

**MANAGEMENT AND OPERATION OF FOOD SERVICES  
IN THE HAGERSVILLE MEMORIAL ARENA LEASE AGREEMENT**

THIS LEASE AGREEMENT MADE IN DUPLICATE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

BETWEEN:

The Corporation of Haldimand County

[Hereinafter called "the County"]

OF THE FIRST PART

and

Dobro Jestí Inc. (doing business as Good Eats Concession)

[Hereinafter called "the Operator"]

OF THE SECOND PART

WHEREAS The County owns the Hagersville Memorial Arena and requires, for the purposes of providing food services to the users of the Arena and meeting room facility, an operator to offer such services;

AND WHEREAS Haldimand County Council passed resolution (Number) on (Date) authorizing a Lease Agreement between the County and the Operator respecting the provision of food services at the Hagersville Memorial Arena, located at 36 Sherring Street North, Hagersville, ON N0A 1E0;

NOW THEREFORE THE PARTIES, in consideration of the mutual covenants and agreements hereinafter set out, hereby agree as follows:

**DEFINITIONS:**

Whenever in this Lease Agreement the following words or phrases are used, they shall have the following meanings:

- a. "Business Premises" shall mean that part of the Hagersville Memorial Arena as described in Schedule "A" to which this Lease Agreement applies.
- b. "Facility" shall mean the Hagersville Memorial Arena in its entirety.
- c. "Food Services" shall mean all food and food-related products and non-alcoholic beverages and the operations required to provide the concession within the Business Premises.

**1. Right to Sell Food at Business Premises**

The County grants to the Operator rights to sell food and non-alcoholic beverages from the concession for the term of this Lease Agreement.

No other provider will be given rights to provide these services from the concession during the term of the Agreement unless mutually agreed upon by the County and the Operator. The County will ensure other providers will not be permitted to sell menu items that are in direct competition with the Operator.

**2. Terms of Lease Agreement**

The Lease Agreement is effective for the Term, beginning September 1, 2019 and ending August 31, 2021 unless terminated under the provisions of Articles 13 and 14, as applicable.

The Lease Agreement may be renewed for an additional two-year period effective September 1, 2021 to August 31, 2023 by agreement by both parties.

### **3. Scope of Service**

The Operator hereby agrees, as part of this Lease Agreement, to be bound by and abide by all of the terms and conditions contained herein.

The Operator will operate the business premises for The County's employees, visitors and tenants during the Lease Agreement term and any renewal period. Both parties agree that the food services hours will vary based on the activity level or events taking place within the facility. Regular hours of operation may be modified by mutual written agreement throughout the term of the Lease Agreement.

### **4. Financial Terms**

During the term of this Lease Agreement the Operator shall pay the County annual rent in the amount of \$3,300 plus applicable taxes. Rent for the business premises is to be paid in twelve (12) consecutive monthly instalments of \$XXX plus applicable taxes beginning on the 1st day of each month. The financial terms will be reviewed annually during the term of the Lease Agreement as well as at the time of any renewal and is subject to negotiation in order to ensure all generated revenue meets or exceeds the County's revenue budget expectations. The County will invoice the Operator on the first of each month and the Operator agrees to pay each invoice within thirty (30) days of date of invoice.

The County shall in no case be required to cover operational losses in whole or in part at any time during the Lease Agreement regardless of any circumstances that may be presented in the operation of the facility or business premises.

### **5. Audit**

The Operator shall maintain accurate records concerning all revenues received for business resulting from use of the business premises. At any time, or from time to time, such records shall be made available for inspection and audit to representatives of the County. The County undertakes to treat this information in a confidential manner, except as necessary to enforce its rights or remedies hereunder and not to release this information except as required by law.

The Operator shall also keep such other records as are necessary to perform its duties efficiently and in accordance with federal, provincial and municipal law and shall produce these records for inspection when requested by authorized County representatives.

### **6. Business Premises Inventory**

Prior to the Agreement effective date or the first date of operations, the County and the Operator shall perform a joint business premises inventory which will:

- a. establish satisfactory confirmation of all equipment as set-out in Schedule "B";
- b. determine the operating condition of all capital equipment at the business premises.

In no event shall either party remove or alter, without the written permission of the authorized representative(s) of the other party, any capital or major equipment or facilities.

