

Town of Peace River
Concession - Operating and Maintenance and Agreement

OPERATING AND MAINTENANCE AND LEASE AGREEMENT made in duplicate as at the ____ day of _____, 2024.

Between:

THE TOWN OF PEACE RIVER
A Municipal Corporation
In the Province of Alberta
(hereinafter called "the Landlord")

OF THE FIRST PART

- AND -

In the Province of Alberta
(hereinafter called the "Tenant")

OF THE SECOND PART

WHEREAS:

The Town owns land described as 9810-73 Ave and buildings known as the Baytex Energy Centre and equipment;

The Town wishes to lease its land, a portion of the building and concession equipment to the Tenant and to provide terms upon which the Tenant will operate and maintain the Town's equipment and upon which the Tenant will lease from the Town;

The Tenant wishes to enter an agreement to operate the Town's equipment to operate a Concession.

The Town and the Tenant wish to enter an Agreement on the terms and conditions contained in this Agreement.

The Parties agree as follows:

PART I DEFINITIONS

1 DEFINITIONS

1.1 "Additional Rent" means any amount payable by the Tenant pursuant to this Agreement other than Rent Payments;

1.2 "Chattels" includes, but is not limited to:

- a. Deep Fryer – 2 each
- b. Broiler

Town of Peace River
Concession - Operating and Maintenance and Agreement

- c. Two burner range with griddle
- d. Double door Cooler – 2 each
- e. Double door freezer – 2 each
- f. Push button hot beverage dispenser – 1 unit
- g. Hot Water Dispenser
- h. Hot Dog Grill with Bun Warmer
- i. Microwave
- j. Popcorn Machine
- k. Conveyer Toaster
- l. Undercounter Dishwasher
- m. Metal storage island
- n. Metal food prep station
- o. Single door glass front cooler
- p. Display case- countertop unit

- 1.3 “Chief Administrative Officer” means the person holding that position, the acting Chief Administrative Officer or his designate;
- 1.4 “Force majeure” means an event of fire, unusual delay by common carriers, unavoidable catastrophes, explosion, flood, act of God or public enemy, war, government regulation, any law, act or order of any court, government body or regulator or circumstances of any kind beyond the control of the Parties;
- 1.5 "Improvement" means any improvement or alterations made to or constructed on the Premises and includes any additions or replacements thereof;
- 1.6 “Landlord” means the Town of Peace River and shall include the officers and agents of the Town of Peace River;
- 1.7 “Party” means the Landlord or the Tenant;
- 1.8 “Premises” means all that portion of building described as follows:
 - The main Concession, making up 377 Square Feet and;
 - A small portion of a storage area – approximately 7ft (wide) x 15ft (long) for locked cabinets for dry storage.

And includes the “Fixed Improvements” on the Premises including but not limited to:

- a. Counters
 - b. Shelves
 - c. Hood Vent & Ducting
 - d. Fire Suppression System
- 1.9 "Real Property Taxes" means the total of all taxes, rates and assessments including other

payments in lieu thereof, and all rates and assessments, now or at any time charged, levied or assessed against the Premises, or required to be paid on behalf of the Premises, or be charged, levied or assessed against the Premises by the relevant taxation authority, which may include the Town of Peace River, in its capacity as a municipal government body and not in its capacity as Landlord, on account of its interest in the Premises, and any Improvements, machinery, accessories equipment or other fixed facilities located in, on or under the Lands and made by or placed thereon or on behalf of the Tenant;

- 1.10 "Tenant" means ----- ;
- 1.11 "Term" means the term set out in article 4.1 of this Agreement;
- 1.12 "Work" means the performance of any repairs, upgrades, construction or other matters on the Premises.

PART II LEASE, TERM, RENT AND TAXES

2 GRANT OF LEASE

- 2.1 In consideration of conditions and agreements to be to be paid, observed, performed and complied with by the Tenant, the Landlord does lease to the Tenant the Premises and the Chattels for the Term, upon the terms and conditions contained in this Agreement.
- 2.2 The Tenant acknowledges that ownership of the Premises and the Chattels remains with the Town of Peace River.

3 "AS IS" CONDITION

- 3.1 The Tenant accepts the Premises and the Chattels in an "as is" condition.
- 3.2 Any improvements made to the Premises by the Tenant at any time during the currency of this Agreement to make the Premises suitable for the operations of the Tenant shall be at the risk, cost and expense of the Tenant and to the satisfaction of the Landlord.

