

PERSONAL SERVICES AGREEMENT

For the Management of
Heritage Hills Golf Course

This PERSONAL SERVICES AGREEMENT (the "Agreement") is made and entered into as of this 1st day of April, 2024 by and between the City of Moberly, MO ("Owner"), and Maxim Golf, LLC, a Missouri limited liability company, ("Maxim").

Recitals

A. Owner desires to promote and provide for the management of Heritage Hills Golf Course, including, but not limited to, golf course, clubhouse, pro shop, maintenance building, driving range, grounds, and appurtenances (singularly referred to as "Facility" or collectively referred to as "Facilities").

B. Maxim is a professional golf course, fitness, and recreation management company whose principals have experience and expertise related to golf course, and recreation management and promotion.

C. Owner desires to retain Maxim to manage and operate the Facilities on behalf of Owner pursuant to the terms and conditions of this Agreement.

Agreement

The parties agree as follows:

1. TERM OF AGREEMENT. The standard term of this Agreement shall begin 12:00 a.m. on April 1st, 2024 (the "Start Date") and end at 11:59 p.m. on March 31st, 2029, subject to the termination provisions stated herein. If, on or before the expiration of the original term of this Agreement, the parties shall agree to mutually acceptable terms for a new Schedule of Fixed and Contingent Management Fees, then this Agreement shall be extended for an additional fiscal (one) year, and all terms and conditions of this Agreement between Owner and Maxim, other than the terms and conditions set forth in paragraph 7.c. or otherwise agreed upon shall remain as set forth herein. In no event shall the term of this Agreement exceed six (6) fiscal years. This Agreement is specifically conditioned upon an annual appropriation by Owner and in the event that the Owner shall, in its sole and exclusive discretion, determine not to make an annual appropriation of funds necessary for this Agreement, then this Agreement shall terminate and be null and void as of the last day of the fiscal year for which the golf course operation was funded. In the event Owner fails to approve appropriation of funds provided for in this Agreement for any year, Owner will pay Maxim the applicable Monthly Management Fee for three months thereafter, provided that such three-month period remains within the term of this Agreement. In the event that the Owner shall enter into a written contract with another to sell the Facilities or the real estate upon which the Facilities are located, then Owners shall give Maxim notice of the same and the intended date of Closing within 7 calendar days of its complete execution and this Agreement shall terminate upon the Closing of the Sale of the Golf Facility or the property upon which the golf course is located. In this event there shall be no payment of termination or cancellation fees, only liability for fees earned for services performed prior to termination. In the event that a determination is made by the Owner to discontinue its ownership of the Golf Facility, Owner agrees that it will consider sale of the

Facilities to Maxim among its options. The preceding sentence shall not be construed so as to create a right of first refusal or an option to purchase on behalf of Maxim. Maxim can make a reasonable proposal for the purchase of the Facility at any time for consideration by the City of Moberly.

2. SERVICES TO BE PERFORMED BY MAXIM. During the term of this Agreement, Maxim shall operate the Facilities, which shall include, but not be limited to, the collection and disbursement of all monies, the employment of all employees, the promotion and management of the golf course, the purchase and sale of food, beverages, merchandise, supplies and services, the purchase and maintenance of insurance coverage for its operations and equipment, the handling of disputes with third parties, the collection and payment of all appropriate taxes, the securing of all appropriate licenses, permits and approvals and the performance of all other day-to-day activities relative to the Facilities. With respect to the operation of the Facilities, the parties hereto agree as follows:

a. Owner Authorization. Owner hereby grants and delegates to Maxim the authority and the responsibility necessary to permit Maxim to perform its duties under this Agreement and agrees to take such additional steps as are necessary to evidence such delegation and authorization as are reasonably requested by Maxim. Owner hereby grants to Maxim the exclusive right to manage the Facilities according to the terms of this Agreement for the term of this Agreement.

b. Major Decisions. From time to time, Maxim shall submit to Owner or Owner's representative(s) for approval, proposals for major activities, improvements or events, including, but not limited to, capital improvements and expenditures and the Proposed Annual Budgets (as defined in subparagraph 2(d) below). Maxim shall secure Owner's prior approval of all such major proposals. Major Proposals shall be those in which the anticipated cost is in excess of \$10,000. Maxim shall, to the best of its ability, operate the Facilities in accordance with the major policy decisions approved by Owner.

