

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2008-51

Being a By-law Authorizing the execution of a Lease Agreement between the Corporation of the Town of Amherstburg and 2180109 Ontario Limited for the use of the Canteen Facility in the Amherstburg Arena

WHEREAS The Town of Amherstburg considers it desirable to lease the Canteen Facility contained in the Amherstburg Arena;

AND WHEREAS the Town and 2180109 Ontario Limited (operated by Julie Russell) wish to enter into an Agreement for a period of one (1) Year to set out the terms and conditions upon which excess lands may be rented;

AND WHEREAS the specifics of such Lease Agreement have been negotiated and are set out in the Lease Agreement attached to and forming part of this bylaw;

NOW THEREFORE THE CORPORATION OF THE TOWN

OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

- 1) An Agreement between the Municipality and 2180109 Ontario Limited (operated by Julie Russell) is attached hereto and is hereby approved and the Mayor and Clerk are hereby authorized to execute the Agreement on behalf of the municipality.
- 2) This By-law shall come into force and take effect immediately upon the final passing thereof.



MAYOR WAYNE HURST



CAO/CLERK PAMELA MALOTT

1st Reading – August 18th, 2008

2nd Reading – August 18th, 2008

3rd Reading – August 18th, 2008

COPY

**Licence Agreement
to Operate Canteen Services within The Amherstburg Arena**

THIS AGREEMENT made this day of , 2008,

BETWEEN:
THE CORPORATION OF THE TOWN OF AMHERSTBURG
(the "Licensor")

AND
2180109 ONTARIO LIMITED
(the "Licensee")

WHEREAS:

1. The Licensor is the Corporation of the Town of Amherstburg and is the owner of the Amherstburg Arena (the "Facility") in which the Licensee propose to carry on the business of operating the Amherstburg Arena Canteen.
2. The Licensee carries on the business of operating and providing canteen services (the "Business").
3. The Licensee has requested that the Licensor grant a licence to the Licensee to operate the Business in the Canteen of the Facility (the "Canteen") as more particularly described in Schedule "A" attached hereto.

NOW THEREFORE this agreement (the "Agreement") witnesses that in consideration of the mutual rights and obligations herein expressed and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties agree as follows:

1. Licence, Term and Option to Renew

(1) The Licensor grants to the Licensee the right to operate the Business in the Canteen under the Licensee's business name for a term (the "Term") of One (1) year commencing on the 11th day of August, 2008, and ending on the 10th day of August, 2009, unless sooner terminated under the provisions of this Licence or otherwise.

If the Licensee has promptly paid the License Fee when due and has observed and performed its covenants in this Agreement and has on or before the 10th day of July, 2009, by writing to the Licensor given notice of its desire to have the term of this Agreement renewed, the Tenant shall, upon review and subject to the sole discretion of the Licensor, have the term of this agreement renewed for a period of two (2) years upon the conditions set forth in this Agreement except the right to renew and the License Fee which shall be set at the rate mutually agreed upon by the Licensor and Licensee.

(2) The Licensor shall not grant any other licence for the operation of a business in competition with the Business in the Facility during the Term or any renewals thereof and shall not operate such a Canteen itself in the Facility.

2. Location and Area

(1) The location of the Canteen in the Facility shall be as shown on the sketch(es) attached as Schedule "B".

(2) The Licensor reserves the right to relocate the Canteen at any time, and from time to time, by assigning to the Licensee other suitable space in the same Facility substantially equivalent in area and having substantially similar exposure to customers entering the Facility. The Licensor agrees to exercise this right only for the purpose of improving the flow of traffic within the Facility, to increase check-out space, or for other *bona fide* purposes relating to the operation of the Facility as a whole, and shall exercise this right in a manner so as to cause as little inconvenience as is reasonably possible to the Licensee and, in any event, entirely at the expense of the Licensor.

(3) If the Licensor exercises its right to relocate the Canteen, it shall give notice to that effect to the Licensee not less than two (2) weeks before the effective date of relocation. On the effective date of relocation:

- (a) the Licensor shall have the right, without expense to the Licensee, to begin to relocate fixtures and equipment used by the Licensee; and
- (b) the Licensee shall, at its own expense, remove its merchandise to the relocated Canteen.

3. Licence Fee

(1) The Licensee shall pay to the Licensor, and the Licensor shall be entitled to receive from the Licensee, a licence fee (the "Licence Fee") throughout the 1st Term as follows:

- (a) a fixed monthly licence fee (the "Fixed Monthly Licence Fee") of \$450.00 plus all applicable Goods and Services Tax and other taxes on the Licence Fee.

