

THISTLE - ST. ANDREW'S CURLING CLUB

FOOD SERVICES AGREEMENT

September 1, 2024 TO August 31, 2027

SAMPLE

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THISTLE-ST. ANDREW'S CURLING CLUB FOOD SERVICES AGREEMENT

September 1, 2024 to August 31, 2027

THIS AGREEMENT made at Saint John, in the Province of New Brunswick, with effect from the 1st day of September, 2024

BETWEEN: THISTLE—ST. ANDREW'S CURLING CLUB, a body corporate constituted by and continuing under and by virtue of An Act to Amalgamate the Thistle-St. Andrew's Curling Club, S.N.B. 1976, c. 73 (hereinafter referred to as "TSA")

OF THE FIRST PART

AND: The winning SUPPLIER herein thereafter referred as "SUPPLIER"

OF THE OTHER PART

THIS AGREEMENT WITNESSES that in consideration of the recitals, the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereto covenant and agree as follows:

1. DEFINITIONS

1.1. Definitions

In this Agreement:

- (a) "Agreement" means this Food Services Agreement entered into between TSA and SUPPLIER consisting of the following:
  - (i) The within executed agreement, as amended, supplemented or restated in writing from time to time;
  - (ii) Appendix "A" – Sample SUPPLIER Equipment;
  - (iii) Appendix "B" — Supplied Equipment; and
  - (iv) Appendix "C" — Financial Terms.

- (b) "Catering Services" means the supply of food services to third parties or to TSA for functions and conferences held on the Premises.
- (c) "Financial Terms" means the terms set out in Appendix "C".
- (d) "Food Service Areas" means the following areas of the Premises where the successful SUPPLIER may prepare and/or provide Food Services:
  - (i) upstairs kitchen;
  - (ii) upstairs banquet hall; and
  - (iii) any other locations that TSA and SUPPLIER mutually agree to add or remove from time to time.
- (e) "Food Services" means the purchasing, preparation, sale and distribution of food at the Food Service Areas, including but not limited to Catering Services and those services described in Article 3 hereof.
- (f) "Governmental Authority" means any domestic government, including any federal, provincial or municipal government and any government agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.
- (g) "SUPPLIER Equipment" means equipment owned by the SUPPLIER and used in the provision of the Food Services, with the prior written agreement of TSA, including the list of equipment which is contained in Appendix "A" and which is effective as of the Start Date.
- (h) "Person" means an individual, partnership, joint venture, association, company, trust, Governmental Authority or any other entity.
- (i) "Premises" means the property located at 49 Dufferin Ave, Saint John, New Brunswick (including, without limitation, the kitchen and banquet hall areas).
- (j) "Supplied Equipment" means the TSA Equipment described in Appendix "B" and which is provided by TSA to SUPPLIER on the Start Date.
- (k) "Start Date" means. September 1, 2024

- (l) "Term" means the term of this Agreement which shall commence on the Start Date and end on the date this Agreement is terminated in accordance with the provisions of Article 2 and shall include the Initial Term and any renewal term.
- (m) "TSA Equipment" means all furnishing(s) and equipment (including food preparation equipment, etc.) of TSA located at the Food Services Areas on the Start Date or subsequently purchased and provided by TSA for use in the provision of the Food Services at the Food Services Areas, including without limitation the Supplied Equipment; and shall include any leasehold improvements and equipment purchased by TSA.

## 2. TERM

### 2.1. Term

TSA will accept the appointment of the winning SUPPLIER, to provide Food Services at the Food Service Areas effective on September 1, 2024 for a three (3) year term, subject to the parties reaching mutually acceptable terms in writing. There will be an option to renew for two additional terms of one year each, with the written agreement of both parties to be negotiated and finalized 60 days prior to September 1.

## 3. SUPPLIER OBLIGATIONS

### 3.1. General Responsibilities of SUPPLIER

SUPPLIER shall have the following responsibilities:

- (a) Management and operation of Food Services in the Food Service Areas, including the preparation, supply and sale of food services for specified catering, at dates and times to be agreed to by the parties on an ongoing basis;
- (b) Planning of menus for Catering Services;
- (c) The purchase, receipt, storage and distribution of all food and related supplies required to fulfill the Food Services obligations under this Agreement;
- (d) Hire, train, supervise, manage the performance of and discipline all personnel necessary for the provision of the Food Services and the performance of this Agreement by SUPPLIER ;

