

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

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NICKLAUS COMPANIES, LLC,	:	Index No. _____
Plaintiff,	:	
	:	
-against-	:	<u>SUMMONS</u>
	:	
GBI INVESTORS, INC. and	:	
JACK W. NICKLAUS,	:	
	:	
Defendants.	:	
	:	
-----X	:	

TO THE ABOVE-NAMED DEFENDANTS:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after service is complete, if the Summons is not delivered personally to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default, in accordance with the complaint herein.

Plaintiff designates New York County as the place of trial. Venue is based on N.Y. C.P.L.R. § 327(b) and New York General Obligations Law § 5-1402 because this action arises out of a contract pursuant to which the parties have agreed to submit to the laws and jurisdiction of the State of New York and which involves obligations arising out of a transaction covering in the aggregate not less than one million dollars. Venue is also proper based on the agreement of the parties and pursuant to C.P.L.R. § 501 because this action arises out of a contract in which the parties have agreed that New York County is an appropriate venue

Dated: May 13, 2022
New York, New York

Respectfully submitted,

CONSTANTINE CANNON LLC

/s/ Gary J. Malone

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NICKLAUS COMPANIES, LLC,	:	Index No. _____
	:	
Plaintiff,	:	
	:	
-against-	:	COMPLAINT
	:	
GBI INVESTORS, INC. and	:	
JACK W. NICKLAUS,	:	
	:	
Defendants.	:	
	:	
-----X	:	

Plaintiff, Nicklaus Companies, LLC (“Nicklaus Companies” or the “Company”), for its Complaint against Defendants, GBI Investors, Inc. (“GBI”) and Jack W. Nicklaus, alleges as follows:

NATURE OF THE ACTION

1. This is a breach of contract, tortious interference with contract and breach of fiduciary duty action in which Defendants are reneging on a deal worth more than \$145 million in which they agreed to transfer the exclusive rights to valuable intellectual property and services. Despite being paid an enormous sum, Defendants have wrongfully continued to use these rights, acted in bad faith, wrongfully diverted opportunities to the detriment of Plaintiff’s business and willfully engaged in activities damaging to the brand and other intellectual property owned by the Company. Plaintiff seeks damages and injunctive and declaratory relief.

2. In May 2007, Nicklaus Companies entered into a transaction to purchase certain businesses and assets of GBI, through which Mr. Nicklaus had been engaged in the business of, among other things, (a) golf course design services branded and identified under the Nicklaus,

Jack Nicklaus and Jack Nicklaus Signature brands, and (b) various marketing, promotional and branding activities involving the use and licensing of his personal endorsements, other commercial rights to publicity and privacy, and intellectual property related to his identity and history as a recognizable public figure (the “Nicklaus Publicity Rights”). These assets included GBI’s substantial portfolio of trademark registrations and applications related to Mr. Nicklaus’ name and signature and “Golden Bear” nickname in the United States and various other countries around the world (together with the Nicklaus Publicity Rights, the “Nicklaus IP”), which had been acquired and made by GBI during the course of its business.

3. Pursuant to this transaction (including several related agreements and their amendments and revisions), Nicklaus Companies purchased the exclusive right to the design services and marketing, promotional and branding businesses of GBI, and also obtained a conveyance of the assets required to conduct and continue such businesses, including the Nicklaus IP. GBI and Mr. Nicklaus became members of the Company, and Mr. Nicklaus became a manager, subject to the control of GBI.

4. Among the agreements comprising this transaction were (a) the Purchase and Sale Agreement dated May 25, 2007 (including the Bill of Sale and other related documents), in which GBI agreed to sell to Nicklaus Companies its businesses and related assets, including its businesses of (i) golf course design, (ii) management and licensing of the Nicklaus IP and (iii) marketing personal service contracts related to the personal endorsement and other publicity rights of Mr. Nicklaus, and (b) the Amended and Restated Limited Liability Agreement of Nicklaus Companies, LLC, dated May 31, 2007 (the “LLC Agreement”), in which the parties, including GBI, Mr. Nicklaus and Nicklaus Companies agreed that the Company was being formed for the primary purpose of acquiring and acting as the exclusive vehicle for engaging in those businesses.

5. GBI and Mr. Nicklaus have been paid—and are continuing to be paid—millions of dollars for these valuable rights, which, pursuant to the transaction, have remained the property of Nicklaus Companies to the present.

6. Notwithstanding the substantial sums of money that have been paid—and are continuing to be paid—to GBI and Mr. Nicklaus, they have failed to abide by their obligations to complete and respect the transfer of these valuable rights to Nicklaus Companies and to act in good faith in the best interests of the Company. This conduct by GBI and Mr. Nicklaus has both damaged the Company's brands and interfered with its efforts to enjoy the full use and value of these rights as contemplated by the Purchase and Sale and LLC Agreements.

7. For the past several years, Mr. Nicklaus has engaged in repeated acts in bad faith against the best interests of the Company, including acts to intentionally and maliciously undermine the Company. This wrongful conduct by Mr. Nicklaus has been causing substantial damage to the Company, including through side deals for endorsement services and unauthorized uses of the Nicklaus IP that were in derogation of Nicklaus Companies' rights, devaluing the brand and causing financial damages to the Company. Mr. Nicklaus's actions constitute a pattern of conduct designed to divert commercial opportunities for his own personal financial benefit instead of for the benefit of the Company that has been enriching him for a decade and a half.

8. The Company has made repeated efforts to convince Mr. Nicklaus to cease this wrongful conduct so that the Company may enjoy the benefits of its bargain as contemplated by the Purchase and Sale and LLC Agreements. Time and again in recent years, the Company that Mr. Nicklaus agreed to faithfully serve has reminded and urged him to simply respect the exclusive commercial rights that he and GBI had sold to the Company. The Company was even forced to send Mr. Nicklaus a cease and desist letter—but to no avail. Mr. Nicklaus repeatedly assured the

Company that he would respect its interests, only to go back on his word time and again to secretly negotiate side deals designed to benefit only him—at the expense of the Company’s business.

9. Mr. Nicklaus is now threatening not only to continue this wrongful conduct, but also to expand it, by asserting that he has the right to provide golf course design services and commercial endorsements—the core businesses sold by GBI to the Company in 2007—for his exclusive benefit without the involvement of the Company.

10. Amazingly, despite the fact that the Company—which Mr. Nicklaus agreed to faithfully serve—has already paid him and GBI a substantial sum of money for exclusive rights to his golf course design services and commercial endorsements, Mr. Nicklaus has decided to unilaterally—and wrongfully—declare he is reclaiming ownership of those rights.

11. Mr. Nicklaus’s past, current and threatened conduct in failing to provide golf course design services and commercial endorsements exclusively through Nicklaus Companies, and in purporting to license unauthorized uses of the Nicklaus IP, is in clear breach of GBI’s and Mr. Nicklaus’s contractual obligations pursuant to the Purchase and Sale and LLC Agreements to effect the transfer of the exclusive rights to those services, endorsements and intellectual property to the Company. These bad faith acts against the best interests of the Company also clearly breach the fiduciary duties GBI and Mr. Nicklaus owe to the Company.