c. Operational Guidelines. Maxim shall develop a set of written guidelines ("Operational Guidelines") for the Facilities. The Operational Guidelines shall include information necessary for the operation of the Facilities, including, but not limited to, operation and maintenance of the golf course, the maintenance facility, the clubhouse, the pro shops and other operations of the Facilities, the hours of operation and other policies relating to the operation of the Facilities. Upon development of the Operational Guidelines, same shall be submitted to Owner for approval and shall become effective only upon approval by Owner, which approval shall not be unreasonably withheld or delayed.

d. Annual Budgets. Not later than May 15th of each year during the term of this Agreement, Maxim shall submit a proposed operating budget (the "Proposed Annual Budget") to Owner for the upcoming fiscal year. The Proposed Annual Budget shall specify the amount of working capital required to continue operations of the Facility for the upcoming fiscal year in light of all major policy decisions, specify all anticipated expenses required to maintain a reasonable level of equipment, supplies and inventory and all projected expenses for long term capital improvements and equipment. Owner shall approve or reject the Proposed Annual Budget by June 15th, annually. Owner shall specify, in writing, the basis for any rejected item in the Proposed Annual Budget. The Proposed Annual Budget, once approved by Owner, shall be referred to as the "Annual Budget". In the event that the Owner and Maxim are unable to reach agreement regarding the Annual Budget, then either party may notify the other of their intent to terminate and this Agreement shall terminate on the last day of the term for which there

was a budget approved by Owner.

e. Promotion of Facilities. Maxim shall coordinate with and direct to Owner all work done in the promotion, advertisement and public relations with respect to the Facilities. Maxim shall coordinate the creation or modification of graphics, logos and other visual materials for letterheads, envelopes, temporary and permanent signs, brochures, information profiles, progress reports, press releases, digital media, website, and bulletins. Maxim will use reasonable efforts (as limited by Annual Budgets) to assure that the Facilities will be favorably presented in print and all other forms of communications media. All costs for the promotion of the facility shall be the responsibility of the property including contracted marketing services and corporate staff time assigned for marketing design and creation specific to the facility. The personnel cost for the marketing of the facility whether contracted through an outside marketing firm or corporate staff shall not exceed \$8,000 per year fiscal year without the written consent of the Owner. All materials or items developed pursuant to this paragraph shall be the exclusive property of Owner and shall be shown to the agent designated by Owner prior to dissemination.

f. Facility Personnel. Maxim shall hire Facility staff, including all on-site and off-site management personnel, golf professional staff, assistant golf professional staff, golf course superintendents, food and beverage staff, house and grounds maintenance personnel, janitorial staff, and others deemed by Maxim to be appropriate for the efficient operation of the Facilities and to the extent authorized by the Budget for the Facilities as approved by Owner; provided, however, that Owner shall have the right to approve the selection or removal of the golf course head professional, general manager, and golf course superintendent, such approval not to be unreasonably withheld or delayed. All Facilities personnel shall be hired by and be employees of, Maxim, except that Maxim may, in its discretion, elect to have some routine functions, such as janitorial functions, performed by independent contractors rather than employees. Maxim will not prevent any of the personnel employed at the Facilities from going to work for Owner or another management company in the event this Agreement expires or is terminated. At termination, Owner and Maxim shall have the right to offer employment to any employee of the Facilities. During the term of this Agreement, Maxim shall not remove or relocate the General Manager, and/or the golf course superintendent of the Golf Facility to another Facility managed by Maxim without obtaining prior Owner consent, which will not be unreasonably withheld or delayed.

g. Corporate Personnel Visitation and Inordinate Time Requirements. To the extent it is necessary for Maxim Golf extended service personnel, or corporate personnel to assist in the daily management of the facility, Maxim Golf shall be reimbursed up to \$600.00 per month for the reimbursement of such additional management needs. Maxim Golf shall bill these charges on an hourly rate of \$50.00 per hour plus travel expenses associated therewith for personnel with a maximum expense not to exceed \$600.00 per month for any given month. Maxim Golf shall have the right to bill the property directly for such expenses and all such expenses shall be reported in the monthly profit and loss statements as an operational expense of the property.

h. Food, Beverage and Merchandise. To the extent permitted by law, Owner shall permit the sale of food, beer, wine and liquor at the Facilities. Maxim shall apply for and obtain required State of Missouri and City of Moberly liquor licenses, and all other required permits and approvals. Owner shall cooperate with Maxim in obtaining such licenses, permits and approvals. Maxim shall comply with all laws relating to the sale of alcoholic beverages. In addition, Maxim shall purchase and sell such other food, beverage and merchandise at the Facilities for such prices as Maxim deems prudent.

