Court File No.

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

IN BANRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE RECEIVERSHIP OF ROYAL OAKS GOLF CLUB INC.

PURSUANT TO SECTION 33 OF THE *JUDICATURE ACT*, R.S.N.B. 1973, c. J-2, RULE 41 OF THE RULES OF COURT, N.B. REG 82-73 and SECTION 243 OF THE *BANKRUPTCY AND INCOLVENCY ACT*

BETWEEN:

CWB MAXIMUM FINANCIAL INC.,

Applicant

-and-

ROYAL OAKS GOLF CLUB INC.

Respondent

Affidavit of Rod Randall

I, Rod Randall, of the City of Edmonton, and Province of Alberta, MAKE OATH AND SAY THAT:

1. I am an Assistant Vice President and Manager, of the Special Asset Management Unit of the Applicant, CWB Maximum Financial Inc. ("CWB").

2. I have personal knowledge of the evidence sworn in this affidavit except where otherwise stated to be based on information and belief.

3. I state, in this affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.

Parties

4. CWB is a lender that provides financing solutions to businesses across Canada. It is an extra-provincial corporation incorporated pursuant to the *Business Corporations Act*, with a registered office in Saint John, New Brunswick.

5. Royal Oaks was incorporated on July 18, 2007. A true copy of the New Brunswick Corporate Profile is attached hereto as **Exhibit "A"**. It operates a golf course in Moncton, New Brunswick.

CWB Security

6. On or about November 23, 2012 633003 N.B. Inc. applied to CWB and was approved for a loan in the amount of $2,150,000.00 with interest calculated and compounded monthly, not in advance, at 7.59% per annum. A true copy of the Promissory Note is attached hereto as **Exhibit "B"**.

7. 633003 N.B. Inc. changed its name to Royal Oaks on or about May 1, 2015.

8. As security for the loan, the following was signed in favour of CWB:

   - Collateral Mortgage and Assignment of Rents dated November 5, 2012, which was registered against the land owned by Royal Oaks situate at 15 Congressional Crescent, Moncton, New Brunswick, more particularly described as PID Nos. 70344148; 70327937 and 70488663 on November 23, 2012 as document no. 32193048 ("Property"). True copies of which are attached hereto as **Exhibit "C"**.

   - A General Security Agreement. A true copy of the *Personal Property Security Act* registration is attached hereto as **Exhibit "D"**.

9. On or about December 13, 2017, Royal Oaks applied to CWB and was approved for a further loan in the amount of $2,150,000.00 with interest calculated and compounded monthly not in advance, at 6.67% per annum ("2017 Promissory Note"). A true copy of the Promissory Note is attached hereto as **Exhibit "E"**.

10. This loan was for capital improvements to the golf course owned by Royal Oaks.

11. As security for the loan, the following was signed by Royal Oaks in favour of CWB:

- General Security Agreement dated December 13, 2017, a true copy of which is attached hereto as **Exhibit "F**. It was registered pursuant to the *Personal Property Security Act,* a true copy of which is attached hereto as Exhibit "**F1**" ("2017 General Security Agreement").

- Guarantee signed by Patrick Miniutti dated December 13, 2017, a true copy of which is attached hereto as **Exhibit "G"**;

- Guarantee signed by Esmond Cloutier dated December 13, 2017, a true copy of which is attached hereto as **Exhibit "H"**.

- Guarantee signed by Ron Hrynyk dated December 13, 2017, a true copy of which is attached hereto as **Exhibit "I"**.

12. The 2017 Promissory Note is also secured by the Collateral Mortgage. Because Sunset CRE Investments LLP registered a mortgage against the Property, it executed a Postponement Agreement in favour of Royal Oaks. TW1 Oaks Inc. also executed a Postponement agreement, but it does not have a registered mortgage against the Property.

13. The shareholders of TW1 Oaks Inc are Mr. Clouthier and Ms. Clouthier.

14. Attached hereto as **Exhibit "J"** are true copied of the Postponement Agreements.

15. The 2017 General Security Agreement secures all the "present and after acquired property" of Royal Oaks.

16. Mr. Miniutti was the President of Royal Oaks and signed the above-mentioned documentation on its behalf. He is no longer the President of Royal Oaks.

17. The General Security Agreement states, in part, the following:

> **15. Default**
> You shall be in default under the Agreement upon the happening of any of the following remedies:
>
> (d) you become insolvent or bankrupt or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver, or trustee or receiver shall be appointed for you for a substantial part of your property without your consent.

18. The Promissory Note was amended on September 15, 2020, January 18, 2023, May 19, 2023, and July 15, 2023. Mr. Clouthier executed the Amending Agreements as president of Royal Oaks. Attached hereto as **Exhibit "K"** are true copies of the Amending Agreements.

Default of Royal Oaks

19. Royal Oaks defaulted under the terms and conditions of its various security outlined herein.

20. The amount owing on September 22, 2023 to CWB was in the sum of $1,904,896.28.

21. On October 13, 2023, CWB forwarded the following demands and notices to Royal Oaks by regular and registered mail:

- Demand Arrears Letter dated October 13, 2023, regarding the Collateral Mortgage, together with a Notice pursuant to section 244 of the *Bankruptcy and Insolvency Act.*, a true copy which is attached hereto as **Exhibit "L"**;

- Demand Letter dated October 13, 2023, regarding the 2017 General Security Agreement together with a Notice to Enforce Security pursuant to the *Personal Property Security Act,* a true copy of which is attached hereto as **Exhibit "M".**

22. On October 13, 2023, the letters were also forwarded by regular and registered mail to the following: Mr. Cloutier; Ms. Cloutier; the Estate of Miniutti; and Mr. Hrynyk, true copies of which are attached hereto as **Exhibits "N" and "O"** respectively.

23. The default was not cured.

Shareholder Dispute

24. Instead, TW1 Oaks Inc. ("TW1"), of which Mr. Clouthier and Ms. Clouthier are the directors and officers, filed a Notice of Application on December 4, 2023 with the Court of King's Bench of New Brunswick – Judicial District of Moncton for, *inter alia*, an order directing HR Corporate Strategies Inc. to sell its outstanding common shares in Royal Oaks to TW1 because Royal Oaks cannot obtain financing to satisfy the debt of CWB, a true copy of which is attached hereto as **Exhibit "P"**.

25. The officer and director of HR Corporate Strategies Inc is Mr. Hrynyk.

26. I am advised by Joshua J. Santimaw, lawyer for the CWB on December 4, 2023, which I verily believe to be true, that a shareholder disputes exists between HR and TW1 which precipitated the filing of the Notice of Application.

27. The Notice of Application was heard by Madam Justice Maya Hamou on February 2, 2024 and dismissed on procedural grounds on February 14, 2024. A true copy of the written reasons of Madam Justice Hamou is attached hereto as **Exhibit "Q"**.

Receivership and Sales Process

28. As a result, CWB appointed Deloitte Restructuring Inc. as private receiver on February 16, 2024, a true copy of the appointment letter is attached hereto as **Exhibit "R".**

29. CWB now considers that the appointment of a Receiver for Royal Oaks pursuant to s. 243 of the *Bankruptcy and Insolvency Act* is both necessary and desirable, as it will allow for the preservation and protection of the golf course pending completion of a sale process by the Receiver, subject to the supervision and approval of this Honourable Court.

30. Attached hereto as **Exhibit "S"** are true copies of the Certificates of Registered Ownership for the Property.

31. I make this affidavit in support of CWB's Motion seeking the appointment of Deloitte as Receiver of all the property, assets, and undertaking of Royal Oaks.

Sworn to before me
on March 19, 2024
at Edmonton, AB

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature of authority

Signature of witness
Print name: Rod Randall

A

Exhibit Stamp

No.

This is Exhibit "A" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

Corporate Affairs Registry Database

Help

The credit card transaction was successful

- Transaction Amount: **$3.45**
- Transaction #: **3698518**
- Authorization #: **152833**
- Date of Transaction: **2017-12-11 04:28:45**
- HST #: **10786 3888 RT0006**

We recommend that you print this screen and retain it with your records

New Search | Previous

General Information	
Reference Number:	633003
Name:	Royal Oaks Golf Club Inc.
Registration Date:	2007-07-18
Category Code:	60
Category:	corporation – Business Corporations Act
Status Code:	B
Status:	Active
Last Status Change Date:	2017-08-31

Available Documents

Clickhereto view electronic documents for this record.
Clickhereto order paper copies of documents.
Clickhereto order certified copies of documents.

Annual Return Information	
Last Annual Return Filed:	2016

Name Change History	
Business Names:	633003 N.B. Inc.
Name Change Date:	2015-04-15

Registered Office	
Address:	44 Chipman Hill Suite 1000 Saint John NB E2L 2A9

Directors	
Name:	Hyrnyk, Ron
Address:	2495 Lloydtown Aurora Side Road King City ON L7B 1A3
Name:	Miniutti, Patrick
Address:	2 Antonini Court Vaughan ON L6A 4R2

Name:	Van Wart, James Lee
Address:	163 Callaghan Roadway Moncton NB E1B 4W1

Business Names

Ref No	Status	Name
679469	F	Royal Oaks Golf Club

Annual Return Deficiencies

Annual Returns:	2017
Filing Fees:	2017

B

Exhibit Stamp

No.

This is Exhibit "B" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

FIXED RATE PROMISSORY NOTE – VARIABLE PAYMENTS

$2,150,000.00	Maxium Financial Services Inc.	November 23, 2012
PRINCIPAL	Suite #1 – 30 Vogell Road Richmond Hill, Ontario L4B 3K6	DATE

1. PROMISE TO PAY AND INTEREST

For value received, 633003 N.B. Inc. (referred to in this Promissory Note (the "Note") as "you", "your" and "yours") with offices located at 401 Royal Oak Blvd., Moncton, NB E1H 0A2 promises to pay to Maxium Financial Services Inc. and/or its successors and assigns (referred to in this Note as "we", "our", "ours" and "us"), the sum of Two Million One Hundred Fifty Thousand Dollars and Zero Cents ($2,150,000.00) ("Principal") in lawful money of Canada, with interest calculated and compounded monthly not in advance at 7.59% per annum ("Interest Rate") as well after as before maturity and both before and after default or judgement ("Interest") and interest on overdue Interest at 18% per annum (provided that if such rate of interest exceeds the maximum permitted by law, the interest on overdue Interest shall be the maximum rate permitted by law).

2. CALCULATION OF INTEREST AND REPAYMENT

Interest shall be computed from the day the Principal is advanced (the "Commencement Date"). Principal and Interest shall be paid on the 1st day of each and every month commencing on the 1st day of January, 2013 and up to and including the 1st day of December, 2014 ("Term Date") when the balance, if any, of the Principal and Interest shall be paid. Principal and Interest shall be repaid in 24 consecutive monthly instalments as set out in the Schedule of Instalments below (the "Instalments").

No. of Instalments	Date From (Inclusive)	Date To (Inclusive)	Amount of Each Instalment
24	January 1, 2013	December 1, 2014	$17,471.40
1	December 1, 2014	December 1, 2014	$2,054,652.76

Each Instalment under this Note shall be applied first in payment of Interest and the balance, if any, shall be applied in reduction of Principal. Your obligations under this Note shall be absolute and unconditional and shall not be subject to any counter-claim, set-off or other claim whatsoever of yours against us.

3. AUTOMATIC RENEWAL

If no prepayment has occurred as per Section 4, this Promissory Note will enter into an automatic renewal. Principal and Interest shall be paid on the 1st day of each and every month commencing on the 1st day of January, 2015 and up to and including the 1st day of December, 2017 when the balance, if any, of the principal and Interest shall be paid. Principal and Interest shall be repaid in 36 consecutive monthly instalments, amortized over a period of 216 months, which will be calculated by using the then current interest rate of the 5 year Government of Canada Bond, as quoted by the Globe and Mail, National Post or similar publication, plus 6.20%.

4. PREPAYMENT PRIVILEGE

As long as no Default has happened and is continuing, the Borrower may, on any date scheduled for an instalment payment under this Promissory Note within the initial 24 month term, prepay all of the Principal then outstanding upon payment of Interest accrued to the date of prepayment ("Prepayment Date") and prepayment charges equal to the then present value of all unpaid and future Instalment payments of Principal and Interest under this Promissory Note calculated by discounting at the nominal rate per year equal to 3%. This prepayment privilege can only be exercised if the interest of the majority shareholders of the Borrower is being acquired by the minority shareholders. Other than as set out in this Section 4, the Borrower will not have any prepayment privilege.

5. ACCELERATION

In the event that (a) you default in making any payment when due hereunder or under any other agreement with us, (b) you fail to observe or perform any other covenant or obligation herein or in any other agreement with us, and such failure continues for seven days after the earlier of the day that you first have knowledge of such failure and the day on which we give you notice of such failure, (c) a default occurs under any agreement under which you have outstanding indebtedness or under which indebtedness is guaranteed by you, or any indebtedness of or guaranteed by you which is payable on demand is not paid on demand, (d) an order is made or a resolution passed for your winding-up or a notice of intention to make a proposal is filed or a proposal is made by you to your creditors under the *Bankruptcy and Insolvency Act* (the "Act") or a petition is filed by or against you or an authorized assignment is made by you under the Act or a receiver or agent is appointed with respect to you under any bankruptcy or insolvency legislation or by or on behalf of a secured creditor of yours or an application is made under the *Companies' Creditors' Arrangement Act* or any successor or similar legislation, (e) any circumstance changes or any event occurs which has or could have a material adverse effect on your financial condition, business, assets, properties or prospects, or (f) if you are a corporation, partnership or sole proprietorship, as the case may be, you permit any change of ownership or change your capital structure subsequent to the Commencement Date, you shall be required to pay us on demand, whereupon you shall

immediately pay us, as a genuine pre-estimate of liquidated damages and not as a penalty, the present value of all Instalments required to be paid to and including the Term Date that have not been paid at the date of calculation (whether or not accrued or due and payable), discounted from the respective dates on which the Instalments would otherwise be payable to the date of calculation, at the lesser of (i) 3% per annum, compounded monthly or (ii) the then current yield prevailing for a Government of Canada bond with term remaining most closely approximating the period of time remaining hereunder at such time to the Term Date, and all other accrued and then unpaid Interest.

6. NON-WAIVER

The extension of the time for making any payment which is due and payable under this Note at any time or times or the failure, delay or omission on our part to exercise or enforce any of our rights or remedies hereunder or under any instrument securing payment of the indebtedness evidenced by this Note shall not constitute a waiver of our right to enforce such rights and remedies thereafter.

7. INTEREST ACT

For the purposes hereof, whenever interest is calculated on the basis of a period other than a calendar year (the "**Relevant Period**"), each rate of interest determined pursuant to such calculation expressed as an annual rate for the purposes of the *Interest Act* (Canada) is equivalent to such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days in the Relevant Period.

8. OTHER INFORMATION

You will from time to time provide us with any information or document which we may reasonably request. You authorize us to conduct credit investigations and authorize us to release any credit information to credit reporting agencies and any of our assignees.

9. NOTICE

Notice must be in writing. Any document in connection with this Note will be considered to have been delivered to or served upon, and received by, you or us upon the earlier of actual receipt by an employee or an officer of the receiving party and (if mailed and there has been no interruption of postal service) the expiry of 10 days after the date the document was posted by prepaid ordinary mail to the receiving party's address as set out on the first page of this Note (or such other address as the receiving party may have last notified the sender).

10. LANGUAGE

It is your wish and ours that this Note and all related documents be drawn up and signed in English. C'est votre désire and le notre que le présent Contrat et tous documents s'y rapportant soient rédigés et signés en anglais.

11. MISCELLANEOUS

(a) Time is of the essence in respect of this Note. (b) This Note will be governed by and construed in accordance with the laws of the province or territory where you are located. (c) This Note is the entire agreement between you and us with respect to the subject matter hereof and may be varied only by written documents signed by both parties. (d) If more than one person, firm, or corporate body signs this Note as the borrower, each is jointly and severally liable (which allows us, at our option, to require performance or payment of all obligations under this Note from any one of them or a portion from each). (e) A provision of this Note which is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. (f) You may not assign your rights and obligations under this Note, unless we give you our prior written approval. We may assign, in our sole discretion at any time, without your consent, our right, title and interest in this Note. You hereby consent to the delivery by us to any prospective assignee of such information concerning you as may be in our possession and requested by such assignee. (g) You agree to make payments under a pre-authorized payment plan which may be withdrawn on or about each Instalment payment due date, including arrears or other penalties which may be withdrawn at any time without notice. (h) You hereby waive the benefits of division and discussion, demand and presentment for payment, notice of non-payment, protest and notice of protest of this Note. (i) You have received a copy of this Note.

633003 N.B. Inc.

BY: Patrick Miniutti

Name: PATRICK MINIUTTI

Title: PRÉSIDENT

BY:

Name:

Title:

C

Exhibit Stamp

No.

This is Exhibit "C" referred to in the affidavit of Rod Randall, sworn to before me on March 1, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

Form 15.1

COLLATERAL MORTGAGE

Land Titles Act, S.N.B. 1981, c.L-1.1, s.25
Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2

Parcel Identifier: **70344148**, 70327937, 70488663

Mortgagor: 633003 N.B. Inc.
15 Congressional CRES
Moncton NB
E1H 3L2

Mortgagee: MAXIUM FINANCIAL SERVICES INC.
30 Vogel RD
Richmond Hill ON
L4B 3K8

Manner of Tenure: Not Applicable

Particulars of Security: Security for the payment by the mortgagor to the mortgagee of all present and future indebtedness and liability now or hereafter owing by the mortgagor to the mortgagee whether direct or indirect, absolute or contingent or revolving or non-revolving, whether incurred by the mortgagor alone or together with any other debtor or debtors and whether incurred pursuant to the provisions of the mortgage or otherwise including all principal, interest, guarantee liabilities, letter of credit indemnity liabilities, bankers acceptance indemnity liabilities, fees and expenses now or hereafter owing by the mortgagor to the mortgagee.

Statutory Covenants and Conditions Excluded: None

Optional Covenants and Conditions Included: None

The mortgagor mortgages to the mortgagee in the specified manner of tenure the specified parcel as collateral security, the particulars of which are specified.

The mortgagor acknowledges receipt of the text of the covenants and conditions which are contained in this mortgage by reference to the distinguishing number or by virtue of subsection 25(4) of the Land Titles Act, and agrees to be bound by them to the same extent as if set out at length herein.

Date: 2012-11-05

Mortgagor:

633003 N.B. Inc.
Patrick Minuitti, President

Registrar of Land Titles for the District of New Brunswick

Registration Date & Time: 2012-11-23 10:25:29

Registration Number: 32193048

Report ID: 4017153

32196165

NOV 23 2012

14:52:07

Form 23

ASSIGNMENT OF RENTS

Land Titles Act, S.N.B. 1981, c.L-1.1, ss. 29, 31 & 43

Parcel Identifier: **70344148, 70488663 & 70327937**

Assignor: **633003 N.B. INC.**
15 Congressional Cres.
Moncton, NB
E1H 3L2

Assignee: **MAXIUM FINANCIAL SERVICES INC.**
Suite #1 - 30 Vogell Road
Richmond Hill, ON
L4B 3K6

Type of Instrument Assigned: General Assignment of Rents and Leases

Registration Particulars of Instrument Assigned: Not Applicable

The Assignor assigns to the Assignee as collateral security, and continuing collateral security, to better secure the repayment of the indebtedness under a mortgage between the Assignor and the Assignee, all present and future leases of the specified parcel, or any part thereof, and all rents and other sums payable from time to time under such leases.

Date: November 5, 2012

Assignor:
633003 N.B. Inc.

Per: _____
Patrick Miniutti
President

633003 N.B. INC.

Form 45
AFFIDAVIT OF CORPORATE EXECUTION
Land Titles Act, S.N.B. 1981, c.L-1.1, s. 55

Deponent:	Patrick Miniutti
Office Held by Deponent:	President
Corporation:	633003 N.B. Inc.
Place of Execution:	Victoria, BC
Date of Execution:	November 5, 2012

I, PATRICK MINIUTTI, the deponent, make oath and say as follows:

1. That I hold the office specified above; and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
2. That the attached instrument was executed by me as the officer duly authorized to execute the instrument on behalf of the Corporation;
3. That the seal of the Corporation was affixed to the instrument by the Board of Directors of the Corporation;
4. That the instrument was executed at the place and on the date specified above;
5. That the ownership of a share of the Corporation does not entitle the owner thereof to occupy the parcel described in the attached instrument as a marital home.

SWORN TO at the City of Victoria, and)
In the Province of British Columbia on)
the 5th day of November, 2012)
BEFORE ME:)
)
)
Richard Lord)
A Notary Public)
For the Province of British Columbia)

Patrick Miniutti

RICHARD LORD
Barrister and Solicitor
DAVIS LLP
2800 - 666 Burrard Street
Vancouver, B.C. V6C 2Z7
604.687.9444

AMENDING AGREEMENT

AMENDING AGREEMENT made at the City of Moncton in the Province of New Brunswick as of the _____ day of May, 2015.

BETWEEN:

MAXIUM FINANCIAL SERVICES INC.
30 Vogell Road
Richmond Hill, ON
L4B 3K6

(hereinafter referred to as "Maxium")

- and -

633003 N.B. Inc.
401 Royal Oak Blvd.
Moncton, NB
E1H 0A2

(hereinafter referred to as the "Customer")

WHEREAS Maxium has provided financing to the Customer upon the terms and conditions set forth in Lease Agreement MGL1-1 dated April 27, 2012, Lease Agreement MGL1-3 dated May 12, 2014, Promissory Note M1-2 dated December 1, 2014 and Promissory Note M1-3 dated December 1, 2014 (the "Contracts")

AND WHEREAS the parties have agreed to amend the Contracts;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements set forth herein, the parties hereto covenant and agree as follows:

1. Effective the date hereof, the terms and conditions of the Loan are hereby amended as follows:

   Change Customer's Name from 633003 N.B. Inc. to Royal Oaks Golf Club Inc.

2. Except as set out above all terms and conditions of the Contracts shall remain in full force and effect unamended.

3. The parties further covenant and agree to do, execute and deliver, or cause to be done, executed and delivered all such further acts, transfers and assurances, for the better assuring, confirming and otherwise implementing the intention of the parties under this Amending Agreement, as the parties and their successors and assigns shall reasonably request.

IN WITNESS WHEREOF the parties have executed this Amending Agreement.

MAXIUM FINANCIAL SERVICES INC.

By: _____
Name: Anna Cappadocia
Title: Vice President, Administration

Royal Oaks Golf Club Inc.

By: _____
Name: Patrick Miniutti
Title: President

D

Exhibit Stamp

No.

This is Exhibit "D" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

Registration Number (Renew): 39448840
Registration Date/Time (Atlantic): 2024-01-12 09:47
Expiry Date: Infinity
File Number:
Original Registration Number: 21978853

NOTE: This registration has extended the registration term by year(s).

Registrant Name and Address

Registrant User ID: N194017
BOYNECLARKE LLP
99 Wyse Road, Suite 600
PO Box 876, Dartmouth Main
Dartmouth NS B2Y 2N4
Canada

All registration date/time values are stated in Atlantic Time.