No changes, renovations or capital improvements shall be made by the Operator to equipment, base building or the food service operation without the written permission of the County.

It is the responsibility of the Operator to notify the County immediately if a piece of the County's owned equipment becomes non-functioning or presents a safety hazard.

The equipment identified on Schedule "B" is the property of the County and must be returned in good condition upon termination or expiration of this Lease Agreement or any renewal term. Under no circumstances shall any of the County-owned equipment be removed from the premises.

### **7. Operator Responsibilities**

- a. Purchase, receive, store, prepare and serve all food goods and products used for the food services;
- b. Purchase, receive and store all daily operating small wares required to adequately operate the business premises;
- c. Ensure all signage is in good taste, with the County having sole discretion in determining suitability;
- d. Clean all food service equipment including tables and chairs during hours of operation;

- e. Provide and employ appropriate, satisfactory staff to ensure the smooth, efficient operation of the business premises and provide all necessary training and on-site supervisory support;
- f. Maintain and enforce strict discipline among its staff with regard to attitude, safety, behaviour, skill and fitness to perform assigned tasks;
- g. Adhere to the Employment Standards Act and the Human Rights Code;
- h. Pay staff and suppliers on a timely basis;
- i. Establish, at the outset, an inventory listing of all small wares, pots and pans adequate for the Food Services and provide a copy of the listing to the County – “Schedule C”. Such inventory shall remain the property of the Operator;
- j. Maintain, at its own expense, Commercial General Liability Insurance on an occurrence basis, including but not limited to bodily and personal injury liability, property damage, products liability, completed operations liability, blanket contractual liability, premises liability, having an inclusive limit of not less than two million dollars (\$2,000,000) per occurrence. The insurance policy will contain Cross Liability and Severability of Interest clauses and name Haldimand County as an Additional Insured. The Operator will maintain property insurance for full replacement value on all of its assets, The Operator must provide evidence of such coverage to the County at the signing of the Lease Agreement;
- k. Produce a Clearance Certificate from WSIB from time to time during the contract at the request of The County. The Operator hereby agrees to indemnify and save harmless the County from any and all claims which may be brought by or initiated by any employee of the Operator;
- l. Abide by and enforce the requirements of the current Ontario Occupational Health and Safety Act including all relevant regulations made under this Act;
- m. Comply with all legal requirements relating to health and sanitation;
- n. Ensure that gum products are not sold at the business premises;
- o. Ensure that peanut oil or peanut products are not used in the preparation of business premises foods. This restriction is not applicable to pre-packaged, ready-to-eat products that do not require preparation such as cooking or heating prior to being sold to the consumer; and,
- p. Comply with all federal, provincial and municipal laws affecting the safe and responsible management and operation of food and vending services.

## **8. Menu Items**

The Operator is to provide menu items for the business premises at the prices shown as outlined in “Schedule D”. The annual rate will be adjusted annually on the anniversary date by the percentage change, year after year, using the July annual CPI increase, during the preceding year as recorded in Statistics Canada, Consumer Price Index, Table 18-10-0004-13, by product group monthly not seasonally adjusted, Canada, provinces, Whitehorse, Yellowknife and Iqaluit, - Ontario – All-Items.

Any menu or price variations must be provided in writing for the County’s review prior to being implemented.

### **Restricted Food:**

- a. The County restricts the use of peanut oil or peanut products that are used in the preparation of business premises foods. This restriction does not include pre-packaged, ready-to-eat products that do not require preparation.
- b. The County also restricts the sale of gum, alcohol and cigarettes via the business premises.
- c. From time to time, the County may request specific food restrictions due to rental requirements. For example, the arena floor during the off-ice season may request that no food be cooked using grease during the rental period to avoid the odour of grease saturating fabrics. The County will provide as much notice as possible to the Operator.

## **9. Provisions and Indemnities**

The Operator agrees to not permit any liens or encumbrances to be placed against any property of the County, including the business premises, as a result of its failure to make all payments or perform all obligations as required and will take all necessary steps, at the Operator’s expense, to remove such liens.