(2) "Gross Revenue" means the entire amount of the sales price, whether for cash or credit or otherwise, of merchandise and services and all other receipts or receivables whatsoever of all business conducted at, in, upon or from the Canteen, including receipts or receivables in respect of orders taken at or received at the Canteen (although such orders may be filled elsewhere) by the Licensee and every concessionaire and licensee of the Licensee or otherwise in or from the Canteen and all proceeds from any coin-operated machines or vending machines, but shall not include:

- (a) the sales price of merchandise returned or exchanged by customers for which a credit or refund is made;
- (b) any sums or credits received in settlement of claims for loss or damage to merchandise;
- (c) the amount of returns of merchandise to shippers or to manufacturers, or to other premises of the Licensee; or
- (d) taxes which are required to be collected as a direct and separate tax from customers and which are not included in the sales price of such merchandise or services.

(3) The Licensee shall pay the Fixed Monthly Licence Fee in equal monthly installments throughout the Term, each to be paid on the first day of each and every month commencing on the first day of the Term.

(4) The Licensee shall, upon request, provide the Licensor with monthly statements, in writing, verified by the Licensee and certified annually by its auditor, showing in reasonable detail and in such form as the Licensor may require the Gross Revenue by product class for the month or other period stipulated by the Licensor.

(5) The Licensee shall keep or cause to be kept in the Canteen and/or at the Licensee's head or regional office records, including daily sales reports, which shall be open to audit by the Licensor or its duly appointed representatives at all reasonable times during normal business hours during the Term and for a period of two (2) years after the Agreement expires.

4. Use, Signage

(1) The Licensee shall have the right to use the Canteen only for conducting its Business and shall so use the Canteen continuously, actively and diligently to carry on such Business in a reputable manner consistent with the standards of the Facility throughout the Term.

(2) The Canteen shall be kept open for business and operated during all days and hours specified in Section 2.0 of Schedule "A" attached hereto.

(3) The name of the Canteen shall be the Amherstburg Arena Canteen or such other name as the Licensee may use generally in the vicinity of such Canteen and of which the Licensor shall have approved, such approval not to be unreasonably withheld.

(4) The Licensee shall have the right to display advertising in accordance with Section 1.8 of Schedule "A" attached hereto.

(5) The Licensee covenants to comply with all laws and directives issued by governing authorities which affect the Licensee's use and occupancy of the Canteen. The Licensee shall obtain and maintain all permits and licences that may be required to conduct its business.

(6) The Licensee shall not commit or permit any waste or damage to the Facility, or commit or permit anything which may disturb the quiet enjoyment of any occupant of the Facility or which may result in a nuisance or which may interfere with the normal operation of the Facility.

5. Access

(1) The Licensor shall at all times throughout the Term permit the Licensee's customers access to the Canteen, during the normal business hours of the Facility, and through such areas of the Facility as are designated by the Licensor for use by customers generally.

(2) The Licensee shall not be permitted access to the Facility at any time other than the normal business hours of the Licensor's employees at the Facility and shall not have keys or any other ability to enter the Facility.

6. Fixtures and Equipment

(1) Subject to the provisions of Sections 2.1 and 2.3 of Schedule "A" attached hereto, the Licensee shall furnish the Canteen with modern fixtures, counters, shelves and any other equipment and furniture required for the operation of the Business, which are of similar quality to and not inconsistent with the Facility appearance and which have the approval of the Licensor, such approval not to be unreasonably withheld. The Licensee shall also furnish all operating supplies necessary for the operation of the Canteen. The Licensee shall not make any permanent changes or alterations to the Facility without the express written consent of the Licensor, which consent may be unreasonably withheld.

(2) The Canteen and the fixtures, counters, shelves, equipment and furniture therein shall be neatly repaired and maintained by the Licensee in good order and repair and in accordance with the general appearance of the Facility.

(3) Upon the completion of the Term, or upon any early termination, the Licensee shall remove all of its property and equipment from the Facility and shall deliver the Canteen in the same condition as at the beginning of the Term, reasonable wear and tear excepted and, without limitation, shall make good any damage caused by the installation or removal of its property and equipment.