Registration Details for Registration Number: 21978853

Province or Territory: New Brunswick
Registration Type: PPSA Financing Statement

Registration History

Registration Activity	Registration Number	Date/Time (Atlantic)	Expiry Date	File Number
Original	21978853	2012-09-12 18:33	2022-09-12	1310541-MF1
Amendment	22251813	2012-11-13 17:33	2022-09-12	1321306
Amendment	25845637	2015-05-19 17:19	2022-09-12	1321306
Renewal	29973211	2017-12-12 14:32	2027-09-12	
Amendment	30006811	2017-12-20 16:40	2027-09-12	1640649
Renewal	39448840	2024-01-12 09:47	Infinity	

As listed in the Registration History section above, this registration has been the subject of an Amendment or Global Change to add or delete information. The following registration details provide the registration number for the Amendment that added or deleted information. If no "added by" or "deleted by" registration number is provided, the information was added by the original registration and has not been deleted.

Debtors

The Debtor below was deleted by registration number 22251813

~~Type: Enterprise~~
~~633003 N.B. Ltd.~~
~~401 Royal Oak Blvd.~~
~~Moncton NB E1H 0A2~~
~~Canada~~

The Debtor below was added by registration number 22251813

Type: Enterprise
633003 N.B. Inc.
401 Royal Oak Blvd.
Moncton NB E1H 0A2
Canada

The Debtor below was added by registration number 25845637
Type: Enterprise
Royal Oaks Golf Club Inc.
401 Royal Oak Blvd
Moncton NB E1H 0A2
Canada

Secured Parties

The Secured Party below was deleted by registration number 30006811
~~Type: Enterprise~~
~~Maxium Financial Services Inc.~~
~~30 Vogell Road, Unit 1~~
~~Richmond Hill ON L4B 3K6~~
~~Canada~~

The Secured Party below was added by registration number 30006811
Type: Enterprise
CWB Maxium Financial Inc.
1 - 30 Vogell Road
RICHMOND HILL ON L4B 3K6
Canada

General Collateral

All personal property now owned or hereafter acquired by the Debtor and any and all proceeds in any form derived directly or indirectly from any of the foregoing.

****** End of Report ******

E

Exhibit Stamp

No.

This is Exhibit "E" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

FIXED RATE PROMISSORY NOTE – VARIABLE PAYMENTS

$2,150,000.00
PRINCIPAL

1951584 Ontario Inc.
(formerly Maxium Financial Services Inc.)
Suite #1 – 30 Vogell Road
Richmond Hill, Ontario
L4B 3K6

DECEMBER 13, 2017
DATE

1. PROMISE TO PAY AND INTEREST

For value received, Royal Oaks Golf Club Inc. (referred to in this Promissory Note (the "Note") as "you", "your" and "yours") with offices located at 401 Royal Oaks Blvd., Moncton, NB E1H 3S7 promises to pay to 1951584 Ontario Inc. and/or its successors and assigns (referred to in this Note as "we", "our", "ours" and "us"), the sum of Two Million One Hundred Fifty Thousand Dollars and Zero Cents ($2,150,000.00) ("Principal") in lawful money of Canada, with interest calculated and compounded monthly not in advance at 6.67% per annum ("Interest Rate") ("Interest") and interest on overdue Interest at 18% per annum. In the event the Principal balance, if any, is not paid in full at maturity, Interest shall accrue on the outstanding Principal thereafter amount at the rate of 18% per annum until paid. Provided that if such rate of interest exceeds the maximum permitted by law, the interest on overdue Interest shall be the maximum rate permitted by law.

2. CALCULATION OF INTEREST AND REPAYMENT

Interest shall be computed from the day the Principal is advanced (the "Commencement Date"). Principal and Interest shall be paid on the 1st day of each and every month commencing on the 1st day of January, 2018 and up to and including the 1st day of December, 2022 ("Term Date") when the balance, if any, of the Principal and Interest shall be paid. Principal and Interest shall be repaid in 60 consecutive monthly instalments as set out in the Schedule of Instalments below (the "Instalments").

No. of Instalments	Date From (inclusive)	Date To (inclusive)	Amount of Each Instalment
60	January 1, 2018	December 1, 2022	$16,240.76
1	December 1, 2022	December 1, 2022	$1,844,534.82

Each Instalment under this Note shall be applied first in payment of Interest and the balance, if any, shall be applied in reduction of Principal. Your obligations under this Note shall be absolute and unconditional and shall not be subject to any counter-claim, set-off or other claim whatsoever of yours against us.

3. ACCELERATION

In the event that (a) you default in making any payment when due hereunder or under any other agreement with us, (b) you fail to observe or perform any other covenant or obligation herein or in any other agreement with us, and such failure continues for seven days after the earlier of the day that you first have knowledge of such failure and the day on which we give you notice of such failure, (c) a default occurs under any agreement under which you have outstanding indebtedness or under which indebtedness is guaranteed by you, or any indebtedness of or guaranteed by you which is payable on demand is not paid on demand, (d) an order is made or a resolution passed for your winding-up or a notice of intention to make a proposal is filed or a proposal is made by you to your creditors under the *Bankruptcy and Insolvency Act* (the "Act") or a petition is filed by or against you or an authorized assignment is made by you under the Act or a receiver or agent is appointed with respect to you under any bankruptcy or insolvency legislation or by or on behalf of a secured creditor of yours or an application is made under the *Companies' Creditors' Arrangement Act* or any successor or similar legislation, (e) any circumstance changes or any event occurs which has or could have a material adverse effect on your financial condition, business, assets, properties or prospects, or (f) if you are a corporation, partnership or sole proprietorship, as the case may be, you permit any change of ownership or change your capital structure subsequent to the Commencement Date, you shall be required to pay us on demand, whereupon you shall immediately pay us, as a genuine pre-estimate of liquidated damages and not as a penalty, the present value of all Instalments required to be paid to and including the Term Date that have not been paid at the date of calculation (whether or not accrued or due and payable), discounted from the respective dates on which the Instalments would otherwise be payable to the date of calculation, at the lesser of (i) 3% per annum, compounded monthly or (ii) the then current yield prevailing for a Government of Canada bond with term remaining most closely approximating the period of time remaining hereunder at such time to the Term Date, and all other accrued and then unpaid Interest.

4. NON-WAIVER

The extension of the time for making any payment which is due and payable under this Note at any time or times or the failure, delay or omission on our part to exercise or enforce any of our rights or remedies hereunder or under any instrument securing payment of the indebtedness evidenced by this Note shall not constitute a waiver of our right to enforce such rights and remedies thereafter.

5. INTEREST ACT

For the purposes hereof, whenever interest is calculated on the basis of a period other than a calendar year (the **"Relevant Period"**), each rate of interest determined pursuant to such calculation expressed as an annual rate for the purposes of the *Interest Act* (Canada) is equivalent to such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days in the Relevant Period.

6. OTHER INFORMATION

You will from time to time provide us with any information or document which we may reasonably request. You authorize us to conduct credit investigations and authorize us to release any credit information to credit reporting agencies and any of our assignees.

7. NOTICE

Notice must be in writing. Any document in connection with this Note will be considered to have been delivered to or served upon, and received by, you or us upon the earlier of actual receipt by an employee or an officer of the receiving party and (if mailed and there has been no interruption of postal service) the expiry of 10 days after the date the document was posted by prepaid ordinary mail to the receiving party's address as set out on the first page of this Note (or such other address as the receiving party may have last notified the sender).

8. LANGUAGE

It is your wish and ours that this Note and all related documents be drawn up and signed in English. C'est votre désire et le notre que le présent Contrat et tous documents s'y rapportant soient rédigés et signés en anglais.

9. MISCELLANEOUS

(a) Time is of the essence in respect of this Note. (b) This Note will be governed by and construed in accordance with the laws of the province or territory where you are located. (c) This Note is the entire agreement between you and us with respect to the subject matter hereof and may be varied only by written documents signed by both parties. (d) If more than one person, firm, or corporate body signs this Note as the borrower, each is jointly and severally liable (which allows us, at our option, to require performance or payment of all obligations under this Note from any one of them or a portion from each). (e) A provision of this Note which is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. (f) You may not assign your rights and obligations under this Note, unless we give you our prior written approval. We may assign, in our sole discretion at any time, without your consent, our right, title and interest in this Note. You hereby consent to the delivery by us to any prospective assignee of such information concerning you as may be in our possession and requested by such assignee. Upon notice of an assignment you shall unconditionally pay to our assignee all instalment payments and other amounts due hereunder and shall not assert any defense against our assignee in any action for instalment payments or other amounts due and payable hereunder and you will not assert against our assignee any claim by way of abatement, defense, set-off, compensation or the like. (g) You agree to make payments under a pre-authorized payment plan which may be withdrawn on or about each instalment payment due date, including arrears or other penalties which may be withdrawn at any time without notice. (h) You hereby waive the benefits of division and discussion, demand and presentment for payment, notice of non-payment, protest and notice of protest of this Note. (i) You have received a copy of this Note.

Royal Oaks Golf Club Inc.

BY: _____

Name: PATRICK MINIUTTI

Title: PRESIDENT

BY: _____

Name:

Title:

LETTER OF DIRECTION

To: **1951584 ONTARIO INC. (formerly Maxium Financial Services Inc.) ("MAXIUM")**

Re: Fixed Rate Promissory Note dated December 13, 2017

Please accept this Letter of Direction as your good and sufficient authority to make the following payments from the proceeds of the above noted agreement:

Payee	**Amount**
1951584 ONTARIO INC. Re: Royal Oaks Golf Club Inc.	
Refinance of M1-2	$1,367,871.67
Refinance of M1-3R	$507,110.49

Dated this 13th day of December, 2017.

Royal Oaks Golf Club Inc.

By: [signature]
Name: Patrick Miniutti
Title: President

By: _____
Name:
Title:

LETTER OF DIRECTION

To: **1951584 ONTARIO INC. (formerly Maxium Financial Services Inc.) ("MAXIUM")**

Re: Fixed Rate Promissory Note dated December 13, 2017

Please accept this Letter of Direction as your good and sufficient authority to make the following payments from the proceeds of the above noted agreement:

Payee	**Amount**
ROYAL OAKS GOLF CLUB INC. Re: Royal Oaks Golf Club Inc.	
Balance of Proceeds	$275,017.84

Dated this 13th day of December, 2017.

Royal Oaks Golf Club Inc.

By: Patrick Miniutti
Name: PATRICK MINIUTTI
Title: PRESIDENT

By: _____
Name:
Title:

F

Exhibit Stamp

No.

This is Exhibit "F" referred to in the affidavit of Rod Randall, sworn to before me on March 1, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

1951584 Ontario Inc. (formerly Maxium Financial Services Inc.)

30 Vogell Road, Suite 1
Richmond Hill, Ontario L4B 3K6

General Security Agreement

Customer: **Royal Oaks Golf Club Inc.** Date: December 13, 2017

SECURITY INTEREST

In consideration of our dealing with or continuing to deal with you, you grant to us a continuing security interest in all of your Assets and Undertakings (defined below) and an assignment of your Accounts (defined below). The Assets and Undertakings over which you have granted us a security interest hereby, the Accounts assigned to us, together with the Proceeds (defined below) thereof, are herein collectively called the "**Collateral**". You agree that we have not agreed to postpone the time for attachment of the security interest granted hereby with respect to your presently existing Collateral, that such security interest shall attach to any Collateral acquired after the date hereof as soon as you obtain rights in such Collateral and that value has been given.

INDEBTEDNESS AND LIABILITY SECURED

You agree that the obligations secured by the security interest granted hereby (collectively, the "**Obligations**") include, without limitation, all your present and future obligations, indebtedness and liability to us, direct and indirect, absolute and contingent, whether matured or not matured, and include all costs and expenses (including legal fees and expenses) incurred by us in connection with our dealings with you.

1. DEFINITIONS OF COLLATERAL

ASSETS AND UNDERTAKINGS - all of your present and after acquired personal property and undertakings including without limitation, Inventory, Equipment, Deposits and Credit Balances, Investment Property, Life Insurance (all as defined herein), all intangible and intellectual property, and all real and immovable property both freehold and leasehold, except for the last day of the term of any lease.

INVENTORY - all presently owned and after acquired goods and other property held for sale or lease or that have been leased or that are to be furnished or have been furnished under a contract of service, or that are raw materials, work in process, or materials used or consumed in your business or profession.

EQUIPMENT - all presently owned and after acquired goods that are owned by you other than Inventory and consumer goods.

DEPOSITS AND CREDIT BALANCES - all monies and credit balances which are now or may hereafter be on deposit with or standing to your credit with us, and/or with any of our subsidiaries and affiliates, up to the amount set out on Schedule A (or all deposit and credit balances, if no amount is set out on Schedule A) and any amount of interest due or accruing due to you in connection with any such deposit or credit balance.

INVESTMENT PROPERTY - all present and future investment property held by you, including securities, shares, options, rights, warrants, joint venture interests, interests in limited partnerships, trust units, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of yours in property or in an enterprise or which constitute evidence of an obligation of the issuer (collectively called "**Investment Property**") including, without limitation, any Investment Property specifically identified in Schedule A; and all substitutions therefor and, subject to Section 5, dividends and income derived therefrom.

LIFE INSURANCE - the life insurance policy or policies described on Schedule A and any proceeds derived therefrom, and any amounts held by the insurer as pre-paid premiums or for the payment of future premiums.

2. ACCOUNTS

You absolutely assign and transfer to us all debts, accounts, choses in action, claims, demands, and moneys now due, owing, accruing, or which may hereafter become due, owing or accruing to you, together with all rights, benefits, security interests, mortgages, instruments, rights of action, deeds, books and records and documents now or hereafter belonging to you in respect of or as security for any of the foregoing (collectively called "**Accounts**"). This assignment is and shall be a continuing security to us for the Obligations. All money or any other form of payment received by you in payment of any Accounts shall, following any continuing Event of Default under this Agreement, be received and held by you in trust for us.

3. INVESTMENT PROPERTY

If any of the Collateral consists of Investment Property, (a) you authorize us to transfer such Collateral or any part thereof into our own name or that of our nominee so that we or our nominee may appear of record as the sole owner of such Collateral; provided, that until the occurrence of any continuing Event of Default, we shall deliver promptly to you all notices, statements or other communications received by us or our nominee as such registered owner, and upon demand and receipt of payment of necessary expenses thereof, shall give you or your designee a proxy or proxies to vote and take all action with respect to such Collateral; provided further that after the occurrence of any continuing Event of Default, you waive all rights to be advised of or to receive any notices, statements or communications received by us or our nominee as such registered owner, and agree that no proxy or proxies given to you or your designee by us shall thereafter be effective; and (b) you further agree to execute such other documents and to perform such other acts, and to cause any issuer or securities intermediary to execute such other documents and to perform such other acts as may be necessary or appropriate in order to give us "control" of such Investment Property, as defined in the *Securities Transfer Act, 2006* (Ontario), which "control" shall be in such manner as we shall designate in our sole judgment and discretion, including, without limitation, an agreement by any issuer or securities intermediary that it will comply with instructions in the case of an issuer or entitlement orders in the case of a securities intermediary, originated by us, whether before or after the occurrence of any continuing Event of Default, without further consent from you.

4. PROCEEDS

You grant us a security interest on all of your property in any form derived directly or indirectly from any use or dealing with any Assets and Undertakings or Accounts or that indemnifies or compensates for Assets and Undertakings destroyed or damaged (all of which property is herein collectively called "**Proceeds**"). Proceeds shall be received and held by you in trust for us.

5. INCOME AND INTEREST ON INVESTMENT PROPERTY

Until the occurrence of any continuing Event of Default, you reserve the right to receive all income from or interest on the Collateral consisting of Investment Property, and if we receive any such income or interest prior to the occurrence of any continuing Event of Default, we agree to pay you such income or interest promptly. After the occurrence of any continuing Event of Default, you will not demand or receive any income from or interest on such Collateral, and if you receive any such income or interest, such income or interest shall be held by you in trust for us in the same medium in which received, shall not be commingled with any of your other assets and shall be delivered to us in the form received, properly endorsed to permit collection, not later than the next business day following the day of its receipt. We may apply the net cash receipts from such income or interest to payment of any of the Obligations, provided that we account for and pay over to you any such income or interest remaining after payment in full of the Obligations.

6. COSTS AND EXPENSES

You agree to pay the costs and expenses we incur to enforce this Agreement, register this Agreement or notice of it, repossess, maintain, preserve, repair or sell the Collateral, or appoint a consultant, receiver, receiver and manager or agent, and to pay interest thereon. You also agree to pay all legal costs and fees (including in-house legal fees, charges and expenses), incurred by us to do any of the above or to defend any legal claim or counterclaim by you or others respecting the manner of our enforcement of, or our right to enforce, this Agreement. You will pay the legal fees incurred by us on a solicitor and own client basis.

7. FREE AND CLEAR

You hereby represent and warrant to us that you are the owner of the Collateral free from any hypothec, mortgage, lien, charge, security interest or any other interest or claim including any proprietary or trust interest or encumbrance claimed by any third party. You hereby covenant and agree to keep the Collateral free and clear of all taxes, assessments, and security or proprietary interests in favour of third parties. You hereby covenant and agree to not sell, give away, part with possession of or otherwise dispose of any part of the Collateral, (except Inventory sold in the normal course of business and obsolete equipment) without our prior written consent

8. INSURANCE

You will, at your cost, keep the Collateral insured from all risk of loss, theft or damage as are customarily insured by businesses in the industry in which you are engaged. If requested, you will provide us with a copy of the insurance policy. The insurance policy will name us as first loss payee and additional insured. We may, in our absolute discretion, pay any premium due on any insurance policy, including any life insurance policy forming part of the Collateral, and the amount of any premium we pay will be added to and form part of the Obligations.

9. LOCATION OF COLLATERAL

You will keep the Collateral at the location or locations set out on Schedule A. You will not remove the Collateral from this location (except in the ordinary course of your business) without

our prior written consent. If no location is set out on Schedule A, you will keep the Collateral at the address shown below your signature to this Agreement.

10. LIMITATION ON OBLIGATIONS OF 1951584 ONTARIO

Our sole obligation with respect to the custody, safekeeping and physical preservation of Collateral in our possession shall be to use reasonable care in the custody and safekeeping thereof, and we shall be deemed to have used reasonable care if we deal with such Collateral in the same manner as we deal with similar property for our own account. Neither we nor any of our directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon the Collateral or any part thereof or for any delay in doing so, or shall be under any obligation to sell or otherwise dispose of any Collateral whether at your request or otherwise.

11. REPRESENTATIONS AND WARRANTIES

You hereby represent and warrant to us that:

(a) if applicable, you are a corporation duly existing, or a partnership duly established, under the laws of the jurisdiction of your incorporation or establishment, have all necessary power and authority to own your property and assets, to carry on your business as currently carried on by you and hold all necessary licenses, permits and consents as are required so to own your property and assets and so to carry on business in each jurisdiction in which you do so;

(b) you have the capacity, power and authority and the legal right to execute and deliver, to perform your obligations under, this Agreement, and have taken all necessary action, corporate or otherwise, to authorize the execution and delivery of this Agreement and the performance of your obligations hereunder;

(c) this Agreement constitutes a legal, valid and binding obligation of yours enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity;

(d) except for consents which have been obtained and are in full force and effect, no consent of any person is required, or purports to be required, in connection with the execution and delivery of this Agreement by you or the performance of your obligations hereunder;

(e) the execution and delivery by you of this Agreement and the performance of your obligations hereunder will not violate any applicable law or contractual obligation applicable to you; and

(f) the representations and warranties set out in clauses (a) through (e) above or in any certificate or other document delivered to us by you or on your behalf are material, shall be deemed to have been relied upon by us notwithstanding any investigation heretofore or hereafter made by us or on our behalf, shall survive the execution and delivery of this Agreement and shall continue in full force and effect without time limit.

12. REPORTING

You will:

(a) if you are a corporation, a partnership or a sole proprietorship, provide to us Reviewed financial statements within 90 days of each of your fiscal year ends;

(b) provide us with RX Reports within 120 days of each of your fiscal year ends;

(c) if you are an individual, provide to us your personal net worth statement upon request by us;

(d) advise us of any Event of Default immediately upon the occurrence of such event;

(e) inform us of any actual or probable material litigation and provide us with copies of all relevant documents upon request; and

(f) provide us with such other information and financial data as we may request from time to time.

13. POSITIVE COVENANTS

You agree to:

(a) make all payments when due or demanded to us (without any condition, deduction, set-off or holdback) at our address noted above (or any other address that we advise);

(b) if applicable, maintain your existence as a corporation, partnership, or sole proprietorship, as the case may be, and keep all material agreements, rights, franchises, licences, operations, contracts or other arrangements in full force and effect;

(c) pay all taxes, which may result in a lien or charge on any of your property and assets;

(d) maintain, protect and preserve the Collateral in good repair and working condition;

(e) provide such security as we may require;

(f) continue to carry on, and maintain in good standing, the business being carried on by you at the date hereof;

(g) permit us or our authorized representatives full and reasonable access to your premises, business, financial and computer records and allow the duplication or extraction of pertinent information therefrom;

(h) notify us in writing at least 20 days prior to any change of your name; and

(i) notify us in writing promptly of any significant loss of or damage to the Collateral;

(j) provide us with the first right of refusal for any and all leasing being considered;

(k) obtain our written consent for any expenditure in excess of $150,000;

(l) provide us with copies of all invoices and proper proof of payment for all expenditures paid using the separate advance of $275,000 by December 31, 2018; and

(m) maintain a consolidated Debt Service Coverage Ratio ("DSC Ratio") of at least 1.10x, as at the end of fiscal year 2018 and 1.25x, as at the end of each subsequent fiscal year end (where "DSC Ratio" is defined as your "Cash-Flow Available for Debt Service" divided by your "Annual Debt Service Costs":

Cash-Flow Available for Debt Service shall mean: your earnings before taxes, amortization, deprecation, and interest expense. It will be normalized for 1-time review or expense events and/or management fees in our sole discretion

Annual Debt Service shall mean: the annual costs of servicing your long term debt obligations and will include interest expense and principal repayments.

You also agree (i) to report the DSC Ratio and related calculations to us as part of the financial reporting required under clause 12 (a) and (ii) that all calculations in connection with the DSC Ratio shall be subject to our review, approval and adjustments acting in our sole discretion.

