s) other than Listed Investors;

  iii. 1.5% of the aggregate amount of financing commitments of any equity or equity-linked securities or obligations issued to Listed Investors;

iv. 3% of the aggregate amount of financing commitments of any equity or equity-linked securities or obligations issued to investor(s) other than Listed Investors; and

v. 50% of financing fees, other than debtor-in-possession financing fees, shall be credited against any Restructuring Fee or Sale Fee payable to Centerview pursuant to subparagraph 2(c) or 2(d) hereof.

It is understood and agreed that if the proceeds of any such Financing are to be funded in more than one stage, Centerview shall be paid its applicable compensation hereunder upon the closing date of each stage even if one or more of such stages is consummated after the expiration of the Fee Period, so long as one or more of such stages is consummated during the Fee Period.

It is understood and agreed that nothing contained herein shall constitute an expressed or implied commitment by Centerview to underwrite, place or purchase any securities, in a financing or otherwise, which commitment shall only be set forth in a separate underwriting, placement agency or other appropriate agreement relating to a Financing, provided that any Financing fees payable pursuant to this Section 2 will be 100% credited against any fee payable to Centerview pursuant to such separate underwriting, placement agency or other appropriate agreement.

The Committee acknowledges and agrees that Centerview's restructuring expertise as well as its capital markets/financing knowledge and mergers and acquisitions capabilities, some or all of which may be required by the Company during the term of Centerview's engagement hereunder, were important factors in determining the amount of the various fees set forth herein, and that the ultimate benefit to the Company of Centerview's services hereunder could not be measured merely by reference to the number of hours to be expended by Centerview's professionals in the performance of such services. The Committee also acknowledges and agrees that the various fees set forth herein have been agreed upon by the parties in anticipation that a substantial commitment of professional time and effort will be required of Centerview and its professionals hereunder over the life of the engagement, and in light of the fact that such commitment may foreclose other opportunities for Centerview and that the actual time and commitment required by Centerview and its professionals to perform its services hereunder may vary substantially from week to week or month to month, creating "peak load" issues for the firm. In addition, given numerous issues which Centerview may be required to address in the performance of its services hereunder, Centerview's commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for Centerview's services for engagements of this nature in an out-of-court context, each party hereto agrees that the fee and expense arrangements hereunder are reasonable under all applicable legal standards.

The Company and Centerview acknowledge and agree that during the term of this Agreement more than one success fee may become payable to Centerview under subparagraphs 2(b), 2(c), 2(d) and/or 2(e) hereof in connection with a series of independent transactions, but notwithstanding anything else contained in this Agreement (i) if a Restructuring Fee or Sale Fee is payable during the term of this Agreement, no other fee shall be payable in the Tail Period; and (ii) no Restructuring Fee, Sale Fee or Financing fee shall be payable in the Tail Period to the extent that Centerview was not involved in any part of the structuring or execution of the relevant Restructuring, Sale or Financing. It is understood and agreed that if more than one fee becomes so payable to Centerview in connection with a series of independent transactions, each such fee shall be paid to Centerview, other than as specified herein and subject to applicable credits as provided in this paragraph 2. Notwithstanding the foregoing, fees payable pursuant to this paragraph 2 shall be capped at $8,000,000 during the Fee Period (including if any Restructuring, Sale or Financing is consummated following the expiration of the Fee Period).

3. In addition to the fees payable by the Company to Centerview hereunder, the Company shall, whether or not any Amendment, Restructuring, Financing and/or Sale shall be proposed or consummated, reimburse Centerview on a periodic basis for its travel and other reasonable out-of-pocket expenses (including all fees, disbursements and other charges of counsel and other consultants and advisors, in each case, retained by Centerview with the Committee's consent), incurred in connection with, or arising out of Centerview's activities under or contemplated by this engagement, provided that in no event shall such fees and expenses exceed $50,000 in aggregate amount without the prior written consent of the Committee. The Company shall also reimburse Centerview, at such times as Centerview shall request, for any sales, use or similar taxes (including additions to such taxes, if any) arising in connection with any matter referred to in, or contemplated by, this engagement. Such reimbursements shall be made promptly upon submission by Centerview of statements for such expenses. It is understood and agreed that nothing contained herein shall be deemed to limit in any manner the indemnification, expense reimbursement and other obligations of the Company contained in the Indemnification Agreement attached hereto as Annex A.