7. Utilities, Maintenance, Services

Subject to the provisions of Sections 1.9, 2.2, 2.7 and 2.8 of Schedule "A" attached hereto, the Licensor shall provide and pay all utility charges for water, gas, heating, light, electric current, ventilation, and air-conditioning, save and except for the cost of propane, floor cleaning and other janitorial services which are to be provided by the Licensor to the Canteen, but the Licensor shall not be responsible for any loss or damage of any nature resulting from the interruption or failure of such utilities or services. Installation of telephone service and all charges incurred and any electrical panel or similar equipment or facilities required to operate the Canteen shall be the responsibility and for the account of the Licensee.

8. Relationship

(1) Nothing contained in or done pursuant to this Agreement shall be construed as creating a partnership, agency or joint venture, or a landlord and tenant relationship and, except as may be otherwise expressly provided in this Agreement, neither party shall become bound by any representation, act or omission of the other party hereto.

(2) All purchases and contracts in connection with the conduct and operation of the Canteen shall be made by the Licensee in its own name. Under no circumstances will the Licensee make any purchases or incur any obligation or expense of any kind in the name of the Licensor. The Licensee shall promptly pay all of the obligations of the Canteen.

9. Rules and Regulations, Employees

(1) The Licensor may, from time to time, establish, amend, modify or revise uniform "Rules and Regulations" consistent with this Agreement. The Licensor agrees to provide the Licensee with written copies of such Rules and Regulations and amendments and the Licensee agrees that it will comply with such Rules and Regulations. The current Rules and Regulations are attached hereto as Schedule "A" and form a part of this agreement.

(2) The Licensee shall employ an adequate staff of employees to conduct its Business in the Canteen, which employees shall at all times be subject to the general rules and regulations which are from time to time in effect relating to the conduct of the Licensor's employees in the Facility. The Licensee's staff in the Canteen shall at all times be employees of the Licensee only and shall be subject to the requirements of Section 1.0 of Schedule "A" attached hereto.

10. Taxes

(1) The Licensee shall, at its own expense, pay and discharge all licence fees, business, use, personal property, sales or other similar or different taxes, assessments which may be charged or levied by reason of anything done, contained or used in the conduct of the Canteen or the performance of this Agreement.

(2) The Licensor shall be responsible for payment of all property taxes with respect to the Facility.

11. Assignment and Sublicensing

(1) This Agreement is not assignable by the Licensee in whole or in part, and the Licensee may not enter into any agreement or arrangement whereby the rights of the Licensee under this Agreement or to the Canteen are transferred, or pursuant to which any right of use or occupancy of all or any part of the Canteen is conferred upon any person, in each case without the Licensor's written consent, which consent may be arbitrarily or unreasonably withheld. Any transfer or attempt to transfer by the Licensee, either expressly or by operation of law, without the Licensor's consent shall, at the option of the Licensor without any notice whatsoever, be cause for immediate termination of this Agreement.

(2) Any change in ownership (meaning a controlling share interest in the case of a corporation) of the Licensee shall be cause for immediate termination of this Agreement, unless the Licensee notifies the Licensor in advance of such change in ownership and obtains the Licensor's written approval and consent (which consent may be arbitrarily or unreasonably withheld) to the operation of the Licensee under such new ownership.

12. Liability

(1) The Licensee shall indemnify and hold the Licensor harmless against the following:

- (a) claims, losses, damages or expenses, insurable under the customary form of comprehensive general liability insurance including malpractice and products liability insurance, actually or allegedly arising out of the use of the Canteen, the operation of the Canteen, and sales made by the Licensee in the Facility, including all claims for the loss, damage, destruction or theft of property belonging to the Licensee's customers (nothing in this subsection shall be construed, however, as relieving the Licensor from liability for its own employees, negligent acts or omissions, or for its default in or violation of any of the terms of this Agreement); and
- (b) every other claim, loss, damage or expense arising out of the use of the Canteens, the operation of the Canteen or sales made by the Licensee in the Facility, or advertising material furnished by the Licensee to the Licensor, including claims, losses, damages or expenses arising out of any alleged infringement of any patent, copyright, trade mark or trade name, unfair competition or violation of any law or regulation.

(2) The Licensor shall not be liable for any negligence or failure in safeguarding any goods of the Licensee, or for any damage to or loss of merchandise or other property of the Licensee by

reason of theft, fire, water, power failure, or bursting of pipes of any kind or nature, or any other cause. The Licensee assumes complete responsibility for its stock of merchandise and other property which may at any time be in the Facility, and will not hold the Licensor liable for any theft, shrinkage, injury or loss of any part of such stock from any cause, notwithstanding the negligence of the Licensor or those for whom it is responsible.