- (e) Collect, pay and remit all applicable taxes in respect of the provision of the Food Services and SUPPLIERS performance of this Agreement, and all applicable income taxes on its revenues;
- (f) Apply high levels of hygiene and sanitation in the provision of Food Services;
- (g) As part of the SUPPLIER Equipment, provide and maintain a minimum of (200) place settings, including forks, knives, spoons, side plates, dinner plates, glasses, cups and saucers;
- (h) Routine regular cleaning and preventive maintenance, including all associated costs, of the kitchen areas used by SUPPLIER Equipment, and TSA Equipment, including safety devices, signage, displays, fridges, food preparation equipment, grease traps, exhaust hoods and ducts, and all floors and walls within the kitchen areas; Identify TSA Equipment requiring repair and advise TSA of the required repair(s); SUPPLIER will be required to reimburse TSA for any repairs or maintenance to TSA Equipment that are the result of neglect or willful damage by SUPPLIER ;
- (j) The supply of garbage bags of a quality sufficient to allow the effective removal of waste and debris from Food Service Areas, and the removal of all such garbage, including cardboard cartons which must be broken down prior to placement in garbage, in an exterior dumpster supplied by TSA;
- (k) Return all Food Services Areas and TSA Equipment to TSA at the end of the Term in good condition, at least as good as the condition at the commencement of the Term or the commencement of the use of such facilities immediately following any renovation conducted during the Term, reasonable wear and tear excepted;
- (l) Comply with any applicable federal, provincial and municipal legislation and regulations, including without limitation those pertaining to health and safety, workplace health and safety, occupational health, sanitary and food safety;
- (m) Comply with all directions of any Governmental Authority having jurisdiction relating to the operation of the Food Service Areas, the provision of the Food Services, the performance of this Agreement and the personnel employed by SUPPLIER at the Food Service Areas;
- (n) The safe operation of tools and equipment in the provision of the Food Services under this Agreement;
- (o) Without limiting the generality of the foregoing, SUPPLIER will:

- (i) Instruct its employees in the proper use and care of equipment and Food Service Area, including fire safety and escape procedures;
- (ii) Ensure that all exits, escape routes and any emergency equipment in areas which are under SUPPLIER control in accordance with this Agreement are accessible at all times;
- (iii) Refrain from any activity on the Premises which may result in an increase in the rate of insurance upon the Premises or which may result in any nuisance;
- (iv) Report promptly to TSA if it observes an exit, escape route or emergency equipment on the Premises which is not accessible; and
- (v) Report promptly to TSA if it observes any activity on the Premises by any Person which may result in an increase in the rate of insurance upon the Premises or which may result in any nuisance.
- (p) SUPPLIER acknowledges that TSA shall be allowed to examine the condition of the kitchen and food preparation areas, including all equipment, at any reasonable time.
- (q) SUPPLIER shall be responsible to reimburse TSA for all Propane consumption.

### 3.2. Food Services

SUPPLIER will be the exclusive provider of Catering Services in the upstairs banquet hall. SUPPLIER is permitted to use the upstairs kitchen in support of off-site catering for third party customers, not associated with TSA, without TSA's prior written consent. TSA shall enable SUPPLIER to enter the Premises at any time.

TSA reserves the right of the use of the Food Services Area, not including the Kitchen area, if the SUPPLIER cannot accommodate a customer request for service, by allowing a third party to provide food services.

### 3.3. Equipment

- (a) Within 30 days of the Start Date, SUPPLIER and TSA shall conduct and record an inventory of the TSA Equipment and the SUPPLIER Equipment, and shall make a record of any TSA Equipment which is agreed to be in need of repair, following which such lists shall be affixed to this Agreement as Appendix "A" — SUPPLIER Equipment and Appendix "B" — Supplied Equipment and form part and parcel of this Agreement.
  - (b) Upon receipt and no later than 7 working days of receipt of the list of Supplied Equipment referenced in Section 3.3(a), SUPPLIER acknowledges that the inventory of TSA Equipment which is received on the Start Date is in good working order, other than



those items of TSA Equipment which are recorded to be in need of repair on the inventory conducted pursuant to Section 3.3(a).

- (c) At the end of the Term, SUPPLIER shall deliver possession of the TSA Equipment to TSA, in good working order, reasonable wear and tear excepted.
- (d) Notwithstanding anything to the contrary in this Agreement, any TSA Equipment which, in the reasonable opinion of TSA, is damaged or destroyed as a result of neglect or misuse by SUPPLIER, will be replaced at SUPPLIER's expense.