4. The Company and Centerview have entered into a separate letter agreement, dated the date hereof and attached hereto as Annex A (the "Indemnification Agreement"), providing for indemnification by the Company of Centerview and certain related persons. Such Indemnification Agreement is an integral part of this Agreement and the terms thereof are incorporated by reference herein. As stated therein, the Indemnification Agreement shall survive any termination or completion of Centerview's engagement hereunder.

5. This Agreement and Centerview's engagement hereunder may be terminated by either the Committee or Centerview at any time upon 10 business days' prior written notice thereof to the other party and unless earlier terminated, shall terminate automatically without any action by any person one year from the date hereof (unless extended in writing between the Committee and Centerview); provided, however, that (A) termination of Centerview's engagement hereunder shall not affect the Company's continuing obligations under the Indemnification Agreement, and its continuing obligations and agreements under paragraphs 4 and 6 hereof, (B) notwithstanding any such termination, Centerview shall be entitled to the full fees in the amounts and at the times provided for in paragraph 2 hereof and (C) termination of Centerview's engagement hereunder shall not affect the Company's obligation to reimburse the expenses accrued prior to such termination to the extent provided in paragraph 3 hereof.

6. Centerview has been retained under this Agreement as an independent contractor with duties owed solely to the Company, and the Committee acknowledges that Centerview is not acting as an agent of the Company or in a fiduciary capacity, whether pursuant to

contract or otherwise, with respect to the Company or its stockholders, employees, creditors or any other third party. The advice (oral or written) rendered by Centerview pursuant to this Agreement is intended solely for the benefit and use of the Committee and the Board of Directors of the Company (in their capacity as directors and not in any individual capacity) in considering the matters to which this Agreement relates, and the Committee agrees that such advice may not be relied upon by any other person, used for any other purpose or reproduced, disseminated, quoted or referred to at any time, in any manner or for any purpose, nor shall any public references to Centerview be made by the Company, without the prior written consent of Centerview. Centerview is not assuming any duties or obligations other than those expressly set forth in this Agreement.

7. The Committee agrees that in the event of a successful Amendment, Restructuring, Sale or Financing, Centerview shall have the right to place advertisements in financial and other newspapers and journals and in marketing materials at its own expense describing its services to the Company hereunder in connection with such Amendment, Restructuring, Sale or Financing, subject to the Committee's prior review of such advertisements. Notwithstanding the foregoing, upon such public announcement of a successful Amendment, Restructuring, Sale or Financing, Centerview shall, without the Company's consent, have the right to include a "tombstone" with respect to such Amendment, Restructuring, Sale or Financing on its website or in any "pitch-book" or similar marketing materials to the extent such tombstone does not include any information not previously publicly disclosed by the Company.

8. In the event that the Company becomes a debtor under the Bankruptcy Code (or similar applicable bankruptcy or insolvency legislation in Canada), the Company shall use its best efforts to promptly apply to the applicable bankruptcy court having jurisdiction over the chapter 11 case or cases (or similar Canadian proceeding) (a "Bankruptcy Court") for the approval pursuant to sections 327(a) and 328(a) of the Bankruptcy Code (or similar Canadian legislation) of this Agreement and Centerview's retention by the Committee under the terms of this Agreement, and subject to the standard of review provided for in Section 328(a) of the Bankruptcy Code (or similar Canadian legislation), and not subject to any other standard of review under section 330 of the Bankruptcy Code or any other standard of review (or similar Canadian legislation or standard of review), and shall use its best efforts to obtain Bankruptcy Court (or similar Canadian legislation) authorization thereof. The Company shall supply Centerview and its counsel with a draft of such application and any proposed order authorizing Centerview's retention that is proposed to be submitted to the applicable Bankruptcy Court sufficiently in advance of the filing of such application or the submission of such order, as the case may be, to enable Centerview and its counsel to review and comment thereon. Centerview shall have no obligation to provide any services under this Agreement in the event that the Company becomes a debtor under the Bankruptcy Code (or similar Canadian legislation) unless and until Centerview's retention under the terms of this Agreement is approved under Section 327(a) and 328(a) of the Bankruptcy Code (or similar Canadian legislation) by a final order of the applicable Bankruptcy Court no longer subject to appeal, rehearing, reconsideration or petition for certiorari, and which order is acceptable to Centerview, acting reasonably, in all respects. Centerview acknowledges that in the event that the applicable Bankruptcy Court approves its retention by the Company pursuant to the