(3) The Licensee assumes the entire risk of failure of any person to pay for the Licensee's merchandise or services, except for the risk of losses resulting from sales on credit which is assumed by the Licensor.

13. Insurance

(1) The Licensee shall, at its own expense, keep in force public liability and property damage insurance with respect to the Canteen and the Business operated by the Licensee therein in which the limits of public liability shall be not less than two million dollars (\$2,000,000). Certificates of insurance shall be delivered to the Licensor within thirty (30) days of the execution of this Agreement and in any event before the opening of the Canteen for the conduct of business, and annually thereafter.

(2) The Licensee's policies of insurance shall provide that no adverse change, termination or cancellation shall be effective unless at least thirty (30) days' prior written notice has been given to the Licensor by the insurance company or companies. The Licensee shall insure its personal property and fixtures in the Canteen for fire and extended coverage. All insurance shall be with companies satisfactory to the Licensor.

(3) Each policy of insurance carried by either the Licensor or the Licensee on its merchandise, fixtures and other property in the Facility shall contain a waiver of the insurer's right of subrogation against the other party.

14. No Encumbrances

The Licensee shall not execute any chattel mortgage, conditional sales contract, retail installment sales contract, hypothecation, or assignment of stock or equipment located in the Canteens without the consent in writing of the Licensor, and the Licensee represents that all of the merchandise in the Canteens is and shall be owned by it and not by any other person or corporation, whether on consignment or by virtue of any other type or kind of relationship.

15. Mortgages, Head Lease

(1) This Agreement and the rights of the Licensee hereunder shall at all times be subject and subordinate to any present or future mortgages on the Facility and any renewals or extensions of the mortgages.

(2) The Licensee shall, upon demand, from time to time, execute, acknowledge and deliver to the Licensor, without expense to the Licensor, all instruments which may be necessary or proper to postpone this Agreement, and all rights under it, to any mortgage on the Facility. If the Licensee fails, at any time, to execute and deliver any such subordination instrument, the Licensor shall have the right, in addition to any other remedies available to it, to execute or acknowledge in the Licensee's name such subordination instrument, and the Licensee hereby irrevocably appoints the Licensor, its successors and assigns as its attorney for the purpose of executing or acknowledging any postponement or subordination of this Agreement to all mortgages of the Facility.

(3) If the Facility is located in premises leased by the Licensor, the Licensee acknowledges that it shall not do anything in or about the Canteen or the Facility which violates any of the terms, conditions and covenants of the Licensor's lease or leases or any rules and regulations or other requirements thereunder.

(4) The Licensee acknowledges that this Agreement is subordinate to any lease of the Licensor of the Facility and that, in the event of termination of the Licensor's lease for any

reason whatsoever, this Agreement shall be terminated as well. Upon request from the Licensor, the Licensee shall deliver an acknowledgement to the Licensor's landlord to such effect.

(5) If any third party (including the Licensor's landlord) makes a claim that the existence of the Canteen or that this Agreement in any way contravenes any previous agreement entered into by the Licensor as to the operation of the Facility the Licensor shall conduct a thorough investigation of such claim and shall give the Licensee notice of such claim and shall disclose to the Licensee the results of such investigation. If the Licensor determines that the existence of the Canteen or this Agreement does in fact contravene any previous agreement entered into by it as to the operation of its Facility or Facilities, this Agreement shall terminate forthwith, without any cost or penalty to either party.

16. Damage and Destruction

(1) If the Canteen is damaged by fire or other cause, and the Licensor's lease or leases of the Facility is not terminated, the Licensor shall forthwith repair, or cause to be repaired, the damage.

(2) If the Facility is rendered wholly or partially unusable by any cause whatsoever, and if the Licensor decides not to re-lease the Facility, or if the Licensor's lease is terminated, the Licensor may, within ninety (90) days after the damage, notify the Licensee in writing of its decision, and thereupon the Term in respect of such Facility shall expire on the third (3rd) day after the notice is given, and the Licensee shall vacate the Canteen forthwith.

(3) Upon the termination of this Agreement under this section, the payments due herein shall be apportioned as of the day after the damage occurred.

17. Termination

(1) If the operation by the Licensee of the Canteens or of its business in any other location results, or in the opinion of the Licensor threatens to result, in disruption of or interference with the business of the Licensor, the Licensor reserves the right, immediately and without advance notice to the Licensee, to terminate this Agreement.