3.4. Quality Assurance: SUPPLIER will adopt and maintain the highest standards and practices in the food industry including, but not limited to, preparation, storage, quality and distribution of food.

3.5. Dining and Eating Areas in the Food Service Areas

- (a) During the period that the Food Service Areas are under the control of SUPPLIER, the cleanliness of the floors, tables and chairs are SUPPLIER's responsibility.
- (b) During the period that the Food Service Areas are under the control of TSA, the cleanliness of the floors, tables and chairs are TSA's responsibility.
- (c) TSA shall have access to the Food Service Areas at all times.
- (d) The bathrooms are not parts of the Food Service Areas and their cleanliness and maintenance is TSA's responsibility.

#### 4. BOOKINGS

##### 4.1. Bookings

- (a) All bookings for the Food Service Areas will be coordinated through TSA's manager and/or front office, or such other person as TSA designates;
- (b) TSA will collect rental fees for any bookings of the Food Service Areas directly from the booking parties, the amount of such rental fees to be determined by TSA at its sole discretion; and
- (c) SUPPLIER will invoice booking parties for Catering Services and will be responsible for collection of same, including remittance of appropriate taxes and employee remittances.

## 5. PERMITS AND LICENCES

### 5.1. Liquor Licenses

- (a) TSA holds and shall retain the required licenses from the New Brunswick Liquor Corporation in respect of alcohol on the Premises, and reserves the right to offer bar service.
- (b) Any, and all, liquor services on the Premises will be operated by TSA.

### 5.2. Other Permits and Licenses

Save and except as set out in Section 5.1, SUPPLIER will obtain and keep current all licenses, permits and other authorizations required by any Governmental Authority in respect of the operation and maintenance of the Food Services Areas and the provision of the Food Services and SUPPLIER's performance of this Agreement.

## 6. TSA'S OBLIGATIONS

### 6.1. Services

TSA shall have the following responsibilities:

- (a) Provide the Supplied Equipment identified in the inventory referenced in Section 3.3(a) to SUPPLIER on the Start Date and otherwise provide the TSA Equipment from time to time;
- (b) Supply the related infrastructure, utility connections, electrical and plumbing installations and connections, heat, light, electricity, hot and cold water, and empty propane cylinder, with sufficient outlets and connections to meet the reasonable requirements of operating the TSA Equipment and the SUPPLIER Equipment and providing the Food Services, including without limitation meeting all sanitary standards;
- (c) Provide suitable washroom accommodations;
- (d) Provide and maintain adequate fire extinguishing equipment and fire suppression system for the Food Service Areas, and provide details of such equipment and system to SUPPLIER insurer(s) upon request.
- (e) Save and except as stated in this Agreement as a responsibility of SUPPLIER, repair and maintain the Food Services Areas and TSA Equipment, including the walls, ceilings, floors, windows, lighting, kitchen exhaust system, sprinkler, plumbing and electrical systems, and furniture;

- (f) Replace light bulbs, except for those in fridges and food preparation equipment;
- (g) Provide bar staff for all functions which require liquor services, and who shall also be responsible for all bar-related clean up (e.g. glasses and bottles);
- (h) Provide pest control services for the Premises;
- (i) Comply with all applicable federal, provincial and municipal legislation and regulations pertaining to health and safety; and
- (j) Provide snow removal services such that the loading door is fully accessible.

## 7. CATERING SERVICES

### 7.1. Catering Services Rates

TSA is looking for a SUPPLIER who will provide a range of food services from casual to sit down multi course meal so as to attract a variety of customers(bookings). Catering Services rates will be determined by SUPPLIER at its sole discretion. SUPPLIER will regularly provide TSA a current menu and food price list, which TSA may post on its website and provide to prospective customers. SUPPLIER agrees that all prices charged by for Catering Services will be reasonable, market responsive rates.

## 8. FINANCIAL TERMS

### 8.1. Financial Terms

TSA and SUPPLIER agree to the Financial Terms set out in Appendix "C" attached hereto, which schedule forms a part of this Agreement.

## 9. INSURANCE

### 9.1. Insurance to be maintained by SUPPLIER

- (a) SUPPLIER agrees to maintain throughout and in respect of the Term, at its own expense and for its own benefit and for the benefit of TSA Commercial General Liability insurance on an occurrence basis with a Limit of Liability of not less than two million dollars (\$2,000,000) per occurrence inclusive that includes bodily injury (including death), personal injury and damage to property, broad form property damage, contractual liability, non-owned automobile liability, products and completed operations liability, and provisions for cross liability and severability of interests.