14. NEGATIVE COVENANTS

You will not:

(a) create, incur, assume, or suffer to exist, any mortgage, deed of trust, pledge, lien, security interest, assignment, charge, or encumbrance (including without limitation, any conditional sale, or other title retention agreement, or finance lease) of any nature, upon or with respect to the Collateral, or sign or file under the *Personal Property Security Act* (Ontario) (the "**PPSA**") or similar registry system of any jurisdiction a financing statement which names you as a debtor, or sign any security agreement authorizing any secured party thereunder to file such financing statement creating a security interest in the Collateral;

(b) if you are a corporation, a partnership or a sole proprietorship, as the case may be, permit any change of ownership or change your capital structure without our prior written consent, such consent not to be unreasonably withheld;

(c) acquire any secondary mortgage financing without our prior written consent;

(d) permit any change in voting control without our prior written consent, such consent not to be unreasonably withheld;

(e) transfer your interest in any part of the Collateral not expressly permitted under this Agreement or change the location(s) of the Collateral without our prior written consent;

(f) make any investment in or acquisition of, or provide any guarantee or other financial assistance to, any other business entity or person without our prior written consent; or

(g) make any payments or distributions including but not limited to dividends, redemption or retraction payments or any other amounts in respect to any of your common shares, preferred shares or any other outstanding capital stock if there is an outstanding default or Event of Default, or any such payment causes a default or an Event of Default.

15. DEFAULT

You shall be in default under this Agreement upon the happening of any of the following events (each, an "**Event of Default**"):

(a) you or any other person liable for the Obligations is in default under any agreement relating to the Obligations or any part thereof;

(b) you or any other person liable for the Obligations is in default under any other loan, debt or obligation owed to us or anyone else, subject to the passage of any applicable grace period;

(c) you fail to perform any of the terms or conditions of this Agreement or any other agreement between you and us;

(d) you become insolvent or bankrupt or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver, or a trustee or receiver shall be appointed for you or for a substantial part of your property without your consent;

(e) bankruptcy, reorganization or insolvency proceedings shall be instituted by or against you;

(f) any statement made by you to induce us to extend credit to you was false in any material respect when made, or becomes false;

(g) anyone takes possession of or applies to any court for possession of the Collateral, or anyone claims to have rights in the Collateral superior to our rights;

(h) if you are an individual, you are declared incompetent by a court, or you die, or, if you are a partnership, a partner dies;

(i) if you are an individual, and your certificate of registration from your professional governing body is suspended or revoked;

(j) you pledge, encumber, mortgage or otherwise create or permit the continued existence of any lien or any other interest or claim including any proprietary or trust interest or encumbrance claimed by any third party with respect to any of the Collateral, except for any lien granted by you in our favour;

(k) you incur any indebtedness for borrowed money (including, without limitation, by guaranteeing the obligations of others) outside of the ordinary course of business;

(l) you fail to deliver to us on a timely basis the financial information required by any agreement between us; or

(m) any other event occurs which causes us in good faith, to deem ourselves insecure, or to believe that the Collateral, or any part thereof, or the value thereof, is or is about to be placed in jeopardy.

16. REMEDIES

Upon the occurrence of an Event of Default, we may require you to repay any or all of the Obligations in full, whether matured or not, and we may enforce this Agreement by any method permitted by law, and we may exercise any rights and remedies under applicable law, and we may appoint any person, including our employee, to be an agent, a receiver or receiver and manager (the "**Receiver**") of the Collateral. We and the Receiver shall be entitled to:

(a) seize and possess the Collateral;

(b) carry on your business;

(c) sell, lease or otherwise dispose of the Collateral;

(d) foreclose on the Collateral;

(e) in the case of Life Insurance, exercise any options available to you under the Life Insurance;

(f) demand, sue for and receive Accounts, give effectual receipts and discharges for the Accounts, compromise any Accounts which may seem bad or doubtful to us and give time for payment thereof with or without security;

(g) make any arrangement or compromise in our interest, or

(h) take any other action deemed necessary to carry into effect the provisions of this Agreement.

The Receiver shall be your agent and you shall be solely responsible for the Receiver's actions. We shall not be in any way responsible for any misconduct or negligence on the part of the Receiver. If the proceeds of the realization of the Collateral are insufficient to repay us the Obligations in full, then you forthwith shall pay us such deficiency. The rights and powers in this paragraph are supplemental to and not in substitution for any other rights we may have from time to time.

17. POWER OF ATTORNEY

You irrevocably appoint us your attorney, with power of substitution and appointment, to sign for you, at our option, all documents necessary or desirable to permit us to exercise any of our rights and remedies under this Agreement and to complete the Schedule attached hereto, with the right to use your name and to take proceedings in your name.

18. NON WAIVER BY US

Any breach by you of this Agreement or the occurrence of an Event of Default may only be waived by us in writing. Any waiver by us does not mean that any subsequent breach or Event of Default is also waived. Any failure by us to notify you of an Event of Default shall not be deemed to be a waiver of such Event of Default. No course of conduct or omission on our part or on your part shall give rise to any expectation by you that we will not insist on strict compliance with the terms of this Agreement.

19. DEALING WITH SECURITY INTEREST

We may take and give up any of the Collateral or modify or abstain from perfecting or taking advantage of our security interest in the Collateral and otherwise deal with any of the Collateral as we shall see fit without prejudice to your liability or to our rights under this Agreement or at law.

20. PAY ENCUMBRANCES

We or the Receiver may pay any encumbrance that may exist or be threatened against the Collateral. In addition, we or the Receiver may borrow money required for the maintenance, preservation or protection of the Collateral and may grant further security interests in the Collateral in priority to the secured interest created hereby as security for the money so borrowed. In every such case, the amounts so paid or borrowed together with costs, charges, and expenses incurred in connection therewith shall become part of the Obligations, shall bear interest at the highest rate per annum charged by us on the Obligations and shall be secured by this Agreement.

21. PAYMENTS

We shall have the right to appropriate any payment made by you to any of your Obligations as we see fit, and to revoke or alter any such appropriation.

22. DEFINITIONS

In this agreement "you", "your" and "yours" refer to the Customer named above. "We", "our", "ours", and "us" refer to 1951584 Ontario Inc.

23. CONTINUING EFFECTIVENESS

This Agreement shall be a continuing agreement in every respect, securing the payment of the Obligations. If any part of this Agreement is invalid or void, the remaining terms and provisions of this Agreement shall remain in full force and effect.

24. ACKNOWLEDGEMENT & WAIVER

You acknowledge receipt of a copy of this Agreement. You waive any right you may have to receive a copy of any financing statement, verification statement, or similar document we register or that we may receive by way of confirmation of a security registration in respect of this Agreement or any agreement amending, supplementing or replacing it.

25. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon you, your heirs and your successors and assigns and shall enure to our benefit and to the benefit of our successors and assigns; provided that you shall not assign any of your rights or obligations hereunder without our prior written consent. We may assign our rights under this Agreement without your consent and without providing you notice of such assignment. This Agreement shall continue in full force and effect notwithstanding any change in the composition of or membership of any firm or corporation, which is a party hereto.

26. NOTICES

Any notice required to be given under this Agreement may be delivered directly to you or us or may be sent by prepaid registered mail addressed to our address shown above or your address shown below, or such further address as we or you may notify to the other in writing from time to time, and if so given the notice shall be deemed to have been given on the day of delivery or the day when it is deemed or otherwise considered to have been received for the purposes of the PPSA, as the case may be.

27. DISCHARGE

If you pay us all of the Obligations secured by this Agreement and otherwise observe and perform the terms and conditions hereof, then we shall, at your request and expense, release and discharge the security interest created by this Agreement and execute and deliver to you such deeds and other instruments as shall be required to effect any such release and discharge.

28. ENTIRE AGREEMENT

You acknowledge that this is the entire agreement between you and us and there are no other written or oral representations or warranties, which apply to the Collateral or to this Agreement. This Agreement may only be amended by an agreement in writing signed by us.

29. NO MERGER

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish your liability to make payment of or satisfy the Obligations.

30. FURTHER ASSURANCES

You shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered every such further act, deed, conveyance, instrument, transfer, assignment, security agreement and assurance as we may reasonably require in order to give effect to the provisions and purposes of this Agreement.

31. GOVERNING LAW

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

Royal Oaks Golf Club Inc.

BY: Patrick Miniutti

Name: PATRICK MINIUTTI

Title: PRESIDENT

BY:

Name:

Title:

Address: 401 Royal Oaks Blvd, Moncton, NB E1H 3S7

SCHEDULE A

DEPOSITS AND CREDIT BALANCES

Unlimited

INVESTMENT PROPERTY

N/A

LIFE INSURANCE POLICIES

N/A

LOCATIONS OF COLLATERAL

401 Royal Oaks Blvd., Moncton, NB E1H 3S7

1

Exhibit Stamp

No.

This is Exhibit "F1" referred to in the affidavit of Rod Randall, sworn to before me on March 1, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

Registration Number (Renew): 39448857
Registration Date/Time (Atlantic): 2024-01-12 09:48
Expiry Date: Infinity
File Number:
Original Registration Number: 29997038

NOTE: This registration has extended the registration term by year(s).

Registrant Name and Address

Registrant User ID: N194017
BOYNECLARKE LLP
99 Wyse Road, Suite 600
PO Box 876, Dartmouth Main
Dartmouth NS B2Y 2N4
Canada

All registration date/time values are stated in Atlantic Time.

Registration Details for Registration Number: 29997038

Province or Territory: New Brunswick
Registration Type: PPSA Financing Statement

Registration History

Registration Activity	Registration Number	Date/Time (Atlantic)	Expiry Date	File Number
Original	29997038	2017-12-18 16:45	2022-12-18	4027435
Amendment	30649958	2018-05-29 16:39	2022-12-18	1661848
Renewal	36941490	2022-05-30 13:56	2023-12-18	
Renewal	37777299	2022-12-02 16:57	2024-12-18	
Renewal	39435862	2024-01-09 14:14	2026-12-18	
Renewal	39448857	2024-01-12 09:48	Infinity	

As listed in the Registration History section above, this registration has been the subject of an Amendment or Global Change to add or delete information. The following registration details provide the registration number for the Amendment that added or deleted information. If no "added by" or "deleted by" registration number is provided, the information was added by the original registration and has not been deleted.

Debtors

Type: Enterprise
Royal Oaks Golf Club Inc.
401 Royal Oaks Boulevard
Moncton NB E1H 3S7
Canada

Secured Parties

The Secured Party below was deleted by registration number 30649958

~~Type: Enterprise~~
~~1951584 Ontario Inc.~~
~~30 Vogell Road~~
~~Suite 1~~
~~Richmond Hill ON L4B 3K6~~
~~Canada~~

The Secured Party below was added by registration number 30649958
Type: Enterprise
CWB Maxium Financial Inc.
1 - 30 Vogell Road
RICHMOND HILL ON L4B 3K6
Canada

General Collateral

All of the debtor's present and after-acquired personal property.

****** End of Report ******

G

Exhibit Stamp

No.

This is Exhibit "G" referred to in the affidavit of Rod Randall, sworn to before me on March 7, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

1951584 ONTARIO INC. (formerly Maxium Financial Services Inc.).
Guarantee

1. CUSTOMER GUARANTEED

The name of the customer whose obligations you are guaranteeing is: Royal Oaks Golf Club Inc.
(who, together with the Customer's successors, heirs and assigns, shall be referred to herein as the "Customer").

2. OBLIGATIONS GUARANTEED

In consideration of 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) (referred to as "we", "our", "ours" and "us" in this Guarantee) dealing with or continuing to deal with the Customer, you guarantee payment to us on demand, of all present and future lease payments and obligations, conditional sale instalments and obligations, and any other debts and liabilities (collectively, the "Obligations"), both direct and indirect, (whether incurred alone or jointly with others, whether absolute or contingent, whether matured or not matured, and whether for principal, interest or fees) payable to us by the Customer under any and all lease agreements, conditional sale contracts, credit facilities, overdrafts, guarantees, letters of credit, indemnities together with all costs and expenses, including legal fees and expenses, incurred by us in connection with its dealings with the Customer. You agree to be bound by each of the terms and conditions set out below.

3. EXTENT OF YOUR LIABILITY

The extent of your liability is limited to Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) plus interest at the highest rate payable to us by the Customer, accruing from the date of demand on you, plus our costs and expenses of enforcing this Guarantee.

4. THE NATURE OF YOUR LIABILITY

Your liability under this Guarantee is CONTINUING, absolute and unconditional. It will not be limited, reduced, or otherwise affected by any one or more of the following events:

- the unenforceability of the Obligations, any security, or any of our other rights against the Customer or any other person
- any change in the terms or amount or existence of the Obligations
- the extension of time for payment to the Customer or the granting of any indulgence or concession to the Customer or any other person
- the taking or not taking of a guarantee from any other person
- not taking, perfecting, registering, or renewing any security
- accepting settlement from, or granting releases or discharges to, the Customer or any other person, including another guarantor
- any delay or default by us in the exercise of any right or remedy against you or the Customer
- your liability under any other guarantee
- the reorganization of the Customer's business (whether by amalgamation, merger, transfer, sale or otherwise)
- any change in the Customer's financial condition
- any change in control of the Customer (if the Customer is a corporation)
- a dissolution or change in membership of the Customer (if the Customer is a partnership)
- the bankruptcy of the Customer or any proceedings commenced by the Customer under the *Bankruptcy and Insolvency Act* or the *Companies Creditors Arrangement Act* or successor legislation
- our failure to abide by agreements relating to the Obligations
- a breach of any duty of ours (whether fiduciary or in negligence or otherwise) and whether owed to you, the Customer, or any other person
- incapacity, or lack of status or legal existence of the Customer
- the Customer's account being closed or our ceasing to deal with the Customer
- any irregularity, fraud, defect or lack of authority or formality in incurring the Obligation
- not providing our claim in a bankruptcy of the Customer or not proving our claim in full
- any event whatsoever that might be a defence available to the Customer for its obligation or a defence to you under this Guarantee, all of which are hereby waived

5. MAXIUM NOT LIABLE

We do not owe you any duty (as a fiduciary or otherwise) and you hereby waive any right to make any claim or counterclaim and to raise any right of set off, equitable or otherwise, arising from any alleged breach of a duty owed to you, or the Customer or any other person. We will not be liable to you nor shall you make any claim for any negligence or any breaches or omissions on our part, or any of our employees, officers, directors or agents, or any receivers appointed by us, in the course of any of our actions or their actions.

6. TERMINATING FURTHER LIABILITY

You may cancel this Guarantee for any future Obligations by providing us with express written notice of any such cancellation. You will, however, continue to be liable under this Guarantee for any of the Obligations that the Customer incurs up to and including the day after we receive your notice and for Obligations arising out of agreements made prior to the receipt of your notice.

7. NO SETOFF OR COUNTERCLAIM

You will make all payments required to be made under this Guarantee without regard to any right of setoff or counterclaim that you have or may have against us or the Customer, which rights you waive. In addition to any rights now or hereafter granted under applicable law, and not by way of limitation of any such rights, we are authorized upon any amounts being payable by you to us hereunder, without notice, any such notice being expressly waived by you, to setoff, appropriate and apply any and all deposits and any other indebtedness at any time held by us, or owing to you, against and on account of the Obligations.

8. REINSTATEMENT

This Guarantee and all other terms of this agreement shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment (in whole or in part) of any of the Obligations is rescinded or must otherwise be returned or restored by us by reason of the insolvency, bankruptcy or reorganization of the Customer or for any other reason not involving our wilful misconduct, all as though such payment had not been made.

9. APPLICATION OF MONEYS RECEIVED

We may, without notice, apply all moneys received from you, or the Customer or any other person (including under any security that we may from time to time hold) to such part of the Obligations as we, in our absolute discretion, consider appropriate. We may also revoke and alter any such application.

10. EXHAUSTING RECOURSE

We do not need to exhaust our recourse against the Customer or any other person or under any security interest we may from time to time hold before being entitled to full payment from you under this Guarantee. You waive all benefits of discussion and division.

11. INDEMNITY

As an original and independent obligation under this Guarantee, you shall (a) indemnify us and keep us indemnified against any cost, loss, expense or liability of whatever kind resulting from the failure by the Customer to make due and punctual payment of any of the Obligations or resulting from any of the Obligations being or becoming void, voidable, unenforceable or ineffective against the Customer (including, without limitation, all legal and other costs, charges and expenses incurred by us in connection with preserving or enforcing, or attempting to preserve or enforce, our rights under this Guarantee), and (b) pay on demand the amount of such cost, loss, expense or liability whether or not we have attempted to enforce any rights against the Customer, any other guarantor, or any other person.

12. POSTPONED SUBROGATION

Until the Obligations have been paid in full, you will not make any claim for repayment or contribution from the Customer or any guarantor, for any payment that you make under this Guarantee. Until all the Obligations are paid in full, we may include in our claim in the bankruptcy of the Customer the amount paid by you under this Guarantee and receive dividends in respect of that claim because you assign to us your right to prove your claim and receive dividends.

13. COSTS AND EXPENSES

You agree to pay all costs and expenses, including legal fees, of enforcing this Guarantee including the charges and expenses of our in-house lawyers. You will pay the legal fees on a solicitor and own client basis.

14. ASSIGNMENT AND POSTPONEMENT OF CLAIMS

You postpone the repayment of all present and future debts and liabilities that the Customer owes to you to the prior payment to us of the Obligations. You assign to us all such debts and liabilities, until the Obligations are repaid in full. If you receive any moneys in payment of any of such debts and liabilities, you will hold them in trust for, and will immediately pay them to, us without reducing your liability under this Guarantee.

15. CONSENT TO DISCLOSE INFORMATION

We may from time to time give any credit or other information about you to, or receive such information from, any credit bureau, reporting agency or other person.

16. ASSIGNMENT OF OBLIGATIONS

We may, without notice, sell or assign the Obligations and in such case, our assignee may enforce this Guarantee and we may enforce this Guarantee for any part of the Obligations not sold or assigned.

17. GOVERNING LAW

This Guarantee shall be construed in accordance with the laws of the province where the Customer's account is held and you irrevocably submit to the exclusive jurisdiction of the courts of that province.

18. GENERAL

Any provision of this Guarantee that is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. If two or more persons sign this Guarantee, each person's liability will be joint and several. This Guarantee is in addition and without prejudice to any security of any kind now or in the future held by us. There are no representations, collateral agreements, warranties, or conditions with respect to, or affecting your liability under this Guarantee other than as contained in this Guarantee. No alteration or waiver of this Guarantee or any of its terms or conditions shall be binding on us unless expressly made in writing by us. Our written statement of the amount of the Obligations shall be conclusive and binding on you. You expressly waive notice of the existence or creation of all or any of the Obligations, presentment, demand, notice of dishonor, protest and all other notices whatsoever.

19. FURTHER ASSURANCES

You shall do, execute and deliver or shall cause to be done, executed and delivered all such further acts, documents and things as we may reasonably request for the purpose of giving effect to this Guarantee.

20. DEFINITIONS

In this Guarantee "you" "your" and "yours" refer to the guarantor named below.

Dated this 13th day of December, 2017.

IN WITNESS WHEREOF:

BY: E G Ehrhardt

Name: E. G. Ehrhardt

BY: Patrick Miniutti

Patrick Miniutti

H

Exhibit Stamp

No.

This is Exhibit "H" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

1951584 ONTARIO INC. (formerly Maxium Financial Services Inc.).
Guarantee

1. CUSTOMER GUARANTEED

The name of the customer whose obligations you are guaranteeing is: Royal Oaks Golf Club Inc.
(who, together with the Customer's successors, heirs and assigns, shall be referred to herein as the "Customer").

2. OBLIGATIONS GUARANTEED

In consideration of 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) (referred to as "we", "our", "ours" and "us" in this Guarantee) dealing with or continuing to deal with the Customer, you guarantee payment to us on demand, of all present and future lease payments and obligations, conditional sale instalments and obligations, and any other debts and liabilities (collectively, the "Obligations"), both direct and indirect, (whether incurred alone or jointly with others, whether absolute or contingent, whether matured or not matured, and whether for principal, interest or fees) payable to us by the Customer under any and all lease agreements, conditional sale contracts, credit facilities, overdrafts, guarantees, letters of credit, indemnities together with all costs and expenses, including legal fees and expenses, incurred by us in connection with its dealings with the Customer. You agree to be bound by each of the terms and conditions set out below.

3. EXTENT OF YOUR LIABILITY

The extent of your liability is limited to Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) plus interest at the highest rate payable to us by the Customer, accruing from the date of demand on you, plus our costs and expenses of enforcing this Guarantee.

4. THE NATURE OF YOUR LIABILITY

Your liability under this Guarantee is CONTINUING, absolute and unconditional. It will not be limited, reduced, or otherwise affected by any one or more of the following events:

- the unenforceability of the Obligations, any security, or any of our other rights against the Customer or any other person
- any change in the terms or amount or existence of the Obligations
- the extension of time for payment to the Customer or the granting of any indulgence or concession to the Customer or any other person
- the taking or not taking of a guarantee from any other person
- not taking, perfecting, registering, or renewing any security
- accepting settlement from, or granting releases or discharges to, the Customer or any other person, including another guarantor
- any delay or default by us in the exercise of any right or remedy against you or the Customer
- your liability under any other guarantee
- the reorganization of the Customer's business (whether by amalgamation, merger, transfer, sale or otherwise)
- any change in the Customer's financial condition
- any change in control of the Customer (if the Customer is a corporation)
- a dissolution or change in membership of the Customer (if the Customer is a partnership)
- the bankruptcy of the Customer or any proceedings commenced by the Customer under the *Bankruptcy and Insolvency Act* or the *Companies Creditors Arrangement Act* or successor legislation
- our failure to abide by agreements relating to the Obligations
- a breech of any duty of ours (whether fiduciary or in negligence or otherwise) and whether owed to you, the Customer, or any other person
- incapacity, or lack of status or legal existence of the Customer
- the Customer's account being closed or our ceasing to deal with the Customer
- any irregularity, fraud, defect or lack of authority or formality in incurring the Obligation
- not providing our claim in a bankruptcy of the Customer or not proving our claim in full
- any event whatsoever that might be a defence available to the Customer for its obligation or a defence to you under this Guarantee, all of which are hereby waived

5. MAXIUM NOT LIABLE

We do not owe you any duty (as a fiduciary or otherwise) and you hereby waive any right to make any claim or counterclaim and to raise any right of set off, equitable or otherwise, arising from any alleged breach of a duty owed to you, or the Customer or any other person. We will not be liable to you nor shall you make any claim for any negligence or any breaches or omissions on our part, or any of our employees, officers, directors or agents, or any receivers appointed by us, in the course of any of our actions or their actions.

6. TERMINATING FURTHER LIABILITY

You may cancel this Guarantee for any future Obligations by providing us with express written notice of any such cancellation. You will, however, continue to be liable under this Guarantee for any of the Obligations that the Customer incurs up to and including the day after we receive your notice and for Obligations arising out of agreements made prior to the receipt of your notice.

7. NO SETOFF OR COUNTERCLAIM

You will make all payments required to be made under this Guarantee without regard to any right of setoff or counterclaim that you have or may have against us or the Customer, which rights you waive. In addition to any rights now or hereafter granted under applicable law, and not by way of limitation of any such rights, we are authorized upon any amounts being payable by you to us hereunder, without notice, any such notice being expressly waived by you, to setoff, appropriate and apply any and all deposits and any other indebtedness at any time held by us, or owing to you, against and on account of the Obligations.

8. REINSTATEMENT

This Guarantee and all other terms of this agreement shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment (in whole or in part) of any of the Obligations is rescinded or must otherwise be returned or restored by us by reason of the insolvency, bankruptcy or reorganization of the Customer or for any other reason not involving our wilful misconduct, all as though such payment had not been made.