(2) The Licensor may also terminate this Agreement in accordance with Section 3.1 of Schedule "A" to this Agreement and if any of the following shall occur:

- (a) the Licensee fails to pay to the Licensor any amounts payable under this Agreement when due;
- (b) the Licensee becomes unable or fails to conduct and carry on business in the Canteen in accordance with this Agreement, or violates or fails to observe the terms and conditions of this Agreement, and such inability, failure to perform, violation, breach, or default continues for a period of ten (10) days after notice by the Licensor;
- (c) the Licensee defaults in performing and observing any of the terms, covenants or conditions of this Agreement and fails to cure the default within ten (10) days after notice of such default is given by the Licensor;
- (d) the Licensee becomes insolvent, or is adjudged bankrupt, or requests a general extension of credit or any execution or attachment issues against it and is levied against its merchandise or assets;
- (e) the Licensee makes an assignment for the benefit of creditors, or gives a chattel mortgage or assignment or deed or conditional bill of sale or bill of sale conveying its merchandise or assets in bulk;
- (f) a receiver or receivers is appointed for the Licensee's business and is not discharged within thirty (30) days;
- (g) the Licensee permits any other person or persons, firm or corporation to transact the Licensee's business in any of the Canteens, other than as employees of the Licensee;
- (h) the Licensee vacates or abandons the Canteen;
- (i) the Licensee discontinues conducting business in the Canteen;
- (j) the Licensor decides to discontinue the operation of the Facility; or
- (k) the Licensee in any case fails to meet prices, quality and value as to merchandise within twelve (12) hours after notice as provided in this Agreement,

then the Licensor shall have the right to terminate this Agreement forthwith by written notice to

the Licensee.

(3) The acceptance by the Licensor of any payment under any of the covenants in this Agreement after a default by the Licensee shall not operate as a waiver of any other default or of the Licensor's right to enforce any payment under this Agreement, or to declare a forfeiture of this Agreement and to recover the possession of the Canteen. Failure by the Licensor to enforce any covenant after its breach, or any provision or condition after default, shall not operate as a waiver by the Licensor of its rights under this Agreement.

18. Restoration

(1) Upon the termination of this Agreement in respect of the Facility, the Licensee shall immediately remove all its merchandise, fixtures and other property from such Facility and leave the Canteen in good order and condition.

(2) The Licensee covenants to pay to the Licensor, on demand, the cost of repairing all damage to the Facility resulting from the removal of the Licensee's fixtures and other property. If the Licensee fails to remove its merchandise, fixtures and other property on termination of this Agreement, the Licensor may cause such merchandise, fixtures and other property to be removed to a place of storage selected by the Licensor, and the Licensee shall reimburse the Licensor, upon demand, for the cost of the removal and storage.

19. Notices

(1) Wherever in this Agreement it shall be required or permitted that notice or demand be given or served by either party to or on the other, such notice or demand shall not be treated as duly given or served unless it is in writing and sent by registered mail or personal delivery (including prepaid courier), addressed as follows:

To the Licensee at: 271 Sandwich Street South
 Amherstburg, Ontario, N9V 2A5
 Attention: Chief Administrative Officer

To the Licensor at:

(2) Each such notice or demand shall be deemed given on the fifth (5th) day after the date of mailing if mailed and at the time of delivery if delivered. Addresses may be changed from time to time by either party by notice.

20. Confidentiality

(1) For the purposes of this Agreement, "Confidential Information" means all confidential or proprietary information, intellectual property (including trade secrets) and confidential facts (including without limitation, knowledge and know-how concerning the construction and operation of the Canteen) relating to the business and affairs of the Licensee, its affiliates and subsidiaries.

(2) At all times during and after the Term and any and all renewals and extensions thereof, the Licensor shall hold in confidence and keep confidential all Confidential Information and shall not use for the benefit of the Licensor or others any Confidential Information and shall not disclose any Confidential Information to any person or other entity except with the Licensee's prior consent. The Licensor shall safeguard the Confidential Information in the same manner as that in which it maintains its own confidential information. The Licensor shall disclose Confidential Information only to such of its employees who have a need to know the information disclosed in connection with the performance by the Licensor of its obligations hereunder and, before any such disclosure, the Licensor shall inform the employee of its obligations under this Agreement. No employee may make further use or disclosure except in accordance with this Agreement. The provisions of this section shall not apply to any Confidential Information if:

- (a) the Confidential Information is available to the public or in the public domain at the time of disclosure or use;

- (b) disclosure or use is made with the Licensee's prior written consent;
- (c) disclosure is made to a court which is determining the rights of the parties under this Agreement; or
- (d) disclosure is required by law.