4 TERM AND RENEWAL

- 4.1 The term of this Agreement is for a period of one year commencing _____, 2025 until July 31, 2028.
- 4.2 Option for renewal for two additional years, initiated by the Town. The Parties may agree to renew this Agreement at the conclusion of the Term on terms and conditions as negotiated by the Parties.

5 OVERHOLDING

- 5.1 If at the expiration of the term of this Agreement, the Tenant holds over for any reason, the Tenant shall be deemed to be occupying the Premises as a Tenant on a year to year Agreement.
- 5.2 In the absence of a written agreement to the contrary, the Tenant shall be subject to all the

terms and conditions of this Agreement, except as to duration.

6 RENT

- 6.1 The Tenant shall pay rent to the Landlord per annum at a rate of \$11.00 per square foot, rate does not include GST.
- a. Annual escalation of 2.0%.

7 PAYMENT OF TAXES AND UTILITIES

- 7.1 The Tenant shall pay or cause to be paid during the Term, at its own cost and for its own account on or before the particular due date:
- a. each and every installment of Real Property Taxes that may be levied from time to time directly to the taxing authorities, if any on
- i. the business of the Tenant,
 - ii. the Premises,
 - iii. the equipment and the operations of the Tenant; and
- b. all Internet, telephone, utility charges and rates, business taxes, license fees and similar taxes, rates, charges and assessments including payments in lieu thereof which may be charged, levied or assessed or required to be made by any public authority on or against the Tenant, or the Premises.
- 7.2 The Tenant shall pay any business tax, value added tax, multi-stage sales tax, sales tax, goods and services tax or any other tax lawfully imposed on any rent receivable by the Landlord by any governmental or other taxing authority having jurisdiction, whether known as business transfer tax, value added tax, goods and services tax, or by any other name.
- 7.3 The Landlord shall forward to Tenant upon receipt all communications which affect the Tenant's interest in the Premises including any bills and notices with respect to Real Property Taxes, utility charges and rates, business taxes, license fees and similar taxes, charges and assessments as set out in article 7 which have been levied or assessed against the Premises.
- 7.4 If the Tenant receives any invoice for Real Property Taxes or other charges in respect of the Premises, the Tenant agrees that within fifteen (15) days after written request of the Landlord it shall promptly deliver to the Landlord for inspection, receipts for payment of all Real Property Taxes and other charges in respect of the Premises, the Improvements which were due and payable up to one month prior to the request.

PART III TENANT USE, OPERATING AND MAINTENANCE OBLIGATIONS

8 USE AND OCCUPATION OF PREMISES

- 8.1 The Tenant shall use the Premises for the purposes of a concession as agreed by the Town in its sole and unfettered discretion.

- 8.2 The Tenant shall not conduct any other business on the Premises without the prior written consent of the Landlord, which consent may be withheld by the Landlord in its sole and absolute discretion.
- 8.3 The Tenant, at its sole cost and expense, agrees to use the Premises in compliance with any approval, regulations or acts that may apply and in compliance with the terms and conditions of the insurance policies required to be obtained by the Tenant under this Agreement.
- 8.4 Without limiting the generality of article 8.3, the Tenant shall comply with all provincial laws and regulations, including the requirements of Alberta Health Services.
- 8.5 The Tenant shall comply with the obligations set out in Schedule "D" Tenant Obligations.
- 8.6 The Tenant, at its sole cost and expense, shall comply with the statutes, by-laws, regulations, ordinances and other governmental requirements or requirements of fire insurance underwriters and of all requirements of the insurance policies required to be maintained by the Tenant relating to the Premises and relating to its ability to enter into and comply with the terms of this Agreement.
- 8.7 The Tenant shall not be at liberty to file a caveat against title to the Premises giving notice of this Agreement.

9 MORTGAGE OR ENCUMBRANCE

- 9.1 No mortgage or encumbrance (by way of assignment, sublease or otherwise) of this Agreement or the Tenant's interest hereunder or in the Premises shall be made by the Tenant.

10 OWNERSHIP OF FIXTURES AND CHATTELS

- 10.1 The Landlord and the Tenant agree that all Fixed Improvements and Chattels are the absolute property of the Landlord.
- 10.2 The Tenant shall not assign, encumber or otherwise deal with the Fixed Improvements or chattels separately from any permitted dealing with the leasehold interest under this Agreement.

11 COMPLIANCE WITH LAWS

- 11.1 The Tenant shall comply with all laws, bylaws, regulations, directions, orders of every governmental authority having jurisdiction over the Premises which pertain to the use and occupation of the Premises and the construction of any improvements which the Tenant is permitted to construct.