12. This wrongful conduct of GBI and Mr. Nicklaus has caused Nicklaus Companies substantial damages, including through lost profits and business opportunities, damage to intellectual property, loss of goodwill, and legal fees. Mr. Nicklaus’s threat to continue and expand this conduct poses an immediate threat to the Company’s business, including its ability to enjoy and obtain financial benefits from the Nicklaus IP and the Company’s goodwill.

13. Unfortunately, due to Mr. Nicklaus's rejection of the Company's efforts at reconciling this dispute amicably, and his threat to continue to act in derogation of the Company's rights—to which it is entitled pursuant to the Purchase and Sale and LLC Agreements—the Company is now forced to seek judicial relief.

14. In order to restore the benefits of its bargain, Nicklaus Companies respectfully requests the following relief: (a) a declaratory judgment that Defendants can provide Mr. Nicklaus's golf course design services and commercial endorsements only through Nicklaus Companies; (b) an injunction ordering Defendants to cease providing Mr. Nicklaus's golf course design and marketing services (including commercial endorsements) and offering rights to use the Nicklaus IP for commercial purposes without first obtaining authorization from Nicklaus Companies; (c) compensatory damages; (d) consequential damages; (e) attorney's fees, costs and necessary disbursements; (f) pre-judgment and post-judgment interest as allowed by law; and (g) any and all other relief that the Court deems just and proper.

PARTIES

15. Plaintiff, Nicklaus Companies, LLC, is a limited liability company organized under the laws of Delaware. The Company is engaged in the business of, among other things, golf course design and management, marketing personal service contracts related to the personal endorsement and other publicity rights of Mr. Nicklaus and licensing the Nicklaus IP. The Company is headquartered in Palm Beach Gardens, Florida, and does substantial business in New York State.

16. Defendant Jack W. Nicklaus is an individual residing in Florida. Mr. Nicklaus is a professional golfer and golf course designer. Upon information and belief, at all times relevant to this complaint, Mr. Nicklaus was an officer and director of GBI.

17. Defendant GBI Investors, Inc. is a corporation organized under the laws of Florida. In May 2007, when GBI entered into the agreements that are the subject of this action, GBI's name was Golden Bear International, Inc. In July 2007, GBI amended its Articles of Incorporation to change its name to GBI Investors, Inc. GBI's March 29, 2022, Annual Report, submitted to the Florida Secretary of State, identifies its principal address as 1295 U.S. Highway One Third Floor, North Palm Beach, FL 33408.

JURISDICTION AND VENUE

18. This Court has jurisdiction pursuant to the Purchase and Sale and LLC Agreements, in which the parties—including GBI and Mr. Nicklaus—agreed to submit to the jurisdiction of the courts of the State of New York. The LLC Agreement expressly provides that each party consents “to the jurisdiction of the courts of the State of New York, and of the United States District Court of the Southern District of New York ... in any action or proceeding arising out of or relating to this Agreement,” and that “[e]ach party further agrees that any action or proceeding brought against the other, shall be brought *only* in a court of the State of New York, or to the extent permitted by law, in such federal court.” (Emphasis added.) Similarly, in the Purchase and Sale Agreement, each party agrees to submit to the jurisdiction of “any United States Federal or New York State court sitting in New York, New York in any action or proceeding arising out of or relating to this Agreement” This Court also has jurisdiction pursuant to General Obligations Law § 5-1402 given that the Purchase and Sale Agreement relates to obligations arising out of a transaction covering in the aggregate not less than one million dollars and provides that the parties make a choice of New York law and consent to the jurisdiction of New York courts.

19. Venue is proper in this Court pursuant to CPLR § 501 because the parties entered into written agreements fixing the place of trial before this action was commenced. Venue is also

proper pursuant to CPLR § 327(b) and General Obligations Law § 5-1402 because in the Purchase and Sale Agreement, which involves obligations arising out of a transaction covering in the aggregate not less than one million dollars, the parties agreed to submit to the laws and jurisdiction of the State of New York.

FACTUAL ALLEGATIONS

A. Mr. Nicklaus's Golf Career

20. Mr. Nicklaus is an iconic sports figure known around the world due to his unparalleled achievements in the sport of golf. During his career as a competitive golfer, he won two U.S. Amateur tournaments and an unprecedented 18 “major” professional golf championships, and was recognized by *GOLF* magazine as “Golfer of the Century” in connection with its celebration of the centennial of golf in America in 1988, and by *Sports Illustrated* as the “Individual Male Athlete of the 20th Century” in 1999. Jack Nicklaus has also had an unequalled career as a golf course designer, acting as the principal designer of over 300 golf courses around the world.

B. Jack Nicklaus Establishes GBI as the Vehicle for His Commercial Activities

21. GBI was incorporated as a Florida corporation in 1984, and was wholly owned and controlled by Mr. Nicklaus. Starting from a date in or about 1986, Mr. Nicklaus utilized GBI to consolidate various predecessor entities which had conducted commercial activities related to the use of his endorsement and personal services as a spokesperson and golf course designer, and the licensing of various trademarks related to his name, signature and nickname—the “Golden Bear”—to brand products and services.

22. The commercial operations consolidated into GBI through a series of mergers during 1986 and 1987 included endorsement and licensing businesses conducted by Golden Bear,

Inc., and its predecessors since approximately 1962, and golf course design businesses conducted by Jack Nicklaus Design, Inc., and its predecessors since approximately 1974.

23. For two decades after this consolidation, Mr. Nicklaus used GBI as the parent company and master licensor to operate, own and control his business and commercial activities, trademarks and rights of publicity and privacy as a famous athlete for the benefit of himself and his family.

C. GBI and Mr. Nicklaus Sell Their Business to Nicklaus Companies

24. In May 2007, Nicklaus Companies entered into several related agreements (the “Transaction Agreements”) to purchase the ongoing businesses, assets and opportunities consolidated in and controlled by GBI.

25. In consideration for this sale, GBI and other parties owned and controlled by Mr. Nicklaus and his family received an immediate cash payment from the Company of \$145 million for such business and assets, in addition to retaining equity in the Company and other valuable consideration.

26. Two of the main Transaction Agreements were (a) the Purchase and Sale Agreement and (b) the LLC Agreement.

27. In the Purchase and Sale Agreement, GBI agreed to sell and assign various assets and liabilities to the Company in exchange for \$145 million in cash and other consideration.

28. Pursuant to the Purchase and Sale Agreement, GBI sold to the Company “absolutely and unconditionally, all rights, title and interests in certain assets owned or held by GBI or its Subsidiaries in connection with the operation of” its business “of, among other things, golf course design and management, licensing of certain intellectual property, designing,

manufacturing and distributing golf equipment and marketing personal service contracts related to the personal endorsement and other publicity rights of Jack W. Nicklaus.”

29. Among the assets that GBI transferred to Nicklaus Companies pursuant to the Purchase and Sale Agreement were “[a]ll of the intangible rights and property of GBI, including all of the publicity and related commercial rights held by GBI to use and/or license the use of the endorsement, name, nickname, likeness, signature and/or other identifying characteristics of Jack W. Nicklaus and biographical information related to his career, all Intellectual Property owned by or licensed to GBI, and all related rights as a licensor of such Intellectual Property . . . , going concern value, goodwill”

30. Pursuant to the Purchase and Sale Agreement, GBI sold the Nicklaus IP to the Company by transferring its portfolio of related trademarks to the Company, which included more than 600 registrations and pending applications in the United States and over 50 other countries, together with the goodwill associated with such trademarks and the rights to file additional future trademarks and related intellectual property to protect the businesses and assets acquired by the Company.