21. Miscellaneous

(1) This Agreement shall enure to the benefit of and be binding upon each of the parties hereto and their respective successors and permitted assigns.

(2) Unless the context otherwise requires, words importing the singular in number only shall include the plural and *vice versa*, words importing the use of gender shall include the masculine, feminine and neuter genders, and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities.

(3) The headings in this Agreement are inserted only for reference and in no way define or limit any of the provisions herein.

(4) Every provision of this Agreement is intended to be severable. If all or any part of any term or provision hereof is illegal, invalid or unenforceable for any reason, such illegality, invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement.

(5) This Agreement shall be construed in accordance with and governed by the laws, and subject to the jurisdiction of the courts, of the province in which the Facility is located.

(6) All agreements, covenants and indemnifications in this Agreement made by the Licensee shall survive the expiration or earlier termination of this Agreement, anything to the contrary in this Agreement notwithstanding.

(7) The Licensee shall not register this Agreement or any notice thereof against title to the Facility.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

The Corporation of the Town of Amherstburg
Licensor

Per: Wayne Hurst
Name: WAYNE HURST
Title: MAYOR

Per: Pamela Malott
Name: PAMELA MALOTT
Title: CAO

I/We have authority to bind the Corporation

2180109 Ontario Limited
Licensee

Per: Judie Russell
Name: Judie Russell
Title:

I have authority to bind the Corporation.

Schedule "A"
Rules and Regulations

1.0 EMPLOYEES

The Licensee shall employ staff with the applicable expertise that demonstrates ability to perform this service. The licensee shall submit the names of all employees employed for Canteen Services with the Town of Amherstburg prior to commencement of contract. All Employees must be bondable and insured by the Licensee.

All names submitted shall be subject to approval from the Town of Amherstburg and will be subject to a police background check, at the licensee's expense prior to commencement of contract. The Town of Amherstburg must be notified of any new staff hired by the Licensee, all newly hired staff will be subject to the same approvals prior to working in Town buildings.

1.1 LABOUR DISPUTES

The Licensee shall bear the risk and responsibility of any loss, damage or expense to the work, or to him or herself or any nature and kind whatsoever arising from strike or labour dispute. In the event of a Town labour disruption and the closing of the facility during the contract period, the Town will not reimburse the licensee for any profits which may have been anticipated but which have not been earned up to the date of termination or for any supplies purchased. The Town's only obligation will be to reimburse the licensee her monthly License fee payment prorated for the time the facility is not available to conduct business.

1.2 ADVERTISING

Advertising in the canteen is limited to the space in the canteen area and is subject to approval of the Manager of Recreation Services. No soft drink products, other than the one currently under contract to the facility, are permitted to be advertised.

1.3 PLUMBING AND ELECTRICAL

Any additional plumbing and electrical work required by the Licensee shall be subject to acceptance and approval of the Facility Supervisor and if agreed to, be at the licensee's expense and shall be carried out by a qualified licensed tradesman. The renovations shall be properly inspected and found to be acceptable prior to commissioning. All inspection and approval reports shall be given to the Manger of Recreation Services.

1.4 BUSINESS HOURS

Facility Hours are as follows and are subject to change with increased programming:

Saturdays and Sundays 8:00 am to 10:00 pm
Mondays thru Thursdays 4:00 pm to 10:00 pm
Fridays 4:00 pm to 11:00 pm.

1.5 EXISTING EQUIPMENT

The licensee will have full use of all equipment now installed, with all equipment to be maintained by the Licensee at no cost to the Town. The available equipment will be inventoried by the Manager of Recreation Services, prior to contract commencement. The licensee shall be responsible for the supply of any other equipment that is necessary for the efficient operation of the canteen. Should the canteen operator wish to use their own equipment, a request shall be submitted in writing to the Manager of Recreation Services prior to any changes in the canteen. All requests must be approved by the Manager of Recreation Services.

1.6 REPAIRS AND MAINTENANCE OF EQUIPMENT

The licensee shall be responsible for the day to day janitorial and maintenance of the canteen area, equipment and chattels (save for reasonable wear and tear). The equipment listed in the Appendix to this schedule and any other equipment which may be added in the future, by the Town, is the property of the Town of Amherstburg and must be returned in good condition at the end of the contract. Should the licensee choose to not use any of the Town's equipment, it will be turned over to the Manager of Recreation Services. Under no circumstances is the existing equipment to be removed from the premises. All equipment used by the licensee must be maintained in good working condition. The Town will NOT be responsible for any additional equipment which shall be acquired at the sole expense of the licensee.