12 CONDITION OF PREMISES AND CHATTELS

- 12.1 The Tenant agrees that the Landlord has not made any warranties or representations whatsoever with respect to the Premises or Chattels.
- 12.2 Except for the obligations of the Landlord expressly stated in this Agreement, the Tenant agrees

that the Landlord shall not have any obligations in connection with the Premises or Chattels.

12.3 The Tenant acknowledges that it is leasing the Premises on an "as is" basis and condition.

12.4 With respect to any repairs or maintenance to be conducted on the Premises or Chattels or any construction of Improvements to the Premises, the Tenant shall:

(a) without limiting the generality of anything contained in this Agreement, shall obtain the written consent of the Landlord prior to the performance of the Work, which such consent may be unreasonably withheld;

(b) comply with all applicable laws, by-laws, building codes, permits, and approvals as well as the requirements of the Landlord's and Tenant's insurance;

(c) retain qualified contractors to complete the Work when directed by the landlord;

(d) complete the Work in a good and workmanlike manner and in conformity with the Tenant's plans and designs as approved by the Landlord, acting reasonably;

(e) comply with and cause its contractors and sub-contractors, tradesmen, and suppliers to comply with all the provisions of this Article, where applicable; and

(f) retain one set of the Tenant's plans at all times on the Premises during the period when any construction of Improvements is to be performed.

12.5 The Tenant shall, upon completion of any construction of Improvements and when reasonably requested by the Landlord:

(a) provide the Landlord with a declaration ("Declaration") that:

(i) the construction has been performed in accordance with all of the provisions of this article;

(ii) stating that there are no construction, builders, mechanics, Worker's Compensation, or other liens or encumbrances affecting the Premises and that all accounts for work, services, and materials have been paid in full with respect to the construction and completion of the respective matter that was being constructed;

(iii) confirming the date on which the last such work was performed or provided materials were supplied;

(b) provide to the Landlord a clearance certificate issued under the Workers Compensation Act of the Province in respect of each contractor and sub-contractor listed on the Declaration;

(c) obtain and provide to the Landlord a copy of every permit and occupancy license which may be required by any governmental or other regulatory authority having jurisdiction, to

permit the Tenant to operate and to construct and operate the Improvements;

(d) provide to the Landlord a certificate of substantial performance in the form prescribed by the Builders' Lien Act, in respect of each contract entered into by or on behalf of the Tenant in connection with the Tenant's work; and

(e) provide to the Landlord one reproducible set of record drawings with respect to the construction of the Improvements as completed.

13 REPAIR AND MAINTENANCE

13.1 The Tenant shall at its own cost and expense:

- a. operate, maintain and keep the Premises and, the Chattels, in good order and condition and promptly make all repairs and replacements to the Premises and Chattels when needed;
- b. keep the Premises free of debris and neat and tidy at all times, to the satisfaction of the Chief Administrative Officer, and not permit waste paper, garbage, and ashes of waste or objectionable material to accumulate; and

13.2 Without limiting article 13.1.a, if maintenance or repair work is required for the Fixed Improvements, the Tenant shall comply with article 12.4 in so far as it is applicable to Fixed Improvements.

13.3 If the Tenant fails to repair any damage, the Tenant shall pay the Landlord all costs and expenses incurred by the Landlord in repairing the damage within five (5) business days of the Landlord providing the Tenant with an account for the cost of the repair.

14 INSURANCE

14.1 Throughout the Term of this Agreement, the Tenant shall maintain in full force and effect at its sole cost:

- a. Commercial General Liability Insurance to a limit of not less than \$5,000,000.00 per occurrence; and
- b. Tenant Liability Insurance coverage covering bodily injury and property damage liability to a limit of no less than \$5,000,000.00) per occurrence;
- c. Tenant property insurance covering property damage of the Tenant's property;
- d. Commercial Host liability coverage to a limit of no less than \$5,000,000.00 per occurrence.

14.2 The Tenant shall ensure that all insurance coverage maintained by the Tenant in accordance with this Agreement shall:

- a. name the Town and any other party designated by the Town as an additional insured,
- b. contain a severability of interests or cross liability clause, and
- c. provide that no such insurance policy may be cancelled without the insurer providing no less than thirty (30) days written notice of such cancellation to the Town.

14.3 The Tenant shall, upon the request of the Landlord, furnish evidence of insurance coverage.

14.4 The cost of all of the insurance required to be held by the Tenant, as set forth herein shall be borne by the Tenant.

