

2024

Hfx. No. 538745

**SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36,
as amended (the "**CCAA**")

AND IN THE MATTER OF an application of Blue Lobster Capital Limited, 3284906 Nova Scotia
Limited, 3343533 Nova Scotia Limited and 4318682 Nova Scotia Limited (collectively, the
"**Applicants**")

AFFIDAVIT OF DARREN D. O'KEEFE

I, **Darren O'Keefe**, of the City of St. John's, in the Province of Newfoundland and Labrador, make
oath and say:

1. I am the Solicitor for the Applicants, and as such have knowledge of the matters to which
I here depose.
2. The facts and matters herein are within my knowledge by virtue of my involvement as
counsel in this proceeding and my review of the file and records maintained by my firm in
relation to this matter.
3. Attached to this my affidavit and marked as **Exhibit "A"** is a copy of a forbearance
agreement between the Royal Bank of Canada and Blue Lobster Capital Limited, dated
February 26, 2024.

SWORN TO before me at the
City of Halifax, in the Province of
Nova Scotia, this 27th day of
August, 2026.


A Commissioner of Oaths / Notary
Public in and for the Province of
Nova Scotia


DARREN D. O'KEEFE

This Exhibit "A" to the affidavit of Darren D. O'Keefe
sworn before me on the 27th day of August 2026.

Chris C...

EXHIBIT "A"



RBC
Royal Bank™

Dave Northrup
Manager
Special Loans and Advisory Services - Atlantic

Royal Bank of Canada
700 – 1871 Hollis Street
Halifax, Nova Scotia B3J 0C3
Tel: (902) 421-7455
Fax: (902) 421-8293
Email: dave.northrup@rbc.com

February 26, 2024

VIA ELECTRONIC MAIL

Blue Lobster Capital Limited
99 Wyse Road, Suite 600
Dartmouth, Nova Scotia
B3A 4S5

Attention: Alex K. Rice, President

Dear Sirs:

Re: Royal Bank of Canada (the “Bank”) – Credit Facilities Provided to Blue Lobster Capital Limited (the “Borrower”) – Forbearance Agreement

The Bank makes reference to loans provided to the Borrower (or its predecessor) under the terms of various agreements between the Bank and the Borrower (the “**RBC Loan Agreements**”) and the discussions with the Borrower during which the Bank outlined its continuing concerns with the financial performance of the Borrower.

In particular, the Bank makes reference to its demand letter dated February 7, 2024 (the “**Demand Letter**”).

Notwithstanding the Bank’s concerns set out in the Demand Letter, the Bank is prepared to forego the immediate enforcement of its security provided by the Borrower (or its predecessor) on the following conditions:

1. The Borrower acknowledges the defaults set out in the Demand Letter and the Bank’s right to enforce its rights under the RBC Loan Agreements and related security instruments.
2. The Borrower shall, from the date of this Forbearance Agreement, comply in all respects with all terms and conditions set out in the RBC Loan Agreements and the various related security documents (collectively, the “**RBC Loan Documents**”) except as may be provided in this Forbearance Agreement.

3. The Borrower shall ensure that all remittance accounts with statutory authorities, including Canada Revenue Agency ("CRA"), are maintained in good standing and shall provide evidence of such good standing to the Bank as the Bank may reasonably require. In particular, the Borrower will provide the Bank's financial advisors, Ernst & Young Inc. ("EY"), with copies of all remittance statements delivered to the CRA in relation to source deductions and HST upon request.
4. The Borrower shall ensure that all property taxes in relation to any real estate owned by the Borrower are paid when due and shall provide evidence of payment when requested by the Bank.
5. The Borrower shall provide the following by February 29, 2024:
 - (a) trial balance account mapping to external financial statements; and
 - (b) monthly trial balances (in Microsoft excel format) for the period of July 1, 2022 to 30 November 2023.
6. The Borrower agrees to provide December 31, 2023 reporting to the Bank and EY by February 29, 2024 including, but not limited to, the following:
 - (a) trial balance (in Microsoft excel format, if available);
 - (b) aged accounts receivable listing by invoice and customer (in Microsoft excel format, if available);
 - (c) aged accounts payable listing by invoice and customer (in Microsoft excel format, if available);
 - (d) detailed inventory listing by sku reflecting quantity, cost per unit and extended value (in Microsoft excel format, if available);
 - (e) detailed property, plant and equipment listing including cost, accumulated amortization, net book value and amount of any encumbrance(s) by lender or lessor, if applicable;
 - (f) CRA payroll statement of account with evidence of payroll remittances for the month ended December 31, 2023;
 - (g) CRA HST statement of account with remittance(s) for the month ended December 31, 2023;
 - (h) Payroll and vacation pay accrued liability as at December 31, 2023; and
 - (i) Workers Compensation statement of account with evidence of payment for the month ended December 31, 2023.
7. The Borrower will provide a current statement of personal affairs on the Bank's form (attached) from Alex K. Rice no later than seven (7) days following the execution of this Agreement.