The Town does not offer or provide any warranty on any of the Town's equipment offered in this proposal. Should the licensee wish to use their own equipment, it will be their responsibility to remove the original equipment from the canteen area; store it in a designated on-site location; and replace it with their own at their expense. Any minor repairs to Town owned equipment will be the responsibility of the licensee while under contract following inspection and subject to the repairs or replacement not resulting from negligence or cause by the licensee.

If the Manager of Recreation Services determines the repair or damage is the result of negligence by the licensee, the licensee will be responsible for said cost to repair or replace. The licensee agrees to keep the equipment or chattel owned by the Town and /or licensee, used on the premises by the licensee in a sanitary, clean and safe condition.

1.7 SERVICES AND FIXTURES NOT INCLUDED

Light operating equipment such as cooking utensils, cash register, serving trays, pots, pans, small display racks, provided by the Town shall be inventoried and itemized for each location prior to commencement of the contract.

All additional equipment supplied by the licensee shall be of modern contemporary design constructed of good quality materials to the satisfaction of the Manager of Recreation Services

Additional equipment may be installed at the licensee's expense with the approval of the Manager of Recreation Services. Details of such equipment must be submitted in this proposal. The licensee must indicate if it is their intention to remove such equipment at the end of the contract.

1.8 QUALITY STANDARDS

The licensee shall be responsible for maintaining a high housekeeping and sanitation level. The level is to meet or exceed Public Health standards. The licensee will supply a schedule on all housekeeping procedures detailing daily, weekly and monthly duties. The Town reserves the right to amend these procedures. The licensee is responsible for arrangement and costs for all pest control.

Food and refreshments shall be stored in proper containers and be fresh and edible at all times. The licensee shall sell only foods that comply with the minimum standards contained within, not limited to, the following Acts and Regulations:

The Food and Drug Act

The Canada Dairy Products Act and the Canada Dairy Products Regulation

The Canadian Meat Inspection Regulations

Meat and Canned Foods Act

Fresh and Processed Fruit and Vegetables Regulations

The Public Health Act and Regulations passed there under

The Health Protection and Promotion Acts

All other applicable Federal, Provincial and Municipal Acts, Order and Regulations, that exist or may be legislated during the contract term.

1.9 LIST OF PRODUCTS AND FOODS INTENDED FOR SALE

The License shall provide upon request a list of products and foods intended for sale. The Town reserves the right to determine the suitability of the product to be sold out of its facility. Any product deemed unsuitable by the Manager of Recreation Services shall be removed from sale or distribution to the public. All product and foods to be sold or distributed must be approved by the Manager of Recreation Services.

2.0 ADDITIONAL CONTRACTS WITH THE TOWN

Any additional food or beverage advertisement contracts currently in place with the Town of Amherstburg such as Coke or Pepsi obligates the licensee to use the product exclusively. An overview of the existing contracts and terms are included in an Appendix to this document.

The Town reserves the right to enter into new contracts during the contract period with beverage companies and the successful vendor MUST convert to the exclusive use of the product identified in the said contract upon request by the Town.

2.1 UTILITIES

The Town of Amherstburg will be responsible for the payment of all utility charges connected with the Canteen operations, save and except telephone costs and propane. Where propane is in use at the Canteen or facility, the tank shall be full when the contract commences at Town's expense. The licensee will be responsible for the costs of all future refills of propane and shall at the end of the contract leave the propane tank(s) full.

2.2 TELEPHONE

The License shall have use of the existing phone, if available and will be responsible for all telephone and long distance charges in the facility for the contract duration. Otherwise it will be the Licensee's responsibility to supply telephone services. Personal phone calls are not allowed as the phone is shared with staff and users' groups, and is to be used for internal use and/or emergencies only.

2.3 LICENSE, TAXES, PERMITS

The Licensee shall at his/her own expense be responsible for obtaining and keeping at the canteen, all Municipal and any other permits/licenses, or approvals, necessary to permit the operation of the canteen and the carrying on of the business.

2.4 RESTRICTIONS

No sale of tobacco products or alcohol will be permitted.