3. REVENUES, EXPENSES, APPROVED CAPITAL EXPENDITURES & APPROVED

RESERVES.

a. Revenues. "Revenues" shall mean all cash receipts of any kind from operation of the Golf Facility, including, but not limited to, membership fees, green fees, cart rentals, range fees, proceeds from the sale of food, beverage and merchandise, rebates, rentals, interest income, Advances (as hereafter defined) and insurance proceeds. Revenues shall not include fees collected for golf lessons if the fees are paid directly to the professional providing such lessons. Owner also has the right to conduct lessons, schools and other activities on the Facilities and any fees paid by Owner to Maxim to conduct such lessons, schools, or other activities under an agreement with Maxim shall be included as "Revenues". Utility reimbursements, tax collections (non-sales tax), or gifts and contributions made to the facilities shall not be included in the calculation of "Revenues".

b. Expenses. "Expenses" shall mean all necessary, reasonable and ordinary cash expenditures authorized by the Annual Budget established by Owner and Maxim and incurred in connection with the Facilities, including, but not limited to:

- i. Payroll, payroll taxes, employee benefits (including, without limitation, insurance, health and welfare benefits) and unemployment insurance and taxes, and sales, rental and other taxes and governmental fees and charges assessed against the Facilities or their operations;
- ii. Payments for food, beverage, merchandise and supplies;
- iii. Insurance costs for the insurance coverage specified in paragraph 13 hereof and approved in the Annual Budget for the Facilities;
- iv. Payments for advertising and promotion of the Facilities;
- v. Acquisition costs, lease payments and debt service payments for the Facilities, equipment, furniture, fixtures and other capital items as included in the Annual Budget;
- vi. License fees, dues and subscriptions;
- vii. Expenses of hiring and training personnel, except expenses of training Maxim management personnel;
- viii. Costs of maintaining and improving the golf course, pro shop, and other assets of the facilities;
- ix. Fees of outside consultants and third-party contractors retained by Maxim in connection with the operation of the Facilities, such as accountants, attorneys, tax advisers, and marketing public relations consultants, if approved in advance by Owner or Owner's representative;
- x. All Management Fees (as defined in paragraph 7, below)

paid to Maxim in accordance with this Agreement, including the Fixed Management Fee. Owner may choose to not include this expense in the operating budget and the operating budget shall be amended accordingly.

- xi. Expenses associated with an annual audit of the Facilities by an Owner designated auditor; and
- xii. Expenses not specifically authorized by the Annual Budget that are approved in advance by the Owner or the Owner's representative.

c. Approved Capital Expenditures. "Approved Capital Expenditures" shall mean all cash payments for equipment, furniture, fixtures, Facility improvements or other capital items approved by Owner, which approval may be included in an Annual Budget or other separate form of approval.

d. Approved Reserves. "Approved Reserves" shall mean the amount of cash approved by Owner to be held by Maxim for future operation of the Facilities.

4. ADVANCES FROM OWNER. If at any time the Net Cash Flow from the operation of the Facilities is not sufficient to meet the Approved Capital Expenditures or Expenses as they become due, Owner shall advance, unless such advance is prohibited by law, to Maxim the amount of cash necessary to meet such obligations (such amount being referred to as an "Advance").

5. ACCOUNTS. All Revenues, Advances and Approved Reserves shall be held by Maxim for Owner, in an account in the name of the owner designating Maxim as an authorized agent on the account, such and sufficient to protect Owner's interest in such funds, subject to such funds being disbursed for Expenses and Approved Capital Expenditures. Maxim shall maintain one or more separate accounts so designated (collectively referred to as "Facility Accounts"), which shall, whenever possible, include interest bearing accounts, at one or more commercial banks in Moberly, Missouri, each approved in advance by Owner, for the receipt of Revenues, Advances and Approved Reserves and for the payment of Approved Capital Expenditures Expenses and Approved Reserves. Maxim agrees that Owner shall have one or two designated signers or at a minimum one or two designated viewers on such accounts (who will provide Maxim reasonable notice of and account for any transactions conducted by them with respect to the accounts) and that Owner may have access to such accounts via the internet or other methods so that Owner may, without notice, review transaction activity on the accounts. Any check or other order to pay, written for more than \$10,000 (Ten Thousand Dollars) will require a third signature or written approval by one of the Owner's designated signers or other authorized Owner's personnel. Maxim shall account to Owner and pay all payments due to Owner from Facility Accounts in accordance with this Agreement. Maxim shall not commingle Revenues, Advances and Approved Reserves with other money or accounts, and shall not take any money or property from the Facility Accounts or from the Facilities, except to make payments for Approved Capital Expenditures and Expenses as set forth in this Agreement. Maxim shall not purchase goods or services from an entity affiliated with Maxim unless such purchase is on terms reasonably competitive with terms available from non-affiliated sources. Maxim shall comply with requirements, if any, which may become applicable to it regarding purchase of equipment, materials and services.