31. The businesses and assets sold by GBI to Nicklaus Companies pursuant to the Purchase and Sale Agreement also included (a) all of the membership interests in Nicklaus Design, LLC, the operating entity utilized by GBI as the exclusive vehicle to conduct the golf course design business of Mr. Nicklaus and his design associates, and (b) all of the capital stock in Nicklaus Marketing, Inc., f/k/a Golden Bear Golf, Inc., the operating entity utilized by GBI as the exclusive vehicle to conduct its marketing, endorsement and licensing business involving Mr. Nicklaus’ services and the Nicklaus IP.

32. In the Purchase and Sale Agreement, GBI agreed that “[i]t is the intention of the Parties to include in this transaction all Intellectual Property necessary for the Company to continue the Business in all material respects as currently conducted by GBI and its Subsidiaries.”

33. In the Purchase and Sale Agreement and Bill of Sale, the parties also contemplated that GBI would have continuing duties to assure and confirm the conveyance of the Nicklaus IP and other assets. For example, GBI agreed in the Purchase and Sale Agreement that “[e]ach Party hereto shall use its reasonable best efforts to (i) take, or cause to be taken, all appropriate action, and do, or cause to be done, all things necessary, proper or advisable under applicable Law or otherwise to promptly consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements ... and (iv) fulfill all conditions to the obligations of such Parties under this Agreement.”

34. Pursuant to the Transaction Agreements, Nicklaus Companies became the sole owner of the rights to use the Nicklaus IP for commercial purposes. The Company has been the exclusive owner of these rights from May 2007 to the present.

35. Pursuant to the Transaction Agreements, Mr. Nicklaus can engage in the businesses he previously conducted through GBI—including golf course design services, licensing the Nicklaus IP and commercial endorsements—only through Nicklaus Companies and its operating subsidiaries.

36. GBI and Mr. Nicklaus also acknowledged that they had conveyed all of these rights to Nicklaus Companies by entering into the LLC Agreement, in which the parties, including GBI, Mr. Nicklaus and Nicklaus Companies agreed that the Company was being formed for the primary purpose of acquiring and engaging in the businesses that Mr. Nicklaus had formerly conducted through GBI.

37. In the “Business Purpose” section of the LLC Agreement, GBI and Mr. Nicklaus agreed, in pertinent part, that “[t]he Company has been formed for the primary purpose of acquiring and holding (directly and/or indirectly) certain subsidiaries, businesses and other assets of GBI ... and engaging in the businesses of, among other things, golf course design and management, licensing of certain intellectual property, ... and marketing personal service contracts related to the personal endorsement and other publicity rights of JWN [Jack W. Nicklaus]”

38. Pursuant to the LLC Agreement, GBI and Mr. Nicklaus became, and to this day remain, “Members” (i.e., equity owners) of Nicklaus Companies.

39. The LLC Agreement gave GBI and Mr. Nicklaus substantial rights with respect to control of the Company and imposed obligations to act in good faith in the best interests of the Company.

40. The LLC Agreement provided that “the Board shall have sole and complete charge and management of all the affairs and business of the Company” The LLC Agreement provided that Mr. Nicklaus would be on the Board as “GBI’s Designee,” and would hold his “office at the pleasure of, and shall vote as directed by” GBI. That agreement also provided that Mr. Nicklaus would serve as the Chief Executive Office (“CEO”) of the Company.

41. The LLC Agreement also recognized the obligations of GBI and Mr. Nicklaus to act reasonably, in good faith and in the best interests of the Company.

42. The LLC Agreement gave Mr. Nicklaus a partial veto power over the business of the Company, which he was obligated to use reasonably and in good faith. That agreement provided that the Company does not “have the authority to ... use ... the Nicklaus IP in any manner without the prior consent of [Mr. Nicklaus], which consent will not be unreasonably withheld and will be deemed given unless a written objection is made within fifteen (15) days of [Mr.

Nicklaus's] receipt of a written request for such consent describing the proposed transaction; provided, that for purposes of the foregoing, any use ... that [Mr. Nicklaus] determines in good faith could reflect negatively upon the character, honesty, integrity, morality, business acumen, or abilities or otherwise diminish or conflict with the reputation or public image of [Mr. Nicklaus] or any member of his family shall be deemed to provide a reasonable basis to withhold consent."

43. The LLC Agreement provided that "None of the Officers of the Company, any Board member or any Member shall be liable to the Company or to any other Member for any losses sustained or Liabilities incurred as a result of any act or omission of such Person if (i) such Person acted in good faith in a manner such Person believed to be within the scope of such Person's authority and in, or not contrary to, the best interests of the Company, and (ii) such Person's conduct did not constitute fraud, bad faith, gross negligence or willful misconduct."

44. Similarly, the LLC Agreement provided that the Company "indemnify and hold harmless" GBI and Mr. Nicklaus only "if (i) [GBI or Mr. Nicklaus] acted in good faith in a manner such Person believed to be within the scope of [GBI's or Mr. Nicklaus's] authority and in, or not contrary to, the best interests of the Company, and (ii) [GBI's or Mr. Nicklaus's] conduct did not constitute fraud, bad faith, gross negligence or willful misconduct.

45. The LLC Agreement provided that to the extent GBI and Mr. Nicklaus have any "duties (including, without limitation, fiduciary duties) and Liabilities relating thereto to the Company," they would not be liable to the Company if they acted "in accordance with this Agreement" and in "good faith reliance on the provisions of this Agreement.

46. The LLC Agreement also limited any right of GBI and Mr. Nicklaus to consider only their own interests, making that right inapplicable to actions and omissions to which that

agreement provided “an express standard of behavior (including, without limitation, standards such as ‘reasonable’ or ‘good faith’)”

47. The LLC Agreement waived certain claims for “breach of fiduciary duty” and other claims the Company may have against GBI and Mr. Nicklaus—but only with respect to claims relating to “Corporate Conversion” (i.e., the conversion of the Company from a limited liability company to a corporation)—which are not at issue in this action.

48. The LLC Agreement and the other Transaction Agreements were amended at various times following May 2007, including through an Employment, Governance & Control Agreement dated January 1, 2013 (the “EGC Agreement”). However, the jurisdiction and venue clauses of the LLC and Purchase and Sale Agreements were never amended or rescinded and remain in effect.

49. The EGC Agreement amended the LLC Agreement in various ways, including (a) appointing Mr. Nicklaus to a Management Committee, (b) appointing Mr. Nicklaus one of two Co-Chairmen of the Company, (c) appointing a new CEO; and (d) requiring the new CEO to report to Mr. Nicklaus and the other Co-Chairman. The EGC Agreement reaffirmed Mr. Nicklaus’s obligation to “at all times use his reasonable best efforts to advance the interests of the Company.” The EGC Agreement concluded by stating that all terms from the LLC Agreement and the other Transaction Agreements “not specifically superseded by the above remain in place.”