The Operator agrees to indemnify, defend and hold harmless the Corporation of Haldimand County, its elected officials, servants, agents and employees, from and against all losses, claims, demands, payments, suits, actions, recoveries, judgments and expenses, including legal

fees, brought or recovered against or incurred by the County, its elected officials, servants, agents and employees, by reason of any act or omission or alleged act or omission of said Operator, its agents, employees, servants and invitees pursuant to the activities carried out in accordance with this agreement and the operation of the business premises

The Operator and the Operator's agents, employees, servants and invitees shall comply with all applicable County regulations, by-laws and procedures including, and without limiting the generality of the foregoing, those regulations, by-laws and procedures pertaining to safety and security.

The above provisions and indemnities shall survive the termination or cessation of this Lease Agreement.

## **10. The County's Responsibilities**

- a. Supply all necessary space to operate the business premises;
- b. Supply all capital equipment as identified on "Schedule C" and deliver same in good working order on the commencement of this Lease Agreement;
- c. Provide all necessary service and repair of County-owned capital equipment due to mechanical breakdown or ordinary wear and tear, not including any capital equipment owned by the Operator;
- d. Supply all light, heat, cooling, power, fuel, hot and cold water, garbage removal, pest control services and local telephone service;
- e. Supply maintenance services to the business premises and be responsible for a semi-annual professional cleaning of the exhaust system and grease traps; and
- f. Provide necessary capital improvements and purchase new or replacement capital equipment for all equipment identified on "Schedule C", as deemed necessary, conditional upon Haldimand County Council approval. All such equipment to remain property of the County.

## **11. Successor and Assigns**

This Lease Agreement shall extend to and be binding upon the parties hereto, and their respective successors and assigns provided that neither party shall be entitled to assign its interest in this Lease Agreement or any portion thereof without the prior written consent of the other party, which consent shall not be unreasonably withheld.

## **12. Interpretation**

The terms and provisions of this Lease Agreement shall be interpreted and construed in accordance with the provisions of the laws of the Province of Ontario.

## **13. Non Performance/Non Compliance**

Upon notification or becoming aware of a problem or non-performance issue, The County will forward a non-compliance order in writing to the Operator, who will be permitted forty-eight (48) hours to rectify the problem. The only exception to this is if a regulatory authority provides instructions, direction or orders for compliance (example: Haldimand-Norfolk Health Unit); then the Operator must complete adherence to the regulatory authority requirements as instructed.

If the Operator does not rectify the problem as addressed within a non-compliance order within the timeframe permitted, the County may remedy the problem by any means possible. The County reserves the right to terminate the agreement for non-compliance by providing ten (10) business days' written notice without penalty and the Operator must have all of their equipment and goods removed from the premises within the timeline as outlined within the termination letter.

## **14. Termination of Agreement**

- a. Immediate Termination:  
The County may immediately terminate the agreement if the Haldimand-Norfolk Health Unit or other regulatory authority notifies the County that:
  - The Operator's method of preparing, packaging, storing or shipping food is deemed unsatisfactory in any respect;
  - The bacteria content of the food fails to meet legal standards;
  - Other condition(s) exist(s) which, in the opinion of such regulator authorities, results in the food being deemed as unfit for human consumption; or,

- The Operator fails to comply with any instruction, direction or order issued by the Haldimand-Norfolk Health Unit or other regulatory authority.

b. Termination Providing Ten (10) Days Notice:

The County reserves the right to cancel the agreement upon ten (10) business days' written notice without penalty, for neglect as determined by the County which shall include but not be limited to matters of insufficient insurance coverage, failure to enforce approved standards of sanitation, failure to comply with financial arrangements which the County has agreed upon, quality of service remaining unsatisfactory to the County such as failing to operate according to hours specific in this agreement, non-performance issues and complaints from the public as deemed applicable by the County.

c. Termination Providing Thirty (30) Days Notice:

The County reserves the right to cancel the agreement upon thirty (30) days' written notice, without penalty, for any circumstances not mentioned above.

Upon receipt of written notice of termination, the Operator must have all of their equipment and goods removed from the business premises within the timeline as outlined within the termination letter.

The Operator may cancel the contract upon thirty (30) days' written notice without penalty, and all outstanding payments owing to the County shall be payable to the County within sixty (60) days of termination.

## 15. Loss or Damage

It is the Operator's responsibility to maintain appropriate controls, including insurance, over the storage and safekeeping of property belonging to the Operator (including but not limited to inventory and money) maintained at the business premises. The County will not be liable for any loss or damage to the Operator's property for any reason.