8. The Borrower, with the assistance of its external financial advisors, which shall be acceptable to the Bank acting reasonably, shall prepare and deliver to the Bank and EY, a rolling 13-week cash flow statement including detailed assumptions (the "**Cash Flow Statement**") (in Microsoft excel format) covering the period March 4, 2024 to May 31, 2024 on or before March 6, 2024. On Tuesday of every second week (no later than 5:00 pm Halifax time) following the execution of this Forbearance Agreement commencing on March 19, 2024 (for the first six weeks of this Agreement and then weekly thereafter), the Borrower shall provide the Bank and EY with:
 - (a) a variance calculation (the "**Variance Report**") setting forth (A) the actual receipts and disbursements for the preceding week ending Friday, and (B) actual receipts and disbursements on a cumulative basis since the beginning of the period covered by the Cash Flow Statement, setting forth all variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof in the Cash Flow Statement, each such Variance Report to be promptly discussed with the Bank and its advisors, and include reasonably detailed explanations for any material variances during the relevant period; and
 - (b) a rolling 13-week cash flow forecast in substantially the same form as the Cash Flow Statement and approved by the Bank and its advisors (the "**Rolling Forecast**"), which Rolling Forecast is to include a reconciliation of the previous week's activity as set out in the Variance Report. The Rolling Forecast must also demonstrate that the Borrower will remain within the maximum operating credit available to the Borrower under the RBC Loan Agreements
9. The Borrower agrees that it shall only make disbursements permitted by and in accordance with the Cash Flow Statement, and shall not in any event make any disbursements that would result in a negative cumulative variance on net cash flow on a weekly basis in excess of \$2,500 and \$15,000 on a cumulative basis relative to the amount set out in the Cash Flow Statement
10. The Borrower agrees to provide reporting to the Bank and EY on a monthly basis within 31 days subsequent to month-end including, but not limited to, the following:
 - (a) trial balance (in Microsoft excel format, if available);
 - (b) aged accounts receivable listing by invoice and customer including invoice date (in Microsoft excel format, if available);
 - (c) aged accounts payable listing by invoice and customer including invoice date (in Microsoft excel format, if available);
 - (d) list of accrued liabilities (in Microsoft excel format, if available);
 - (e) detailed inventory listing by sku reflecting quantity, cost per unit and extended value (in Microsoft excel format, if available);
 - (f) CRA payroll statement of account with evidence of payroll remittances for the month ended;

- (g) CRA HST statement of account with evidence of payroll remittances for the month ended;
 - (h) payroll and vacation pay accrued liability as at month-end; and
 - (i) Workers Compensation statement of account with evidence of payment for the month ended.
11. The Borrower shall provide collateral mortgages in relation to the Bank securing all debts and obligations of the Borrower to the Bank (including any guarantee obligation) in relation to the properties listed below as follows:
- (a) 2138 Brunswick Street, Halifax, Nova Scotia,
 - (b) 14 Allen Ave., Stellarton, Nova Scotia,
 - (c) 140 George St., New Glasgow, Nova Scotia,
 - (d) Provost St., New Glasgow, Nova Scotia,
 - (e) 18 Claremont Ave., Stellarton, Nova Scotia; and
 - (f) 252 Prince Street, Charlottetown, Prince Edward Island.

The additional mortgage security shall be provided on the Bank's standard form for unlimited collateral mortgages no later than March 6, 2024.