- (b) SUPPLIER also agrees to maintain throughout and in respect of the Term, at its own expense, a commercial all-risk insurance policy that will cover damage to the stock-in-trade, SUPPLIER Equipment, fixtures and improvements (including leasehold improvements), to an amount not less its full replacement value.
- (c) SUPPLIER may meet its overall liability insurance requirements through any combination of primary and excess insurance policies.

#### 9.2. Additional Insured

- (a) SUPPLIER shall ensure that the insurance policy or policies maintained in accordance with its obligations under this Agreement shall name or include TSA as an additional insured thereunder, as their interests may appear.
- (b) Any insurance coverage (additional insured or otherwise) that SUPPLIER provides for TSA shall only cover liability assumed by SUPPLIER in this Agreement; such insurance coverage shall not otherwise cover liability in connection with or arising out of the wrongful or negligent acts or omissions of TSA.

#### 9.3. Cancellation

SUPPLIER shall ensure that the insurance policy or policies maintained in accordance with its obligations under this Agreement shall contain a covenant by the insurer(s) that there will not be any reduction in coverage or limits from the requirements and amounts set forth in this Agreement and that the policy or policies shall not be canceled unless thirty (30) days' prior written notice of cancellation is given to TSA.

#### 9.4. Certificate of Insurance

Upon execution of this Agreement and annually thereafter, on or before September 1 of each year during the Term, SUPPLIER will provide TSA with a Certificate of Insurance evidencing its policies of insurance, including TSA as additional insured, and providing for a 30 day advance written notice to TSA of any cancellation or reduction in coverage or limits from the requirements and amounts set forth in this Agreement.

### 10. INDEMNIFICATION

#### 10.1. Indemnification

- (a) SUPPLIER shall indemnify, defend and hold harmless TSA, the present and former directors and officers and employees of TSA, and each of their respective heirs,

executors, administrators and legal and personal representatives, from and against all damages, claims, losses, actions, causes of action, liabilities, demands, costs and of expenses (including reasonable legal fees on a solicitor-and-client basis), arising out or resulting from any act or omissions SUPPLIER, or any subcontractor or any employees, agents, officers or directors of SUPPLIER or any other person for whom SUPPLIER is legally responsible, in connection with the subject matter of this Agreement, or any breach of this Agreement, except to the extent caused by the negligent act or omission of TSA, its employees or agents.

- (b) If TSA is made a party to any litigation commenced against SUPPLIER, then SUPPLIER shall promptly indemnify and hold completely free and harmless TSA and shall pay TSA all costs and expenses, including, without limitation, any professional, consultant and legal fees on a complete indemnity basis that may be incurred or paid by or on behalf of TSA in connection with such litigation.
- (c) TSA shall indemnify, defend and hold harmless SUPPLIER, the present and former directors and officers and employees of SUPPLIER, and each of their respective heirs, executors, administrators and legal and personal representatives, from and against all damages, claims, losses, actions, causes of action, liabilities, demands, costs and expenses (including reasonable legal fees on a solicitor-and-client basis), arising out of or resulting from any act or omissions TSA, or any subcontractor or any employees, agents, officers or directors of TSA or any other person for whom TSA is in law responsible, in connection with the subject matter of this Agreement, or any breach of this Agreement, except to the extent caused by the negligent act or omission of SUPPLIER, its employees or agents.
- (d) If SUPPLIER is made a party to any litigation commenced against TSA, then TSA shall promptly indemnify and hold completely free and harmless SUPPLIER and shall pay SUPPLIER all and costs and expenses, including, without limitation, any professional, consultant and legal fees on a complete indemnity basis that may be incurred or paid by or on behalf of SUPPLIER in connection with such litigation.
- (e) Each indemnified party shall provide prompt written notice to the indemnifying party of all losses or claims for which it will seek indemnification under this Agreement, shall not incur any material cost or expense with respect to any such loss or claim without the indemnifying party's approval (which approval will not be unreasonably delayed or withheld), and shall fully cooperate with the indemnifying party in the investigation, defense and settlement of any such claim. Failure by the indemnified party to notify in accordance with this provision shall not void the indemnifying party's obligations hereunder.
- (f) This article shall survive termination of the Agreement.