application process described in this paragraph 9, payment of Centerview's fees and expenses shall be subject to (i) jurisdiction and approval of the Bankruptcy Court under Section 327(a) and 328(a) of the Bankruptcy Code and any order approving Centerview's retention (or similar Canadian legislation or order), (ii) any applicable fee and expense guidelines and/or orders and (iii) any requirements governing interest and final fee applications. Centerview shall have no obligation to keep time records except as it does so in its normal practice and will have no obligation to provide services under this Agreement if it will be required to vary its normal time-keeping practices. In the event that the Company becomes a debtor under the Bankruptcy Code (or similar Canadian legislation) and Centerview's engagement hereunder is approved by the applicable Bankruptcy Court, the Company shall pay all fees and expenses of Centerview hereunder as promptly as practicable in accordance with the terms hereof. In so agreeing to seek Centerview's retention under section 328(a) of the Bankruptcy Code (or similar Canadian legislation), the Company acknowledges that it believes that Centerview's experience and expertise, its knowledge of the industry in which the Company operates and the capital markets and its other capabilities will inure to the benefit of the Company, that the value to the Company of Centerview's services hereunder derives in substantial part from that expertise and experience and that, accordingly, the structure and amount of the fees payable to Centerview hereunder are reasonable regardless of the number of hours to be expended by Centerview's professionals in performance of the services to be provided hereunder. Prior to commencing a chapter 11 case (or similar Canadian proceeding), the Company shall pay all undisputed amounts theretofore due and payable to Centerview in cash.

The Company agrees that Centerview's post-petition compensation as set forth herein and payments made pursuant to the expense reimbursements and indemnification provisions of this Agreement (including, without limitation, Annex A hereto) shall be entitled to priority as expenses of administration under sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code (or similar Canadian legislation), and shall be entitled to the benefits of any "carve-outs" for professional fees and expenses in effect pursuant to one or more financing orders entered by the applicable Bankruptcy Court. The Company also agrees to assist Centerview in preparing, filing and serving all required fee statements, interim fee applications, and final fee application, The Company agrees to support Centerview's fee applications during any Bankruptcy Court hearing on such fee applications, so long as the fees and expenses sought by Centerview therein are consistent with this Agreement. In the event the Company files a Companies Creditors Arrangement Act proceeding or Bankruptcy and Insolvency Act under applicable laws in Canada, the Company shall use its commercially reasonable efforts to apply to the court for similar relief.

9. This Agreement shall be deemed made in New York. This Agreement and all controversies arising from or relating to performance hereunder shall be governed by, and construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed entirely in such State, without giving effect to such State's rules concerning conflicts of laws that might provide for any other choice of law. Each of the Company and Centerview agree that any action or proceeding based hereon, or arising out of Centerview's engagement hereunder, shall be brought and maintained in

the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York or, if the Company becomes a debtor under the Bankruptcy Code, in the Bankruptcy Court with jurisdiction over the Company's bankruptcy case for the purpose of any such action or proceeding as set forth above. The Company and Centerview each hereby irrevocably submit to the jurisdiction of the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York or, if the Company becomes a debtor under the Bankruptcy Code, in the Bankruptcy Court with jurisdiction over the Company's bankruptcy case. Each of the Company and Centerview hereby irrevocably waive, to the fullest extent permitted by law, any objection which it may have or hereafter may have to the laying of venue of any such action or proceeding brought in any such court referred to above and any claim that any such action or proceeding has been brought in an inconvenient forum and agree not to plead or claim the same. THE COMPANY (FOR ITSELF, ANYONE CLAIMING THROUGH IT OR IN ITS NAME, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS EQUITY HOLDERS) AND CENTERVIEW EACH HEREBY IRREVOCABLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED UPON OR ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