6. EMPLOYEES. All employees of the Facilities shall be employees of Maxim.

7. MANAGEMENT FEES. In exchange for services rendered by Maxim under this Agreement, Maxim shall be (1) reimbursed from Facility Accounts for all direct and indirect out-of-pocket expenses authorized by this Agreement in connection with the operation of the Facilities, (2) paid from Facility Accounts a Fixed Management Fee as described in subparagraph 7.a. hereinafter, and (3) subject to the terms and conditions of subparagraph 7.b. below, paid from Facility Accounts a Contingent Management Fee. If on any date when any of the foregoing amounts is owing to Maxim the Facility Accounts contain insufficient funds to pay Maxim the amounts owing, Owner, unless prohibited by law, shall immediately make a disbursement to Maxim to cover the shortfall.

a. Fixed Management Fee. A "Fixed Management Fee" shall be paid to Maxim for each month this Agreement is in effect in the applicable amount described in subparagraph 7.c. (Schedule of Fixed and Contingent Management Fees). For any partial month, the Fixed Management Fee shall be prorated. The Fixed Management Fee shall be due and payable on the first day of each month.

b. Contingent Management Fee. A "Contingent Management Fee" shall accrue and be payable to Maxim at the end of the first (1st) month following a fiscal year in which Revenues equals or exceeds Revenues Base set forth in subparagraph 7.c. (Schedule of Fixed and Contingent Management Fees), provided, however, that no such Fee shall be due and owing unless and until the Owner has received the audited financial statements referenced in paragraph 8 hereof and as hereinafter provided. Within thirty (30) days of receipt of the unaudited annual financial statements for the Facilities that are in form and substance satisfactory to the Owner, said Owner will make a provisional payment of the Contingent Management Fee equal to seventy-five percent (75%) of the Contingent Management Fee as calculated based upon the unaudited financial statements. Upon receipt of the audited financial statements for the Facilities, the Contingent Management Fee will be recalculated based upon the audited financial statements, and the balance paid or refunded as the case may be. If the Owner does not exercise its option to conduct an audit of the Facilities annual financial statements, then the balance of the Contingent Management Fee shall be paid on or before July 1 of the following fiscal year. The amount of the Contingent Management Fee shall be determined by multiplying the Contingent Management Fee Percent set forth in subparagraph 7.c. by the amount by which Revenues for such year exceeds the Revenues Base for the applicable year as set for the in subparagraph 7.c. For purposes of determining the Contingent Management Fee, "Revenues" shall mean the total sum of all Revenues generated by the operation of the Golf Facility as specifically defined by Section 3(a). However, Revenue for purposes of this paragraph shall not include interest, proceeds from the sale of major assets, insurance proceeds, owner subsidies or advances and draws on letters of credit or other revenues not attributable to the operation of the Facilities such as taxes collected (non-sales tax), gifts, donations, and contributions.

c. Schedule of Fixed and Contingent Management Fees.

Fiscal Year	Fixed Monthly Fee	Contingent Management Fee Percentage	Revenues Base
2024/2025	\$3,917	10%	\$630,000
2025/2026	\$4,000	11%	\$635,000
2026/2027	\$4,167	12%	\$640,000
2027/2028	\$4,250	13.5%	\$645,000
2028/2029	\$4,333	15%	\$650,000

*If Revenues for Owner equals \$640,000 in fiscal year 2024/2025 then the Contingent Management Fee

would be computed as follows: (Example Revenue Base) = \$630,000
(\$10,000 times 10% or a contingent management fee of \$1,000).