14.5 The Tenant shall advise the Landlord of any cancellation, material alteration or lapse of any policies of insurance. If the Tenant fails to keep the insurance in force, or should the insurance be in an amount less than the amount or on terms or with companies other than as approved by the Landlord acting reasonably, the Landlord shall have the right, without assuming any obligation, to effect such insurance at the cost of the Tenant. All costs incurred by the Landlord shall be immediately payable by the Tenant to the Landlord as Additional Rent without prejudice to any other rights and recourses of the Landlord. No such insurance taken out by the Landlord shall relieve the Tenant of its obligations to insure and the Landlord shall not be liable for any loss or damage suffered by the Tenant by the Landlord taking out such insurance on the Tenant's behalf.

14.6 The Town shall pay for insurance for the Premises, the Fixed Improvements, and the Chattels.

15 HEALTH AND SAFETY

- a. The Tenant shall conform to the regulations contained in the Occupational Health and Safety Act, Statutes of Alberta, 2020 and any amendments. The Tenant is the Prime Contractor and required to maintain a safety program for all staff.
- b. The Tenant shall submit to the Town an annual satisfactory Certificate of Clearance from the Alberta Workers Compensation Board.

16 UTILITIES

16.1 Subject to article 7.1(c), the Tenant shall at its own cost and expense provide, maintain and operate, if required, phone, internet, janitorial services and other services to the Premises, all to the satisfaction of the Landlord.

17 SIGNS

17.1 The Tenant shall not install, display or affix any sign, lettering or advertising medium to the Premises or elsewhere on the Premises without in each instance securing the prior written approval of the Landlord, such approval not to be unreasonably withheld.

17.2 If the Tenant installs, displays or affixes any sign, lettering or advertising matter upon the Premises without the prior written approval of the Landlord, and if the sign, lettering or

advertising matter is objectionable to the Landlord, the Tenant shall remove it immediately upon the Landlord's request.

18 ANTENNAE

18.1 The Tenant shall not install radio or television antennas, towers or any mechanical, electrical or other means of sound production or similar devices without the prior written approval of the Landlord, such approval not to be unreasonably withheld.

18.2 The Tenant shall indemnify and save harmless the Landlord against all claims, demands, loss or damage to any person or property arising out of the erection, maintenance or removal of any sign, aerial or other installation.

19 DAMAGE OR DESTRUCTION

19.1 The complete or partial destruction or damage of the Premises by an event of force majeure shall not terminate this Agreement or entitle the Tenant to surrender possession of the Premises or to demand any abatement or reduction of payments to be made to the Landlord or other charges payable, any law or statute now or in the future.

19.2 The Tenant agrees with the Landlord that in case of damage to or destruction of the Premises by an event of force majeure, then the Tenant shall promptly give notice thereof to the Landlord in accordance with this Agreement.

19.3 The Landlord at its sole cost and expense, and with reasonable diligence, either repair, restore and rebuild the same as nearly as possible to the condition immediately prior to the damage or destruction, with such changes or alterations as may be approved by the Landlord (and in compliance with all permits, governmental orders and laws) prior to commencement of the work.

20 RETURN OF PREMISES, FIXED ASSETS AND CHATELS

20.1 Upon the termination or surrender of this Agreement, the Tenant shall leave the Premise, Fixed Assets and Chattels in a safe condition, in a similar state of repair as at the date of entry of the Agreement and shall leave the Premises, Fixed Assets and Chattels neat, clean, free and clear of all structures, debris, rubbish and the Tenant shall make good all damages caused to the Premises, Fixed Assets or Chattels.

20.2 If the Premises, Fixed Assets and Chattels are not left neat, clean, free and clear of all waste material, debris and rubbish, then the Landlord may have the Premises, Fixed Assets and Chattels restored to a satisfactory condition and the Tenant agrees to bear the full expense of all work commissioned by the Landlord.

PART IV LANDLORD OBLIGATIONS

21 INSPECTION OF PREMISES

21.1 At the start and termination of the Agreement, the Landlord shall conduct an inspection of the Premises, Fixed Assets and Chattels with the Tenant.

22 INSPECTIONS AND NOTICE TO REPAIR

- 22.1 The Tenant shall permit the Landlord to enter the Premises and view the state of the Premises relative to the Tenant's obligations and the Landlord may give the Tenant written notice to repair requiring the Tenant to comply which the Tenant must comply within five (5) days.
- 22.2 In cases of emergency, the Landlord shall have full and free access to the Premises at all times.
- 22.3 If the Tenant shall at any time fail to make any repairs or replacements as required by the written notice of the Landlord, the Landlord may make or cause them to be made and the cost thereof together with interest thereon computed at the rate of 18% per annum from the date of payment by the Landlord shall be charged to and paid by the Tenant as Additional Rent due 30 days from the date of invoice by the Landlord.
- 22.4 The Town will ensure the Fixed Improvements and Chattels outlined in section 1.8, shall be serviced regularly by a qualified service technician. Maintenance shall include the annual cleaning of ducts; range hood inspections conducted every 6 months and fire suppression and extinguisher maintenance as required, at the expense of the Town.