50. Mr. Nicklaus remained in his positions as a Board Member, Co-Chairman and Management Committee member through May 3, 2022.

D. Mr. Nicklaus Conducts Commercial Activities Through Nicklaus Companies

51. Pursuant to the Transaction Agreements, following May 2007 Mr. Nicklaus conducted business activities through Nicklaus Companies. Indeed, Mr. Nicklaus’s provision of

golf course design services and commercial endorsements only through Nicklaus Companies was required by the terms and intent of the Purchase and Sale Agreement and the LLC Agreement.

52. In February of 2017, at the age of 78, Mr. Nicklaus formally announced his retirement from active involvement in the day-to-day business and management of the Company, though he continued to serve as Co-Chairman of the Board.

53. Although Mr. Nicklaus left his office at the Company's headquarters in October of 2017, he continued to provide his services to Nicklaus Design and to Nicklaus Companies' Marketing group when a client required such services, but spent most of his time working out of a private office maintained by his family for the business, investment and charitable work undertaken by them (the "Nicklaus Family Office").

E. GBI and Mr. Nicklaus Act Against the Best Interests of the Company

54. However, in addition to engaging in activities authorized by the Company, Mr. Nicklaus has also engaged in a pattern of wrongful behavior that has caused the Company substantial damages. Mr. Nicklaus has repeatedly acted against the best interests of the Company, including acts in bad faith that interfered with the Company's business, devalued the Nicklaus IP and hindered the Company's ability to use, license and market it, and otherwise undermined the Company. Mr. Nicklaus has used his unique stature and position as Co-Chairman and founder of the Company to disparage and weaken the Company and undermine its management in numerous situations involving clients and potential clients of the Company and members of the Company's staff.

55. These acts of bad faith have also included numerous instances of Mr. Nicklaus authorizing or engaging in transactions involving commercial endorsements and other marketing activities and engagements without involving Nicklaus Companies. This conduct has been in

derogation of Nicklaus Companies' rights under the Purchase and Sale Agreement and contrary to the very purpose of the LLC Agreement.

56. Mr. Nicklaus's numerous acts of authorizing or engaging in transactions relating to commercial endorsements and other marketing activities and engagements, without first bringing such opportunities to Nicklaus Companies, has established a pattern of conduct designed to divert business opportunities away from the Company and preempt or undermine business relationships of the Company—despite its exclusive rights to the Nicklaus IP. Instead, Mr. Nicklaus has pursued commercial transactions that would benefit him personally, at the expense of the Company.

57. Nicklaus Companies has made repeated efforts to convince Mr. Nicklaus to cease this wrongful conduct and to act in the best interests of the Company, including by conducting his commercial endorsements and other marketing activities and engagements only through the Company as contemplated—and required—by the Purchase and Sale and LLC Agreements. Unfortunately, Mr. Nicklaus has rebuffed the Company's efforts at reconciling this dispute amicably and has continued to act in derogation of the Company's rights to which it is entitled pursuant to the Purchase and Sale and LLC Agreements.

58. Mr. Nicklaus has repeatedly participated in deals for the use and licensing of the Nicklaus IP—including personal endorsements by Mr. Nicklaus for commercial purposes—without prior authorization from the Company. Mr. Nicklaus's conduct in dealing with parties interested in pursuing deals for commercial endorsements and other marketing activities and engagements involving Mr. Nicklaus has also prevented or hindered those parties from pursuing endorsement and strategic marketing deals with Nicklaus Companies. This unauthorized and wrongful conduct by Mr. Nicklaus has compromised Nicklaus Companies' rights to the Nicklaus IP and damaged the business of the company, including by diverting corporate opportunities.

59. In recent years there have been numerous incidents in which Mr. Nicklaus has operated out of the Nicklaus Family Office to pursue deals for commercial endorsements and other exploitation of the Nicklaus IP without the consent, review or approval of Nicklaus Companies. Such activities have irreparably damaged the Company, including by interfering with its ability to pursue more expansive relationships that would have meant greater compensation for the Company.

60. During the period since Mr. Nicklaus left the Company's offices in 2017, the Company has made numerous attempts to coordinate the activities being undertaken by Mr. Nicklaus and GBI through the Nicklaus Family Office with the Company's business activities, in an effort to end the repeated violations of the Company's rights and potential conflicts between Mr. Nicklaus' private business activities and the businesses and intellectual property sold to the Company in 2007.

61. On several occasions, most recently in 2021, Mr. Nicklaus has agreed to adopt procedures through the Nicklaus Family Office to remedy the problems created for the Company by his unilateral, unauthorized actions. Mr. Nicklaus has assured the Company that he would refer all commercial marketing opportunities to the Company for vetting. However, these procedures have not been followed or respected by Mr. Nicklaus and the Nicklaus Family Office.

62. Despite diligent efforts by the Company to identify and resolve this wrongful conduct on an amicable basis, Mr. Nicklaus has persisted in acting contrary to the best interests of the Company—to the ongoing damage of the Company.

63. Set forth below are just a few of the examples of this pattern of conduct in which Mr. Nicklaus—for his own personal benefit—has pursued commercial transactions in derogation of Nicklaus Companies' exclusive rights to the Nicklaus IP. The repetitive nature of the

unauthorized and wrongful acts by Mr. Nicklaus (and other similar acts of misconduct), and efforts to conceal them from Nicklaus Companies, have created a good faith basis for the Company to believe that Mr. Nicklaus may have engaged in many other similar acts detrimental to the interests of the Company during the period covered by this Complaint which are not yet known to the Company, and which may be identified during the course of discovery in this case and form the basis for additional claims against GBI and Mr. Nicklaus.

F. Defendants' Wrongful Conduct with Respect to the Soudal Open and Resulting Damage to Nicklaus Companies

64. In approximately September 2021, Mr. Nicklaus engaged in negotiations with a Belgian event promoter ("Promoter") for a substantial cash payment to endorse and promote the Soudal Open. This European Tour event represented the return of tournament golf to Belgium after an extended period without a professional tour event.

65. Mr. Nicklaus signed an agreement (the "Soudal Open Agreement"), in which he agreed to make paid promotional marketing appearances at the Soudal Open on May 14 and 15, 2022, and in addition to his personal services, he purported to license to Promoter the right to use the Nicklaus IP to advertise and promote the tournament for a lesser cash payment regardless of whether he ultimately attended the event. This agreement was in direct contravention of Nicklaus Companies' exclusive rights to the Nicklaus IP.

66. Although Nicklaus Companies had been told that Mr. Nicklaus was considering attending the Soudal Open as a guest, the Company was not informed of any request from the promoter of the event for an endorsement from Mr. Nicklaus, any license for the promoter to use any of the Nicklaus IP to advertise or market the event, or any payment being solicited for Mr. Nicklaus to provide his endorsement services or license the Nicklaus IP.

67. Although Mr. Nicklaus executed the Soudal Open Agreement on November 16, 2021, Nicklaus Companies first received notice of Mr. Nicklaus's commitment to make paid promotional marketing appearances and his unauthorized agreement to license Nicklaus IP more than a week later on November 24, 2021. This notice was delivered to the Company offices after the Company had closed for its Thanksgiving break.