10. This Agreement may be executed in counterparts, each of which together shall be considered a single document. This Agreement may not be assigned by either party (except by Centerview to an affiliate upon written notice to the Company) without the prior written consent of the other. This Agreement shall be binding upon Centerview and the Company and their respective successors and permitted assigns (including, in the case of the Company, any successor to all or a portion of the assets and/or the businesses of the Company under a Plan). This Agreement is not intended to confer any rights upon any shareholder, creditor, owner or partner of the Company, or any other person or entity not a party hereto, other than the Indemnified Persons referenced in the Indemnification Agreement attached hereto as Annex A. This Agreement and the Indemnification Agreement and that certain Confidential Disclosure Agreement, dated as of August 19, 2016, between the parties hereto constitute the entire agreement of the parties with respect to the subject matter hereof, and may not be amended or otherwise modified or its provisions waived except by a writing executed by Centerview and the Company.

11. Centerview is engaged directly and through its affiliates and related parties in a number of investment banking, financial advisory and merchant banking activities. The Company acknowledges and agrees that in performing its services for the Company hereunder, Centerview shall have no duty to disclose to the Company, or to use for the benefit of the Company, any proprietary or non public information obtained by Centerview or its affiliates or related parties in the course of providing services to any other entity or person, engaging in any transaction (including as principal) or otherwise conducting its business.

We are pleased to accept this engagement and look forward to working with the Company. Please confirm that the foregoing is in accordance with our mutual understanding by signing and returning to Centerview this letter and the Indemnification Agreement attached hereto as Annex A , which shall thereupon constitute binding agreements between Centerview and the Company.

Very truly yours,

CENTERVIEW PARTNERS LLC

By: ______________________
Name: Marc Puntus
Title: Partner

Accepted and Agreed to:

Performance Sports Group Ltd.

By: ______________________
Matthew Mannelly,
on behalf of the Special Committee
of its Board of Directors

11. Centerview is engaged directly and through its affiliates and related parties in a number of investment banking, financial advisory and merchant banking activities. The Company acknowledges and agrees that in performing its services for the Company hereunder, Centerview shall have no duty to disclose to the Company, or to use for the benefit of the Company, any proprietary or non public information obtained by Centerview or its affiliates or related parties in the course of providing services to any other entity or person, engaging in any transaction (including as principal) or otherwise conducting its business.

We are pleased to accept this engagement and look forward to working with the Company. Please confirm that the foregoing is in accordance with our mutual understanding by signing and returning to Centerview this letter and the Indemnification Agreement attached hereto as Annex A , which shall thereupon constitute binding agreements between Centerview and the Company.

Very truly yours,

CENTERVIEW PARTNERS LLC

By:

Name: Marc Puntus
Title: Partner

Accepted and Agreed to:

Performance Sports Group Ltd.

By:
Matthew Mannelly
on behalf of the Special Committee
of its Board of Directors

Annex A

August 19, 2016

Centerview Partners LLC
31 West 52nd Street
New York, NY 10019

Ladies and Gentlemen:

In connection with the engagement (the "Engagement") of Centerview Partners LLC ("Centerview") by the undersigned (the "Company") to render financial advisory services to the Special Committee of the Board of Directors of the Company pursuant to a letter agreement dated the date hereof (the "Engagement Agreement"), the Company hereby agrees as follows:

1. Except as provided in paragraph 3 hereof, the Company agrees to indemnify and hold harmless Centerview and each of its affiliates, their respective members, directors, officers, employees and controlling persons, and each of their respective successors and assigns (collectively, the "Indemnified Persons" and each individually, an "Indemnified Person") from and against any and all losses, claims, damages, demands and liabilities, joint or several, or actions or proceedings in respect thereof, brought by or against any person (collectively, "Losses"), which are related to or arise out of the Engagement or any matter or transaction contemplated thereby, provided, however, that in no event shall the Company be obligated to pay for more than one counsel (and one local counsel) for all of the Indemnified Persons as a group..