If this Agreement is terminated prior to the end of any fiscal year, for purposes of determining the Contingent Management Fee the dollar amount of Revenue Base for that year set forth above shall be adjusted downward, based upon reasonable proration, as determined by utilizing the monthly average of the preceding two fiscal years. If Revenues for any calendar year are less than Adjusted Revenues Base, Owner may, in Owner's sole discretion, consent to the payment of all or any portion of the Contingent Management Fee for that period.

8. ACCOUNTING. Maxim shall maintain books and records relating to the business activities of the Facilities separate from its other books and records. Maxim shall prepare an opening balance sheet listing assets and liabilities used or incurred in the operation of the Facilities. Thereafter, Maxim shall have monthly financial statements prepared which shall include unaudited balance sheets and income statements (each month's records shall be referred to separately as the "Monthly Financial Statements") prepared as if the operation of the Facilities is a business entity separate from Maxim and Owner. Maxim shall deliver to owner a copy to of each month's Monthly Financial Statements by the twentieth day of the following month except where circumstances beyond the reasonable control of Maxim delay delivery of such statements. Owner agrees that if the deadline set forth in the preceding sentence is impractical or impossible for Maxim to meet, Owner shall modify such requirements. In addition, Maxim shall deliver to Owner, not later than August 1st of each year during the term of this Agreement, a copy of fiscal year-end financial statements for the Facilities for the preceding fiscal year prepared in accordance with General Accepted Accounting Principles. At any time during the term of this Agreement and for three (3) years thereafter, Owner shall be entitled to inspect and make copies of the books and records of the Facilities maintained by Maxim, and Owner may conduct a separate audit of the Facilities and/or include the Facilities within the audit of Owner conducted by Owners independent auditors, all Monthly Financial Statements and all annual financial statements. As a Facilities Expense, Maxim shall comply with Owner's audit recommendations. Additionally, at the request of the Owner, Maxim will provide any and all supporting documentation that substantiates the monthly/annual Financial Statements.

9. OWNER'S OPTION TO TERMINATE FOR DEFAULT. At any time during the term of this Agreement, Owner shall have the option of terminating this Agreement upon the occurrence of an event of Default, as defined in subparagraph 9.a. below. At any time during this Agreement, Maxim shall have the option of terminating this Agreement for cause upon the occurrence of a material breach by Owner of any material term or provision of this Agreement, which breach remains uncured following notice and opportunity to cure as provided elsewhere in this Agreement.

a. Events of Default. Any one or more of the following events shall, unless cured in accordance with paragraph 9.b below, constitute a default of this Agreement by Maxim ("Default"):

- i. Any breach by Maxim or Owner of the obligations under the terms of paragraph 5 of this Agreement;
- ii. A discontinuance by Maxim or Owner of its business or abandonment of its activities at the Facilities;
- iii. A material breach by Maxim or Owner of any material term or provision of this Agreement; or

- iv. The filing of a voluntary or involuntary action by Maxim, Owner or its creditors seeking to declare it as bankrupt.

b. Cure. Maxim shall have thirty (30) days after receipt of written notice from Owner specifying the nature of its Default under paragraph 9.a. above within which to cure such Default, or such longer period of time as may be reasonably required to cure such Default, provided that Maxim promptly commences the remedying of such Default and is continuing diligently to complete such cure. Owner shall have thirty (30) days after receipt of written notice from Maxim specifying the nature of its Default under paragraph 9. above within which to cure such Default, or such longer period of time as may be reasonably required to cure such Default, provided that Owner promptly commences the remedying of such Default and is continuing diligently to complete such cure, and provided further that Maxim will not discontinue performing services under this Agreement in the event that Owner disputes, in good faith, that it is in default until the parties have resolved the dispute.

c. Exercise of Termination Option. In the event of a Default, the Owner may terminate this Agreement upon expiration of the cure period described in subparagraph 9.b above by giving Maxim written notice of its election to terminate this Agreement, provided that Maxim has not timely cured the Default. Should Termination Option be exercised, Owner would pay to Maxim the Management Fee and Contingent Fee through the date of termination and reimburse Maxim for all expenses authorized under the terms of this Agreement incurred through the date of termination less damages caused by the breach. For purposes of this paragraph, the date of termination is the date specified by Owner in its notice to Maxim. In the event of a Default by Owner, Maxim may terminate this Agreement upon expiration of the cure period described in subparagraph 9.b above by giving Owner written notice of its election to terminate this Agreement, provided that Owner has not timely cured the Default, or is not diligently attempting to cure said default.

