

RECORD
TRAI



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To the Director of the U. S. Patent and Trademark Office, please record the attached documents or the new address(es) below.

5-7-06

1. Name of conveying party(ies):

Golf Town Canada Inc.

- Individual(s) Association
- General Partnership Limited Partnership
- Corporation- State: Canada
- Other _____

Citizenship (see guidelines) _____

Additional names of conveying parties attached? Yes No

3. Nature of conveyance /Execution Date(s) :

Execution Date(s) April 1, 2006

- Assignment Merger
- Security Agreement Change of Name
- Other Asset Transfer Agreement

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Golf Town Operating Limited Partnership

Internal _____

Address: _____

Street Address: 3265 Highway 7, Suite 2

City: Markham

State: Ontario

Country: Canada

Zip: L3R 3P9

- Association Citizenship _____
- General Partnership Citizenship _____
- Limited Partnership Citizenship Ontario, Canada
- Corporation Citizenship _____
- Other _____ Citizenship _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)
78/482,747; 78/606,916

B. Trademark Registration No.(s)

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: Ogilvy Renault LLP

Internal Address: Paul J. Field

Street Address: Suite 1600

1981 McGill College Avenue

City: Montreal

State: Quebec, Canada Zip: H3A 2Y3

Phone Number: 416 216 3903

Fax Number: 416 216 3930

Email Address: pfield@ogilvyrenault.com

6. Total number of applications and registrations involved:

2

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 80.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number 195113

Authorized User Name Ogilvy Renault LLP

9. Signature:

Signature

April 26, 2006

Date

Paul J. Field

Name of Person Signing

Total number of pages including cover sheet, attachments, and document:

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

ASSET TRANSFER AGREEMENT

THIS ASSET TRANSFER AGREEMENT made as of this 1st day of April, 2006.

BETWEEN:

GOLF TOWN CANADA INC., a corporation incorporated and existing under the federal laws of Canada

(hereinafter called the "**Vendor**")

OF THE FIRST PART;

AND:

GOLF TOWN OPERATING LIMITED PARTNERSHIP, a limited partnership formed under the laws of Ontario, by its general partner **GOLF TOWN GP II INC.**

(hereinafter called the "**Purchaser**")

OF THE SECOND PART.

WHEREAS the Vendor wishes to sell and the Purchaser wishes to purchase certain assets of the Vendor upon and subject to the terms and conditions hereinafter set out;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Definitions.

1.01 Whenever used in this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following words and terms shall have the respective meanings ascribed to them in this Section 1.01:

Agreement - "Agreement" means this Asset Transfer Agreement and all instruments supplemental hereto or in amendment or confirmation hereof; "hereof", "hereto" and "hereunder" and similar expressions mean and refer to this Agreement and not to any particular Article or Section; "Article" or "Section" means and refers to the specified article or section of this Agreement;

Assumed Liabilities - "Assumed Liabilities" means the liability of the Vendor pursuant to the operating line of credit with BABC Global Finance Inc. as at March 31, 2006;

Business - "Business" means the business formerly operated by the Vendor;

Business Day - "Business Day" means any day, other than a Saturday, Sunday or statutory or civic holiday in the Province of Ontario;

Closing - "Closing" means the completion of the sale to, and purchase by the Purchaser of, the Purchased Assets hereunder and the payment of the Purchase Price therefor as contemplated hereby;

Closing Date - "Closing Date" means the day upon which the Parties agree the Closing shall occur;

Closing Time - "Closing Time" means 7:00 a.m. Eastern Standard Time on the Closing Date or such other time that the Parties agree is the time at which the Closing shall occur;

Leases - "Leases" means the leases or agreements in the nature of a lease, to which the Vendor is a party whether as lessor or lessee relating to the Business;

Parties - "Parties" means the Vendor and the Purchaser and "Party" means any one of them;

Person - "Person" includes an individual, corporation, partnership, joint venture, trust, unincorporated organization, the Crown or any agency or instrumentality thereof or any other juridical entity;

Purchase Price - "Purchase Price" means the purchase price to be paid by the Purchaser to the Vendor for the Purchased Assets as provided in the attached **Schedule "A"** and subject to adjustments as provided for herein;

Purchased Assets - "Purchased Assets" means the assets, property and rights owned and used by or on behalf of the Vendor on the Closing Date in respect of the operation of the Business, including without limitation those set out or reflected in the attached **Schedule "A"**.