2. The Company agrees to reimburse each Indemnified Person promptly upon request for all reasonably incurred costs and expenses (including fees, disbursements and other charges of legal counsel), as they are incurred in connection with investigating, preparing for, pursuing, defending against or providing evidence in, any pending or threatened action, claim, suit, investigation or other proceeding brought by or against any person in any jurisdiction related to or arising out of the Engagement or any matter or transaction contemplated thereby (whether or not Centerview or any other Indemnified Person is a named party or witness, and whether or not any liability to any person results therefrom), including in connection with enforcing the terms hereof.

3. Notwithstanding the foregoing, the Company shall have no obligation to indemnify and hold harmless any Indemnified Person under this letter agreement in respect of any Losses to the extent that such Losses are finally judicially determined to have resulted from the bad faith, willful misconduct or gross negligence of such Indemnified Person.

4. The Company agrees that it will not, without Centerview's prior written consent, settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate any pending or threatened action, claim, suit, investigation or proceeding in respect of which indemnification or contribution is or may be sought hereunder (whether or not Centerview or any other Indemnified Person is an actual or potential party thereto) unless such settlement, compromise, consent or termination includes an unconditional release of

each Indemnified Person from all liability arising out of such action, claim, suit, investigation or proceeding and does not impose any monetary or financial obligation on any Indemnified Person or contain any admission of culpability or liability on the part of any Indemnified Person. No Indemnified Person seeking indemnification, reimbursement or contribution under this letter agreement will, without the Company's prior written consent (which consent shall not be unreasonably withheld or delayed), settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate any action, claim, suit, investigation or proceeding referred to herein.

5. If the foregoing indemnification provided for herein is determined to be unavailable to an Indemnified Person for any reason or is insufficient to hold it harmless in respect of any Losses referred to herein, then, in lieu of indemnifying such Indemnified Person hereunder, the Company shall contribute to the amount paid or payable by such Indemnified Person as a result of such Losses (and expenses related thereto) (i) in such proportion as is appropriate to reflect the relative benefits to the Company, on the one hand, and to Centerview, on the other hand, with respect to the Engagement or (ii) if the allocation provided by clause (i) of this paragraph is not available, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of each of the Company, together with its officers, directors, employees, stockholders, affiliates and other advisors, on the one hand, and Centerview, on the other hand, and any other relevant and equitable considerations; provided, however, except with respect to any Losses that are finally judicially determined to have resulted from the willful misconduct or gross negligence of any Indemnified Person, that in no event shall the aggregate contribution of the Indemnified Persons to the amounts so paid or payable exceed the aggregate amount of all fees actually received by Centerview from the Company in connection with the Engagement (excluding any amounts received by Centerview as reimbursement of expenses pursuant to the Engagement Agreement), including in respect of any separate engagement letter in respect of any fairness or valuation opinion. For purposes of this letter agreement, the relative benefit to the Company and Centerview of the Engagement shall be deemed to be in the same proportion as (a) the total value paid or contemplated to be paid or received or contemplated to be received by the Company in the transaction or transactions that are the subject of the Engagement, whether or not such transaction is proposed or completed, bears to (b) the fees paid or to be paid to Centerview under the Engagement Agreement, including in respect of any separate engagement letter in respect of any fairness or valuation opinion..

6. The Company agrees that neither Centerview nor any other Indemnified Person shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Company or any person asserting claims on behalf of or in right of the Company for or in connection with the Engagement or any transactions or conduct in connection therewith, except to the extent that any losses, claims, damages or liabilities incurred by the Company are finally judicially determined to have resulted from the bad faith, willful misconduct or gross negligence of such Indemnified Person.

7. This letter agreement shall be deemed made in New York. This letter agreement and all controversies arising from or relating to performance hereunder shall be governed by, and

construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed entirely in such State, without giving effect to such State's rules concerning conflicts of laws that might provide for any other choice of law. Each of the Company and Centerview agrees that any action or proceeding based on, arising out of or resulting from any matter referred to in this letter agreement, shall be brought and maintained exclusively in the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York. The Company and Centerview each hereby irrevocably submits to the jurisdiction of the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York for the purpose of any such action or proceeding as set forth above, and irrevocably agrees to be bound by any judgment rendered thereby in connection with such action or proceeding. Each of the Company and Centerview hereby irrevocably waives, to the fullest extent permitted by law, any objection which it may have or hereafter may have to the laying of venue of any such action or proceeding brought in any such court referred to above and any claim that any such action or proceeding has been brought in an inconvenient forum, and agree not to plead or claim the same. ANY RIGHTS OF TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING OUT OF THIS LETTER AGREEMENT OR THE ENGAGEMENT ARE HEREBY WAIVED.