The County shall not be required to cover any operational losses in whole or in part at any time during the term of the agreement or any renewal regardless of any circumstances that may be presented.

No after-hours access to the business premises will be permitted. The County will provide the Operator with access information and key(s) to the business premises as applicable during the term of the Lease Agreement.

## 16. Use of Facsimile or Electronic Signatures

The parties agree that any execution of this Lease Agreement or any addendum or renewal thereof, and any Notice pursuant to this Lease Agreement, shall be in writing and sent by courier or by fax, or electronic mail addressed to the parties to whom it is to be given in accordance with Article 17. The parties agree to accept facsimile copies of signatures relative to this Lease Agreement as if they were done in the presence of a witness, provided that all such originally signed documents shall:

- a. be delivered to the other party by courier within one business day; and,
- b. if transmitted by fax or electronic mail be deemed to have been given and delivered on the next Business Day following the day they were signed and sent, provided that they are delivered to the other party by courier within one business day.

## 17. Notices

All notices pursuant to this Lease Agreement shall be addressed as listed below.

Dobro Jestí Inc. (dba Good Eats Concession)

1520 Hwy 54 West

Caledonia, ON N3W 2G9

Telephone: 905-317-0719

Facsimile:

Email: [info@dobrojesti.ca](mailto:info@dobrojesti.ca)

Contact Name: Jim Godina

Contact Title: Owner/Operator

The Corporation of Haldimand County  
45 Munsee St., North,  
P.O. Box 400  
Cayuga, ON, N0A 1E0  
Telephone: 905-318-5932 x. 6341  
Facsimile: 905-772-3542  
Email: [kschmitz@haldimandcounty.on.ca](mailto:kschmitz@haldimandcounty.on.ca)  
Contact Name: Katrina Schmitz  
Contact Title: Manager, Community Development & Partnerships

## 18. Force Majeure and Limitation of Liability

Neither party shall be held liable for non-performance or damages if caused by events of Force Majeure. Without limiting the generality thereof, events of Force Majeure include events such as fire, flood, unusually severe weather and Acts of God, which events in every case are beyond the reasonable control of a party, provided the same shall not apply to delay or excuse any financial obligation.

In no event shall either party be liable for any indirect, special, compensatory or contingent damages or for the loss of opportunity, revenue or profit howsoever caused.

## 19. Acceptance

IN WITNESS WHEREOF, THIS LEASE AGREEMENT has been executed by the authorized representatives of the parties, who both hereby agree that the above correctly sets forth the terms of their Lease Agreement and who each undertake to carry out the provisions thereof.

**SIGNED**

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

The Corporation of Haldimand County

Per:

Ken Hewitt
Mayor
"I have authority to bind the Corporation."

Evelyn Eichenbaum  
Clerk  
“I have authority to bind the Corporation.”

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Per:

Operator (Signature)

"I have authority to bind Dobro Jesti Inc. (dba Good Eats concession)."

Witness (Signature)

Operator (Please Print)

Witness (Please Print)



**DESCRIPTION OF PROPERTY  
HAGESVILLE MEMORIAL ARENA**

**Municipal Address:**  
36 Sherring Street North  
Hagersville, ON

The "Business Premises" refer to the concession booth on the main floor of the Hagersville Memorial Arena.



## Schedule B

## EQUIPMENT INVENTORY FOR HAGERSVILLE MEMORIAL ARENA

QUANTITY	DESCRIPTION
1	GMI Industries Popcorn Machine
1	Curtis Hot Chocolate Machine Model
1	Bunn Pour-Omatic Coffee Maker
1	Danby Microwave
1	STAR Hot Dog Machine
1	Perfect Fry Company Fry Machine
1	Nemco Food Equipment Heat Lamp
1	Woods 24 Cubic ft Stand-up Freezer
1	Frigidaire 18 Cubic ft Fridge with Freezer
1	Quickfrez by Wood Freezer

## Schedule C

**PROPOSED EQUIPMENT LISTING**  
**FACILITY NAME: HAGERSVILLE MEMORIAL ARENA**

[illegible]

## Schedule D

## **SAMPLE CONCESSION BOOTH MENU ITEMS – HAGERSVILLE MEMORIAL ARENA**

[illegible]