68. Before Nicklaus Companies could react to this 13th hour notice, Mr. Nicklaus worked with Promoter to announce his appearance on its "press day" for the tournament and provided Promoter with a promotional video from him endorsing the tournament. This was released and posted by Promoter as part of its promotional activities before the Company had an opportunity to object.

69. In addition to granting an unauthorized license of the Nicklaus IP to Promoter, the Soudal Open Agreement restricted Mr. Nicklaus from attending other public events in Belgium for a blackout period starting 60 days before and ending 30 days after his promotional appearances at the Soudal Open. Although such a commitment would effectively limit the ability of Nicklaus Companies to provide Mr. Nicklaus's services to other existing and potential clients for approximately one quarter of 2022, the Company was excluded from the negotiation process and was given no opportunity to object to this provision before Mr. Nicklaus signed the Soudal Open Agreement.

70. The Soudal Open Agreement actually purported to restrict Mr. Nicklaus's ability to perform work for an existing client of Nicklaus Companies. By directly endorsing and promoting a tournament held on a long-established golf course not designed by Nicklaus Design, Mr. Nicklaus also created a major conflict with longstanding marketing programs of the Company which position Nicklaus Design as the pre-eminent designer of golf courses for tournament play,

and with specific efforts made by Mr. Nicklaus personally to market tournament quality designs in Europe and other parts of the world. Nicklaus Companies was forced to expend considerable resources to resolve the conflict caused by Mr. Nicklaus, which threatened the Company with loss of goodwill from existing clients, irreparable damage to marketing programs (which have been successfully employed by Nicklaus Design over the years), and potential litigation related to past marketing efforts.

71. Despite demands by Nicklaus Companies that Promoter cease and desist from further use of Mr. Nicklaus's endorsement and the Nicklaus IP to advertise, market and promote the Soudal Open, Promoter used the endorsement materials without the consent of Nicklaus Companies from on or about November 30, 2021, until on or about March 17, 2022. Although Mr. Nicklaus eventually advised Promoter that he did not intend to make the personal marketing appearances scheduled under the Soudal Open Agreement, Promoter persisted in its use of the Nicklaus IP for more than three months, citing the purported grant of a license of from Mr. Nicklaus in the Soudal Open Agreement—which was negotiated without the knowledge or consent of Nicklaus Companies.

72. As a result of Mr. Nicklaus's transaction with Promoter, and Promoter's consequent refusal to recognize Nicklaus Companies' rights to control the Nicklaus IP, the Company has been forced to expend time, effort and money (including substantial legal fees and costs) to protect its rights to control the use of the Nicklaus IP in Belgium and to preserve the value of the exclusive golf course design rights that it exercised through Nicklaus Design.

G. Defendants' Wrongful Conduct with Respect to a Leading Sports Video Game Developer and Resulting Damage to Nicklaus Companies

73. In or around May 2021, Nicklaus Companies contacted a leading sports video game developer ("Developer"), regarding an anticipated new game incorporating the Masters golf tournament and the PGA Tour.

74. Nicklaus Companies had previously established licensing agreements with Developer—which has been a leader in video golf games for many years—to license the name and likeness of Mr. Nicklaus in connection with prior editions of its video games. In light of the fact that Mr. Nicklaus has the most victories in the Major tournaments of any golf player—including six Masters victories—Mr. Nicklaus was a natural, and highly desired, candidate for inclusion in Developer's latest golf video game.

75. In response to the Company's inquiries, a representative from Developer replied that Developer had previously been in discussions with an agent of Mr. Nicklaus through the Nicklaus Family Office regarding the use of the name and likeness of Mr. Nicklaus within the planned video game.

76. The representative explained that Mr. Nicklaus—who had never informed Nicklaus Companies' Marketing group of any such marketing and licensing opportunity—had turned down pursuing any form of marketing association or license with Developer without having ever even consulted with Nicklaus Companies.

77. Given Nicklaus Companies' prior relationship with Developer (an industry leader) and the key demographic of young golf enthusiasts that Developer reaches, the Company was eager to pursue a further deal with Developer. Due to the actions of Mr. Nicklaus, Nicklaus Companies was compelled to expend extraordinary time, effort and money to salvage a deal with Developer to use Mr. Nicklaus's name and likeness in a video game.

78. Mr. Nicklaus's wrongful conduct sowed confusion on the part of Developer, risked current and future revenue opportunities, and damaged Nicklaus Companies' goodwill with a strategic business partner.

H. Defendants' Wrongful Conduct with Respect to PIF Saudi Investment Fund and Resulting Damage to Nicklaus Companies

79. In the Spring of 2021, Nicklaus Companies learned, after the fact, that Mr. Nicklaus was involved in scheduling a personal meeting with both the Chairman and the Chief Executive Officer of Golf Saudi, who because of their positions have substantial influence over the development of golf facilities by funds and developers associated with the Saudi government and the selection of designers by the developers of such golf facilities.

80. Upon information and belief, the purpose of the private meetings was to negotiate an agreement for Mr. Nicklaus to provide his public support and use his considerable influence in professional golf to promote a new golf league backed by Golf Saudi, which would have been a direct rival to the PGA Tour. This proposed new league had been publicly opposed by the PGA Tour.

81. The negotiation by Mr. Nicklaus of a deal that would compensate him for publicly supporting a new golf league would have been contrary to the rights assigned to Nicklaus Companies, and would have been improper without the Company's being informed and consenting to the business relationship. Such a deal, with Mr. Nicklaus being paid to endorse a rival of the PGA Tour, also could have resulted in negative publicity, especially given Mr. Nicklaus's widespread recognition as one of the three founders of the modern PGA Tour.

82. Due to the open conflict between the PGA Tour and the Saudi-backed league at the time Mr. Nicklaus was meeting with Golf Saudi, and the consequent turmoil created with leading Tour sponsors and other businesses interested in the sport of golf, Mr. Nicklaus's involvement in

the effort would have risked his goodwill and reputation in the sport of golf, and consequently, the marketing value of his endorsement and the Nicklaus IP. Subsequent events involving the program, including a major public relations debacle involving golfer Phil Mickelson's paid endorsement of the proposed league which resulted in the loss of many of his longstanding marketing relationships, have created even more controversy and negative press which would have further damaged Mr. Nicklaus' reputation in the golf world.

83. Because of the strong public identification between Mr. Nicklaus and Nicklaus Companies, the public association of Mr. Nicklaus with the Saudi-backed league concept would have posed substantial risks to existing business and professional relationships and other business opportunities of the Company with American groups and sponsors traditionally identified with the PGA Tour, and with other businesses concerned about the negative press coverage of the program and the Mickelson issues.

84. Adding to the difficulty of the situation, Nicklaus Design had established a preexisting relationship with the PIF Saudi Investment Fund for a project at the new city of Qiddiya in Saudi Arabia, as a result of substantial independent marketing efforts made by Nicklaus Design and the Company to demonstrate the professionalism and depth of its staff and success of its business model in other projects.