8. The indemnity, contribution, reimbursement and other obligations of the Company hereunder shall be in addition to any liability that the Company may have, at common law or otherwise, and shall be binding on its successors and permitted assigns. The obligations of the Company hereunder cannot be assigned without the prior written consent of Centerview.

9. The terms of this letter agreement shall apply to all services provided by Centerview to the Company in connection with the matters contemplated by the Engagement, including those provided prior to the date of this letter agreement. The provisions of this letter agreement shall apply to any subsequent amendment to or modification of the Engagement Agreement, and shall survive the termination or completion of the Engagement. For the avoidance of doubt, the term "Engagement" shall include any services provided by Centerview to the Company prior to the execution of an Engagement Agreement with the Company, whether or not such services are described in such Engagement Agreement.

Very truly yours

PERFORMANCE SPORTS GROUP LTD.

By: ______________________
Matthew Mannelly, on behalf of the Special
Committee of its Board of Directors

Accepted:

CENTERVIEW PARTNERS LLC

By:______________________
Marc Puntus
Partner

9. The terms of this letter agreement shall apply to all services provided by Centerview to the Company in connection with the matters contemplated by the Engagement, including those provided prior to the date of this letter agreement. The provisions of this letter agreement shall apply to any subsequent amendment to or modification of the Engagement Agreement, and shall survive the termination or completion of the Engagement. For the avoidance of doubt, the term "Engagement" shall include any services provided by Centerview to the Company prior to the execution of an Engagement Agreement with the Company, whether or not such services are described in such Engagement Agreement.

Very truly yours

PERFORMANCE SPORTS GROUP LTD.

By: ______________________________
Matthew Mannelly, on behalf of the Special Committee of its Board of Directors

Accepted:

CENTERVIEW PARTNERS LLC

By: ______________________________
Marc Puntus
Partner

TAB C

THIS IS EXHIBIT "C" REFERRED TO
IN THE AFFIDAVIT OF BRIAN J. FOX,
SWORN BEFORE ME,
THIS 8th DAY OF DECEMBER, 2016

KATHLEEN A. JEWKES, Notary Public
My Commission Expires April 6, 2021

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
BPS US Holdings Inc., *et al.*,[1]	)	Case No. 16-12373 (KJC)
Debtors.	)	(Jointly Administered)
	)	**Ref. Docket Nos. 113 and 242**

ORDER (I) AUTHORIZING THE EMPLOYMENT AND RETENTION OF CENTERVIEW PARTNERS LLC AS INVESTMENT BANKER FOR THE DEBTORS, *NUNC PRO TUNC* TO THE PETITION DATE; (II) MODIFYING CERTAIN INFORMATION REQUIREMENTS OF LOCAL RULE 2016-2; (III) AUTHORIZING FINANCING FEE; AND (IV) GRANTING RELATED RELIEF

Upon consideration of the application (the "Application")[2] of the Debtors for the entry of an order, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rules 2014 and 5002, and Local Rules 2014-1 and 2016-2(h), (i) authorizing the employment and retention of Centerview Partners LLC ("Centerview"), as investment banker to the Debtors, *nunc pro tunc* to the Petition Date, (ii) modifying certain information requirements of Local Rule 2016-2, as more fully set forth in the Application, (iii) authorizing payment of the Financing Fee, and (iv) granting related relief; and upon consideration of the Puntus Declaration; and due and proper notice of the Application having been given; and it appearing that no other or further notice of the Application is required; and it appearing that the Court has jurisdiction to consider the Application in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian equivalent, are as follows: BPS US Holdings Inc. (8341); Bauer Hockey, Inc. (3094); Easton Baseball / Softball Inc. (5670); Bauer Hockey Retail Inc. (6663); Bauer Performance Sports Uniforms Inc. (1095); Performance Lacrosse Group Inc. (4200); BPS Diamond Sports Inc. (5909); PSG Innovation Inc. (9408); Performance Sports Group Ltd. (1514); KBAU Holdings Canada, Inc. (5751); Bauer Hockey Retail Corp. (1899); Easton Baseball / Softball Corp. (4068); PSG Innovation Corp. (2165); Bauer Hockey Corp. (4465); BPS Canada Intermediate Corp. (4633); BPS Diamond Sports Corp. (8049); Bauer Performance Sports Uniforms Corp. (2203); and Performance Lacrosse Group Corp. (1249). The Debtors' headquarters are located at 100 Domain Dr., Exeter, New Hampshire 03833.