1.03 **Gender and Number.** In this Agreement, words importing the singular include the plural and vice versa and words importing gender include all genders.

1.04 **Entire Agreement.** This Agreement together with the agreements and other documents to be delivered pursuant hereto, constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth herein and therein. No supplement, modification or amendment to this Agreement and no waiver of any provision of this Agreement shall be binding on any Party unless executed by such Party in writing. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

1.05 **Article and Section Headings.** Article and Section headings contained herein are included solely for convenience, are not intended to be full or accurate descriptions of the content thereof and shall not be considered part of this Agreement.

1.06 **Currency.** Unless otherwise indicated, all dollar amounts referred to in this Agreement are in Canadian funds.

1.07 **Tender.** Any tender of documents or money hereunder may be made upon the Parties or their respective counsel and money may be tendered by official bank draft drawn upon a

Canadian chartered bank or by negotiable cheque payable in Canadian funds and certified by a Canadian chartered bank or trust company.

1.08 Schedules. The following schedules which are attached to this Agreement are incorporated into this Agreement by reference and are deemed to be part hereof:

Schedule "A" – Purchase Price, Assumed Liabilities and Allocation

2. Purchased Assets.

2.01 With effect as at the Closing Time, the Vendor hereby sells, transfers, assigns, bargains and conveys to the Purchaser and the Purchaser hereby purchases from the Vendor all right, title and interest of the Vendor in and to the Purchased Assets for a purchase price determined as provided in Article 5 hereof.

3. Assumed Liabilities.

3.01 General Assumption.

Upon and subject to the terms and conditions hereof, from and after the Closing Time, the Purchaser will assume and pay, perform, discharge and satisfy the Assumed Liabilities.

3.02 Contracts, etc.

Subject to the completion of the Closing as contemplated hereby and the provisions of Section 4.01 hereof, but with effect from and after the Closing Time, the Purchaser shall observe, perform and discharge the covenants and obligations of the Vendor under the Contracts, the Contractual Rights, the Leases and the Equipment Leases in accordance with their respective terms.

4. Non-Assignable Contracts.

4.01 This Agreement and any document delivered hereunder shall not constitute an assignment or an attempted assignment of any Contract, Contractual Right, Lease, Equipment Lease, Warranty Right or licence contemplated to be assigned to the Purchaser hereunder if it is not assignable without the consent of a third party if such consent has not been obtained and such assignment or attempted assignment would constitute a breach thereof.

4.02 The Vendor shall use its best efforts to obtain such consents of third parties as may be necessary for the assignment of the Contracts, the Contractual Rights, the Leases, the Equipment Leases, the Warranty Rights and any such licence. To the extent that any of the foregoing items are not assignable by the terms thereof or where consents to the assignment thereof cannot be obtained as herein provided, such items shall be held by the Vendor in trust for the Purchaser and the covenants and obligations thereunder shall be performed by the Purchaser in the name of the Vendor and all benefits and obligations existing thereunder shall be for the account of the Purchaser. Upon the Closing, the Vendor authorizes the Purchaser, at the Purchaser's expense, to perform all of the Vendor's obligations under the foregoing items and constitutes the Purchaser its attorney to act in the name of the Vendor with respect thereto.

5. Purchase Price.

5.01 The Purchase Price of the Purchased Assets shall be the total amount for Assets and Fixed Assets calculated at the fair market value, effective at March 31, 2006, subject to any adjustments as provided for in Section 11. The Purchase Price will be determined using the amount

reflected for those Assets and Fixed Assets in the March 31, 2006 financial statements for the Vendor, determined on the same basis as the February 28, 2006 financial statements used for Schedule A, as the accounting value and then adjusted to a reasonably determined fair market value as at March 31, 2006, such to be determined and agreed by June 30, 2006.

6. Satisfaction of Purchase Price.

6.01 Purchase Price. The Purchaser shall pay the Purchase Price to the Vendor at the Closing Time as follows:

- (a) by the assumption of the Assumed Liabilities as at March 31, 2006; and
- (b) by the allotment and issuance to the Vendor of the limited partner entitlement and interest in Limited Partnership of the Purchaser (being all of the issued limited partnership units) in respect of the balance of the Purchase Price.