10. OPTION OF EARLY TERMINATION. Owner shall have the option to terminate this Agreement if any of the following occur without Owner approval: (1) Maxim or substantially all of its assets are sold without Owner's prior consent; (2) Maxim's management team or executive officers significantly change; (3) there is a change in control of Maxim or Owner finds reasonable evidence of fraud or defalcation of its funds or assets by employees or agents of Maxim. Owner may exercise the option for a period of six (6) months after receipt of notice that the respective event has occurred by notifying Maxim in writing. Unless otherwise agreed by the parties, the effective date of termination shall be thirty (30) days from the date Owner gives notice to Maxim except for evidence of theft or defalcation, in which Owner's Notice may be immediate. Early Termination shall not absolve the parties from any obligations of accounting and reimbursement for actions occurring prior to termination.

11. TRANSFER UPON TERMINATION. Upon termination of this Agreement, Maxim shall immediately transfer and assign to Owner any and all interest of Maxim in the Facilities if any, including the assets set forth in subparagraph 11.a. below, and Owner shall assume and agree in writing to indemnify Maxim to the extent allowable by law against all liabilities set forth in subparagraph 11.b. below, and any existing obligations and liabilities relating to the Facilities authorized by the Annual Budget or approved by Owner. However, Owner shall have no obligation to indemnify Maxim for tort liabilities or other claims against Maxim that result from the negligence, intentional malfeasance, gross negligence or other misconduct of Maxim or its agents.

a. Assets to be Transferred. Assets to be transferred and assigned to Owner shall include, but not be limited to, all of Maxim's right, title and interest in and to any of the following arising out of activities of the Facilities or purchased by Maxim from Advances from Owner or Revenues of the Facilities (other than insurance proceeds relating to liabilities not required to be assumed by Owner, which proceeds will be assigned by Owner to Maxim):

- i. Cash in all Facility Accounts;
- ii. Accounts receivable;
- iii. Other receivables;
- iv. Inventories of merchandise, food, beverages and supplies;
- v. All equipment, furniture and fixtures;
- vi. Prepaid accounts and deposits;
- vii. Contract rights;
- viii. Trade names;
- ix. Books and records relating to the Facilities;
- x. Goodwill; and
- xi. Operational guidelines and procedures.

b. Liabilities to be Assumed. Liabilities Owner shall assume, or against which Owner shall indemnify Maxim to the extent allowable by law, shall be all debts and other contractual obligations arising out of the operation of the Facilities. Provided however, Owner shall have no obligation to indemnify Maxim for a debt or contractual obligation incurred by Maxim that was not authorized under the terms of this Agreement.

c. Closing. The rights and responsibility of management of the Facilities shall transfer to Owner on the effective date of any termination of this Agreement unless the parties agree otherwise.

12. INDEMNITY. The parties agree that Maxim is not an agent or employee of Owner, and all activities of Maxim relating to the Facilities shall be in Maxim's capacity as independent contractor to Owner.

a. Obligations of the Facilities. Maxim shall pay all obligations and defend all disputed claims arising out of or resulting from Maxim's activities conducted in connection with or incidental to this Agreement. If the obligation or claim arises from activities authorized under the terms of this Agreement, then Maxim's defense and payment of such claims shall be an Expense of Facilities. Maxim shall keep Owner advised of any such matters.

b. Notice of Claims. Maxim and Owner shall provide each other with prompt written notice of any claim.

13. INSURANCE. As an Expense of the Facilities, Maxim shall obtain insurance of the types and in the amounts set forth below from an underwriter(s) licensed to do business in the State of Missouri. Maxim shall furnish to Owner certificates of insurance or copies of policies, evidencing the required insurance, on or before April 1, 2023, and thereafter shall furnish new certificates upon request.

a. Type and Amount of Insurance. The type and amount of insurance Maxim shall obtain for the Facilities shall be:

Worker's Compensation and Employer's Liability or reasonably acceptable alternative as provided by law.

The Limits for the Employer's Liability shall be not less than:

Bodily Injury by Accident	\$1,000,000 Each Accident
Bodily Injury by Disease	\$1,000,000 Policy Limit
Bodily Injury by Disease	\$1,000,000 Each Employee

Commercial General Liability Policy with a Combined Single Limit of \$3,000,000.00/\$4,000,000.00 including (but not limited to) Premises/Operation, Independent Contractors, Personal Injury, and Products/Completed Operation.