[2] Capitalized terms used herein, but not defined, have the meaning given to them in the Application.

Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court may enter a final order hereon consistent with Article III of the U.S. Constitution; and it appearing that venue of this proceeding and the Application is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court finding that Centerview does not hold or represent interests adverse to the Debtors and is a "disinterested person," as defined in section 101(14) of the Bankruptcy Code; and this Court having determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and the relief requested in the Application being in the best interests of the Debtors and their estates and creditors; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT**:

1. The Application is GRANTED, as set forth herein.

2. The Debtors are authorized, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, effective *nunc pro tunc* to the Petition Date, to employ and retain Centerview as investment banker in these chapter 11 cases in accordance with the terms and conditions set forth in the Application and the Engagement Agreement, subject to the terms of this Order.

3. Centerview shall be compensated and reimbursed pursuant to section 328(a) of the Bankruptcy Code in accordance with the terms of the Engagement Agreement, subject to Centerview filing interim and/or final fee applications seeking approval of the payment of its fees and expenses, pursuant to the procedures set forth in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the U.S. Trustee Guidelines and such orders as this Court may direct, including, without limitation, any order of this Court establishing procedures for interim compensation and reimbursement of professionals retained in these chapter 11 cases.

4. The fees and expenses payable to Centerview pursuant to the Engagement Agreement shall be subject to review only pursuant to the standards set forth in section 328(a) of

the Bankruptcy Code and shall not be subject to the standard of review set forth in section 330 of the Bankruptcy Code, except by the U.S. Trustee. This Order shall not prejudice or otherwise affect the rights of the U.S. Trustee who shall retain the right to challenge the reasonableness of Centerview's compensation and expense reimbursements under section 330 of the Bankruptcy Code; provided, however, it is understood and agreed that reasonableness for this purpose shall be evaluated based upon, *inter alia*, comparing fees payable in these chapter 11 cases to fees paid to other investment banking and financial advisory firms offering comparable services in other chapter 11 cases, shall take into account the substantial services rendered by Centerview prior to the Petition Date, and shall not be evaluated solely on the hours incurred by Centerview in providing services since the Petition Date.

5. Notwithstanding the foregoing, the Debtors are authorized to pay Centerview $1.65 million toward the Financing Fee upon entry of this Order, conditioned upon entry of the Final DIP Order, with the remainder of the Financing Fee due upon the closing of the Sale, subject to the Fee Cap as described in the Engagement Letter.

6. The Indemnification Provisions set forth in the Engagement Agreement are approved, subject during the pendency of these chapter 11 cases to the following:

a. Centerview shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Agreement for services, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court;

b. The Debtors shall have no obligation to indemnify Centerview, or provide contribution or reimbursement to Centerview, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from Centerview's gross negligence, willful misconduct, breach of fiduciary duty, if any, bad faith or self-dealing; (ii) for a contractual dispute in which the Debtors alleges the breach of Centerview's contractual obligations unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to In re United Artists Theatre Company, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to Centerview's gross negligence, willful misconduct, breach of fiduciary duty, or bad faith or self-dealing but determined by this Court, after notice and a hearing to be a claim or expense for which Centerview should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Agreement as modified by the Proposed Order; and

c. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing these chapter 11 cases, Centerview believes that it is entitled to the payment of any amounts by The Debtors on account of The Debtors' indemnification, contribution, and/or reimbursement obligations under the Engagement Agreement (as modified by this Application), including without limitation the advancement of defense costs, Centerview must file an application therefore in this Court, and The Debtors may not pay any such amounts to Centerview before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by Centerview for indemnification, contribution, or reimbursement, and not a provision limiting the duration of The Debtors' obligation to indemnify Centerview. All parties in interest shall retain the right to object to any demand by Centerview for indemnification, contribution or reimbursement.