23 ASSIGNMENT OR SUBLEASE

- 23.1 The Tenant shall not assign this Agreement or sublet the Premises or charge or otherwise encumber its interest in the Agreement (or any portion thereof) without the prior written consent of the Landlord first being obtained, such consent to be at the sole discretion of the Landlord.

24 PEACEFUL ENJOYMENT

- 24.1 Upon the Tenant paying the rent and performing the Tenant's covenants, it shall peaceably hold the Premises during the term or any renewal term without any interference by the Landlord or any person acting for it.

PART V LIABILITY AND INDEMNITY

25 LANDLORD'S LIABILITY

- 25.1 The Landlord shall not be liable or responsible in any way for personal or consequential injury of any nature whatsoever that may be suffered or sustained by the Tenant, or any employee, agent or invitee of the Tenant, or any other persons who may be upon the Premises, or for any loss, damage or injury to the Premises or the Chattels however caused, except for the negligence of the Landlord or its employees or agents.
- 25.2 The Tenant agrees to indemnify and save harmless the Landlord, its councillors, officers, employees and agents and their successors and assigns from and against any and all claims, costs, legal costs (on a solicitor and his own client full indemnity basis), losses, damages, actions, orders and judgments arising from:

- a. the operation of the Tenant's operation on the Premises during the Term; or
- b. any defect or want of repair thereon, or any want of maintenance thereof; or
- c. anything done or omitted to be done on, in or under or in the vicinity of the Premises which under the provisions of this Agreement, the Tenant is obliged to do or refrain from doing; or
- d. any breach or default on the part of the Tenant under this Agreement; or
- e. from any negligence of the Tenant, its agents, contractors, employees, invitees or licensees, or from any accident, injury on or damage or any other cause whatsoever on the Premises,

and such indemnity shall extend beyond and continue in full force and effect after the expiry or earlier termination of the Term.

- 25.3 Further, and not so as to in any way restrict the generality of the foregoing, this indemnity obligation shall continue and apply after the expiry or early termination of the Term of this Agreement.

PART V DEFAULT AND TERMINATION

26 DEFAULT

26.1 If:

- a. the Tenant fails to pay when due and fails to pay within fifteen (15) days of written notice from the Landlord of such failure to pay the Rent or Additional Rent;
- b. the Tenant fails or ceases to have insurance as required by this Agreement;
- c. the Tenant if inferior quality of services are provided, or in the event of non-fulfillment of service as per Schedule "C".
- d. the Tenant shall be in default of any of its covenants and the default continues for a period of 15 days or a longer period as may be reasonably necessary to cure the default considering its nature after notice by the Landlord to the Tenant specifying the nature of the default and requiring it to be remedied;
- e. steps are taken or proceedings are instituted for the termination of the Tenant's existence,
- f. any execution, attachment, or other process or action shall be issued or commenced against the Tenant or any encumbrance or creditor shall take any action or proceeding whereby any of the Improvements on the Premises or any portion thereof or any interest of the Tenant in the Premises shall be taken or seized, or
- g. the Tenant shall make an assignment for the benefit of creditors, or shall make an assignment or have a receiving order made against him under the Bankruptcy Act, or becoming bankrupt or insolvent shall make application for relief under the provisions of any statute concerning bankrupt or insolvent debtors, or any action whatsoever,

legislative or otherwise, shall be taken with a view to winding-up, dissolution or liquidation of the Tenant;

then at the option of the Landlord, the term of the Agreement shall become forfeited and void. The Landlord may, without notice of any form of legal process, forthwith reenter upon the Premises or any part of the Premises and repossess and enjoy it, anything contained in any statute or law to the contrary notwithstanding. Such forfeiture shall be wholly without prejudice to the right of the Landlord to recover arrears of rent or damages for any breach of covenant on the part of the Tenant. Notwithstanding any such forfeiture, the Landlord may subsequently recover from the Tenant damages for loss of rent suffered by reason of the Agreement having been prematurely determined.

27 TERMINATION

27.1 The Landlord shall have the right to terminate this Agreement or any renewal thereof at any time and to enter into possession.