Commercial crime coverage to include:

Forgery or alteration	\$25,000	\$ 1,000 ded.
Theft, Disappearance & Destruction	\$15,000	\$100 ded.
Employee Dishonest-Per Loss	\$300,000	\$10,000 ded.

Comprehensive Automobile Liability (or its equivalent) to include coverage for:

- a) Owned/Leased Automobiles
- b) Non-owned Automobiles
- c) Hired Cars

Limits of \$1,000,000.00 Liability for Bodily Injury and/or Property Damage.

Excess Liability for general and automobile liability purposes in the amount of \$10,000,000.

b. Additional Insurance, Requirements. With respect to the above-described insurance, Owner agrees to:

1. Have Maxim named as an insured as its interest may appear with no waiver of city's sovereign immunity.
2. Provide for thirty days' written notice of cancellation, termination or any material change to the insurance.
3. All of the above stated limits shall apply separately to each location managed by Maxim.

14. COVENANT OF COOPERATION. Maxim shall provide Owner with prompt written notice of any material injuries suffered at the Facilities, significant complaints in reference to service or conditions, whether written or otherwise, about the Facilities or its management, and actual or anticipated disputes with or claims by third parties, including, but not limited to, adjacent landowners. Maxim further covenants to cooperate with Owner in resolving any such complaints, disputes or claims and Owner covenants to cooperate with Maxim in resolving any such complaints, disputes or claims.

15. OWNER'S REPRESENTATIONS AND WARRANTIES. To induce Maxim to enter into this Agreement, Owner makes the following representations and warranties to Maxim:

a. Each of the Recitals set forth in this Agreement is true and correct.

b. Owner has power and authority and all legal rights to enter into and perform this Agreement. The officers of Owner executing this Agreement are duly and properly in office and fully authorized to execute this Agreement, subject to express ratification by the Owner's Governing Body. This Agreement, when duly executed, ratified and delivered by the parties hereto, shall create a valid and binding obligation on the part of Owner, enforceable against Owner in accordance with its terms.

16. MAXIM'S REPRESENTATION AND WARRANTIES. To induce Owner to enter into this Agreement, Maxim makes the following representations and warranties to Owner:

a. Each of the Recitals set forth in this Agreement is true and correct.

b. Maxim Golf, LLC is a duly organized and validly existing company in good standing under the laws of the State of Missouri.

c. Maxim has the full power and authority and all legal rights to enter into and perform this Agreement and any other agreement referred to herein or contemplated by this Agreement. This Agreement, when duly executed and delivered by the parties hereto, shall create a valid and binding obligation on the part of Maxim, enforceable against Maxim in accordance with its terms.

d. Maxim has sufficient knowledge, training, expertise, skill and resources as to enable it to operate the Facilities in a reasonable and prudent business manner.

e. During the term of this Agreement, Maxim will use all reasonable care to prevent the introduction of any hazardous substances into the Facilities, whether contained in barrels, tanks, equipment (movable or fixed) or other containers deposited or located in land, water, sumps or any other part of the Facilities or incorporated into any structure on the Facilities. Maxim will hold owner harmless from and indemnify owner for any damages and expenses which owner may incur as a result of Maxim's failure to comply with this warranty. Owner acknowledges that some substances necessary for performance of this Agreement may be deemed "hazardous." Owner agrees that this paragraph shall not apply to such necessary substances, provided that Maxim uses all care necessary in the handling and use of such substances.

17. RELATIONSHIP OF THE PARTIES. The relationship between Owner and Maxim shall be and at all times remain that of owner and independent contractor, respectively. Neither Owner nor Maxim shall be construed or held to be a partner, limited partner, associate or agent of the other, or be

joint venturers with one another. Neither Owner nor Maxim shall be authorized by the other to contract any debt, liability or obligation for or on behalf of the other.