85. Based upon the efforts made and contacts developed with respect to the Qiddiya project, Nicklaus Companies was pursuing several other projects being developed under the authority of Golf Saudi through regular business channels at the time that Mr. Nicklaus was arranging private meetings with its top officials at The Bear's Club in Jupiter, Florida. Based upon its own marketing efforts, Nicklaus Design was able to sign an agreement for a staff design golf

course at Amaala Island in the Red Sea, and has continued to work actively with its contacts to develop and capture additional design opportunities in Saudi Arabia.

86. By pursuing a controversial golf league program with the leaders of Golf Saudi for his own personal enrichment, Mr. Nicklaus encouraged Golf Saudi to recruit him to endorse their controversial golf league program, rather than using his access to encourage Golf Saudi to support the efforts of Nicklaus Companies to establish Nicklaus Design as a preferred supplier of golf design services to projects controlled by Golf Saudi.

87. Mr. Nicklaus's pursuit of his own personal agenda and financial interests at the expense of Nicklaus Companies has threatened to turn high-level contacts between Mr. Nicklaus and the top officials of Golf Saudi—which could have been beneficial to Nicklaus Design's efforts to expand its business in Saudi Arabia and market more Jack Nicklaus Signature designs, if disclosed to and coordinated with the Company—into a commercial disaster. Mr. Nicklaus's conduct risked either damage to the overall goodwill of the Company—if he concluded his unauthorized endorsement agreement—or damage to Nicklaus Design's business development efforts in Saudi Arabia—if he did not. Depending on how the controversy progresses, Mr. Nicklaus's conduct could result in additional damage to the Company.

88. Fortunately for Nicklaus Companies—and Mr. Nicklaus—the Company was eventually able to convince Mr. Nicklaus to stop exploring a deal for the endorsement of the Saudi-backed league. The Company essentially saved Mr. Nicklaus from himself by extricating him from a controversial project that could have not only tarnished his legacy and reputation, but severely damaged the Nicklaus Companies' name, brands and business.

89. Thanks to the intervention of Nicklaus Companies, the Company was able to minimize fallout from the situation and protect the goodwill and good name of both the Company

and Mr. Nicklaus. The potential irreparable harm that Nicklaus Companies faced had Mr. Nicklaus's unauthorized activities not been abandoned has been highlighted by the continued statements made by the PGA Tour and various leading Tour players and the substantial negative news coverage criticizing Phil Mickelson's involvement as a paid endorser of the Saudi-backed golf league. If not for the efforts of Nicklaus Companies, Mr. Nicklaus could have been pilloried in the news media for accepting payment for what could be characterized as betraying the PGA Tour.

I. Defendants' Wrongful Conduct with Respect to a National Financial Advisory Group and Resulting Damage to Nicklaus Companies

90. In early February 2021, Nicklaus Companies learned that an agent of Mr. Nicklaus in the Nicklaus Family Office had been negotiating with a national financial advisory group ("Advisor") with respect to a personal services agreement for Mr. Nicklaus to market and promote the various services offered by Advisor and its affiliates—that would have meant no revenue for the Company.

91. When the Company's CEO finally had the opportunity to engage with the representatives of Advisor, he learned that Advisor preferred pursuing a strategic marketing relationship and commercial endorsement of its various business services, which could only be provided through the Company due to its exclusive rights to Mr. Nicklaus's commercial endorsements and the Nicklaus IP. Because of delays created by the Nicklaus Family Office, and deadlines imposed by Advisor, Nicklaus Companies was forced to work quickly to jettison the deal the Nicklaus Family Office had been negotiating and to achieve the deal that Advisor preferred. The agreement was executed on March 16, 2021.

92. The Company was able to negotiate a comprehensive marketing alliance agreement with Advisor to utilize the Nicklaus IP and the Company's marketing support, with limited

personal services from Mr. Nicklaus, for total guaranteed fees several times in excess of the appearance fees that were being negotiated with the Nicklaus Family Office when the negotiations were turned over to the Company. On information and belief, the appearance fee negotiated by Mr. Nicklaus was less than a third of the \$2 million-plus deal the Company easily obtained after the potential deal had been brought to the attention of the Company, enabling it to develop and present a comprehensive marketing plan to Advisor. Ironically, the deal the Company negotiated meant more net compensation for Mr. Nicklaus personally than he had been negotiating, and unlike the Nicklaus Family Office “deal,” provided a major source of revenue for the Company’s marketing business. The Company was also able to negotiate the opportunity for additional compensation, and has continued working since the marketing agreement was executed to add value to the relationship and enhance future revenue opportunities in line with what should have been achieved from the outset in an orderly negotiation process.

93. After the agreement with Advisor was executed, Nicklaus Companies learned that when Mr. Nicklaus was initially contacted by the agent retained by Advisor to handle its golf presence, Mr. Nicklaus directed the negotiations towards having Mr. Nicklaus attend a marketing event or social function hosted by Advisor, despite Advisor’s expressed desire to have the kind of full endorsement and strategic marketing relationship which could be provided only by the Company.

J. Defendants’ Continuing Wrongful Conduct

94. GBI controlled Mr. Nicklaus, who was not only an officer and director of GBI, but was also its Designee on the Company’s Board, which (pursuant to the LLC Agreement) obligated him to follow the directions of GBI. Accordingly, GBI was responsible for Mr. Nicklaus’s acts and omissions relating to Nicklaus Companies, by reason of his positions as GBI’s Designee on the Company’s Board and as an officer and director of GBI. GBI, however, has failed to take any

action to restrain Mr. Nicklaus from acting in derogation of Nicklaus Companies' rights to the Nicklaus IP as it was obligated to do under the Purchase and Sales Agreement and the LLC Agreement, including under those agreements' implied covenants of good faith and fair dealing.

95. On or about May 3, 2022, Mr. Nicklaus abruptly announced that he was resigning as an officer and director of Nicklaus Companies and would no longer accept design or endorsement projects through the Company.

96. Pursuant to the Transaction Agreements, although Mr. Nicklaus has announced his resignation from positions at Nicklaus Companies, the Company retains the exclusive rights to the golf course design work and the Nicklaus IP.

97. GBI and Mr. Nicklaus remain Members of Nicklaus Companies and are subject to the terms of the LLC Agreement, including as amended by the EGC Agreement.

98. Despite Jack Nicklaus's and GBI's continuing obligations and Nicklaus Companies' continuing exclusive rights to the Nicklaus IP, Mr. Nicklaus has wrongfully asserted that he is now free of any restrictions on his ability to design golf courses and endorse products.

99. Mr. Nicklaus's wrongful assertion amounts to a repudiation of Nicklaus Companies' rights to the Nicklaus IP and threatens irreparable damage to the Company's ability to attract and retain business relating to those rights.

100. The above misconduct by GBI and Mr. Nicklaus defeats the purpose of both the LLC Agreement and the Purchase and Sale Agreement, which was to transfer exclusive rights to the Nicklaus IP and other assets to Nicklaus Companies (in exchange for \$145 million) in order to enable the Company to exercise these rights in its business. GBI and Mr. Nicklaus have been cheating the Company out of the benefits of the exclusive rights it has purchased from them in order to divert opportunities for their personal benefit.

101. The above-described acts by GBI and Mr. Nicklaus are in flagrant disregard for the rights of Nicklaus Companies and constitute bad faith acts of willful misconduct that are contrary to the best interests of the Company.