27.2 The Town reserves the right to terminate the Contract upon giving thirty (30) days written notice for just cause without cost or penalty to the Town and without liquidation damages. Examples of just cause include, but are not limited to:

- i. Curtailment or reduction of funding
- ii. Unanticipated cancellation of a program
- iii. Closing of a location

27.3 Either party will have the right to terminate with thirty (30) days' notice.

28 WAIVER

28.1 No waiver by the Landlord of any breach by the Tenant of any of its obligations shall be a waiver of any subsequent breach or of any other obligation, nor shall any forbearance by the Landlord to seek a remedy for any breach by the Tenant be a waiver by the Landlord of its rights and remedies with respect to such or any subsequent breach.

PART VII GENERAL PROVISIONS

29 NOTICES

29.1 All notices, demands and requests that may be or are required to be given by either party to the other shall be in writing.

a. All notices, demands and requests by the Landlord to the Tenant shall be served personally or sent by registered mail addressed to the Tenant at:

Phone (780)

or at such place as the Tenant may from time to time designate by written notice to the Landlord.

b. All notices, demands and requests by the Tenant to the Landlord shall be served personally or sent by registered mail addressed to the Landlord at:

Town of Peace River
Concession - Operating and Maintenance and Agreement

Town of Peace River
9911-100 Street
Box 6600
Peace River, Alberta T8S 1S4

Attention: Chief Administrative Officer

Ph: (780) 624-2574
Fax: (780) 624-4664

or at such other place as the Landlord may from time to time designate by written notice to the Tenant.

- 29.2 Notices, demands and requests which are served in accordance with Article 29.1 shall be deemed sufficiently served or given for all purposes hereof, in the case of those given by registered mail, on the third business day following the date of mailing.

30 FORCE MAJEURE

- 30.1 If the parties shall fail to meet their respective obligations hereunder within the respective times prescribed therefore and such failure shall be directly caused or materially contributed to by Force majeure, such failure shall be deemed not to be a breach of the obligations of such party, provided however, in such event, such party shall use its best efforts to put itself in a position to carry out its obligations hereunder as soon as possible.

31 GENERAL TERMS

- 31.1 When necessary for the context, words importing gender include both genders, and words importing persons include natural persons, firms, partnerships, corporations and other entities.
- 31.2 This Agreement is binding on the parties and shall inure to the benefit of and be binding upon the approved assigns and successors of each of the parties. All covenants contained shall be deemed joint and several and all rights and powers reserved to the Landlord may be exercised by either the Landlord or its agents or representatives.
- 31.3 The law of the Province of Alberta shall govern this Agreement and the interpretation of this Agreement and the parties attorn solely to the jurisdiction of the courts in the Province of Alberta.
- 31.4 This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.
- 31.5 If any part of this Agreement is void, prohibited or unenforceable, this Agreement shall be construed as if such part had never been part of this Agreement.
- 31.6 Time shall be of the essence.

Town of Peace River
Concession - Operating and Maintenance and Agreement

- 31.7 Unless otherwise specifically provided in this Agreement, no amendment, modification, or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the parties in the same manner as the execution of this Agreement.
- 31.8 This Agreement contains the entire agreement between the Landlord and the Tenant concerning the Premises and the subject matter of this Agreement, and the Tenant acknowledges that it has not relied upon any representations, warranties, covenants, agreements, conditions or understandings except such as are set out in this Agreement. The Tenant acknowledges and agrees that it shall have no rights or remedies, at law or in equity, in contract, tort or otherwise, in respect of any representation, warranty, covenant, agreement, condition or understanding not expressly set out in this Agreement.
- 31.9 Schedules "A", "B", and "C", form part of this Agreement.
- 31.10 This Agreement cannot be changed or modified except by another agreement in writing signed by the Parties.
- 31.11 Any provisions of this Agreement which, expressly or by their nature, extend beyond the termination of this Agreement, shall survive any termination of this Agreement.
- 31.12 To be effective, any waiver of a covenant under this Agreement shall be in writing signed by the Party waiving the rights under that covenant. A failure by a Party to insist on the strict performance of any covenant in this Agreement in any one or more instances shall not be construed as a waiver or relinquishment of that covenant in a subsequent instance.
- 31.13 The headings, captions and paragraph numbers appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit, construct or enlarge the scope or meaning of this Agreement or any provisions hereof.

Town of Peace River
Concession - Operating and Maintenance and Agreement

31.14 If any provision of this Agreement is determined to be invalid, illegal or unenforceable as written, such provision shall be enforced to the maximum extent permitted by the law, failing which such provision will be deemed to be severable from this Agreement and shall not affect the remainder of this Agreement.