9. APPLICATION OF MONEYS RECEIVED

We may, without notice, apply all moneys received from you, or the Customer or any other person (including under any security that we may from time to time hold) to such part of the Obligations as we, in our absolute discretion, consider appropriate. We may also revoke and alter any such application.

10. EXHAUSTING RECOURSE

We do not need to exhaust our recourse against the Customer or any other person or under any security interest we may from time to time hold before being entitled to full payment from you under this Guarantee. You waive all benefits of discussion and division.

11. INDEMNITY

As an original and independent obligation under this Guarantee, you shall (a) indemnify us and keep us indemnified against any cost, loss, expense or liability of whatever kind resulting from the failure by the Customer to make due and punctual payment of any of the Obligations or resulting from any of the Obligations being or becoming void, voidable, unenforceable or ineffective against the Customer (including, without limitation, all legal and other costs, charges and expenses incurred by us in connection with preserving or enforcing, or attempting to preserve or enforce, our rights under this Guarantee), and (b) pay on demand the amount of such cost, loss, expense or liability whether or not we have attempted to enforce any rights against the Customer, any other guarantor, or any other person.

12. POSTPONED SUBROGATION

Until the Obligations have been paid in full, you will not make any claim for repayment or contribution from the Customer or any guarantor, for any payment that you make under this Guarantee. Until all the Obligations are paid in full, we may include in our claim in the bankruptcy of the Customer the amount paid by you under this Guarantee and receive dividends in respect of that claim because you assign to us your right to prove your claim and receive dividends.

13. COSTS AND EXPENSES

You agree to pay all costs and expenses, including legal fees, of enforcing this Guarantee including the charges and expenses of our in-house lawyers. You will pay the legal fees on a solicitor and own dient basis.

14. ASSIGNMENT AND POSTPONEMENT OF CLAIMS

You postpone the repayment of all present and future debts and liabilities that the Customer owes to you to the prior payment to us of the Obligations. You assign to us all such debts and liabilities, until the Obligations are repaid in full. If you receive any moneys in payment of any of such debts and liabilities, you will hold them in trust for, and will immediately pay them to, us without reducing your liability under this Guarantee.

15. CONSENT TO DISCLOSE INFORMATION

We may from time to time give any credit or other information about you to, or receive such information from, any credit bureau, reporting agency or other person.

16. ASSIGNMENT OF OBLIGATIONS

We may, without notice, sell or assign the Obligations and in such case, our assignee may enforce this Guarantee and we may enforce this Guarantee for any part of the Obligations not sold or assigned.

17. GOVERNING LAW

This Guarantee shall be construed in accordance with the laws of the province where the Customer's account is held and you irrevocably submit to the exclusive jurisdiction of the courts of that province.

18. GENERAL

Any provision of this Guarantee that is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. If two or more persons sign this Guarantee, each person's liability will be joint and several. This Guarantee is in addition and without prejudice to any security of any kind now or in the future held by us. There are no representations, collateral agreements, warranties, or conditions with respect to, or affecting your liability under this Guarantee other than as contained in this Guarantee. No alteration or waiver of this Guarantee or any of its terms or conditions shall be binding on us unless expressly made in writing by us. Our written statement of the amount of the Obligations shall be conclusive and binding on you. You expressly waive notice of the existence or creation of all or any of the Obligations, presentment, demand, notice of dishonor, protest and all other notices whatsoever.

19. FURTHER ASSURANCES

You shall do, execute and deliver or shall cause to be done, executed and delivered all such further acts, documents and things as we may reasonably request for the purpose of giving effect to this Guarantee.

20. DEFINITIONS

In this Guarantee "you" "your" and "yours" refer to the guarantor named below.

Dated this 13th day of December, 2017.

IN WITNESS WHEREOF:

BY:

Name:

Esmond Clouthier

Exhibit Stamp

No.

This is Exhibit "I" referred to in the affidavit of Rod Randall, sworn to before me on March 21, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

1951584 ONTARIO INC. (formerly Maxium Financial Services Inc.).
Guarantee

1. CUSTOMER GUARANTEED

The name of the customer whose obligations you are guaranteeing is: Royal Oaks Golf Club Inc.
(who, together with the Customer's successors, heirs and assigns, shall be referred to herein as the "Customer").

2. OBLIGATIONS GUARANTEED

In consideration of 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) (referred to as "we", "our", "ours" and "us" in this Guarantee) dealing with or continuing to deal with the Customer, you guarantee payment to us on demand, of all present and future lease payments and obligations, conditional sale instalments and obligations, and any other debts and liabilities (collectively, the "Obligations"), both direct and indirect, (whether incurred alone or jointly with others, whether absolute or contingent, whether matured or not matured, and whether for principal, interest or fees) payable to us by the Customer under any and all lease agreements, conditional sale contracts, credit facilities, overdrafts, guarantees, letters of credit, indemnities together with all costs and expenses, including legal fees and expenses, incurred by us in connection with his dealings with the Customer. You agree to be bound by each of the terms and conditions set out below.

3. EXTENT OF YOUR LIABILITY

The extent of your liability is limited to Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) plus interest at the highest rate payable to us by the Customer, accruing from the date of demand on you, plus our costs and expenses of enforcing this Guarantee.

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- incapacity, or lack of status or legal existence of the Customer
- the Customer's account being closed or our ceasing to deal with the Customer
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We may from time to time give any credit or other information about you to, or receive such information from, any credit bureau, reporting agency or other person.

16. ASSIGNMENT OF OBLIGATIONS

We may, without notice, sell or assign the Obligations and in such case, our assignee may enforce this Guarantee and we may enforce this Guarantee for any part of the Obligations not sold or assigned.

17. GOVERNING LAW

This Guarantee shall be construed in accordance with the laws of the province where the Customer's account is held and you irrevocably submit to the exclusive jurisdiction of the courts of that province.

18. GENERAL

Any provision of this Guarantee that is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. If two or more persons sign this Guarantee, each person's liability will be joint and several. This Guarantee is in addition and without prejudice to any security of any kind now or in the future held by us. There are no representations, collateral agreements, warranties, or conditions with respect to, or affecting your liability under this Guarantee other than as contained in this Guarantee. Non-waiver or waiver of this Guarantee or any of its terms or conditions shall be binding on us unless expressly made in writing by us. Our written statement of the amount of the Obligations shall be conclusive and binding on you. You expressly waive notice of the existence or creation of all or any of the Obligations, presentment, demand, notice of dishonor, protest and all other notices whatsoever.

19. FURTHER ASSURANCES

You shall do, execute and deliver or shall cause to be done, executed and delivered all such further acts, documents and things as we may reasonably request for the purpose of giving effect to this Guarantee.

20. DEFINITIONS

In this Guarantee "you" "your" and "yours" refer to the guarantor named below.

Dated this 13 day of December, 2017.

IN WITNESS WHEREOF:

BY:

Name:

BY:

Ron Hrynyk

J

Exhibit Stamp

No.

This is Exhibit "J" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

SUBORDINATION AGREEMENT (WITH POSTPONEMENT)

THIS AGREEMENT made as of the 8th day of December, 2017.

BETWEEN:

1951584 ONTARIO INC. (formerly Maxium Financial Services Inc.)
30 Vogell Road,
Richmond Hill, Ontario
L4B 3K6

(hereinafter the "**Senior Lender**")

- and -

Sunset CRE Investments I LLP

(hereinafter the "**Subordinate Lender**")

- and -

Royal Oaks Golf Club Inc.
401 Royal Oaks Blvd.
Moncton, NB
E1H 3S7

(hereinafter the "**Debtor**").

WHEREAS the Debtor is indebted to, or may hereafter become indebted to, the Subordinate Lender and in connection with such indebtedness (collectively, the "**Subordinate Lender Indebtedness**") has provided certain security to the Subordinate Lender as collateral security for the Subordinate Lender Indebtedness (such security and any other security so given in addition to or in substitution for the whole or any part of said security being hereinafter collectively referred to as the "**Subordinate Lender Security**");

AND WHEREAS the Debtor is indebted to, or may hereafter become indebted to, the Senior Lender and in connection with such indebtedness (collectively, the "**Senior Lender Indebtedness**") has provided certain security to the Senior Lender as collateral security for the Senior Lender Indebtedness (such security and any other security so given in addition to or in substitution for the whole or any part of said security being hereinafter collectively referred to as the "**Senior Lender Security**");

AND WHEREAS the parties hereto consider that it is desirable to establish and agree as to the relative priorities of the Senior Lender Security and the Subordinate Lender Security as well as payment restrictions applicable to the Subordinate Lender Indebtedness;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual terms and conditions herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each such party), the parties hereto agree as follows:

1. The Subordinate Lender hereby agrees with the Senior Lender, the Debtor and each of them and declares that notwithstanding any prior execution, delivery or registration of the Subordinate Lender Security, the security constituted by the Subordinate Lender Security and the Subordinate Lender Indebtedness secured thereby shall be and are hereby postponed to and shall rank subsequent and subordinate to the security constituted by the Senior Lender Security and the Senior Lender Indebtedness secured thereby.

2. The priority of the Senior Lender Security set out in paragraph 1 and all other rights established, altered or specified herein shall:

(a) be applicable irrespective of the time or order of creation, execution, delivery, attachment or perfection thereof, the method of perfecting, the time or order of registration of filing financing statements or taking possession, records of mortgages or other instruments, assignments or agreements, the giving of or failure to give notice of the acquiring of any charge, lien or security interest or the date or dates of any loan or advance or advances by either the Senior Lender or the Subordinate Lender, the date or dates of any default by the Debtor under the Senior Lender Security or the Subordinate Lender Security or the taking of any enforcement proceedings including possession with respect to such security; and

(b) extend to all proceeds in any form derived, arising or resulting from any realization of the Subordinate Lender Security, including all proceeds of insurance policies covering assets of the Debtor subject to the Subordinate Lender Security.

3. Until all of the Senior Lender Indebtedness has been repaid in full, the Subordinate Lender will not without the previous consent in writing of the Senior Lender demand or accept any payment whatsoever from the Debtor or from a manager, receiver, receiver and manager or liquidator of the Debtor, or from a trustee in bankruptcy or person with similar powers, in respect of the Subordinate Lender Indebtedness or any part thereof at any time. All payments received by the Subordinate Lender contrary to the provisions hereof shall be held in trust for the benefit of the Senior Lender and shall be forthwith paid over to the Senior Lender upon receipt.

4. In the event of the Debtor going into bankruptcy, the Subordinate Lender will prove against the Debtor for any claim it may have in respect of the Subordinate Lender Indebtedness and will simultaneously therewith execute and deliver to the Senior Lender such authorities, assignments and/or other instruments as the Senior Lender shall require to enable the Senior Lender to receive the benefit of dividends payable in respect of such claims and shall pay all costs of registration in respect of any such authorities, assignments and/or other instruments. Any such dividends received by the Subordinate Lender in pursuance of this clause 4 shall, unless the Senior Lender agrees otherwise in writing, be received in trust for the Senior Lender and upon receipt shall be paid forthwith to the Senior Lender.

5. Until all of the Senior Lender Indebtedness has been repaid in full, the Subordinate Lender will not:

(a) do, cause or permit to be done by it or on its behalf any act or thing whereby the benefit conferred on the Senior Lender by this agreement may in any way be prejudiced;

(b) fail, omit to do or refrain from doing any act or thing whereby such failure, omission or refraining from so doing may in any way prejudice the benefit conferred on the Senior Lender by this agreement; or

(c) enforce any security against the Debtor.

6. Notwithstanding any term set out in any document establishing the Senior Lender Security or the Subordinate Lender Security, the Senior Lender hereby consents to the Debtor suffering to exist the security constituted by the Subordinate Lender Security and the Subordinate Lender hereby consents to the Debtor suffering to exist the security constituted by the Senior Lender Security.

7. The Subordinate Lender hereby consents to the inclusion of the Senior Lender as loss payee, as its interest may appear, on any insurance policy now or hereafter held by the Debtor and the Subordinate Lender hereby consents to the inclusion of the Senior Lender as loss payee, as its interest may appear, on any insurance policy now or hereafter held by the Debtor.

8. The Debtor agrees with the provisions hereof and further agrees with the Senior Lender and the Subordinate Lender and each of them that so long as the Senior Lender Security and the Subordinate Lender Security are outstanding and secure the indebtedness and other obligations of the Debtor to the Senior Lender and the Subordinate Lender respectively the Debtor will stand possessed of its assets thereby mortgaged, charged or assigned for the parties hereto in accordance with the priorities herein set out. In addition, the Debtor hereby agrees with the Senior Lender not to make any payments to the Subordinate Lender of the Subordinate Lender Indebtedness in contravention of this agreement.

9. Failure of the Senior Lender to exercise any of its rights hereunder shall not constitute a waiver thereof nor release the Subordinate Lender from any obligations incurred hereunder.

10. Any demand, notice or other communication in connection with this agreement shall be in writing and shall be personally delivered to an officer or other responsible employee of the addressee, mailed by registered mail or sent by facsimile or other direct written electronic means, charges prepaid, at or to the address or facsimile number of the party set out below its name on the cover page of this agreement. Any communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a business day and such delivery was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of delivery. Any communication which is mailed as aforesaid shall be deemed to have been validly and effectively given on the fifth business day following the date of mailing, provided that, in the event of an interruption in postal service before such fifth business day, such communication shall be given by one of the other means. Any communication which is transmitted by facsimile or other direct written electronic means as aforesaid shall be deemed to have been validly and effectively given on the date of transmission if such date is a business day and such transmission was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of transmission.

11. Nothing herein contained shall be construed as entitling the Senior Lender or the Subordinate Lender to receive any proceeds of disposition of any of the property or assets of the Debtor in respect of which it does not have any security. If any third party shall have a valid claim to proceeds of realization from any of the property or assets of the Debtor in priority to or on a parity with one of the parties hereto but not in priority to or on a parity with the other party, then this agreement shall not apply so as to diminish the rights (as such rights would have existed but for this agreement) of such other party against such third party to the proceeds of realization from such property or assets. Nothing contained in this agreement shall be construed as conferring any rights upon the Debtor, or upon any party not a party to this agreement.

12. From time to time each of the parties hereto, at the request of any other, shall execute and deliver such additional documents and other assurances as may be reasonably required effectually to carry out the intent of this agreement.

13. In the event that any provision or any part of any provision hereof is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by a court, this agreement shall be construed as not containing such provision or such part of such provision and the invalidity of such provision or such part shall not affect the validity of any other provision or the remainder of such provision hereof, and all other provisions hereof which are otherwise lawful and valid shall remain in full force and effect.

14. This agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original.

15. This agreement and all documents delivered pursuant thereto shall be governed by and construed in accordance with the laws of the Province of Ontario.

16. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Subordinate Lender shall not assign or transfer any of its rights in or under the Subordinate Lender Security or the indebtedness secured thereby, except to a transferee who has previously agreed with the Senior Lender in writing to be bound by the provisions of this agreement.

IN WITNESS WHEREOF this agreement has been executed by the parties hereto as of the date first above written.

1951584 ONTARIO INC.

Per: _____
Name:
Title:

Sunset CRE Investments I LLP

Per: _____
Name: PATRICK MINIUTTI
Title: PARTNER

Per: _____
Name: RONALD HRYNYK
Title: DIRECTOR, HR CORPORATE STRATEGIES LTD.

Royal Oaks Golf Club Inc.

Per: _____
Name: PATRICK MINIUTTI
Title: PRESIDENT

Per: _____
Name:
Title:

15. This agreement and all documents delivered pursuant thereto shall be governed by and construed in accordance with the laws of the Province of Ontario.

16. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Subordinate Lender shall not assign or transfer any of its rights in or under the Subordinate Lender Security or the Indebtedness secured thereby, except to a transferee who has previously agreed with the Senior Lender in writing to be bound by the provisions of this agreement.

IN WITNESS WHEREOF this agreement has been executed by the parties hereto as of the date first above written.

1951584 ONTARIO INC.

Per: _____
Name:
Title:

Sunset CRE Investments I LLP

Per: _____
Name: PATRICK MINIUTTI
Title: PARTNER

Per: _____
Name: RONALD ARNYK
Title: DIRECTOR, HR CORPORATE STRATEGIES LTD.

Royal Oaks Golf Club Inc.

Per: _____
Name: PATRICK MINIUTTI
Title: PRESIDENT

Per: _____
Name:
Title:

SUBORDINATION AGREEMENT (WITH POSTPONEMENT)

THIS AGREEMENT made as of the 13th day of December, 2017.

BETWEEN:

1951584 ONTARIO INC. (formerly Maxium Financial Services Inc.)
30 Vogell Road,
Richmond Hill, Ontario
L4B 3K6

(hereinafter the "**Senior Lender**")

- and -

TW1 Oaks Inc.

(hereinafter the "**Subordinate Lender**")

- and -

Royal Oaks Golf Club Inc.
401 Royal Oaks Blvd.
Moncton, NB
E1H 3S7

(hereinafter the "**Debtor**").

WHEREAS the Debtor is indebted to, or may hereafter become indebted to, the Subordinate Lender and in connection with such indebtedness (collectively, the "**Subordinate Lender Indebtedness**") has provided certain security to the Subordinate Lender as collateral security for the Subordinate Lender Indebtedness (such security and any other security so given in addition to or in substitution for the whole or any part of said security being hereinafter collectively referred to as the "**Subordinate Lender Security**");

AND WHEREAS the Debtor is indebted to, or may hereafter become indebted to, the Senior Lender and in connection with such indebtedness (collectively, the "**Senior Lender Indebtedness**") has provided certain security to the Senior Lender as collateral security for the Senior Lender Indebtedness (such security and any other security so given in addition to or in substitution for the whole or any part of said security being hereinafter collectively referred to as the "**Senior Lender Security**");

AND WHEREAS the parties hereto consider that it is desirable to establish and agree as to the relative priorities of the Senior Lender Security and the Subordinate Lender Security as well as payment restrictions applicable to the Subordinate Lender Indebtedness;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual terms and conditions herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each such party), the parties hereto agree as follows:

1. The Subordinate Lender hereby agrees with the Senior Lender, the Debtor and each of them and declares that notwithstanding any prior execution, delivery or registration of the Subordinate Lender Security, the security constituted by the Subordinate Lender Security and the Subordinate Lender Indebtedness secured thereby shall be and are hereby postponed to and shall rank subsequent and subordinate to the security constituted by the Senior Lender Security and the Senior Lender Indebtedness secured thereby.

2. The priority of the Senior Lender Security set out in paragraph 1 and all other rights established, altered or specified herein shall:

(a) be applicable irrespective of the time or order of creation, execution, delivery, attachment or perfection thereof, the method of perfecting, the time or order of registration of filing financing statements or taking possession, records of mortgages or other instruments, assignments or agreements, the giving of or failure to give notice of the acquiring of any charge, lien or security interest or the date or dates of any loan or advance or advances by either the Senior Lender or the Subordinate Lender, the date or dates of any default by the Debtor under the Senior Lender Security or the Subordinate Lender Security or the taking of any enforcement proceedings including possession with respect to such security; and

(b) extend to all proceeds in any form derived, arising or resulting from any realization of the Subordinate Lender Security, including all proceeds of insurance policies covering assets of the Debtor subject to the Subordinate Lender Security.

3. Until all of the Senior Lender Indebtedness has been repaid in full, the Subordinate Lender will not without the previous consent in writing of the Senior Lender demand or accept any payment whatsoever from the Debtor or from a manager, receiver, receiver and manager or liquidator of the Debtor, or from a trustee in bankruptcy or person with similar powers, in respect of the Subordinate Lender Indebtedness or any part thereof at any time. All payments received by the Subordinate Lender contrary to the provisions hereof shall be held in trust for the benefit of the Senior Lender and shall be forthwith paid over to the Senior Lender upon receipt.

4. In the event of the Debtor going into bankruptcy, the Subordinate Lender will prove against the Debtor for any claim it may have in respect of the Subordinate Lender Indebtedness and will simultaneously therewith execute and deliver to the Senior Lender such authorities, assignments and/or other instruments as the Senior Lender shall require to enable the Senior Lender to receive the benefit of dividends payable in respect of such claims and shall pay all costs of registration in respect of any such authorities, assignments and/or other instruments. Any such dividends received by the Subordinate Lender in pursuance of this clause 4 shall, unless the Senior Lender agrees otherwise in writing, be received in trust for the Senior Lender and upon receipt shall be paid forthwith to the Senior Lender.

5. Until all of the Senior Lender Indebtedness has been repaid in full, the Subordinate Lender will not:

(a) do, cause or permit to be done by it or on its behalf any act or thing whereby the benefit conferred on the Senior Lender by this agreement may in any way be prejudiced;

(b) fail, omit to do or refrain from doing any act or thing whereby such failure, omission or refraining from so doing may in any way prejudice the benefit conferred on the Senior Lender by this agreement; or

(c) enforce any security against the Debtor.

6. Notwithstanding any term set out in any document establishing the Senior Lender Security or the Subordinate Lender Security, the Senior Lender hereby consents to the Debtor suffering to exist the security constituted by the Subordinate Lender Security and the Subordinate Lender hereby consents to the Debtor suffering to exist the security constituted by the Senior Lender Security.

7. The Subordinate Lender hereby consents to the inclusion of the Senior Lender as loss payee, as its interest may appear, on any insurance policy now or hereafter held by the Debtor and the Subordinate Lender hereby consents to the inclusion of the Senior Lender as loss payee, as its interest may appear, on any insurance policy now or hereafter held by the Debtor.

8. The Debtor agrees with the provisions hereof and further agrees with the Senior Lender and the Subordinate Lender and each of them that so long as the Senior Lender Security and the Subordinate Lender Security are outstanding and secure the indebtedness and other obligations of the Debtor to the Senior Lender and the Subordinate Lender respectively the Debtor will stand possessed of its assets thereby mortgaged, charged or assigned for the parties hereto in accordance with the priorities herein set out. In addition, the Debtor hereby agrees with the Senior Lender not to make any payments to the Subordinate Lender of the Subordinate Lender Indebtedness in contravention of this agreement.

9. Failure of the Senior Lender to exercise any of its rights hereunder shall not constitute a waiver thereof nor release the Subordinate Lender from any obligations incurred hereunder.

10. Any demand, notice or other communication in connection with this agreement shall be in writing and shall be personally delivered to an officer or other responsible employee of the addressee, mailed by registered mail or sent by facsimile or other direct written electronic means, charges prepaid, at or to the address or facsimile number of the party set out below its name on the cover page of this agreement. Any communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a business day and such delivery was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of delivery. Any communication which is mailed as aforesaid shall be deemed to have been validly and effectively given on the fifth business day following the date of mailing, provided that, in the event of an interruption in postal service before such fifth business day, such communication shall be given by one of the other means. Any communication which is transmitted by facsimile or other direct written electronic means as aforesaid shall be deemed to have been validly and effectively given on the date of transmission if such date is a business day and such transmission was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of transmission.