102. On information and belief, GBI and Mr. Nicklaus have engaged in additional incidents in which business opportunities for the Company were intercepted and: (a) the opportunity was rejected by Mr. Nicklaus without making the Company aware of it (as in the situation with Developer alleged above), and the potential client did not thereafter come into contact with the Company; or (b) Mr. Nicklaus attempted to steer a Nicklaus Company opportunity for a marketing and endorsement relationship into a one-off personal appearance deal (as in the situation with Advisor alleged above) and the potential client rejected such attempt, but did not subsequently follow up with an authorized representative of the Company to pursue the opportunity; or (c) the potential client accepted an attempt to steer an opportunity for a marketing and endorsement relationship into a one-off personal appearance deal without the Company ever being made aware of the opportunity, and Mr. Nicklaus kept the benefit of such opportunity for himself when it was rightfully a corporate opportunity of the Company. The Company anticipates discovering additional such incidents through discovery.

FIRST CAUSE OF ACTION

(Breach of Contract—Against Mr. Nicklaus)

103. Nicklaus Companies repeats and realleges the allegations contained in all prior paragraphs as if set forth fully herein.

104. Nicklaus Companies and Mr. Nicklaus entered into the LLC Agreement, which is a binding and enforceable agreement.

105. Nicklaus Companies has performed its obligations under the LLC Agreement.

106. Mr. Nicklaus breached the LLC Agreement by breaching that contract's implied covenant of good faith and fair dealing by engaging in bad faith acts against the best interests of the Company, including unauthorized exploitation of the Nicklaus IP and acts in derogation of the Company's rights, including diversion of corporate opportunities and risking the Company's intellectual property for personal gain. These wrongful acts defeated the purpose of the LLC Agreement, which was for Nicklaus Companies to engage in the businesses of golf course design services, licensing the Nicklaus IP and marketing personal endorsements and other publicity rights of Mr. Nicklaus for commercial purposes.

107. Nicklaus Companies has been injured in the form of damaged relationships and goodwill with clients and potential clients and in the sport of golf. Nicklaus Companies has also suffered monetary damage in the form of lost revenues, expenditures of funds to protect the Nicklaus IP and reduced revenues from deals in which Mr. Nicklaus's wrongful conduct resulted in the Company offering its services and/or providing licenses of the Nicklaus IP at a rate below its going rate in order to salvage an actual or potential business relationship or to avoid embarrassment or public confusion.

108. By reason of the foregoing, Nicklaus Companies has been injured in an amount to be determined at trial.

109. Nicklaus Companies will continue to be irreparably harmed without the issuance of an injunction, due to Mr. Nicklaus's imminent and ongoing interference with Nicklaus Companies' brands, trademarks and business relations, and the resulting damage to Nicklaus Companies' brands, trademarks and its reputation among existing and prospective customers, licensees, clients, business partners, and the business community at large.

110. Nicklaus Companies has no adequate remedy at law for Mr. Nicklaus's misconduct, insofar as it will be impossible to accurately value the full negative impact of that misconduct on the Company's business. Thus, injunctive relief is appropriate.

111. An injunction in Nicklaus Companies' favor would serve the public interest.

SECOND CAUSE OF ACTION

(Breach of Contract—Against GBI)

112. Nicklaus Companies repeats and realleges the allegations contained in all prior paragraphs as if set forth fully herein.

113. GBI breached the LLC Agreement by breaching that contract's implied covenant of good faith and fair dealing by permitting Mr. Nicklaus, its officer and director and the GBI Designee on the Company's Board, to engage in bad faith acts against the best interests of the Company, including unauthorized exploitation of the Nicklaus IP and acts in derogation of the Company's rights, including diversion of corporate opportunities and risking the Company's intellectual property for personal gain. These wrongful acts defeated the purpose of the LLC Agreement, which was for Nicklaus Companies to engage in the businesses of golf course design services, licensing the Nicklaus IP and marketing personal endorsements and other publicity rights of Mr. Nicklaus for commercial purposes.

114. Nicklaus Companies has been injured in the form of damaged relationships and goodwill with clients and potential clients and in the sport of golf. Nicklaus Companies has also suffered monetary damage in the form of lost revenues, expenditures of funds to protect the Nicklaus IP and reduced revenues from deals in which GBI's wrongful conduct resulted in the Company offering its services and/or providing licenses of the Nicklaus IP at a rate below its going

rate in order to salvage an actual or potential business relationship or to avoid embarrassment or public confusion.

115. By reason of the foregoing, Nicklaus Companies has been injured in an amount to be determined at trial.

116. Nicklaus Companies will continue to be irreparably harmed without the issuance of an injunction, due to GBI's and Mr. Nicklaus's imminent and ongoing interference with Nicklaus Companies' brands, trademarks and business relations, and the resulting damage to Nicklaus Companies' brands, trademarks and its reputation among existing and prospective customers, licensees, clients, business partners, and the business community at large.

117. Nicklaus Companies has no adequate remedy at law for GBI's misconduct, insofar as it will be impossible to accurately value the full negative impact of that misconduct on the Company's business. Thus, injunctive relief is appropriate.

118. An injunction in Nicklaus Companies' favor would serve the public interest.

THIRD CAUSE OF ACTION

(Breach of Contract—Against GBI)

119. Nicklaus Companies repeats and realleges the allegations contained in all prior paragraphs as if set forth fully herein.

120. GBI breached the Purchase and Sale Agreement, including its obligations to make effective the transfer of the Nicklaus IP and other purchased assets to Nicklaus Companies and its implied covenant of good faith and fair dealing, by permitting the unauthorized exploitation of the Nicklaus IP and bad faith acts in derogation of the Company's rights, including diversion of corporate opportunities and risking the Company's intellectual property for personal gain.

These wrongful acts defeated the purpose of the Purchase and Sale Agreement, which was to make effective the transfer of the Nicklaus IP and other purchased assets to Nicklaus Companies.

121. Nicklaus Companies has been injured in the form of damaged relationships and goodwill with clients and potential clients and in the sport of golf. Nicklaus Companies has also suffered monetary damage in the form of lost revenues, expenditures of funds to protect the Nicklaus IP and reduced revenues from deals in which Mr. Nicklaus's wrongful conduct resulted in the Company offering its services and/or providing licenses of the Nicklaus IP at a rate below its going rate in order to salvage an actual or potential business relationship or to avoid embarrassment or public confusion.

122. By reason of the foregoing, Nicklaus Companies has been injured in an amount to be determined at trial.

123. Nicklaus Companies will continue to be irreparably harmed without the issuance of an injunction, due to GBI's and Mr. Nicklaus's imminent and ongoing interference with Nicklaus Companies' brands, trademarks and business relations, and the resulting damage to Nicklaus Companies' brands, trademarks and its reputation among existing and prospective customers, licensees, clients, business partners, and the business community at large.

124. Nicklaus Companies has no adequate remedy at law for GBI's misconduct, insofar as it will be impossible to accurately value the full negative impact of that misconduct on the Company's business. Thus, injunctive relief is appropriate.