18. CONFIDENTIALITY.

a. Each party agrees that Maxim will provide its knowledge and advice concerning marketing, equipment, financial models, membership retention and other expertise to the Owner, and Owner will provide similar information to Maxim ("Proprietary Information" of the disclosing party). Except as expressly allowed herein, the receiving party will hold in confidence and not use or disclose any Proprietary Information of the disclosing party, shall take reasonable protective measures to insure same (and at least the same measures it takes for its own Proprietary Information) and shall similarly bind its employees in writing. Nothing herein shall prevent Maxim Employees from disclosing Facility performance data to Heritage Hills Golf Course's authorized representatives upon request as determined from time to time by its Board of Advisors, but such information should never be provided to Owner's members or competitors. The receiving party shall not be obligated under this Section with respect to information the receiving party can document:

i. is or has become readily publicly available without restriction through no fault of the receiving party or its employees or agents; or

ii. is received without restriction from a third party lawfully in possession of such information and lawfully empowered to disclose such information; or

iii. was rightfully in the possession of the receiving party without restriction prior to its disclosure by the other party; or

iv. was independently developed by employees or consultants of the receiving party without access to such Proprietary Information; or

v. is required to be disclosed by law.

b. If either party breaches any of its obligations with respect to confidentiality, or if such a breach is likely to occur, the other party shall be entitled to equitable relief, including specific performance or an injunction, in addition to any other rights or remedies, including money damages, provided by law.

c. The obligation to keep this information confidential shall continue indefinitely during and following the termination of the term of this Agreement.

19. GOVERNANCE. The parties agree to attempt informal dispute resolution before proceeding with further action. Specifically, should either party believe that a dispute has arisen, then that party shall meet and confer with a designated representative of the other party.

20. NOTICES. Except as otherwise specifically provided herein, any and all notices required or permitted under this Agreement shall be in writing and shall be deemed delivered upon personal

delivery or upon mailing thereof when properly addressed and deposited in the United States Mail, first-class postage prepaid, registered or certified mail, return receipt requested, or when properly addressed upon deposit with Federal Express, Express Mail or other overnight courier service. Notices shall be properly addressed if addressed to the parties as follows:

If to Owner: Agent for City of Moberly - Heritage Hills Golf Course
Attn: Randall Thompson
Interim City Manager
101 West Reed Street
Moberly, MO 65270

If to Maxim: Bryan Minnis
Chief Executive Officer
5757 East Eagle Knoll Dr
Hartsburg, MO 65039

The names and addresses for notices may be changed by written notice given to the other party as provided above.

21. FURTHER ACTS AND COMPETITION. Each party to this Agreement agrees to execute and deliver all documents and instruments and to perform all further acts and to take any and all further steps that may be reasonably necessary to carry out the provisions of this Agreement and the transactions contemplated herein. During the term of this Agreement Maxim will not directly or indirectly invest in nor provide services, whether or not for fees or other consideration, to another entity that has one or more golf courses any part of which is located in Randolph County, Missouri, unless agreed upon by Maxim and Owner.

22. SECTION HEADINGS. The section headings in this Agreement are for convenience of reference only and shall in no way define, limit, extend or interpret the scope of this Agreement or of any particular section contained herein.

23. INTERPRETATION. Unless the context requires otherwise, words used in the singular number shall include the plural and vice-versa; words used in the masculine shall include the feminine and vice-versa.

24. AMENDMENTS AND WAIVERS. This Agreement shall be modified only by written instrument executed by the parties hereto. Any waiver of any provision of this Agreement shall be made in writing executed by the party who could demand fulfillment of such waived provision.

25. ASSIGNMENT. This Agreement shall not be assigned by Maxim without the express written consent of Owner.

26. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

27. GOVERNING LAW. This Agreement shall be construed under and in accordance with the laws of the State of Missouri.

28. COUNTERPARTS. This Agreement and all amendments and supplements to it may be executed in counterparts and all such counterparts shall constitute one agreement binding on both of the parties.

29. SEVERABILITY. Should one or more of the provisions of this Agreement be determined to be illegal or unenforceable, the other provisions nonetheless shall remain in full force and effect. The illegal or unenforceable provision or provisions shall be deemed amended to conform to applicable laws so as to be valid and enforceable if such an amendment would not materially alter the intention of the parties.

30. ENTIRE AGREEMENT. This Agreement (together with any attached Exhibits) constitutes the entire agreement between the parties concerning the subject matter of this Agreement, and supersedes all prior agreements, arrangements, understandings, restrictions, representations or warranties, whether oral or written, between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

Owner:
City of Moberly, MO.

By: _____
Randall Thompson, City Manager
101 West Reed Street
Moberly, MO 65270

ATTEST:

Maxim:
Maxim Golf , LLC.

By: _____
Bryan Minnis, Executive Officer
5757 East Eagle Knoll Dr
Hartsburg, MO 65039