12. Loan payments by the Borrower to the Bank in relation to their existing loans shall be maintained in good standing throughout this Forbearance Agreement.
13. The Borrower shall provide its full cooperation to the Bank and EY and its other advisors at all times throughout the term of this Forbearance Agreement, including the provision of all documents and materials reasonably requested by the Bank and its advisors in relation to the financial affairs, assets and business prospects of the Borrower.
14. The Borrower will pay a forbearance fee to the Bank of \$6,000 payable within fifteen (15) days from the execution of this Forbearance Agreement. The Bank is authorized to debit the accounts of the Borrower in regards to the forbearance fee.
15. The Borrower will continue to conduct all banking transactions (including deposits from all sales) with the Bank until the payment of all amounts owing to the Bank (including any amounts due under this Forbearance Agreement) has been made.
16. All costs, charges and expenses to the Bank (including legal, appraisal and other professional fees and the forbearance fees) associated with this Forbearance Agreement and any other matter or thing relating to the loans of the Borrower shall be for the account of the Borrower and the Bank is authorized to debit the accounts of the Borrower on a weekly basis in regards to such charges and expenses as incurred, provided that the Borrower shall have received notice of such charges at least 3 days prior to debiting the account.

17. This Forbearance Agreement shall expire on or before April 26, 2024 (the “**Expiry Date**”). The Bank shall be at liberty to terminate this Forbearance Agreement at any time prior to the Expiry Date on written notice to the Borrower in the event of the following:
- (a) any statement, certification, representation or warranty made by the Borrower to the Bank or its advisors is false, misleading or incorrect,
 - (b) any action or proceeding is threatened or commenced which brings into issue the validity or enforceability of the RBC Loan Agreements, the related security or any guarantee and any related security provided to the Bank in respect thereof,
 - (c) any property of the Borrower is taken in execution or any funds due to any party are garnished by any of their creditors, an execution, writ of seizure and sale, or distress or any other like process becomes enforceable against any of the Borrower in any jurisdiction,
 - (d) any proceedings are taken for the appointment of a receiver or a trustee in bankruptcy of the Borrower or the Borrower seeks relief under the *Companies’ Creditors Arrangement Act* (Canada), or files a Notice of Intention to make a proposal to its creditors under the BIA or any other action to avail itself of any similar remedial legislation in any jurisdiction,
 - (e) in the opinion of the Bank, exercising its unfettered discretion, its security is endangered or the value of the assets against which it holds security is impaired, or an adverse change in the financial condition of the Borrower has occurred or is revealed,
 - (f) any cheques are presented for payment by the Borrower are returned by the Bank for reason of insufficient funds, or
 - (g) the Borrower fails to comply with the terms and conditions of this Forbearance Agreement, or of any other agreement with the Bank.
18. In the event of the early termination of this Forbearance Agreement in relation to the circumstances set out in paragraph 17 above, the Bank shall be entitled, upon such notice as the Bank deems appropriate to the Borrower, to take such steps as it deems appropriate to demand the immediate repayment of its loans and to enforce its rights, including acting under or to realize upon its security, including any guarantees, including the immediate appointment of a receiver or trustee in bankruptcy. The Borrower hereby consents to such enforcement and appointment as the case may be.
19. The Borrower acknowledges and confirms that it has been provided with the opportunity to obtain legal advice prior to the execution of this Forbearance Agreement.
20. The Borrower hereby agrees and acknowledges that, upon the execution of this Forbearance Agreement, it shall absolutely and irrevocably release the Bank and its advisors and each of their respective directors, officers, employees, agents, advisors and solicitors (collectively, the “**Releasees**”) of and from any and all claims which it may have in respect of the Releasees up to and including the date hereof including, without limitation, any action taken by the Bank in dealing with the Borrower in relation to the RBC Loan Agreements, the related security or any guarantee and any related security provided

to the Bank in respect thereof or the administration of the accounts of the Borrower, or otherwise, provided that such release shall not extend to any fraudulent or wilful misconduct on the part of any Releasee.

21. Each of the guarantors signing this Forbearance Agreement acknowledges the terms set out in this Forbearance Agreement and confirms that such terms shall not in any way affect any of their respective liability pursuant to any guarantees given to the Bank.
22. The Borrower acknowledges receipt of a copy of this Forbearance Agreement and acknowledge the terms herein.

[Signature Pages Follow]

Please execute and arrange for return of a signed copy of this Forbearance Agreement no later than 2:00 p.m. (Halifax time), February 29, 2024 in order to confirm your acceptance of the foregoing.

Yours truly,

Dave Northrup

Dave Northrup, Senior Manager
Special Loans & Advisory Services, Atlantic

We agree to the foregoing terms and conditions.

DATED: February 29, 2024.

Blue Lobster Capital Limited
(as borrower)

Per: K Alex Tri
Name:
Title:
(I have authority to bind the Company)

3284906 Nova Scotia Limited
(as guarantor)

Per: K Alex Tri
Name:
Title:
(I have authority to bind the Company)

K Alex Tri
Alex K. Rice (as guarantor)