7. Notwithstanding anything to the contrary herein, or in the Engagement Agreement, the Application, or the Puntus Declaration:

a. Fifty percent (50%) of Centerview's earned Financing Fee shall be credited against any Sale Fee or Restructuring Fee, including a Financing Fee earned on account of DIP financing;

b. Counsel fees for which Centerview may seek reimbursement will only be for indemnification claims, the Application, and preparation and initial presentation of monthly, interim and final fee applications, and not for the defense of fee applications; and

c. There shall be no limitation of liability in favor of Centerview during the pendency of the Debtors' chapter 11 cases.

8. Centerview is granted a limited waiver of the information requirements relating to compensation requests set forth in Local Rule 2016-2(d) as requested in the Application; Centerview is authorized to maintain time records in half-hour (0.5) increments setting forth, in a

summary format, a description of the services rendered by each professional and the amount of time spent on each date by each such individual in rendering services on behalf of the Debtors.

9. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Application.

10. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

11. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Dec 6, 2016
Wilmington, Delaware

Kevin J. Carey
Kevin J. Carey
United States Bankruptcy Judge

01:19517504.1

TAB 3

Court File No. CV-16-11582-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	, THE
	)	
JUSTICE NEWBOULD	)	DAY OF , 2016

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 PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

(the "**Applicants**")

ORDER

(Re: Centerview Engagement and Fee Approval)

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for the ancillary relief set out in the affidavit of Brian J. Fox sworn December 7, 2016 (the "**Fox Affidavit**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fox Affidavit and the Exhibits thereto,

ENGAGEMENT OF CENTERVIEW PARTNERS LLC

1. **THIS COURT ORDERS** that the agreement dated as of August 19, 2016 engaging Centerview Partners LLC (the "**Centerview**") as Centerview to the Applicant, a copy of which is attached as Exhibit "B" to the Fox Affidavit (the "**CV Engagement Letter**"), and the retention of Centerview under the terms thereof are hereby approved *nunc pro tunc* to October 31, 2016, including, without limitation, the payment of the Monthly Fee and reasonable expenses and the Sale Fee and the Financing Fee (as those terms are defined in the CV Engagement Letter). Centerview shall be entitled to the benefit of the Administration Charge (as defined in the Order of Justice Newbould dated October 31, 2016 as amended November 30, 2016) as security for the fees owing under the CV Engagement Letter.

2. **THIS COURT ORDERS** that the Applicants are authorized to pay Centerview $1.65 million toward the Financing Fee upon entry of this Order, with the remainder of the Financing Fee due upon the closing of the Sale, subject to the Fee Cap (as described in the CV Engagement Letter).

3. **THIS COURT ORDERS** that notwithstanding anything to the contrary herein, or in the CV Engagement Letter,

   (a) Fifty percent (50%) of Centerview's earned Financing Fee shall be credited against any Sale Fee or Restructuring fee, including a financing fee earned on account of debtor-in-possession financing;

   (b) Counsel fees for which Centerview may seek reimbursement will only be for indemnification claims, the within motion, and preparation and initial presentation of monthly, interim and final fee motions, and not for the defence of fee motions; and

   (c) There shall be no limitation of liability in favour of Centerview during the pendency of the Applicants' CCAA proceedings.

GENERAL

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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

Court File No. CV-16-11582-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD ET. AL.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter F.C. Howard LSUC#: 22056F
Tel: (416) 869-5613

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-5230

Vlad A. Calina LSUC# 69072W
Tel: (416) 869-5202
Fax: (416) 947-0866

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-16-11582-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD *et al.*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

MOTION RECORD
(Returnable on a date to be determined)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter F.C. Howard LSUC#: 22056F
Tel: (416) 869-5613

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-5230

Vlad A. Calina LSUC# 69072W
Tel: (416) 869-5202
Fax: (416) 947-0866

Lawyers for the Applicants