11. Nothing herein contained shall be construed as entitling the Senior Lender or the Subordinate Lender to receive any proceeds of disposition of any of the property or assets of the Debtor in respect of which it does not have any security. If any third party shall have a valid claim to proceeds of realization from any of the property or assets of the Debtor in priority to or on a parity with one of the parties hereto but not in priority to or on a parity with the other party, then this agreement shall not apply so as to diminish the rights (as such rights would have existed but for this agreement) of such other party against such third party to the proceeds of realization from such property or assets. Nothing contained in this agreement shall be construed as conferring any rights upon the Debtor, or upon any party not a party to this agreement.

12. From time to time each of the parties hereto, at the request of any other, shall execute and deliver such additional documents and other assurances as may be reasonably required effectually to carry out the intent of this agreement.

13. In the event that any provision or any part of any provision hereof is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by a court, this agreement shall be construed as not containing such provision or such part of such provision and the invalidity of such provision or such part shall not affect the validity of any other provision or the remainder of such provision hereof, and all other provisions hereof which are otherwise lawful and valid shall remain in full force and effect.

14. This agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original.

15. This agreement and all documents delivered pursuant thereto shall be governed by and construed in accordance with the laws of the Province of Ontario.

16. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Subordinate Lender shall not assign or transfer any of its rights in or under the Subordinate Lender Security or the indebtedness secured thereby, except to a transferee who has previously agreed with the Senior Lender in writing to be bound by the provisions of this agreement.

IN WITNESS WHEREOF this agreement has been executed by the parties hereto as of the date first above written.

1951584 ONTARIO INC.

Per: _____
Name:
Title:

TW1 Oaks Inc.

Per: _____
Name: ESMOND CLOUTHIER
Title: PRESIDENT

Per: _____
Name:
Title:

Royal Oaks Golf Club Inc.

Per: _____
Name: PATRICK MINIUTTI
Title: PRESIDENT

Per: _____
Name:
Title:

K

Exhibit Stamp

No.

This is Exhibit "K" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

AMENDING AGREEMENT

BETWEEN: **Royal Oaks Golf Club Inc.**
401 Royal Oaks Blvd.
Moncton, NB
E1H 3S7 (hereinafter called the "Borrower")

AND **CWB MAXIUM FINANCIAL INC.**
30 Vogell Rd, Unit #1
Richmond Hill, ON
L4B 3K6 (hereinafter called "CWB Maxium")

WHEREAS the parties hereto have entered into Promissory M1-4 dated January 1, 2018 (the "Promissory Note") pursuant to which CWB Maxium has provided certain financing, as set out therein, to the Borrower;

AND WHEREAS the parties have agreed to amend the payment stream on the Promissory Note to defer payments as set out in the Promissory Note as provided herein;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree that the payment stream as set forth in the Promissory Note is hereby amended to the following:

Revised Payment Stream:

No. of Instalments	Date From (inclusive)	Date To (inclusive)	Amount of Each Instalment
28	January 1, 2018	April 1, 2020	$16,240.76
2	May 1, 2020	June 1, 2020	$0.00
30	July 1, 2020	December 1, 2022	$16,240.76
1	December 1, 2022	December 1, 2022	$1,882,713.12

Except as set out herein, all other terms and conditions of the Promissory Note shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment to the Promissory Note on the

15TH day of SEPTEMBER 2020.

CWB MAXIUM FINANCIAL INC.

By: Anna Cappadocia

Name & Title: Anna Cappadocia, VP Admin

Royal Oaks Golf Club Inc.

By:

Name & Title: OSMOND CLOUTHIER, PRESIDENT

By:

Name & Title: RON HENNYK, V.P.

BETWEEN:

Royal Oaks Golf Club Inc.
401 Royal Oaks Blvd
Moncton, NB
E1H 3S7

(hereinafter referred to as "Borrower")

AND

CWB MAXIUM FINANCIAL INC.
30 Vogell Road, Unit #1
Richmond Hill, ON
L4B 3N6

(hereinafter referred to as "CWB Maxium")

WHEREAS the parties hereto have entered into Promissory Note M14 dated January 1, 2019 and as amended (the "Promissory Note") pursuant to which CWB Maxium has provided certain financing, as set out therein, to the Borrower.

AND WHEREAS the parties have agreed to amend the payment stream on the Promissory Note to extend the loan for an additional six (6) months as set out below in the Revised Payment Stream.

AND WHEREAS the parties agree to amend the interest rate as of December 1, 2022 from fixed rate 6.67% to a floating rate of Canadian Western Bank Prime Rate plus 3.0%; wherein "Prime Rate" means the rate of interest per annum (based on a 365 day year), established and reported by the Canadian Western Bank ("CWB") to The Bank of Canada from time to time as a reference rate of interest for the determination of interest rates that CWB charges to customers of varying degrees of creditworthiness in Canada for Canadian dollar loans made by it in Canada. You will be bound by any changes of the Prime Rate, regardless of whether we have notified you of such changes.

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree that the payment stream as set forth in the Promissory Note is hereby amended to the following:

Revised Payment Stream:

No. of Instalments	Date From (inclusive)	Date To (inclusive)	Amount of Each Instalment
1	January 1, 2023	January 1, 2023	$19,350.25
5	February 1, 2023	June 1, 2023	$14,626.37
1	June 1, 2023	June 1, 2023	$1,882,713.12

Except as set out herein, all other terms and conditions of the Promissory Note shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment to the Promissory Note on the 18th day of January, 2023.

CWB MAXIUM FINANCIAL INC.

By: Heather Nisbet

Name: Heather Nisbet
Title: VP, Operations and Portfolio Management

Royal Oaks Golf Club Inc.

By:
Name: EDMOND CLOUTHIER
Title: PRESIDENT

By:
Name: NICOLE CLOUTHIER
Title: SECRETARY TREASURER

Witness Date

AMENDING AGREEMENT

BETWEEN : **Royal Oaks Golf Club Inc.**
401 Royal Oaks Blvd
Moncton, NB
E1H 3S7 (hereinafter referred to as "Borrower")

AND **CWB MAXIUM FINANCIAL INC.**
30 Vogell Road, Unit #1
Richmond Hill, ON
L4B 3K6 (hereinafter referred to as " CWB Maxium")

WHEREAS the parties hereto have entered into Promissory Note M1-4 dated January 1, 2018 and as amended (the "Promissory Note") pursuant to which CWB Maxium has provided certain financing, as set out therein, to the Borrower.

AND WHEREAS the parties have agreed to amend the payment stream on the Promissory Note to extend the loan for an additional one (1) month as set out below in the Revised Payment Stream. A $5,000 administration fee will also be collected on June 1, 2023

AND WHEREAS the parties agree to amend the interest rate as of December 1, 2022 from fixed rate 6.67% to a floating rate of Canadian Western Bank Prime Rate plus 3.0%; whereas "Prime Rate" means the rate of interest per annum (based on a 365 day year), established and reported by the Canadian Western Bank ("CWB") to The Bank of Canada from time to time as a reference rate of interest for the determination of interest rates that CWB charges to customers of varying degrees of creditworthiness in Canada for Canadian dollar loans made by it in Canada. You will be bound by any changes of the Prime Rate, regardless of whether we have notified you of such changes.

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree that the payment stream as set forth in the Promissory Note is hereby amended to the following:

Revised Payment Stream:

No. of Instalments	Date From (Inclusive)	Date To (Inclusive)	Amount of Each Instalment
1	January 1, 2023	January 1, 2023	$14,950.25
4	February 1, 2023	May 1, 2023	$14,826.37
2	June 1, 2023	July 1, 2023	$15,231.34
1	July 1, 2023	July 1, 2023	$1,884,289.80

Except as set out herein, all other terms and conditions of the Promissory Note shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment to the Promissory Note on the 19th day of May, 2023

CWB MAXIUM FINANCIAL INC.

By: Heather Nisbet

Name: Heather Nisbet
VP, Operations and Portfolio Management

Title:

Royal Oaks Golf Club Inc.

By:

Name: ESMOND CLOUTHIER

Title: PRESIDENT

By:

Name: NICOLE CLOUTHIER

Title: SEC. TREASURER

AMENDING AGREEMENT

BETWEEN : **Royal Oaks Golf Club Inc.**
401 Royal Oaks Blvd
Moncton, NB
E1H 3S7 (hereinafter referred to as "Borrower")

AND **CWB MAXIUM FINANCIAL INC.**
30 Vogell Road, Unit #1
Richmond Hill, ON
L4B 3K6 (hereinafter referred to as " CWB Maxium")

WHEREAS the parties hereto have entered into Promissory Note M1-4 dated January 1, 2018 and as amended (the "Promissory Note") pursuant to which CWB Maxium has provided certain financing, as set out therein, to the Borrower.

AND WHEREAS the parties have agreed to amend the payment stream on the Promissory Note to extend the loan for an additional one (1) month as set out below in the Revised Payment Stream. A $15,000 administration fee will also be collected on August 1, 2023.

AND WHEREAS the parties agree to amend the interest rate as of December 1, 2022 from fixed rate 6.67% to a floating rate of Canadian Western Bank Prime Rate plus 3.0%; whereas "Prime Rate" means the rate of interest per annum (based on a 365 day year), established and reported by the Canadian Western Bank ("CWB") to The Bank of Canada from time to time as a reference rate of interest for the determination of interest rates that CWB charges to customers of varying degrees of creditworthiness in Canada for Canadian dollar loans made by it in Canada. You will be bound by any changes of the Prime Rate, regardless of whether we have notified you of such changes.

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree that the payment stream as set forth in the Promissory Note is hereby amended to the following:

Revised Payment Stream:

No. of Instalments	Date From (inclusive)	Date To (inclusive)	Amount of Each Instalment
1	January 1, 2023	January 1, 2023	$14,950.25
4	February 1, 2023	May 1, 2023	$14,825.37
3	June 1, 2023	August 1, 2023	$15,231.34
1	September 1, 2023	September 1, 2023	$16,025.65
1	September 1, 2023	September 1, 2023	$1,885,371.07

Except as set out herein, all other terms and conditions of the Promissory Note shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment to the Promissory Note on the 18th day of July, 2023.

CWB MAXIUM FINANCIAL INC.

By: Heather Nisbet

Name: Heather Nisbet
Title: AVP, Operations & Portfolio Management

Royal Oaks Golf Club Inc.

By:

Name: ESMOND CLOUTHIER
Title: PRESIDENT

By:

Name: NICOLE CLOUTHIER
Title: SECRETARY-TREASURER.

L

Exhibit Stamp

No.

This is Exhibit "L" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

BOYNECLARKE
LAWYERS | LLP

Creditor Practice Group

DELIVERY VIA:
Regular Mail & Registered Mail

FILE REFERENCE:
173937.001

Halifax Regional Municipality

99 Wyse Road, Suite 600
Dartmouth
NS Canada B3A 4S5

Correspondence:
P.O. Box 876
Dartmouth Main
NS Canada B2Y 3Z5

T 902.469.9500
F 902.463.7500
www.boyneclarke.ca

October 13, 2023

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
1646 Elmwood Drive
Moncton, NB E1H 2H6

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
44 Chipman Hill
Suite 1000
Saint John, NB E2L 2A9

Dear Sir/Madam:

Re: Mortgage
Property Address: 401 Royal Oaks Boulevard, Moncton, NB and 1646 Elmwood Drive, Moncton, NB and Oakcroft Crescent, Moncton, NB

We act for 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. ("Bank") and are writing with respect to your matured mortgage.

We understand that on or about November 5, 2012 you executed a mortgage in favour of the Bank which was registered in the Land Titles Office on November 23, 2012 as document no. 32193048.

The mortgage is in default, and we are writing to demand payment of your mortgage balance, all accrued interest, and any outstanding taxes. Also, we will incur legal fees, disbursements and property management costs which pursuant to your mortgage you are required to pay.

All payments must be made by way of certified cheque or money order payable to **BOYNECLARKE LLP, in Trust**, and must be processed through our office.

Unless payment is received in our office by October 23, 2023 we will initiate mortgage enforcement proceedings pursuant to the terms of the mortgage and the *Property Act*.

Please note that if partial payments are received from you they will be applied against the full balance due and owing under the mortgage, but this will not stop the enforcement proceedings.

BOYNECLARKE
LAWYERS | LLP

Please be advised that if after the sale of the property there is a deficiency between what is realized on the sale and the amount owing for principal, interest, costs, and other amounts as allowed by the court, the Bank has a right to apply for an Order which will result in the Estate's liability for such deficiency, if any.

We hope you will take this opportunity to resolve this matter at this stage. Please direct your inquiries with respect to payment of this account to **Rebecca Moore**, at **(902) 460-3400, Ext. 185** or **rmoore@boyneclarke.ca.**

Yours very truly,

BOYNECLARKE LLP

BoyneClarke

JJS: mem4

NOTICE OF INTENTION TO ENFORCE SECURITY
SECTION 244(1) - *BANKRUPTCY AND INSOLVENCY ACT*

TO: Royal Oaks Golf Club Inc. (633003 N.B. Inc.)

TAKE NOTICE THAT:

1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc., a secured creditor, intends to enforce its security on the property of Royal Oaks Golf Club Inc. (633003 N.B. Inc.), an insolvent person, as described below:

Real Property at 401 Royal Oaks Boulevard, Moncton, New Brunswick.

The security which is to be enforced is in the form of:
a real property mortgage dated November 23, 2012; and

The total amount of indebtedness secured by the security is $1,904,896.28 as of September 22, 2023.

The secured creditor will not have the right to enforce the security until after the expiry of the ten (10) day period following the service of this Notice unless the insolvent person consents to an earlier enforcement.

DATED at Dartmouth, in the County of Halifax, Province of Nova Scotia, this 13h day of October 2023.

By its solicitor, Joshua J. Santimaw

PL# 173496/JJS/13855356

M

Exhibit Stamp

No.

This is Exhibit "M" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

BOYNECLARKE
LAWYERS | LLP

DELIVERY VIA:
Regular

FILE REFERENCE:
173937.001

Creditor Practice Group

October 13, 2023

Halifax Regional Municipality

99 Wyse Road, Suite 600
Dartmouth
NS Canada B3A 4S5

Correspondence:
P.O. Box 876
Dartmouth Main
NS Canada B2Y 3Z5

T 902.469.9500
F 902.463.7500
www.boyneclarke.ca

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Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
1646 Elmwood Drive
Moncton, NB E1H 2H6

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
44 Chipman Hill
Suite 1000
Saint John, NB E2L 2A9

Dear Sir/Madam:

Re: Outstanding Account/1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc.

We act for 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. and are writing concerning the accounts of Royal Oaks Golf Club Inc.

The account has now gone into arrears.

Given that the account has gone into arrears, the Bank has the right and does hereby demand payment of the full outstanding balance of the account, in the total amount of $2,150,000.00, plus interest and costs to the date of payment.

Should arrangements not be made to make payment of the full outstanding balance of the account within 10 days, the Bank has instructed us to proceed with an action against you.

Please be advised that if it is necessary to proceed to judgment, legal fees will be charged at an hourly rate plus disbursements. In the event legal action becomes necessary, our client's claim will be for the full principal balance, all accrued interest and all additional legal costs.

We hope you will take this opportunity to resolve this matter at this stage. Please direct your inquiries with respect to payment of this account to our paralegal **Joshua J. Santimaw** at **(902) 460-3451, Ext. 233** or **jsantimaw@boyneclarke.ca.**

Yours very truly,
BOYNECLARKE LLP

BoyneClarke

JJS/jjs

PL# 173496/13855352

NOTICE OF INTENTION TO ENFORCE SECURITY
SECTION 59 – *PERSONAL PROPERTY SECURITY ACT* (Nova Scotia)

TO: Royal Oaks Golf Club Inc. (633003 N.B. Inc.)

RE: Debts owed to 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc.

TAKE NOTICE that you are in default under the following security agreements:

General Security Agreement dated on or about December 13, 2017

And that the above security agreements secure the following collateral:

> All of the debtor's present and after acquired business assets and/or personal property including without limitation in all Goods (including all parts, accessories, attachments specific tools, additions and accessions thereto) Chattel Paper, Documents of Title (whether negotiable or not), instruments intangibles, Money and Securities and all other investment Property now owned or hereafter owned or acquired ... relating to the business located at 20 Sackville Crescent, Middle Sackville, Nova Scotia operating as Tipping Point Distillers.

And that 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. (the "**Secured Party**") intends to seize, take possession of, or dispose of the collateral in accordance with sections 59 and 60 of the *Personal Property Security Act* (Nova Scotia), unless the collateral is redeemed.

The amount required to satisfy your obligations to the Secured Party as of September 22, 2023, is as follows:

$1,904,896.28;

together with interest thereon as prescribed in the security agreements above to the date of payment in full, and

together with all expenses incurred by and on behalf of the Secured Party prior to the date of payment in full.

Upon payment of the amounts due, being the principal, interest, and expenses referred to above, you may redeem the collateral.

Unless the amounts due are received within 15 days from the date you receive this notice, the Secured Party will enforce its rights under the security agreements, which rights include the

seizure, repossession, and private or public disposal of the collateral, and you will be liable for any deficiency.

DATED at Dartmouth, in the Halifax Regional Municipality, Nova Scotia, this 13 day of October 2023.

1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc.by its solicitors

BOYNECLARKE LLP

Joshua J. Santimaw

N

Exhibit Stamp

No.

This is Exhibit "N" referred to in the affidavit of Rod Randall, sworn to before me on March 9, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

BOYNECLARKE
LAWYERS | LLP

DELIVERY VIA:
Regular Mail & Registered Mail

FILE REFERENCE:
173937.001

Creditor Practice Group

Halifax Regional Municipality

99 Wyse Road, Suite 600
Dartmouth
NS Canada B3A 4S5

Correspondence:
P.O. Box 876
Dartmouth Main
NS Canada B2Y 3Z5

T 902.469.9500
F 902.463.7500
www.boyneclarke.ca

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October 13, 2023

Estate of Patrick Minuitti
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Estate of Patrick Minuitti
2 Antonini Court
Maple, ON L6A 4R2

Mr. Ronald Hrynyk
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Mr. Ronald Hrynyk
2495 Lloydtown-Aurora Road
King City, ON L7B 1A3

Mr. Esmond Clouthier
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Mr. Esmond Clouthier
167 Brule Trail
King, ON L7B 0C7

Ms. Nicole Clouthier
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Ms. Nicole Clouthier
167 Brule Trail
King, ON L7B 0C7

Mr. Steve Lunn
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Dear Estate of Patrick Minuitti, Mr. Hrynyk, Mr. Clouthier, Ms. Clouthier and Mr. Lunn:

Re: **Mortgage**
Property Address: 401 Royal Oaks Boulevard, Moncton, NB and 1646 Elmwood Drive, Moncton, NB and Oakcroft Crescent, Moncton, NB

We act for 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. ("Bank") and are writing with respect to your matured mortgage.

We understand that you guaranteed a mortgage executed by Royal Oaks Golf Club Inc. also known as 633003 N.B. Inc. on or about November 5, 2012.

We forwarded a demand for payment to the mortgagor since the mortgage is in default, a copy of which is enclosed for your ease of reference.

We will not accept partial payments of the amount owing. The full balance of the mortgage plus costs is now due.

BOYNECLARKE
LAWYERS | LLP

In addition to the above, there will be a charge for legal fees, disbursements and HST, to date of payment.

Unless payment is received in our office by October 23, 2023 mortgage enforcement proceedings will be initiated immediately pursuant to the terms of the mortgage, the guarantee, and any applicable legislation. The Bank will be naming you in the enforcement proceedings.

We hope you will take this opportunity to resolve this matter at this stage. Please direct your inquiries with respect to payment of this account to **Rebecca Moore**, at **(902) 460-3400, Ext. 185** or **rmoore@boyneclarke.ca.**

Yours very truly,

BOYNECLARKE LLP

BoyneClarke

JJS:mem4
Enclos.

PL# 173937.001/13853285

BOYNECLARKE
LAWYERS | LLP

Creditor Practice Group

DELIVERY VIA:
Regular Mail & Registered Mail

FILE REFERENCE:
173937.001

Halifax Regional Municipality

99 Wyse Road, Suite 600
Dartmouth
NS Canada B3A 4S5

Correspondence:
P.O. Box 876
Dartmouth Main
NS Canada B2Y 3Z5

T 902.469.9500
F 902.463.7500
www.boyneclarke.ca

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October 13, 2023

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
1646 Elmwood Drive
Moncton, NB E1H 2H6

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
44 Chipman Hill
Suite 1000
Saint John, NB E2L 2A9

Dear Sir/Madam:

Re: Mortgage
Property Address: 401 Royal Oaks Boulevard, Moncton, NB and 1646 Elmwood Drive, Moncton, NB and Oakcroft Crescent, Moncton, NB

We act for 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. ("Bank") and are writing with respect to your matured mortgage.

We understand that on or about November 5, 2012 you executed a mortgage in favour of the Bank which was registered in the Land Titles Office on November 23, 2012 as document no. 32193048.

The mortgage is in default, and we are writing to demand payment of your mortgage balance, all accrued interest, and any outstanding taxes. Also, we will incur legal fees, disbursements and property management costs which pursuant to your mortgage you are required to pay.

All payments must be made by way of certified cheque or money order payable to **BOYNECLARKE LLP, in Trust**, and must be processed through our office.

Unless payment is received in our office by October 23, 2023 we will initiate mortgage enforcement proceedings pursuant to the terms of the mortgage and the *Property Act*.

Please note that if partial payments are received from you they will be applied against the full balance due and owing under the mortgage, but this will not stop the enforcement proceedings.

BOYNECLARKE
LAWYERS | LLP

Please be advised that if after the sale of the property there is a deficiency between what is realized on the sale and the amount owing for principal, interest, costs, and other amounts as allowed by the court, the Bank has a right to apply for an Order which will result in the Estate's liability for such deficiency, if any.

We hope you will take this opportunity to resolve this matter at this stage. Please direct your inquiries with respect to payment of this account to **Rebecca Moore,** at **(902) 460-3400, Ext. 185** or **rmoore@boyneclarke.ca.**

Yours very truly,

BOYNECLARKE LLP

BoyneClarke

JJS: mem4

PL#173937.001/13853163

NOTICE OF INTENTION TO ENFORCE SECURITY
SECTION 244(1) - *BANKRUPTCY AND INSOLVENCY ACT*

TO: Royal Oaks Golf Club Inc. (633003 N.B. Inc.)

TAKE NOTICE THAT:

1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc., a secured creditor, intends to enforce its security on the property of Royal Oaks Golf Club Inc. (633003 N.B. Inc.), an insolvent person, as described below:

Real Property at 401 Royal Oaks Boulevard, Moncton, New Brunswick.

The security which is to be enforced is in the form of:
a real property mortgage dated November 23, 2012; and

The total amount of indebtedness secured by the security is $1,904,896.28 as of September 22, 2023.

The secured creditor will not have the right to enforce the security until after the expiry of the ten (10) day period following the service of this Notice unless the insolvent person consents to an earlier enforcement.