6.02 Taxes. The Purchaser shall pay directly to the appropriate taxing authority, within the time period specified therefor, all provincial sales taxes, land transfer taxes, goods and services taxes, and any other transfer taxes payable by it in respect of the Purchased Assets sold to it hereunder and the Vendor shall pay all other taxes exigible in connection with the operation of the Business up to the Closing Time including income and capital gains taxes payable in connection with the sale of the Purchased Assets to the Purchaser.

6.03 Licence. The Purchaser will grant to the Vendor a royalty free licence to allow the Vendor to continue to use the trademarked name "Golf Town" (which name and trademark rights are being sold and transferred to the Purchaser).

7. Elections.

7.01 Election under Section 97 of the *Income Tax Act (Canada)*. The Parties shall elect jointly pursuant to the provisions of section 97 of the *Income Tax Act (Canada)*, and corresponding provincial legislation, by completing and filing all prescribed forms and related documents in such manner and at such time as is prescribed, that for tax purposes only, the proceeds of disposition received by the Vendor for the Purchased Assets and the cost of the Purchased Assets to the Purchaser shall be the adjusted cost base of the Vendor in the Purchased Assets or such other amount as is determined by the Vendor (the "**Elected Amount**") provided such amount does not exceed the fair market value of the Purchased Assets as at the Closing Time.

7.02 Election under Section 22 of the *Income Tax Act (Canada)*. The Parties shall elect jointly, pursuant to the provisions of section 22 of the *Income Tax Act (Canada)*, with respect to the accounts receivable of the Business included in the Purchased Assets. Such election will designate the portion of the Purchase Price allocated to the accounts receivable agreed to pursuant to the allocation referred to in Section 5.03 herein as the consideration paid therefor by the Purchaser.

8. Delivery of Books and Records.

8.01 At the Closing Time, the Vendor shall deliver to the Purchaser all of the documents pertaining to the Business (except for the corporate records of the Vendor and records relating to the employees of the Vendor) including, without limiting the generality of the foregoing: (i) lists of suppliers and customers of the Vendor which relate to the Business; and (ii) advertising, promotional and marketing materials which relate to the Business. The Purchaser agrees that it will preserve the documents, books and records so delivered to it for a period of 6 years from the Closing Date, or for such other period as is required by any applicable law, and will permit the Vendor or its authorized representatives reasonable access thereto in connection with the affairs of the Vendor relating to its

tax matters, but the Purchaser shall not be responsible or liable to the Vendor for or as a result of any accidental loss or destruction of or damage to any such documents, books or records.

9. Representations and Warranties of the Vendor.

9.01 General.

The Vendor represents and warrants as follows and acknowledges that the Purchaser is relying upon such representations and warranties in connection with the purchase by the Purchaser of the Purchased Assets:

- (a) The Vendor has been duly incorporated and is validly subsisting under the federal laws of Canada;
- (b) The Vendor has full authority to enter into and carry out the provisions of this Agreement;
- (c) All of the Purchased Assets are owned by the Vendor as the beneficial owner of record, with a good and marketable title thereto, free and clear of all mortgages, liens, charges, security interests, adverse claims, pledges, encumbrances and demands whatsoever, other than those associated with the Assumed Liabilities; and
- (d) No person, firm or corporation has any agreement or option or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option for the purchase from the Vendor of any of the Purchased Assets.

9.02 Limitation.

The Purchaser acknowledges and agrees that its purchase of the Purchased Assets is on an "as is, where is" basis and that except as set out above, the Vendor makes no representations or warranties concerning the Business or the Purchased Assets.

10. Representations and Warranties of the Purchaser.

10.01 The Purchaser represents and warrants as follows and acknowledges that the Vendor is relying upon such representations and warranties in connection with the sale by the Vendor of the Purchased Assets:

- (a) The Purchaser has been duly formed and is validly subsisting as a limited partnership under the laws of the Province of Ontario;
- (b) The Purchaser has full authority to enter into and carry out the provisions of this Agreement; and
- (c) The Class A Units to be issued by the Purchaser to the Vendor in partial payment of the Purchase Price will at the Closing Time be validly authorized and issued, free and clear of all mortgages, liens, charges, encumbrances and demands whatsoever.

11. Adjustments.

11.01 In the event that any taxing authority having jurisdiction alleges that the estimate as set out above and as adjusted as set out herein is not the fair market value of the Purchased Assets or proposes to make an assessment of tax on the basis that any benefit or advantage is or has been conferred on any person by reason of the purchase and sale provided for herein, then the Purchase

Price shall be deemed to be and always to have been the fair market value of the Purchased Assets as at the Closing Time as subsequently determined by the Purchaser after consultation with such taxing authority. The Purchaser and the Vendor shall make such adjustments to the terms of this Agreement, all elections, forms and other documents contemplated herein as may be necessary, desirable or consistent with the intent and purpose of this Agreement, including where appropriate, an adjustment to the Elected Amount.