2.5 EXCLUSIVITY

a) The Licensee shall have the exclusive right to provide products and services through the Canteen at the facility. The products and services provided shall be intended to serve the regular program users at the facility. No other provider will be given rights to provide similar products or services.

b) Notwithstanding (a) above, the Town reserves the right to allow other service providers to furnish catering services for meeting room rentals and hall rentals and for functions of the Town at the facility.

c) Notwithstanding (a) and (b) above, the Town reserves the right to allow others to provide similar services at the facility during hours where the licensee is not operating. Such rights shall only be granted by the Town in the interest of enhanced service to the Community and such services will not use the canteen facilities.

2.6 DELIVERIES

The Licensee shall arrange that all supplies delivered be during regular business hours and that their employees sign for all supplies delivered.

2.7 FACILITY ACCESS AND KEYS

The licensee shall be provided one or two keys to the canteen facility. These keys are not to be replicated without prior written authorization from the Manager of Recreation Services. All keys will be returned to the Town of Amherstburg at the end of the contract term.

The Town will provide training on the use of any existing alarm systems currently installed in a facility.

2.8 DISCLAIMER

The Town will not guarantee the future operation of any facility. The Town will reserve the right to close facilities for maintenance, capital improvements, or to alter the use and purpose of the facilities or to decommission facilities altogether. The licensee will not be responsible to provide service or financial contributions to the Town while facilities are closed.

2.9 EMERGENCY CONTACT LIST

A list of names and numbers to contact in case of emergency are to be provided to the Manager of Recreation Services.

3.0 INDEMNIFICATION BY LICENSEE

The licensee will always indemnify and keep indemnified the Town, its agents and employees, against all actions, suits, claims and demands, which may be brought against or made upon the Town, its agents and employees against all loss, costs, damages, charges or expenses whatsoever which may be sustained, incurred or paid by the Town, its agents or employees by reason of the errors or omissions of the licensee, in regard to this contract.

The licensee hereby grants to the Town full power and authority to settle any action, suit, claim and demand on such terms as the Town may deem advisable and hereby covenants and agrees with the Town to pay the Town on demand all monies paid by the Town in pursuance of any such settlement, and also such sum as shall represent the reasonable costs of the Town or its Solicitor in defending or settling any such action, suit, claim or demand, and this Agreement shall not be alleged as a defense by the successful proponent in any action by any person for actual damage suffered for any reason arising from the errors or omissions of the successful proponent.

3.1 TERMINATION

The Town of Amherstburg may immediately terminate the contract if the local Medical Officer of Health notifies the Town that:

- The Licensee's method of preparing, packaging, storing or shipping food is deemed unsatisfactory in any respect;
- The bacteria content of food fails to meet legal standards; and

- Any other condition exists which in the opinion of such officers results in food being deemed unfit for human consumption.

The Town of Amherstburg may terminate a contract, in whole or in part, whenever the Town determines that such termination is in the best interest of the Town without showing cause, upon giving written notice to the Licensee.

Termination for Default: When the Licensee has not performed or has unsatisfactorily performed the contract, if the Licensee fails to comply with or persistently disregard statutes, regulation, by-laws or directives of relative authorities related to the work; or fails to execute the work with skill and diligence; or assigns or sublets the contract or a portion thereof without the Town's consent; or refuses to correct deficiencies; or is otherwise in default in carrying out its part of the terms, conditions and obligations of the contract, then, in such case the Town may, upon expiry of ten days from the date of written notice to the Licensee, terminate the contract. The Town may terminate the contract for default. Failure on the part of the Licensee to fulfill contractual obligations shall be considered just cause for termination of the contract.

The Licensee will not be reimbursed for any profits which may have been anticipated but which have not been earned up to the date of termination or for any supplies purchased.

3.2 VENDING EQUIPMENT

Vending Equipment i.e. Pop machines and Candy dispensing machines will **NOT** be included in this contract.

Appendix to Schedule "A" of License Agreement

AMHERSTBURG ARENA CANTEEN

Address: 209 Victoria St. S., Amherstburg, ON, N9V 3N8
Phone Number: 519-736-0012

QUANTITY	EQUIPMENT DESCRIPTION & MAKE	MODEL NUMBER (IF AVAILABLE)	SERIAL NUMBER (IF AVAILABLE)	YEAR PURCHASED (OR AGE IF KNOWN)
1	Fryer Garland	S18SF	0109ME0532R	Unknown
1	Keating Grill	27FLD	41399B	Unknown
1	Pop cooler Pepsi	349508	IF980358802	2007
1	Freezer - Woods	C22WBE	13170311BL	2004
1	Freezer - Sears Canada			November 2007
1	Exhaust Hood			