DATED at Dartmouth, in the County of Halifax, Province of Nova Scotia, this 13h day of October 2023.

By its solicitor, Joshua J. Santimaw

PL# 173496/JJS/13855356

O

Exhibit Stamp

No.

This is Exhibit "O" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

BOYNECLARKE
LAWYERS | LLP

DELIVERY VIA:
Regular

FILE REFERENCE:
173937.001

Creditor Practice Group

Halifax Regional Municipality

99 Wyse Road, Suite 600
Dartmouth
NS Canada B3A 4S5

Correspondence:
P.O. Box 876
Dartmouth Main
NS Canada B2Y 3Z5

T 902.469.9500
F 902.463.7500
www.boyneclarke.ca

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October 13, 2023

Estate of Patrick Minuitti
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Mr. Ronald Hrynyk
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Mr. Esmond Clouthier
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Ms. Nicole Clouthier
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Mr. Steve Lunn
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Estate of Patrick Minuitti
2 Antonini Court
Maple, ON L6A 4R2

Mr. Ronald Hrynyk
2495 Lloydtown-Aurora Road
King City, ON L7B 1A3

Mr. Esmond Clouthier
167 Brule Trail
King, ON L7B 0C7

Ms. Nicole Clouthier
167 Brule Trail
King, ON L7B 0C7

Dear Sir/Madam:

Re: Guarantee of Accounts

We act for 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. ("Bank").

We understand that you guaranteed the account that was extended to Royal Oaks Golf Club Inc. (633003 N.B. Inc.) to a limit of $2,150,000.00 plus interest and costs:

We forwarded a demand for payment to the debtor since accounts are in default, a copy of which is enclosed for your ease of reference.

We will not accept partial payments of the amount owing. There will also be a charge for legal fees, disbursements and HST, to date of payment. **YOU MUST CONTACT US FOR THE AMOUNT.**

BOYNECLARKE
LAWYERS | LLP

Unless payment is received in our office by October 23, 2023, enforcement proceedings will be initiated immediately pursuant to the terms of the accounts, the guarantee, and any applicable legislation. The Bank will be naming you in the enforcement proceedings. We hope you will take this opportunity to resolve this matter at this stage. Please direct your inquiries with respect to payment of these accounts to our paralegal **Joshua J. Santimaw** at **(902)460-3451** or **jsantimaw@boyneclarke.ca.**

Yours very truly,

BOYNECLARKE LLP

BoyneClarke

JJS/jjs
Encl.

PL# 173496/13855354

BOYNECLARKE
LAWYERS | LLP

Creditor Practice Group

DELIVERY VIA:
Regular

FILE REFERENCE:
173937.001

October 13, 2023

Halifax Regional Municipality

99 Wyse Road, Suite 600
Dartmouth
NS Canada B3A 4S5

Correspondence:
P.O. Box 876
Dartmouth Main
NS Canada B2Y 3Z5

T 902.469.9500
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Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
401 Royal Oaks Blvd.
Moncton, NB E1H 0A2

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
1646 Elmwood Drive
Moncton, NB E1H 2H6

Royal Oaks Golf Club Inc.
(633003 N.B. Inc.)
44 Chipman Hill
Suite 1000
Saint John, NB E2L 2A9

Dear Sir/Madam:

Re: Outstanding Account/1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc.

We act for 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. and are writing concerning the accounts of Royal Oaks Golf Club Inc.

The account has now gone into arrears.

Given that the account has gone into arrears, the Bank has the right and does hereby demand payment of the full outstanding balance of the account, in the total amount of $2,150,000.00, plus interest and costs to the date of payment.

Should arrangements not be made to make payment of the full outstanding balance of the account within 10 days, the Bank has instructed us to proceed with an action against you.

Please be advised that if it is necessary to proceed to judgment, legal fees will be charged at an hourly rate plus disbursements. In the event legal action becomes necessary, our client's claim will be for the full principal balance, all accrued interest and all additional legal costs.

We hope you will take this opportunity to resolve this matter at this stage. Please direct your inquiries with respect to payment of this account to our paralegal **Joshua J. Santimaw** at **(902) 460-3451, Ext. 233** or **jsantimaw@boyneclarke.ca.**

Yours very truly,
BOYNECLARKE LLP

BoyneClarke

JJS/jjs

PL# 173496/13855352

NOTICE OF INTENTION TO ENFORCE SECURITY
SECTION 59 – *PERSONAL PROPERTY SECURITY ACT* (Nova Scotia)

TO: Royal Oaks Golf Club Inc. (633003 N.B. Inc.)

RE: Debts owed to 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc.

TAKE NOTICE that you are in default under the following security agreements:

General Security Agreement dated on or about December 13, 2017

And that the above security agreements secure the following collateral:

> All of the debtor's present and after acquired business assets and/or personal property including without limitation in all Goods (including all parts, accessories, attachments specific tools, additions and accessions thereto) Chattel Paper, Documents of Title (whether negotiable or not), instruments intangibles, Money and Securities and all other investment Property now owned or hereafter owned or acquired ... relating to the business located at 20 Sackville Crescent, Middle Sackville, Nova Scotia operating as Tipping Point Distillers.

And that 1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc. (the "**Secured Party**") intends to seize, take possession of, or dispose of the collateral in accordance with sections 59 and 60 of the *Personal Property Security Act* (Nova Scotia), unless the collateral is redeemed.

The amount required to satisfy your obligations to the Secured Party as of September 22, 2023, is as follows:

$1,904,896.28;

together with interest thereon as prescribed in the security agreements above to the date of payment in full, and

together with all expenses incurred by and on behalf of the Secured Party prior to the date of payment in full.

Upon payment of the amounts due, being the principal, interest, and expenses referred to above, you may redeem the collateral.

Unless the amounts due are received within 15 days from the date you receive this notice, the Secured Party will enforce its rights under the security agreements, which rights include the

seizure, repossession, and private or public disposal of the collateral, and you will be liable for any deficiency.

DATED at Dartmouth, in the Halifax Regional Municipality, Nova Scotia, this 13 day of October 2023.

1951584 Ontario Inc. (formerly Maxium Financial Services Inc.) also known as CWB Maxium Financial Inc.by its solicitors

BOYNECLARKE LLP

Joshua J. Santimaw

P

Exhibit Stamp

No.

This is Exhibit "P" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

Court File No.: MM-286-2023

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF MONCTON

COUR DU BANC DU ROI DU NOUVEAU-BRUNSWICK

DIVISION DE PREMIÈRE INSTANCE

CIRCONSCRIPTION JUDICIAIRE DE MONCTON

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTIONS 141 AND 166 OF THE BUSINESS CORPORATIONS ACT, SNB 1981, c B-9.1

B E T W E E N:

ENTRE:

TW1 OAKS INC.,

Applicant,

Requérant

- and -

- et -

HR CORPORATE STRATEGIES LTD., WALTER STEVEN LUNN and ROYAL OAKS GOLF CLUB INC.

Respondents.

Intimé

NOTICE OF APPLICATION (FORM 16D)

AVIS DE REQUÊTE (FORMULE 16D)

TO: HR Corporate Strategies Ltd.
c/o Harris & Harris LLP
295 The West Mall, 6th Floor
Toronto, ON, M9C 4Z4

DESTINATAIRE:

AND: Walter Steven Lunn
6575 N Thimble Pass Road N
Tucson AZ United States 85750

AND: Royal Oaks Golf Club Inc.
401 Royal Oaks Blvd
Moncton, NB E1H 0A2

LEGAL PROCEEDINGS HAVE BEEN

PAR LE DÉPÔT DU PRÉSENT AVIS DE

COMMENCED BY FILING THIS NOTICE OF APPLICATION.

The Applicant, TW1 Oaks Inc., will make an application before the Court of King's Bench at Moncton, New Brunswick on the _____ day of _____, 2024 at _____ a.m./p.m. for an Order as set out herein.

If you wish to oppose this application you must appear at the hearing of the application at the place, date and time stated either in person or by a New Brunswick lawyer acting on your behalf.

If you intend to appear on the hearing of the application and wish to present to the Court at that time affidavit or other documentary evidence to support your position, you must serve a copy of such evidence on the Applicant or his lawyer and, with proof of such service, file it in this Court Office prior to the hearing of the application.

If you fail to appear on the hearing of the application AN ORDER WHICH MAY AFFECT YOU MAY BE MADE IN YOUR ABSENCE.

You are advised that:

(a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;

(b) the applicant intends to proceed in the English language; and

(c) if you require the services of an interpreter at the hearing you must advise the clerk at least 7 days before

REQUÊTE, UNE POURSUITE JUDICIAIRE A ÉTÉ ENGAGÉE.

Le requérant présentera une requête à la Cour à (lieu précis) le 2024 à ... h en vue d'obtenir l'ordonnance décrite ci-dessous.

Si vous désirez contester cette requête, vous devrez comparaître à l'audition de la requête aux lieu, date et heure indiqués, soit en personne ou par l'intermédiaire d'un avocat du Nouveau-Brunswick chargé de vous représenter.

Si vous prévoyez comparaître à l'audition de la requête et désirez présenter à la Cour un affidavit ou une autre preuve littérale en votre faveur, vous devrez signifier copie de cette preuve au requérant ou à son avocat et la deposer, avec une preuve de sa signification, au greffe de cette Cour avant l'audition de la requête.

Si vous ne comparaissez pas à l'audition de la requête, UNE ORDONNANCE POUVANT VOUS CONCERNER POURRA ÊTRE RENDUE EN VOTRE ABSENCE.

Sachez que:

(a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;

(a) le requérant a l'intention d'utiliser la langue _____; et

(b) si vous avez besoin des services d'un interprète à l'audience, vous devez en aviser le greffier au moins 7 jours avant l'audience.

the hearing.

THIS NOTICE is signed and sealed for the Court of King's Bench by the D/Clerk of the Court of King's Bench, 145 Assumption Blvd., Moncton, N.B., on the 4th day of December, 2023.

original signed by /
original signé par
Sarah Hébert

D/ CLERK

CET AVIS est signe scellé au nom de la Cour du Banc du Roi par , greffier de la Cour à , ce , 2023.

APPLICATION

1. On the hearing of this Application, the Applicant, TW1 Oaks Inc. ("**TW1**") intends to apply for:

   (a) an order, if necessary, abridging the time for service of this Notice of Application pursuant to Rules 3.02(1) and (4) of the *Rules of Court*;

   (b) a declaration, pursuant to sections 141(1)(b)(ii) and 141(2) of the *Business Corporations Act*, SNB 1981, c B-9.1 ("**BCA**") that the threshold criterion for the just and equitable remedy is met, but it is appropriate for the Court to substitute a less draconian remedy than liquidation and dissolution, being a buyout of all of the issued and outstanding common shares of the Respondent, HR Corporate Strategies Ltd. ("**HR**") in Royal Oaks Golf Club Inc. ("**ROGC**"), which are referred to herein as "**the HR Shares**";

   (c) an order pursuant to sections 141(2) and/or 166 of the BCA:

      (i) directing HR to sell, within 15 days ("**the Closing Date**"), the HR Shares to ROGC or, alternatively, to TW1[1] for:

         (A) payment of $185,554.59 on the Closing Date representing the liabilities owing by ROGC to HR and its principals as recorded in the financial records of ROGC; and

         (B) an amount for the HR Shares equal to 31.63% of $4,200,000 less all liabilities of ROGC (including liabilities paid out under paragraph A above) as of the Closing Date ("**the Buyout Formula**");

      (ii) directing that, if there is disagreement on the equity value of the HR Shares resulting from an application of the Buyout Formula:

         (A) the transaction shall close on the Closing Date for payment of the amount referenced at paragraph 1(c)(i)(A) above; and

         (B) the Parties shall have 60 days from Closing Date to:

            (I) agree upon the additional payment (if any) required for the equity value of the HR Shares as of the Closing Date under the Buyout Formula; or

            (II) refer any liabilities under the Buyout Formula in dispute to the Court for adjudication.

   (d) a declaration that no privilege applies to correspondence sent by HR, through its solicitors, to TW1 on October 27, 2023, October 31, 2023 and November 20, 2023 ("**the HR Letters**") despite being marked "without prejudice", and therefore the HR Letters are available to the Court, in whole or in part, to assist the Court

[1] TW1 does not object to Walter Steven Lunn being permitted to purchase a prorated portion of the HR Shares at the same price as TW1, but does not request this relief on the understanding that Lunn prefers for the purchase to be completed by ROGC or TW1.

in assessing whether the Buyout Formula is fair, appropriate and consistent with the parties' reasonable expectations;

(e) an order for costs and disbursements payable by HR; and

(f) such further and other relief as this Honourable Court deems just.

2. The capacity of all persons who are parties to the proceeding:

(a) TW1 is a corporation incorporated pursuant to the laws of the Province of Ontario with a registered office at 167 Brule Trail, King, Ontario. It owns 218,000 Class A common shares and 100,000 Class C Preferred Shares in ROGC.

(b) HR is a corporation incorporated pursuant to the laws of the Province of Ontario with a registered office at 2495 Lloydtown Aurora Side Road, King, Ontario. It owns the HR Shares, being 159,000 Class A common shares in ROGC.

(c) the Respondent, Walter Stephen Lunn ("**Lunn**") is a resident of Tuscan, Arizona. Lunn owns 125,667 Class A common shares in ROGC.

(d) ROGC is a corporation incorporated pursuant to the laws of the Province of New Brunswick and operates the Royal Oaks Golf Club located at 401 Royal Oaks Blvd. in Moncton, New Brunswick.

3. The grounds to be argued on the hearing of this Notice of Application are as follows:

A. It is just & equitable to order a buyout of the HR Shares

(a) TW1, HR and Lunn are the only shareholders of ROGC. The percentage holdings of voting common shares are (rounded up): TW1 43%; HR 32%; Lunn 25%.

(b) ROGC is a strong, growing business. It has 10 full-time employees, 55-60 seasonal employees, and 375 golf club members. Since mid-2018, TW1 has actively overseen the day-to-day operations of ROGC with success, including steady growth in its financial performance, membership, staff and community impacts.

(c) HR and Lunn are not actively involved in the day-to-day operations of ROGC.

(d) A shareholders' agreement signed in 2019 permits each shareholder to nominate a director and requires shareholder consent with respect to certain corporate decisions.

(e) HR and the HR director nominee have repeatedly undertaken actions that:

(i) have been detrimental to the business, reputation and success of ROGC;

(ii) appear designed to be detrimental to the business, reputation and success of ROGC; and

(iii) have caused paralysis and deadlock in the operations of ROGC, requiring Court intervention.

(f) As a result of HR's actions, ROGC's senior lender, CWB Maxium Financial ("**Maxium**") confirmed it would not renew its mortgage to ROGC at maturity.

(g) ROGC has a re-financing option through the Business Development Bank of Canada and Omista Credit Union, but these lenders, consistent with the market standard, require all shareholders holding more than 20% to provide a shareholder guarantee.

(h) HR refuses to provide a shareholder guarantee to support the re-financing, thereby preventing ROGC from moving forward with re-financing.

(i) The Maxium mortgage has matured and Maxium has issued a notice of mortgage sale and intention to enforce security, which seriously jeopardizes the continued business interests of ROGC.

(j) The relief sought on this Application will remove the shareholder deadlock so as to permit ROGC to refinance, thereby discharging the Maxium mortgage.

(k) The relief sought on this Application:

(i) is in the best interests of ROGC as it is in the corporation's interest for refinancing to be placed; for the business to continue to be managed by TW1 with success; and for HR to cease to be a shareholder to prevent further occurrences of deadlock in the future;

(ii) is supported by TW1 and Lunn, who together hold over two-thirds (2/3) of the voting common shares of ROGC;

(iii) is in the best interests of the creditors of ROGC, notably its senior creditor, Maxium, as re-financing will allow payout of the Maxium mortgage, as well as other creditors, all of whom will be prejudiced if a viable business proceeds to mortgage sale or receivership;

(iv) is in the best interests of ROGC employees and members who benefit from stability in management and continuation of ROGC on the positive trajectory it has established over the past five years; and

(v) does not prejudice HR as:

(A) HR has repeatedly indicated its desire to sell the HR Shares in ROGC; and

(B) the Buyout Formula meets that proposed by HR as recently as October of 2023.

(l) The serious and persistent disagreement between: (i) HR and its director nominee; and (ii) TW1, Lunn and their respective director nominees, give rise to a situation of corporate deadlock that paralyzes and seriously interferes with the normal operations of ROGC.

(m) This situation of deadlock is such that it is just and equitable for ROGC to be liquidated and dissolved pursuant to section 141(1)(b)(ii) of the BCA, thereby

meeting the threshold criterion for the Court to exercise its remedial discretion to consider a less draconian remedy pursuant to section 141(2) of the BCA.

(n) The strength of ROGC as a going concern; the inherent difficulty of liquidating a golf course; and the fact that liquidation and dissolution would result in a loss to all ROGC stakeholders, are such that it is appropriate for the Court to substitute a less draconian remedy pursuant to section 141(2) and 166(3)(f) of the BCA.

(o) The buyout of the HR Shares is just, equitable, consistent with the reasonable expectations of shareholders and in the best interests of ROGC.

B. The Abridgement of Time, Closing Date and Buyout Formula are fair and reasonable

(a) An abridgement of time for the hearing of this Application, and Closing Date within 15 days of the Court Order, are needed as:

(i) the Maxium mortgage is past due and Maxium has issued notice to initiate enforcement action, with fees continuing to accumulate against ROGC as delays continue;

(ii) refinancing is urgently required to payout the Maxium mortgage and to permit ROGC to move forward productively for the 2024 golf season;

(iii) refinancing and, consequently, payout of Maxium, is not possible as long as HR remains a shareholder.

(b) The starting valuation of $4,200,000 in the Buyout Formula is reasonable as it:

(i) significantly exceeds values that HR urged ROGC to consider in the fall of 2022; and

(ii) meets the value HR ascribed to ROGC for the purposes of a buyout formula in the HR Letters.

(c) The liabilities of ROGC have been consistently documented in the business and financial records of ROGC since at least 2020 (and, with respect to several liabilities, even earlier), such that an application of the Buyout Formula is straight-forward.

(d) If, in an effort to delay any buyout, HR disputes liabilities under the Buyout Formula, it is just and equitable to resolve any such dispute in a timely manner after the Closing Date because:

(i) HR should not be permitted to hold the ROGC refinancing hostage in an effort to extort an equity value that exceeds what the HR Shares are worth; and

(ii) requiring ROGC to continue to wait to move forward with its refinancing risks erosion of any equity value in ROGC, particularly if Maxium takes steps to enforce its security.

C. Absence of privilege – HR Letters

(a) Although the HR Letters are marked "without prejudice", such marker is not determinative of privilege.

(b) The HR Letters, in whole or in part, do not meet the three-part test for settlement privilege.

(c) The HR Letters are relevant to identifying the aspects of the Buyout Formula that are not in dispute (and, in fact, have been proposed by HR), and therefore should be available to the Court in this proceeding to assess the reasonableness of the Buyout Formula.

4. Upon the hearing of this Application, TW1 intends to rely upon the *Rules of Court* and, in particular, Rules 1.02.1, 1.03(2), 3.02, 16, 38, 39, and the BCA, in particular sections 141 and 166 thereof.

5. Upon hearing this Application, the following affidavit or other documentary evidence will be presented:

(a) Affidavit of Nicole Clouthier sworn to on the 23rd day of November, 2023;

(b) Affidavit of Esmond Clouthier sworn to on the 23rd day of November, 2023;

(c) Affidavit of Walter Steven Lunn sworn to on the 17th day of November, 2023;

(d) Affidavit of Patricia Doucette sworn to on the 4th day of December, 2023;

(e) Affidavit of Chantal MacAusland sworn to on the 4th day of December, 2023; and

(f) such further and other evidence as counsel may advise and this Honorable Court may permit.

DATED at Moncton, New Brunswick this 4th day of December, 2023

STEWART McKELVEY
Solicitors for the Applicant, TW1 Oaks Inc.

Per: Josie H. Marks

Prepared By:
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jmarks@stewartmckelvey.com

Q

Exhibit Stamp

No.

This is Exhibit "Q" referred to in the affidavit of Rod Randall, sworn to before me on March 19, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

Citation: *TW1 Oaks Inc. v Royal Oaks Golf Club Inc, HR Corporate Strategies Ltd. and Walter Steven Lunn*, 2024 NBKB 026

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF MONCTON

MM-286-2023

BETWEEN:

TW1 OAKS INC.,

APPLICANT,

-and-

ROYAL OAKS GOLF CLUB INC., HR CORPORATE STRATEGIES LTD. AND WALTER STEVEN LUNN,

RESPONDENTS.

DECISION

BEFORE:	Justice Maya Hamou
AT:	Moncton, New Brunswick
DATES OF HEARING:	February 2, 2024
DATE OF DECISION:	February 14, 2024
APPEARANCES:	Josie Marks and Sarah-Jane Lewis, counsel for TW1 Oaks Inc. Edwin G Ehrhardt, K.C., counsel for Royal Oaks Golf Club Inc. Ryan P. Burgoyne and Andrea Pierce, counsel for HR Corporate Strategies Ltd. Walter Steven Lunn, appearing on his own behalf

INTRODUCTION

1. This matter concerns a dispute between shareholders of the Royal Oaks Golf Club Inc. ("ROGC"). The shareholders include:

    a. the Applicant, TW1 Oaks Inc. ("TW1") which owns 43% of the voting shares,

    b. the Respondent, HR Corporate Strategies Ltd. ("HR") which owns 32% of the voting shares and,

    c. the Respondent, Walter Steven Lunn who owns 25% of the voting shares.

2. Esmond Clouthier and Nicole Clouthier are directors and officers of TW1. Ronald Hrynyk owns HR.

3. The relationship between the shareholders (including the principals of the corporate shareholders) has been mired with conflict and legal proceedings spanning over several years and several jurisdictions. Currently, this Application and one Action are before the New Brunswick Courts.

4. In July of 2021, CWB Maxium Financial ("Maxium"), ROGC's principal lender, provided notice it would not renew the mortgage to ROGC when it became due on December 1, 2022. Maxium gave notice of its intent to enforce security on October 13, 2023.

5. An alternate source of funding was identified for ROGC. Mr. Clouthier advised Mr. Hrynyk that a personal guarantee of $440,000 (close to double the current personal guarantee of $250,000) would be required for refinancing with the Business Development Bank of Canada / Omista Credit Union ("BDC"). Mr. Hrynyk refused to provide a personal guarantee and BDC refused to move forward with the loan.

6. TW1 claims that a deadlock between shareholders has paralyzed refinancing efforts such that, absent intervention, ROGC faces a mortgage sale, receivership and insolvency proceedings.

7. TW1 filed an Application December 4, 2023, seeking just and equitable liquidation and dissolution pursuant to subparagraph 141(1)(b)(ii) of the *BCA,* SNB 1981, c B-9.1 (the "BCA"). Instead of liquidation and dissolution, TW1 seeks an order for the sale of HR's shares to TW1 pursuant to subsection 141(2) and paragraph 166(3)(f) of the *BCA.*

8. As a preliminary issue, HR moved to convert the Application to an Action given the substantial dispute of facts. Further, the Court questioned whether the Application could proceed in the

presence of an Action involving substantially the same parties and seeking substantially the same relief.