11.02 The aggregate amount of the Assumed Liabilities (the "**Non-Unit Consideration**") and the allocation of same among the Transferred Assets is as set out in **Schedule "A"** hereto. Consequently, the Parties agree that:

- (a) if at any time hereafter any competent taxing authority shall; (i) allege that the Non-Unit Consideration is not equal to the cost amount of the Purchased Assets; or (ii) propose to make an assessment on the basis that the Non-Unit Consideration is greater than the cost amount of the Purchased Assets; then upon the final determination of the cost amount of such one or more of the Purchased Assets by the Purchaser after consultation with such competent taxing authority, the Non-Unit Consideration for the Purchased Assets shall be adjusted as from the date hereof to reflect the cost amount as so determined by the such final determination and the Parties hereto shall do or cause to be done all things as are necessary in order to effect such adjustment;
- (b) if necessary, the Parties shall file such amended election under subsection 97 of the *Income Tax Act* (Canada) or other form of document with the competent taxation authority and do all other things as may be necessary and expedient to give effect to any adjustment of the cost amount resulting from the application of any provision of this Section 11.02.

12. Transfer.

12.01 This Agreement is intended to be and shall be and operate as an immediate and effective transfer and assignment of the Purchased Assets by the Vendor to the Purchaser as at the Closing Time. The Parties agree to do all such other acts and things as may be necessary to give effect to the provisions hereof, and without limiting the generality of the foregoing, to validly and effectively transfer the Purchased Assets from the Vendor to the Purchaser as at the Closing Time. The Vendor hereby irrevocably constitutes and appoints the Secretary of the Purchaser as the Vendor's attorney to transfer the Purchased Assets to the Purchaser as at the Closing Time with full power of substitution in the premises.

13. Bulk Sales.

13.01 The Purchaser hereby waives compliance by the Vendor with the *Bulk Sales Act* (Ontario) and similar legislation in any other jurisdiction and in consideration thereof, the Vendor agrees to indemnify and hold harmless the Purchaser from any claims, demands and liabilities to which the Purchaser may become subject as a result of such waiver of compliance.

14. Further Assurances.

14.01 Each Party hereto hereby agrees that upon the written request of any other Party hereto, it will do all such acts and execute all such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of all such acts and will cause the execution of all such further documents as are within its power to cause the doing or execution of, as any other Party hereby may from time to time reasonably request be done and/or executed as may be required to consummate the transactions contemplated hereby or as may be necessary or

desirable to effect the purpose of this Agreement or any document, agreement or instrument delivered pursuant hereto and to carry out their provisions or to better or more properly or fully evidence or give effect to the transactions contemplated hereby, whether before or after the Closing.

15. Applicable Law.

15.01 This Agreement shall be construed in accordance with and governed by the laws of the Province of Ontario and the federal laws applicable therein.

16. Binding Effect.

16.01 This Agreement shall enure to the benefit of and be binding upon the Parties and their respective heirs, legal representatives, successors and assigns.


17. Counterparts.

17.01 This Agreement may be executed by facsimile and in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

[NEXT PAGE IS SIGNATURE PAGE]


IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be duly executed as of the date first above written.

**GOLF TOWN OPERATING LIMITED
PARTNERSHIP**, by its general partner **GOLF
TOWN GP II INC.**

Per: 
Name: David Spence
Title: Executive Vice-President and CFO

I/We have the authority to bind the Corporation.

GOLF TOWN CANADA INC.

Per: 
Name: David Spence
Title: Executive Vice-President and CFO

I/We have the authority to bind the Corporation.

SCHEDULE "A"

PURCHASE PRICE ALLOCATION

Accounting Carry Amount as at February 28, 2006

ASSETS

Bank
Amounts Receivable
Inventory
Prepaid Expenses
Lease Interests
Trade marks

FIXED ASSETS (Depreciation taken into account.)

Furniture
Leaseholds
Simulators
Store Furniture and Fixtures
Computers and Systems

Goodwill

TOTAL ASSETS

LIABILITIES

Line of Credit

TOTAL LIABILITIES