125. An injunction in Nicklaus Companies' favor would serve the public interest.

FOURTH CAUSE OF ACTION**(Tortious Interference with Contract—Against Mr. Nicklaus)**

126. Nicklaus Companies repeats and realleges the allegations contained in all prior paragraphs as if set forth fully herein.

127. Nicklaus Companies and GBI entered into the Purchase and Sale Agreement, which is a binding and enforceable agreement.

128. Nicklaus Companies has performed its obligations under the Purchase and Sale Agreement.

129. The Purchase and Sale Agreement obligates GBI to use its reasonable best efforts to do all things necessary to make effective the transfer of the Nicklaus IP and other purchased assets to Nicklaus Companies.

130. Mr. Nicklaus tortiously interfered with the Purchase and Sale Agreement by intentionally and improperly causing GBI to breach that contract, including its obligations to make effective the transfer of the Nicklaus IP and other purchased assets to Nicklaus Companies and its implied covenant of good faith and fair dealing, by permitting the unauthorized exploitation of the Nicklaus IP and acts in derogation of the Company's rights, including diversion of corporate opportunities and risking the Company's intellectual property for personal gain. These wrongful and bad faith acts defeated the purpose of the Purchase and Sale Agreement, which was to make effective the transfer of the Nicklaus IP and other purchased assets to Nicklaus Companies.

131. Nicklaus Companies has been injured in the form of damaged relationships and goodwill with clients and potential clients and in the sport of golf. Nicklaus Companies has also suffered monetary damage in the form of lost revenues, expenditures of funds to protect the

Nicklaus IP and reduced revenues from deals in which Mr. Nicklaus's wrongful conduct resulted in the Company offering its services and/or providing licenses of the Nicklaus IP at a rate below its going rate in order to salvage an actual or potential business relationship or to avoid embarrassment or public confusion.

132. By reason of the foregoing, Nicklaus Companies has been injured in an amount to be determined at trial.

133. Nicklaus Companies will continue to be irreparably harmed without the issuance of an injunction, due to Mr. Nicklaus's imminent and ongoing interference with Nicklaus Companies' brands, trademarks and business relations, and the resulting damage to Nicklaus Companies' brands, trademarks and its reputation among existing and prospective customers, licensees, clients, business partners, and the business community at large.

134. Nicklaus Companies has no adequate remedy at law for Mr. Nicklaus's misconduct, insofar as it will be impossible to accurately value the full negative impact of that misconduct on the Company's business. Thus, injunctive relief is appropriate.

135. An injunction in Nicklaus Companies' favor would serve the public interest.

FIFTH CAUSE OF ACTION

(Breach of Fiduciary Duty—Against Mr. Nicklaus)

136. Nicklaus Companies repeats and realleges the allegations contained in all prior paragraphs as if set forth fully herein.

137. As a Member of the Company, a Board member, CEO and Co-Chairman, Mr. Nicklaus owes fiduciary duties to the Company, including the duties of care, loyalty and good faith.

138. Mr. Nicklaus breached his fiduciary duties to the Company by engaging in bad faith acts against the best interests of the Company, including unauthorized exploitation of the Nicklaus IP and acts in derogation of the Company's rights, including diversion of corporate opportunities and risking the Company's intellectual property for personal gain.

139. Nicklaus Companies has been injured in the form of damaged relationships and goodwill with clients and potential clients and in the sport of golf. Nicklaus Companies has also suffered monetary damage in the form of lost revenues, expenditures of funds to protect the Nicklaus IP and reduced revenues from deals in which Mr. Nicklaus's wrongful conduct resulted in the Company offering its services and/or providing licenses of the Nicklaus IP at a rate below its going rate in order to salvage an actual or potential business relationship or to avoid embarrassment or public confusion.

140. By reason of the foregoing, Nicklaus Companies has been injured in an amount to be determined at trial.

141. Nicklaus Companies will continue to be irreparably harmed without the issuance of an injunction, due to Mr. Nicklaus's imminent and ongoing interference with Nicklaus Companies' brands, trademarks and business relations, and the resulting damage to Nicklaus Companies' brands, trademarks and its reputation among existing and prospective customers, licensees, clients, business partners, and the business community at large.

142. Nicklaus Companies has no adequate remedy at law for Mr. Nicklaus's misconduct, insofar as it will be impossible to accurately value the full negative impact of that misconduct on the Company's business. Thus, injunctive relief is appropriate.

143. An injunction in Nicklaus Companies' favor would serve the public interest.

SIXTH CAUSE OF ACTION**(Breach of Fiduciary Duty—Against GBI)**

144. Nicklaus Companies repeats and realleges the allegations contained in all prior paragraphs as if set forth fully herein.

145. As a Member of the Company, whose Designee (subject to the Control of GBI) on the Board was Mr. Nicklaus, GBI owes fiduciary duties to the Company, including the duties of care, loyalty and good faith.

146. GBI breached its fiduciary duties to the Company by permitting Mr. Nicklaus to engage in bad faith acts against the best interests of the Company, including unauthorized exploitation of the Nicklaus IP and acts in derogation of the Company's rights, including diversion of corporate opportunities and risking the Company's intellectual property for personal gain.

147. Nicklaus Companies has been injured in the form of damaged relationships and goodwill with clients and potential clients and in the sport of golf. Nicklaus Companies has also suffered monetary damage in the form of lost revenues, expenditures of funds to protect the Nicklaus IP and reduced revenues from deals in which GBI's wrongful conduct resulted in the Company offering its services and/or providing licenses of the Nicklaus IP at a rate below its going rate in order to salvage an actual or potential business relationship or to avoid embarrassment or public confusion.

148. By reason of the foregoing, Nicklaus Companies has been injured in an amount to be determined at trial.

149. Nicklaus Companies will continue to be irreparably harmed without the issuance of an injunction, due to GBI's and Mr. Nicklaus's imminent and ongoing interference with

Nicklaus Companies' brands, trademarks and business relations, and the resulting damage to Nicklaus Companies' brands, trademarks and its reputation among existing and prospective customers, licensees, clients, business partners, and the business community at large.

150. Nicklaus Companies has no adequate remedy at law for GBI's misconduct, insofar as it will be impossible to accurately value the full negative impact of that misconduct on the Company's business. Thus, injunctive relief is appropriate.

151. An injunction in Nicklaus Companies' favor would serve the public interest.

PRAYER FOR RELIEF

WHEREFORE, Nicklaus Companies prays for relief as follows:

- A. A declaratory judgment that GBI and Mr. Nicklaus can provide Mr. Nicklaus's golf course design services and commercial endorsements, and grant licenses to use the Nicklaus IP, only through Nicklaus Companies;
- B. An injunction ordering GBI and Mr. Nicklaus to cease providing Mr. Nicklaus's golf course design and marketing services (including commercial endorsements) and offering rights to use Nicklaus IP for commercial purposes, without first obtaining authorization from Nicklaus Companies;
- C. Compensatory damages;
- D. Consequential damages;
- E. Attorney's fees, costs and necessary disbursements;
- F. Pre-judgment and post-judgment interest as allowed by law; and
- G. Any and all other relief that the Court deems just and proper.

Dated: May 13, 2022
New York, New York

Respectfully submitted,

/s/ Gary J. Malone

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