FACTS

Parties, Shareholder Agreement and Directors

9. A Shareholder's Agreement was executed on March 29, 2019, further to the reorganization of ROGC. The current shareholders and parties to this Application are :

    a. TW1 (218,000 Class A Common Shares (43%) and 100,000 Class C Preferred Shares (non-voting));

    b. HR (159,000 Class A Common Shares (32%)); and

    c. Mr. Lunn (125,667 Class A Common Shares (25%)).

10. Mr. Clouthier and Ms. Clouthier are directors and officers of TW1 while Mr. Hrynyk owns HR.

11. The Shareholder's Agreement provides that each voting common shareholder has the right to nominate one director. The directors of ROGC are Mr. Lunn (nominated by Mr. Lunn), Mr. Clouthier (nominated by TW1) and Ms. Boddaert (nominated by HR). Ms. Boddaert is the spouse of Mr. Hrynyk and she replaced Mr. Hrynyk as Director of ROGC in September of 2023.

Default, Refinancing and Mortgage Sale

12. The Shareholder's Agreement also requires unanimous consent of shareholders is required for certain corporate decisions, such as securing loans and financing.

13. In July of 2021, Maxium, ROGC's principal lender, provided notice it would not renew the loan to ROGC. The original financing of Maxium was in the amount of $2,150,000 secured with a collateral mortgage, personal guarantees, and a general security agreement.

14. In July of 2023, Mr. Clouthier advised Mr. Hrynyk that an alternative source of funding had been identified and that a personal guarantee would be required for refinancing with the BDC. Mr. Hrynyk refused to provide a personal guarantee. Though Mr. Hrynyk had previously provided a personal guarantee of $250,000 to secure ROGC financing, the personal guarantee requested by BDC was $440,000.

15. TW1 presented no evidence from BDC on the continued availability of the financing. However, Ms. Clouthier indicated BDC remains willing to move forward with the ROGC refinancing provided shareholder personal guarantees are obtained.

16. ROGC is in default of its financial obligations to Maxium and Maxium issued a notice of intent to exercise its power of sale and enforce its security in October of 2023.

17. TW1 presented no evidence from Maxium with respect to the next steps in the enforcement of security process. While not in the evidence submitted on Application, Counsel for Maxium, Joshua J. Santimaw, attended the hearing as an interested party and advised the Court that a receiver has been appointed, further noting that Maxium was awaiting the outcome of the court proceeding before making a decision on the next steps.

Action

18. TW1 filed an Action on May 12, 2021, against HR and Mr. Hrynyk seeking relief from oppression pursuant to section 166 of the *BCA*. Through this Action, TW1 seeks an Order to remove Mr. Hrynyk as director and officer of ROGC and seeks an interim and permanent injunction preventing Mr. Hrynyk from speaking, making statements or negotiating with people on behalf of ROGC. In addition, TW1 seeks an Order requiring HR to "true up" its obligations to TW1 in the amount of $134,041 or, diluting HR's shareholding by a proportionate amount set out in the Shareholder Agreement.

Application

19. TW1 filed an Application December 4, 2023, seeking just and equitable relief by way of liquidation and dissolution of ROGC pursuant to subparagraph 141(1)(b)(ii) of the *BCA*. Further, TW1 sought the "less draconian remedy" of a forced sale of HR shares to TW1 pursuant to subsection 141(2) and paragraph 166(3)(f) of the *BCA*.

> Application by shareholder for Court order for liquidation and dissolution
>
> 141(1) On application of a shareholder, the Court may order the **liquidation and dissolution** of a corporation or any of its affiliated corporations,
>
> [...]
>
> (b) if the Court is satisfied that

[...]

(ii) **it is just and equitable that the corporation should be liquidated and dissolved.**

141(2) In an application under this section, the Court may make such order under this section or section 166 as it thinks fit.

[...]

Orders of the Court

166(3) In connection with an application under this section the Court may make any interim or final order it thinks fit including, without limiting the generality of the foregoing,

[...]

(f) an order directing a corporation, subject to subsection (6), or any other person, to purchase shares of a shareholder;

[...]

(n) an order requiring the trial of any issue.

[Emphasis added]

20. According to TW1, the remedy sought would permit refinancing to proceed and TW1 argues this would be a just and equitable remedy to resolve the crisis faced by ROGC and benefit all stakeholders.

21. TW1 argues that HR has been and appears designed to be detrimental to the business, reputation and success of ROGC, and has caused paralysis and a deadlock of operations of ROGC requiring intervention.

Position of the Parties

22. TW1 seeks a declaration that the threshold criterion for just and equitable remedy is met. Further, TW1 seeks an order for the buyout of all shares owned by HR, arguing it constitutes a less draconian remedy than liquidation and dissolution.

23. Specifically, TW1 seeks an order (1) directing HR to sell, within 15 days, its shares to ROGC or TW1 (including a payment of liabilities owed by ROGC to HR of $185,554.59 and an amount representing HR shares equal to 31.63% of $4.2 million minus liabilities owed to ROGC including liabilities paid out to HR), (2) directing that if there is a disagreement on the

equity value of the HR shares from the application of the Buyout Formula, the parties shall have 60 days to agree or refer the dispute to the Court for adjudication.

24. As a preliminary issue, HR claims the matter should proceed to a trial by way of action instead of proceeding by Application.

25. HR opposed the Application asserting the actions of HR and its director nominee, Ms. Boddaert, do not justify the intervention of the Court to grant just and equitable remedy.

26. In the alternative, HR argued that if an order pursuant to sections 141 and 166 of the *BCA* is warranted, the appropriate remedy is an order for sale of HR's shared based on the $5.8 million valuation of ROGC (rather than the $4.2 million valuation proposed by TW1) or based on the terms of the Shareholder's Agreement.

27. Mr. Lunn submitted an Affidavit in support of the relief sought in the Notice of Application but did not file further materials or make submissions to the Court. Mr. Lunn attached as the first and only exhibit to his Affidavit an Affidavit dated July 28, 2021. The Affidavit was filed in the context of Court File No. MM-69-2021 involving litigation between the Applicant, TW1, and the Respondents, Patrick Miniutti and Aline Miniutti, former ROGC shareholders. Mr. Lunn described this litigation as a proceeding to have his appointment as a director recognized.

28. ROGC supports the relief sought in the Application noting that it requires financing. ROGC argued that HR is withholding a shareholder personal guarantee which would provide access to refinancing.

ISSUES

29. Is there a substantial dispute of facts which precludes the matter from proceeding by way of Application?

30. Does the existence of an Application and an Action involving substantially the same parties and substantially the same issues constitute a multiplicity of proceedings and an abuse of process?

ANALYSIS

Conversion to an Action

31. As preliminary issues, HR moves for an Order converting the Application to an Action pursuant to Rule 38.09 of the *Rules of Court of New Brunswick*, NB Reg 82-93. Rule 38.09

allows the Court to direct that an Application proceed to Trial if satisfied there is a substantial dispute of facts.

> 38.09 Disposition of Application
>
> On the hearing of an application, the court may
>
> > (a) allow or dismiss the application or adjourn the hearing, with or without terms, or
> >
> > (b) where it is satisfied that there is a **substantial dispute of fact, direct that the application proceed to trial** or direct the trial of a particular issue or issues and, in either case, give such directions and impose such terms as may be just, subject to which the proceeding shall thereafter be treated as an action.
>
> [Emphasis added]

32. Rule 16.04 of the *Rules of Court* provides that Applications are reserved for straightforward matters where "it is unlikely that there will be a substantial dispute of fact."

> 16.04 By Notice of Application
>
> Subject to Rule 16.041, **when an Act or rule authorizes an application or motion to the court without requiring the institution of an action**, a Notice of Application (Form 16D) may be used and, in addition thereto, a proceeding may be so commenced where the relief claimed is
>
> [...]
>
> > (i) for an injunction, mandatory order, declaration, the appointment of a receiver, or other consequential relief ancillary to relief claimed in a proceeding properly commenced by a Notice of Application, or
> >
> > (j) in respect of any other matter **where it is unlikely that there will be a substantial dispute of fact.**
>
> [Emphasis added]

33. The Court of Appeal of New Brunswick has directed that an application must proceed to trial if there is a substantial dispute of fact (*835637 Alberta Ltd. v Moonraker Realty Inc.*, 2010 NBCA 72 at para 3 and *Bates et al. v Bates*, 2022 NBCA 23 at 43). The Court of Appeal has interpreted the permissive rule as mandatory. While other provinces and territories may have more permissive language within their rules, it remains that in New Brunswick, a trial judge faced with a substantial dispute of facts must convert the matter to an action. As noted by Justice Walsh in *Bourque, Bourque, Pitcher v HMQ et al*, 2017 NBQB 108 at paragraph 19,

if there is likely to be a substantial dispute of facts, the judge retains no residual discretion to allow the matter to proceed by way of Notice of Application.

34. In *LeBlanc v Corporation Eighty-Six Ltd.,* (1997) 192 NBR (2d) 321, the Court of Appeal of New Brunswick under the pen of Justice Bastarache considered an appeal of a decision addressing sections 141 and 166 of the *BCA*. The Application Judge ordered the parties to negotiate the sale of the interest of one of the shareholders within 60 days, failing which the corporation would be wound up. The appeal also addressed the question of conversion of an Application to an Action based on alleged conflicting evidence. In that case, Justice Bastarache found the Application Judge correctly exercised his discretion by proceeding by Notice of Application as the relevant facts were clearly established: (1) the purpose of the incorporation and (2) the basis upon which it was meant to operate.

35. Similarly, in *Chippin v LPR Investments Ltd.*, 2016 CarswellNB 556, Justice Morrison allowed a matter brought pursuant to sections 141 and 166 of the *BCA* to proceed by way of a Notice of Application. Amidst a dispute of facts by the parties to the Application, Justice Morrison determined that the Affidavit of an Inspector, appointed by the Court in a parallel Action to review the records and report to the Court, provided an independent and impartial factual basis for determination. The factual inaccuracies that may have been present in the Affidavit of the Court-appointed Inspector were not sufficiently material to rise to the level of a material dispute of facts. Justice Morrison determined that had a "clear" and "reliable" picture upon which to proceed by Notice of Application.

36. In contrast to *LeBlanc v Corporation Eighty-Six Ltd* and *Chippin v LPR Investments Ltd.*, Justice Walsh in *Hebert v Hebert's Recycling Inc.*, 2014 NBQB 235, faced with a Notice of Application for relief pursuant to paragraph 166(3)(f) of the *BCA* determined that the Affidavit evidence of the parties was in serious conflict on some of the most critical points. Justice Walsh noted that the nuanced nature of the legal inquiries to be made in determining whether to grant the relief sought required proceeding by way of Action. Justice Walsh's reasoning focused on the outcome sought in the Notice of Application, which was, as in this case, an order to buy out a shareholder.

37. HR asserts that the only facts agreed upon by the parties, as it relates to this dispute, it that the Maxium loan was called back, and that Mr. Hrynyk refused to provide a personal guarantee of $440,000 to secure alternate financing with BDC. HR claims there are numerous substantial disputes of facts, which are set out in three categories based on the questions before the Court on this Application.

a. In addressing the question of whether it is just and equitable for ROGC to be liquidated and dissolved, HR raises the reasonable expectations of the shareholders as a question of fact to be determined. HR suggests that Mr. Hrynyk's refusal to provide a $440,000 personal guarantee should be assessed in the context of efforts made to locate alternate financing options. According to HR, it is not clear that Mr. and Ms. Clouthier made best efforts to secure refinancing without a personal guarantee or a lower personal guarantee. For example, Mr. Hrynyk points to the one-year delay for Ms. Clouthier to enter into discussions with a mortgage brokerage firm. Effectively, HR argues the Court must determine whether it was reasonable to expect Mr. Hrynyk to provide a personal guarantee. To make this determination, HR suggests the Court must review the history and relationship between the shareholders in addition to the Shareholder Agreement.

b. In addressing the question of whether the appropriate remedy is the forced sale of HR's shares, HR points to significant facts which are in dispute between the parties. (1) TW1 points to its successful management of ROGC while HR challenges and disputes the financial performance of ROGC. (2) Ms. Clouthier alleges HR's actions caused Maxium to decide against renewing the mortgage while HR claims the defaults are the result of mismanagement by Mr. and Ms. Clouthier. (3) HR highlights that either shareholder could benefit from the forced sale of shares while TW1 suggests the only viable option is its purchase of the HR's shares. (4) HR raised the factual dispute over the allegation that HR took steps to freeze ROGC bank accounts in 2021. Mr. Hrynyk suggests it was due to false documents presented to TD Bank by Mr. Clouthier, while Ms. Clouthier suggests it was due to a "telephone and email campaign" by Mr. Hrynyk. (5) TW1 alleges Mr. Hrynyk and Ms. Boddaert favour a situation where the Maxium loan is called back allowing them to work "covertly with a buyer" to purchase the shares of ROGC at a significant discount. TW1 made allegations that an offer was solicited by Mr. Hrynyk. These allegations are vigorously defended by HR.

c. In addressing the question of how the valuation should proceed, HR claims the fair market value of ROGC is a substantial dispute of fact. TW1 suggests the valuation is $4.2 million while HR suggests the valuation is $5.8 million. Further HR raises the legitimacy and amount of the ROGC liabilities, specifically the promissory notes referenced in the Affidavit of Ms. Clouthier.

38. TW1 acknowledges there are some disputes of fact between the parties but asserts that six key facts are material to engage subparagraph 141(1)(b)(ii) and claims these facts are not in dispute: (1) ROGC is operating as a viable business, (2) ROGC is in default on its mortgage with Maxium, (3) refinancing is available to ROGC, (4) HR is a shareholder of more than 40%, (5) the shareholders are deadlocked on a question fundamental to the continued viability of ROGC and, (6) there is a fundamental loss of trust between the shareholders.

39. Counsel for TW1 pointed to the lower threshold applicable for just and equitable dissolution and liquidation of a corporation compared to oppression remedy relief (*Beck v 0973415 B.C. Ltd.*, 2021 BCSC 2323 at para. 45). Canadian case law addressing both just and equitable dissolution and liquidation, and oppression remedy relief, is relevant to the Court's analysis given the mirroring language of business corporation acts across the country.

40. The British Columbia Court of Appeal recently summarised the principles applicable to just and equitable relief in shareholder disputes in *Weisstock v Weisstock*, 2023 BCCA 352 at paragraphs 43 to 52. The Court underscored that the determination of what is "just and equitable" is a fact and context specific analysis.

41. Effectively, just and equitable liquidation and dissolution does not require evidence of prejudicial conduct, oppression or wrongdoing. The presence of a deadlock between shareholders is a persuasive consideration in determining whether it would be just and equitable to liquidate and dissolve a company (*Beck v 0973415 B.C. Ltd.*, 2021 BCSC 2323 at para 49, *Gold v Rose*, 2001 CarswellOnt 5 at para 16 (SCJ), *Kinzie v The Dells Holdings Ltd.*, 2010 BCSC 1360 at para. 10)

42. However, TW1 does not seek the just and equitable dissolution and liquidation of ROGC. Rather TW1 requests the Court to substitute, as it describes, "a less draconian remedy" pursuant to paragraph 166(3)(f) and subsection 141(2) of the *BCA*. While the remedy sought may be "less draconian" in the sense that it avoids the dissolution and liquidation of ROGC, it requires the Court to strip HR of its shareholder rights while maintaining the shareholder rights of others. This constitutes a profound interference in the internal affairs of a company. It is the remedy sought by TW1 that engages the need for a further inquiry. This inquiry cannot be fully answered by way of an Application and requires a Trial.

43. While the deadlock may be sufficient to engage the Court's jurisdiction for just and equitable relief pursuant to subparagraph 141(1)(b)(ii), in my view, it is not sufficient to engage relief pursuant to paragraph 166(3)(f) (forced sale of shares) in the circumstances of this case. The

deadlock at the heart of this Application and the reasons for the deadlock require further examination. If TW1 is responsible for the failure to renew the mortgage and created a situation of deadlock, it may be inequitable to grant a forced sale to the author of the circumstances. Such a determination requires further information.

44. The Court was presented with over 750 pages of Affidavits and Exhibits; however, this provides only a glimpse into the management of the corporation, its identification of financing options and the relationship between shareholders. The Court does not have, in the limited context of this Application, a complete, clear and reliable picture.

45. There is a substantial dispute of facts which renders the Notice of Application the improper legal process in the circumstances.

46. Counsel for ROGC suggests the Court should not dismiss the matter on a procedural basis, suggesting Rule 1.02.1 of the *Rules of Court* allows the Court to proceed despite procedural issues. Further, counsel for ROGC claims that if the matter does not proceed and if TW1 is not successful in its Application, it will be the beginning of ROGC's demise.

> 1.02.1 Proportionality
>
> In applying these rules, the court shall make orders and give directions that are proportionate to what is at stake in the proceeding and the importance and complexity of the issues.

47. While Rule 1.02.1 of the *Rules of Court* provides that the Court shall make orders and give directions that are proportionate with the stakes and the importance and complexity of the issues, it does not equate to turning a blind eye to the substantial dispute of facts which impede a proper determination on the merits.

48. Based on the foregoing, the Court accepts that the matter should proceed by way of Action rather than Application given the substantial dispute of facts.

Multiplicity and Abuse of Process

49. At the hearing, the Court requested that the parties address the Action in Court File Number MC-314-2021. The Amended Statement of Claim, Statement of Defence and Counterclaim and the Defence to the Counterclaim in Court File MC-314-2021 were attached as Exhibits to the Affidavit of Mr. Hrynyk filed in this Application.

50. The Action involves TW1 as Plaintiff, Mr. Hrynyk and HR as Defendants and Mr. Clouthier, Mr. Lunn and Twelve12 Investments and Consultancy Inc. as parties added by Counterclaim.

51. In this Action filed in May of 2021 (one month before Maxium issued its notice that it would not renew the mortgage), TW1 seeks relief pursuant to subsection 166(3) of the *BCA*. The specific relief sough includes:

    a. An order removing Hrynyk as a director and officer of the Corporation;

    b. An order that shareholders attend a shareholders' meeting to appoint a director to replace Hrynyk and fill the third Board seat;

    c. An interim and permanent injunction enjoining Hrynyk from:

        i. Communication with employees, service providers, or sponsors of ROGC,

        ii. Freezing the ROGC bank account,

        iii. Making public statements or representations to third parties with respect to ROGC, TW1 or its principals,

        iv. Negotiating or attempting to negotiate an asset sale on behalf of ROGC and

        v. Taking any steps to effect conversion of the Miniutti preferred shares to voting common shares absent an order of the Court.

    d. An order requiring HR to "true up" its obligations to TW1 in proportion to its shareholding ($134,041) or dilute HR's shareholding by a proportionate amount with the discount set out in the Shareholders Agreement; and

    e. An order for damages for costs and expenses incurred to address "Hrynyk's oppressive conduct."

52. The Defendants, Mr. Hrynyk and HR filed a Notice of Counterclaim in which they raise against the Plaintiff and the parties added by Counterclaim, claims of oppressive and prejudicial conduct of the other shareholders and their principals in violation of reasonable expectations. Outlined in a 23-page Statement of Defence and Counterclaim, HR and Mr. Hrynyk seek relief, including amongst others:

    a. An order to enforce the provisions of the Shareholder Agreement with respect to the appointment of directors and officers;

    b. An order directing an investigation pursuant to paragraph 166(3)(m) of the *BCA;*

c. An order for reconciliation and accounting of the shareholder loans, payments to parties and verification and reconciliation of entries in the financial statements;

d. Damages from Mr. Lunn and Mr. Clouthier for conspiring to defeat the Defendant's reasonable expectations; and

e. In the alternative, an order appointing a receiver of ROGC for purposes of determining whether ROGC should be liquidated.

53. Following the filing of a Motion in Court File MC-314-2021, a Consent Order was filed with the Court resolving one of the issues in dispute between the parties. The Consent Order of May 19, 2021, addressed solely the signing authority for the ROGC bank account. There remains a live Action before the Court in addition to the current Application.

54. The New Brunswick Court of Appeal in *Miramichi Lumber Products Inc. et al. v Province of New Brunswick*, 2019 NBCA 61 at paragraphs 38 and 39 indicated that subsection 26(9) of the *Judicature Act*, RSNB 1973, c J-2 directs Courts to interpret the *Rules of Court* in a manner which avoids a multiplicity of proceedings.

> 26(9) The Court in the exercise of the jurisdiction vested therein by this Act in every cause or matter pending before the Court has power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to the Court seems just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter, so that as far as possible all matters so in controversy between the said parties respectively, may be completely and finally determined, and all **multiplicity of legal proceedings concerning any of such matters avoided.**
>
> [Emphasis added]

55. Justice Quigg writing for the unanimous Court, noted that the Court will strike a proceeding as an abuse of process if it raises the same issues already addressed in another ongoing proceeding.

> [40] In accordance with s. 26(9) of the *Judicature Act*, **courts will typically exercise their discretion to decline consideration of the same issues involving the same parties in separate proceedings.** In *Forsythe v. Furlotte*, 2016 NBCA 6, 447 N.B.R. (2d) 48, Richard J.A. quoted, at para. 28, from the decision in *Toronto (City) v. C.U.P.E. Local 79*, 2003 SCC 63, [2003] S.C.R. 77, in which Arbour J. held at paras. 36-37 and 43 that **"[t]he doctrine of abuse of process is used in a variety of legal contexts" and "engages 'the inherent power of the court to prevent the misuse of its procedure, in a way that would ...bring the administration of**

> **justice into disrepute.'" The primary focus of the doctrine of abuse of process is "the integrity of the adjudicative functions of court."**
>
> [41] **A court will strike a proceeding as an abuse of process it if raises the same issues already addressed in another ongoing proceeding.** [...]
>
> [Emphasis added]

56. In this matter, the Action involves substantially the same parties and addresses substantially the same issues raised in the Application.

57. With respect to the parties, TW1 and HR are parties to the Action and to the Application. ROGC is not a party to the proceeding, and in my view, ROGC's presence in the Application has been, for the most part inconsequential. ROGC is controlled by directors appointed to represent the majority of shareholders, namely Mr. Lunn and Mr. Clouthier, and in this context ROGC's submissions are little more than an amplification of the voices of Mr. Lunn and TW1.

58. With respect to the relief sought, the Action and the Application raise substantially the same issues, and both seek relief pursuant to subsection 166(3) of the *BCA*. The only nuance; in the Application TW1 seeks that relief under the just and equitable provision of the *BCA* while in the Action TW1 seeks that relief pursuant to the oppression remedy of the *BCA*.

59. As noted previously in this Decision, although TW1 seeks relief under the just and equitable provisions of the *BCA*, TW1 requests relief pursuant to the oppression provisions in subsection 166(3) of the *BCA,* as it did in its Statement of Claim, and as HR and Mr. Hrynyk did in the Statement of Defence and Counterclaim.