IN WITNESS WHEREOF the Town has hereunto affixed its corporate seal attested by the hands of its duly authorized officers in that behalf, and the _____ has hereunto affixed its hand and seal, or has been duly witnessed, as of the day and year first above written.

TOWN OF PEACE RIVER

(Contractor)

Barbara Miller, CAO

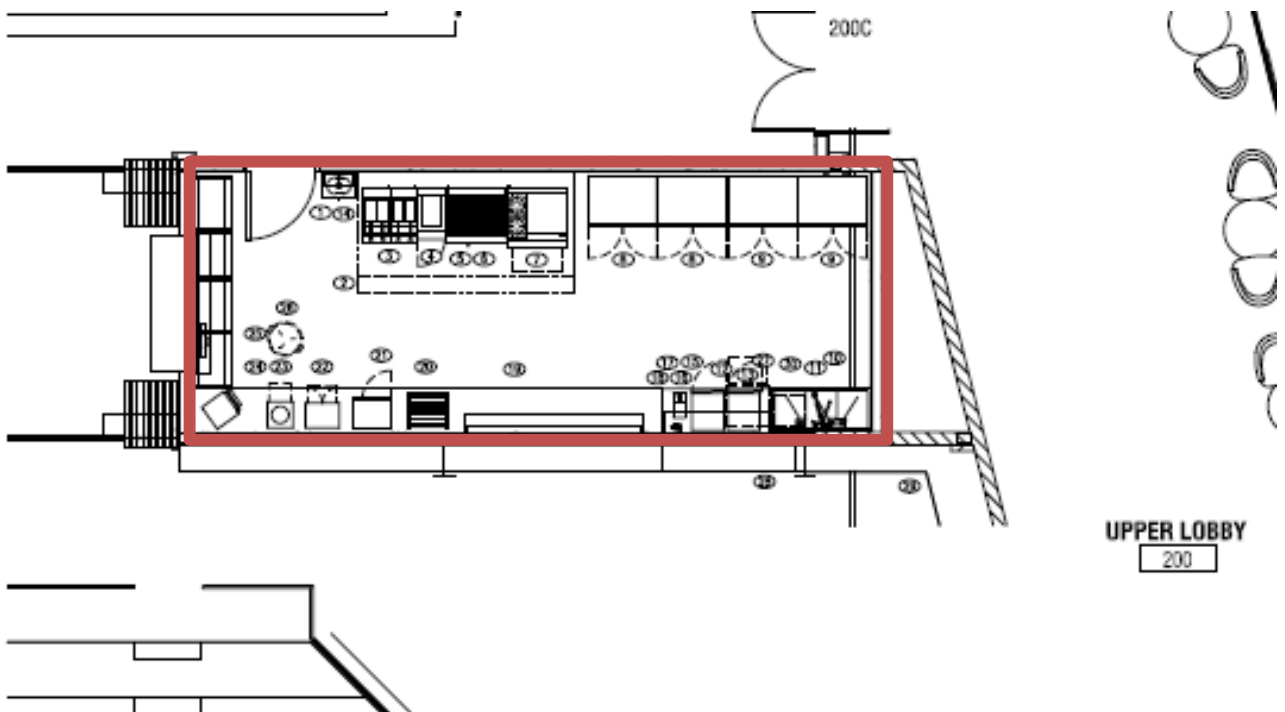
Signature

Witness

Schedule "A"
Map of Premises

Concession Outlined in Red.

- The main Concession, making up 377 Square Feet and;
- A small portion of a storage area – approximately 7ft (wide) x 15ft (long) for locked cabinets for dry storage.



Schedule "B"

Successful Bid Submission

Schedule "C"

Concession Service Obligations:

1. HOURS OF OPERATION

- 1.1. Tenant can be open seven days a week.
- 1.2. Town requires operator to be open at a minimum for the following hours:
 - 1.2.1. Friday: 3:00pm to 11:00pm
 - 1.2.2. Saturday: 7:00am to 11:00pm
 - 1.2.3. Sunday: 7:00am to 6:00pm
 - 1.2.4. Open additional hours for events/tournaments/games as identified by the Town which notice will be provided to the operator in advance. Notice will be based on confirmation of bookings by user groups.