60. The Amended Statement of Claim detailed the history of shareholder relations, their Shareholder Agreement, their reasonable expectations, and the alleged breach of those reasonable expectations. The Statement of Defence and Counterclaim similarly detailed the disputes, the reasonable expectations, and the alleged breach of the reasonable expectations.

61. At a higher level, the Application and the Action seek a resolution of the dispute between shareholders and seeks to remove the influence of HR and Mr. Hrynyk. I accept that this dispute concerns capital contributions to ROGC and personal guarantees of shareholders to secure financing for ROGC. The Amended Statement of Claim refers to HR being unable or unwilling to make capital contributions to ROGC while the Application refers to Mr. Hrynyk being unwilling to provide a personal guarantee to secure a new source of financing. The

issues are not new, they are a continuation of the same, longstanding disputes between these shareholders.

62. While Courts have allowed just and equitable relief to be granted in the presence of prior or ongoing litigation between shareholders, either the nature of the litigation between shareholders was different or the relief sought was limited to liquidation and dissolution (*LeBlanc v Corporation Eighty-Six Ltd.*, at para 11; *Gold v Rose,* at para 21; *Beck v 0973415 B.C.Ltd.*, at para 54).

63. Both counsel for TW1 and ROGC implored the Court not to convert the Application to an Action suggesting the conversion would lead to the demise of ROGC. TW1 suggests the parties will be unable to obtain relief within the timelines provided by the *Rules of Court.*

64. But the issues presented before the Court is not new. TW1 started litigation against HR and Mr. Hrynyk in May of 2021 arising from the shareholder disputes, and TW1 has known since July of 2021 that Maxium would not be renewing its loan to ROGC.

65. It is TW1 that has brought this Application before the Court at the 11th hour despite an existing Action which has not advanced through the Court system. It is the parties who bear the responsibility for this delay and if their decision not to pursue the 2021 action now puts their interests in jeopardy, that is the result of their inaction.

66. Based on the foregoing, the Notice of Application together with the Action creates a multiplicity of proceedings and constitutes an abuse of process. The proceedings cannot continue to move forward in parallel given the similar relief sought in both proceedings.

Settlement Privilege

67. In its Notice of Application, TW1 sought a declaration that no privilege applied to correspondence sent by HR through its solicitors to TW1 on October 27, 2023, October 31, 2023, and November 20, 2023. TW1 argued these documents are relevant to the determination of the reasonableness of the buyout formula. HR, by way of preliminary issue, sought to strike any reference to those discussions and correspondence on the basis of settlement privilege.

68. Given the findings of the Court on the conversion of the Application to an Action and on the multiplicity of proceedings and abuse of process questions, there is no need to determine that issue as it is now moot.

DISPOSITION

69. In accordance with Rule 38.09(b) of the *Rules of Court* and paragraph 166(3)(n) of the *BCA*, the Court directs that the Application proceed to Trial by way of Action.

70. TW1 is granted 10 days from the date of issuance of this Decision to file and serve the Further Amended Statement of Claim in Court File No MC-314-2021. Following service of the Further Amended Statement of Claim, HR and Mr. Hrynyk are granted 10 days to file and serve the Amended Statement of Defence and Counterclaim. Similarly, following service of the Amended Statement of Defence and Counterclaim TW1 and the parties added by Counterclaim are granted 10 days to file and serve an Amended Defence to Counterclaim.

71. HR being the successful moving party having requested the conversion of the Application to an Action shall recover $3000 in costs.

DATED at Moncton, New Brunswick, this 14 day of February 2024.

Justice Maya Hamou
Court of King's Bench of New Brunswick

R

Exhibit Stamp

No.

This is Exhibit "R" referred to in the affidavit of Rod Randall, sworn to before me on March 01, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

February 23, 2024

Deloitte Restructuring Inc.
Suite 800, 1741 Lower Water Street
Halifax, Nova Scotia, B3J 0J2

Attention: James Foran

Dear Sirs:

Re: Borrowings of Royal Oaks Golf Club Inc. ("Royal Oaks" or the "Company") from Canadian Western Bank ("CWB")

Royal Oaks is currently indebted to CWB (the "**Secured Creditor**") in the aggregate amount of $2,052,114.29 which indebtedness is secured by the following (collectively the "**Security**"):

1. general security agreement dated December 20, 2017, registered as Registration Number 21978853 providing a security interest in all personal property now owned or hereafter acquired by the Company and any all and proceeds in any form derived directly or indirectly from any of the foregoing;

2. general security agreement dated December 2, 2022, registered as Registration Number 29997038 providing a security interest in all of the debtor's present and after acquired personal property;

3. collateral mortgage, assignment of rents, and mortgage dated November 23, 2012, on parcel identifier 70344148 registered as Registration Numbers 32193048, 32196165, and 32196306;

4. collateral mortgage, assignment of rents, and mortgage dated November 23, 2012, on parcel identifier 70488663 registered as Registration Numbers 32193048, 32196165, and 32196397; and

5. collateral mortgage, assignment of rents, and mortgage dated November 23, 2012, on parcel identifier 70327937 registered as Registration Numbers 32193048, 32196165, and 32196272.

Events of default have occurred and the Security (being in full force and effect) has now become enforceable. The Secured Creditor hereby appoints Deloitte Restructuring Inc. ("**Deloitte**") as Receiver and Manager with each and every power and authority specified in that regard by the Security including, without limitation, the power to take all steps to sell or otherwise dispose of the assets secured.

For greater certainty, all monies received by Deloitte after providing for all costs, charges and expenses of or incidental to the exercise of its powers, including legal fees, shall be applied in and towards the satisfaction of any and all obligations, debts and liabilities of the Company to the Secured Creditor in such manner as the Secured Creditor in its sole discretion may direct.

The Secured Creditor agrees and undertakes to guarantee payment of Deloitte's reasonable fees, expenses, costs and disbursements (including, without limitation, reasonable legal fees on a scale as between a solicitor and his own client provided that the Secured Creditor's prior written consent to retain such legal counsel is first obtained) which Deloitte may incur in acting herein.

The rights and powers conferred hereby are in supplement to and not in substitution for any rights that the Secured Creditor may have from time to time.

DATED at Edmonton, AB this 23rd day of February, 2024.

Canadian Western Bank

Per: _____

Rod Randall
AVP and Manager, SME Special Asset Management

ACCEPTANCE OF APPOINTMENT

Deloitte Restructuring Inc. hereby accepts the foregoing appointment as Receiver and Manager as defined above for Canadian Western Bank and agrees to act as such Receiver and Manager in accordance with the terms hereof.

DATED at Halifax, NS this 23rd day of February, 2024.

Deloitte Restructuring Inc.

Per: _____

James Foran
Senior Vice President

Indemnity and limitation of liability

TO: Deloitte Restructuring Inc.
Suite 800, 1741 Lower Water Street
Halifax, Nova Scotia, B3J 0J2

In consideration of your acceptance of the appointment by the undersigned as Receiver and Manager (the "**Receiver**") of Royal Oaks Golf Club Inc. ("**ROGCI**") pursuant to an appointment dated February 23, 2024, Canadian Western Bank (the "**Secured Creditor**") hereby agrees to indemnify and save harmless Deloitte Restructuring Inc., its respective employees, officers, directors and agents (collectively, the "**Indemnified Parties**" or "**Deloitte**") against and from all loss, cost, damages and expenses incurred, suffered or sustained by an Indemnified Party in connection with such appointment (other than as a result of gross negligence or willful misconduct on the part of any Indemnified Party). For the purposes of these Terms, "gross negligence" shall mean: any act performed in connection with providing the services that is (a) a substantial departure from the standard of care normally applicable to the provision of such services under the circumstances in which such services are provided or (b) intended to inflict, or which is in reckless disregard of or wanton indifference to, harmful consequences which Deloitte knew or should have known could result from such act; provided, however, that "gross negligence" does not include mere ordinary negligence, any error of judgment or mistake made by Deloitte or any partner, director, officer, employee or agent of Deloitte in connection with providing the services for the purposes of this engagement and is more than just neglect, the absence of ordinary care towards others or just inadvertence.

The Secured Creditor and Deloitte agree to the following with respect to Deloitte's liability to the Secured Creditor:

1. Deloitte shall not be liable to the Secured Creditor for any claims, liabilities, or expenses relating to this engagement for an aggregate amount in excess of two (2) times the fees paid by the Secured Creditor to Deloitte pursuant to this engagement, except to the extent finally judicially determined to have resulted from the gross negligence, bad faith or intentional misconduct of Deloitte.
2. In no event shall Deloitte be liable for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this engagement or any loss of revenue or profit or any other commercial or economic loss or failure to realize expected savings.
3. In any action, claim, loss or damage arising out of the engagement, the Secured Creditor agrees that Deloitte's liability will be several and not joint and several and the Secured Creditor may only claim payment from Deloitte of Deloitte's proportionate share of the total liability based on the degree of fault of Deloitte as finally determined by a court of competent jurisdiction.

DATED this 23rd day of February 2024.

Canadian Western Bank

Per: Cameron Kerr
Sr. Manager, SME
Special Asset Management
for Rod Randall
AVP and Manager, SME Special Asset Management

S

Exhibit Stamp

No.

This is Exhibit "S" referred to in the affidavit of Rod Randall, sworn to before me on March 1, 2024.

Arvindpaul (Soni) Samra
Barrister & Solicitor
3000, 10303 Jasper Avenue
Edmonton, AB T5J 3X6

Signature

Form 47
Formule 47

CERTIFICATE OF REGISTERED OWNERSHIP
CERTIFICAT DE PROPRIÉTÉ ENREGISTRÉE

Land Titles Act, S.N.B. 1981, c. L-1.1, s.63
Loi sur l'enregistrement foncier, L.N.-B. de 1981, chap. L-11, art. 63

Parcel Identifier | Numéro d'identification de parcelle :

70488663

Owner | Propriétaire :

Royal Oaks Golf Club Inc.
15 Congressional CRES
Moncton NB
E1H 3L2
Court Vesting Order | Ordonnance d'envoi en possession
Westmorland 2010-07-07 - 28944610

Royal Oaks Golf Club Inc.
15 Congressional CRES
Moncton NB
E1H 3L2
Corporate Affairs Change of Name | Changement de nom des Affaires corporatives
Westmorland 2015-04-17 - 34761941

Manner of Tenure | Mode de tenure :

Not Applicable | Sans objet

Encumbrances | Charges :

Aliant Telecom Inc.
1 Brunswick SQ
PO BOX 1430
Saint John NB
E2L 4K2
Easement Holder | Titulaire de la servitude
Subdivision & Amalgamations | Lotissement et fusions
Westmorland 2000-01-14 - 10771955

Moncton
655 Main ST
Moncton NB
E1C 1E8
Easement Holder | Titulaire de la servitude
Subdivision & Amalgamations | Lotissement et fusions
Westmorland 2000-01-14 - 10771955

New Brunswick Power Distribution and Customer Service Corporation
515 King ST
Fredericton NB
E3B 4X1
Easement Holder | Titulaire de la servitude
Subdivision & Amalgamations | Lotissement et fusions
Westmorland 2000-01-14 - 10771955

PID/NID 70488671
Moncton NB
Easement Holder | Titulaire de la servitude
Easement | Servitude
Westmorland 2009-07-03 - 27381814

MAXIUM FINANCIAL SERVICES INC.
30 Vogel RD
Richmond Hill ON
L4B 3K8
Mortgagee | Créancier hypothécaire
Collateral Mortgage | Hypothèque subsidiaire
Westmorland 2012-11-23 - 32193048

Maxium Financial Services Inc
30 Vogel RD SUITE 1
Richmond Hill ON
L4B 3K8
Assignee | Cessionnaire
Assignment of Rent | Cession de loyer
Westmorland 2012-11-23 - 32196165

Maxium Financial Services Inc.
30 Vogel RD SUITE 1
Richmond Hill ON
L4B 3K8
Mortgagee | Créancier hypothécaire
Postponement Agreement | Convention de subordination
Westmorland 2012-11-23 - 32196397

SUNSET CRE INVESTMENTS I LLP
2 Antonini CRT
Vaughan ON
L6A 4R2
Mortgagee | Créancier hypothécaire
Mortgage | Hypothèque
Westmorland 2016-07-04 - 36091891

SUNSET CRE INVESTMENTS I LLP
2 Antonini CRT
Vaughan ON
L6A 4R2
Mortgagee | Créancier hypothécaire
Assignment of Mortgage | Cession d'hypothèque
Westmorland 2016-07-05 - 36092683

SUNSET CRE INVESTMENTS I LLP
2 Antonini CRT
Vaughan ON
L6A 4R2
Mortgagee | Créancier hypothécaire
Assignment of Mortgage | Cession d'hypothèque
Westmorland 2018-01-12 - 37717494

Instruments in the Registration Process | Instruments dans le processus d'enregistrement :

NONE I AUCUN

THIS IS TO CERTIFY THAT the specified owner is the registered owner and holds title in fee simple, by virtue of the specified instrument(s) and in the specified manner of tenure, to the specified parcel, described in Schedule "A" attached hereto. The title to the land is subject to the overriding incidents specified in subsection 17(4) of the Act and also to the specified encumbrances.
LE PRÉSENT CERTIFICAT ATTESTE QUE le propriétaire spécifié est le propriétaire enregistré et est titulaire du titre en fief simple, en vertu de(s) l'instrument(s) spécifié(s), selon le mode spécifié de tenure de la parcelle spécifiée, décrite à l'Annexe <<A>> ci-jointe. Le titre du bien-fonds est soumis aux réserves dérogatoires précisées au paragraphe 17(4) de la Loi et également aux charges spécifées.

THE TITLE TO THE LAND may be subject to the specified instruments, which have been entered in the instrument record and may be entered on the title register when the registration process is completed.
LE TITRE DU BIEN-FONDS peut être soumis aux instruments spécifiés qui ont été portés au registre des instruments et qui peuvent être portés au registre des titres lorsque la procédure d'enregistrement est achevée.

THIS CERTIFICATE is evidence of the particulars contained herein as of the date and time of its issue. The description is not conclusive as to the boundaries or extent of the land.
LE PRÉSENT CERTIFICAT constitue la preuve des renseignements qu'il contient à la date et à l'heure de sa délivrance. La description n'est pas probante en ce qui concerne les limites ou l'étendue du bien-fonds.

Date & Time | Date et heure : 2023-10-12 12:19:07

Registrar of Land Titles for the District of New Brunswick
Le registrateur des titres de biens-fonds de la Circonscription du Nouveau-Brunswick

Report ID | Rapport ID : 7390675

Schedule A | Annexe A

PID | NID : 70488663

Apparent Parcel Access | Accès apparent à la parcelle : Public Access | Accès public

Status | État de la demande : Current | Courant

Effective Date/Time | Date et heure de prise d'effet : 2008-06-23 08:37:41

Legal Description | Description officielle :

ALL that certain lot, piece or parcel of land situate, lying and being in Moncton, in the Parish of Moncton, County of Westmorland and Province of New Brunswick, shown as 08-1 on a certain plan of lands entitled "Amending Subdivision Plan, Royal Oaks Estates Subdivision, Amending Plan 11593283, Situated on the East Side of Royal Oaks Boulevard, City of Moncton, Parish of Moncton, County of Westmorland, Province of New Brunswick", which said subdivision plan was registered in the Westmorland County Registry Office on the 23rd day of May, 2008 as Number 25581613.

Together with a benefit of an Easement as stated in Easement document Number 25717050, registered on 2008-06-20.

Form 47
Formule 47

CERTIFICATE OF REGISTERED OWNERSHIP
CERTIFICAT DE PROPRIÉTÉ ENREGISTRÉE

Land Titles Act, S.N.B. 1981, c. L-1.1, s.63
Loi sur l'enregistrement foncier, L.N.-B. de 1981, chap. L-11, art. 63

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Corporate Affairs Change of Name | Changement de nom des Affaires corporatives
Westmorland 2015-04-17 - 34761941

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1 Brunswick SQ
PO BOX 1430
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Easement Holder | Titulaire de la servitude
Subdivision & Amalgamations | Lotissement et fusions
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Easement Holder | Titulaire de la servitude
Subdivision & Amalgamations | Lotissement et fusions
Westmorland 2000-01-14 - 10771955

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Westmorland 2000-01-14 - 10771955

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Westmorland 2009-07-03 - 27381814

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Westmorland 2012-11-23 - 32196397

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SUNSET CRE INVESTMENTS I LLP
2 Antonini CRT
Vaughan ON
L6A 4R2
Mortgagee | Créancier hypothécaire
Assignment of Mortgage | Cession d'hypothèque
Westmorland 2018-01-12 - 37717494

Instruments in the Registration Process | Instruments dans le processus d'enregistrement :

NONE I AUCUN

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THE TITLE TO THE LAND may be subject to the specified instruments, which have been entered in the instrument record and may be entered on the title register when the registration process is completed.
LE TITRE DU BIEN-FONDS peut être soumis aux instruments spécifiés qui ont été portés au registre des instruments et qui peuvent être portés au registre des titres lorsque la procédure d'enregistrement est achevée.

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Date & Time | Date et heure : 2023-10-12 12:19:07

Registrar of Land Titles for the District of New Brunswick
Le registrateur des titres de biens-fonds de la Circonscription du Nouveau-Brunswick

Report ID | Rapport ID : 7390675

Schedule A | Annexe A

PID | NID : 70488663

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Effective Date/Time | Date et heure de prise d'effet : 2008-06-23 08:37:41

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Together with a benefit of an Easement as stated in Easement document Number 25717050, registered on 2008-06-20.

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Land Titles Act, S.N.B. 1981, c. L-1.1, s.63
Loi sur l'enregistrement foncier, L.N.-B. de 1981, chap. L-11, art. 63

Parcel Identifier | Numéro d'identification de parcelle :

70344148

Owner | Propriétaire :

Royal Oaks Golf Club Inc.
15 Congressional CRES
Moncton NB
E1H 3L2
Court Vesting Order | Ordonnance d'envoi en possession
Westmorland 2010-07-07 - 28944610

Royal Oaks Golf Club Inc.
15 Congressional CRES
Moncton NB
E1H 3L2
Corporate Affairs Change of Name | Changement de nom des Affaires corporatives
Westmorland 2015-04-17 - 34761941

Manner of Tenure | Mode de tenure :

Not Applicable | Sans objet

Encumbrances | Charges :

Aliant Telecom Inc.
1 Brunswick SQ
PO BOX 1430
Saint John NB
E2L 4K2
Easement Holder | Titulaire de la servitude
Subdivision & Amalgamations | Lotissement et fusions
Westmorland 2000-01-14 - 10771955

New Brunswick Power Distribution and Customer Service Corporation
515 King ST
Fredericton NB
E3B 4X1
Easement Holder | Titulaire de la servitude
Subdivision & Amalgamations | Lotissement et fusions
Westmorland 2000-01-14 - 10771955

MAXIUM FINANCIAL SERVICES INC.
30 Vogel RD
Richmond Hill ON
L4B 3K8
Mortgagee | Créancier hypothécaire
Collateral Mortgage | Hypothèque subsidiaire
Westmorland 2012-11-23 - 32193048

MAXIUM FINANCIAL SERVICES INC.
30 Vogel RD SUITE 1
Richmond Hill ON
L4B 3K8
Assignee | Cessionnaire
Assignment of Rent | Cession de loyer
Westmorland 2012-11-23 - 32196165

MAXIUM FINANCIAL SERVICES INC.
30 Vogel RD SUITE 1
Richmond Hill ON
L4B 3K8
Mortgagee | Créancier hypothécaire
Postponement Agreement | Convention de subordination
Westmorland 2012-11-23 - 32196306

SUNSET CRE INVESTMENTS I LLP
2 Antonini CRT
Vaughan ON
L6A 4R2
Mortgagee | Créancier hypothécaire
Mortgage | Hypothèque
Westmorland 2016-07-04 - 36091891

SUNSET CRE INVESTMENTS I LLP
2 Antonini CRT
Vaughan ON
L6A 4R2
Mortgagee | Créancier hypothécaire
Assignment of Mortgage | Cession d'hypothèque
Westmorland 2016-07-05 - 36092675

SUNSET CRE INVESTMENTS I LLP
2 Antonini CRT
Vaughan ON
L6A 4R2
Mortgagee | Créancier hypothécaire
Assignment of Mortgage | Cession d'hypothèque
Westmorland 2018-01-12 - 37717478

Instruments in the Registration Process | Instruments dans le processus d'enregistrement :

NONE | AUCUN

THIS IS TO CERTIFY THAT the specified owner is the registered owner and holds title in fee simple, by virtue of the specified instrument(s) and in the specified manner of tenure, to the specified parcel, described in Schedule "A" attached hereto. The title to the land is subject to the overriding incidents specified in subsection 17(4) of the Act and also to the specified encumbrances.
LE PRÉSENT CERTIFICAT ATTESTE QUE le propriétaire spécifié est le propriétaire enregistré et est titulaire du titre en fief simple, en vertu de(s) l'instrument(s) spécifié(s), selon le mode spécifié de tenure de la parcelle spécifiée, décrite à l'Annexe <<A>> ci-jointe. Le titre du bien-fonds est soumis aux réserves dérogatoires précisées au paragraphe 17(4) de la Loi et également aux charges spécifées.

THE TITLE TO THE LAND may be subject to the specified instruments, which have been entered in the instrument record and may be entered on the title register when the registration process is completed.
LE TITRE DU BIEN-FONDS peut être soumis aux instruments spécifiés qui ont été portés au registre des instruments et qui peuvent être portés au registre des titres lorsque la procédure d'enregistrement est achevée.

THIS CERTIFICATE is evidence of the particulars contained herein as of the date and time of its issue. The description is not conclusive as to the boundaries or extent of the land.
LE PRÉSENT CERTIFICAT constitue la preuve des renseignements qu'il contient à la date et à l'heure de sa délivrance. La description n'est pas probante en ce qui concerne les limites ou l'étendue du bien-fonds.

Date & Time | Date et heure : 2023-10-12 12:18:31

Registrar of Land Titles for the District of New Brunswick

Le registrateur des titres de biens-fonds de la Circonscription du Nouveau-Brunswick

Report ID | Rapport ID : 7390674

Schedule A | Annexe A

PID | NID : 70344148

Apparent Parcel Access | Accès apparent à la parcelle : No Access | Aucun accès

Status | État de la demande : Current | Courant

Effective Date/Time | Date et heure de prise d'effet : 2008-06-03 10:58:02

Legal Description | Description officielle :

ALL that certain lot, piece or parcel of land situate, lying and being in Moncton, in the Parish of Moncton, County of Westmorland and Province of New Brunswick, shown as 00-A on a certain plan of lands entitled "Unit 2, Phase 1, Amending Subdivision Plan, Royal Oaks Estates Subdivision, Amending Plan 202735, Lots 98-600 and 98-601, Situated on the West & South Sides of Royal Oaks Boulevard, City of Moncton, Parish of Moncton, County of Westmorland, Province of New Brunswick", which said subdivision plan was registered in the Westmorland County Registry Office on the 14th day of January, 2000 as Number 10771955.