2. SERVICE EXPECTATIONS

- 2.1. The Tenant shall supply and deliver an effective concession booth operation and service stipulated for the Town of Peace River – Baytex Energy Centre. Concession Booth operation shall be defined as a full selection of menu items, appealing to all users of the Baytex Energy Centre as well as an appropriate schedule outlining "hours of operation".
- 2.2. The Tenant will be required to clean and maintain all equipment in a proper workmanship like manner during the term of this contract, including all grease traps (See Clause 7.11 herein). The Tenant shall agree to provide the service at all times deemed critical and necessary to the operation of the facility by the Town. The Tenant shall keep equipment in a good state of repair and shall maintain an effective preventative maintenance program at no cost to the Town.
- 2.3. The Tenant agrees to obtain at its sole cost and expense all permits, licenses and service contracts required for the operation of the business and to deal with the disposal of all grease as required by law.
- 2.4. All Tenant's leased or owned equipment shall be subject to the approval of the Manager of Recreation and Parks prior to award. The Manager of Recreation and Parks reserves the right to disallow the installation of any equipment that is not suitable to the Town.
- 2.5. The Tenant agrees to pay its own charges for telephones and internet.
- 2.6. The Tenant agrees to be responsible for its own security of the premises from theft, vandalism and usual perils, carry its own insurance against fire, theft and equipment break down.
- 2.7. The Tenant agrees that the Concession Booth is to be open during peak activity, that the public

is using the Arena, so as to provide snack bar services during all arena programs and major events. Consultation with the Manager of Recreation and Parks will determine the hours of operation.

- 2.8. The Tenant acknowledges that people who rent other areas within the Baytex Energy Centre for functions will be allowed to make their own arrangements for food services and this agreement does not give the Tenant any special rights to provide such services; however, the Tenant shall be at liberty to contract with such persons to provide them with food services in other rooms.

2.9. Health Inspections

- 2.9.1. The Tenant agrees that they are responsible for all inspections of the Concession Booth performed by Environmental Health, Alberta Health Services, all of which must be satisfactory. A copy of the inspection report must be supplied to the Manager of Recreation and Parks to keep on record.

2.10. Notice of Accidents/Defects

- 2.10.1. The Tenant shall give the Town prompt written notice of any accidents or incidents or of defects in the sprinkler system, water pipes, gas pipes, or heating appliances, telephone, electrical or other areas on any part of the premises.

2.11. Equipment Servicing

- 2.11.1. The Town requires that the Tenant shall keep all equipment in a good state of repair and shall maintain them at no cost whatsoever to the Town. The Tenant shall always have the equipment operational during opening hours. Records of maintenance to equipment will be kept and a copy provided to the Manager of Recreation and Parks
- 2.11.2. The Town requires that the Tenant shall operate the concession at a high level of cleanliness and shall always keep equipment neat in appearance. The Town may require the successful Tenant to take any such reasonable actions from time to time that the Town feels is necessary to maintain a high level of cleanliness and neatness.
- 2.11.3. The successful Tenant agrees to maintain adequate stock and inventory, and to service the equipment during such times that will have the least possible interference with programming or operations at the facility. During servicing or restocking, the Tenant agrees to keep all walkways as free from interference as possible.
- 2.11.4. The Town will ensure the Chattels shall be serviced regularly by a qualified service technician. Maintenance shall include the annual cleaning of ducts; range hood inspections conducted every 6 months and fire extinguisher maintenance as required, at the expense of the Town.

2.12. Installation of Equipment

- 2.12.1. The Town will not entertain any costs associated with the Tenant's installation of Tenant owned or leased equipment per this contract.
- 2.12.2. At the expiry of this contract, either through early or regular termination, the Tenant shall not be permitted to remove any alterations and/or improvements to the facilities.
- 2.12.3. The Tenant will be required to leave all such alterations and/or improvements intact. The Tenant shall notify the Town, in advance, of the exact schedule for installation of

equipment by date and approximation of time.

2.13. The Tenant shall provide to the Town a price listing of all the food and drink items the Tenant intends to offer for sale.

2.14. **Food Products**

2.14.1. The Tenant shall provide adequate refrigeration for the storage, transport and dispensation of any food and drink items.

2.14.2. The Tenant shall ensure that all food products offered for sale shall comply with all federal, provincial and municipal health requirements and in accordance with the requirements of applicable laws governing the operation of a concession service.

2.14.3. All products being offered for sale are to be sold in an efficient and professional manner satisfactory to the Town. The selling of novelties, tobacco products, matches or alcoholic beverages is strictly prohibited.

2.15. **Quality**

2.15.1. Notwithstanding any other cancellation provision herein, the Town reserves the right to determine "non-performance" or "poor quality" of service and further reserves the right to cancel any or all of the contract for "non-performance" or "poor quality" upon seven (7) days written notification to the successful Tenant.