## 11. TERMINATION AND FAILURE TO PROVIDE SERVICES

### 11.1. Termination without Cause

This Agreement may be terminated annually without cause by either party, by providing written notice prior to March 1st of the same year. If written notice is not provided, the Agreement cannot be terminated until the following term, subject to written notice being provided as provided above.

### 11.2. Termination for Cause — Food Safety Standards

TSA may immediately terminate this Agreement if any condition exists which, in the opinion of the applicable Government Authority, is unacceptable pursuant to food safety legislation or regulations, and if such condition has not been rectified to the full satisfaction of the Government Authority within the time frame provided by the Government Authority, if any, for rectification.

### 11.3. Termination for Cause — Breach

- (a) Should either party hereto is in default of any of its obligations or contravene any provision in this Agreement, the other party may serve written notice of such default or contravention on the party in default. If within thirty (30) days of the date of receipt of such notification the party so notified does not make good the default or cease the contravention, the party not in default may terminate this Agreement upon the expiry of the aforementioned remedy period.
- (b) Notwithstanding the foregoing, TSA may immediately terminate this Agreement if SUPPLIER becomes insolvent or unable to pay its debts as they become due, ceases to do business as a going concern or makes an assignment for the benefit of creditors, applies to or petitions any tribunal for the appointment of a custodian, receiver or trustee for itself or any substantial part of its assets, or commences any proceeding with respect to itself under any bankruptcy, reorganization, readjustment of debt, insolvency, receivership, dissolution or liquidation law or statute of any jurisdiction, or any such proceeding is commenced against it by a third party, or if it subcontracts any of the Food Services without having first obtained the written consent of TSA as required herein.

### 11.4. Consequences of Termination or Expiry

- (a) In the event of the termination or expiry of this Agreement for any reason, any monies owing by one party to the other to the date of termination shall be paid within thirty (30) business days.

- (c) Upon termination or expiry of this Agreement, SUPPLIER agrees to peaceably surrender the Food Services Areas, fixtures and the TSA Equipment in good working order and condition provided, however, that SUPPLIER shall not be responsible for reasonable wear and tear.
- (c) Save and except as set out in this section, no other payments shall be due from TSA to SUPPLIER on termination or expiry of this Agreement.
- (d) Without limiting the generality of the foregoing, neither TSA nor SUPPLIER shall have any claim against the other for salaries, wages, employee compensation, employee accumulated

sick leave, notice of termination or severance pay or allowances arising out of the termination or expiry of this Agreement.

#### 11.5. Failure to provide the Food Services See comments on Section 7 re rates

In addition to any remedies which TSA may have under this Agreement or at law, if SUPPLIER does not provide the Food Services for any reason, other than an Event of Force Majeure (as defined below), for a booked event then TSA shall have the right, but not the obligation, to secure the services of another SUPPLIER to provide such services and SUPPLIER shall pay all costs incurred by TSA in connection therewith.

## 12. SURVIVAL

### 12.1. Survival

Termination of this Agreement shall not operate to limit, reduce, cancel, or otherwise modify any obligations then accrued or unpaid. In addition, the obligations of the parties under Articles 10, 17, 18, 26 and Section 11.4 shall survive termination and remain in full force and effect without limit as to time.

## 13. INDEPENDENT CONTRACTOR

### 13.1. Independent contractor

SUPPLIER shall be considered an independent contractor for all purposes of this Agreement. SUPPLIER shall obtain all necessary supplies and employ all management and other personnel required for the provision of the Food Services hereunder and the performance of this Agreement in its own name. SUPPLIER agrees not to hold itself out as a servant or employee of TSA or to pledge the credit of TSA in any way whatsoever, it being understood that SUPPLIER is an independent contractor only providing food service management for TSA.

Neither party intends, and nothing contained in this Agreement shall be construed, to establish a partnership or joint venture between the parties. Neither party shall, by reason of any provision herein contained, be deemed to be the partner, agent or legal representative of the other nor to otherwise have the ability, right or authority to assume or create, in writing or otherwise, any obligation of any kind, express or implied, in the name of or on behalf of the other party.

#### 13.2. Responsibility for employees

- (a) SUPPLIER shall be solely responsible for its own employees. It shall withhold and/or pay (applicable) all employment and payroll taxes, insurance premiums, contributions to benefit and deferred compensation plans, licensing fees and workers' compensation remittances, and all other burdens as required either by law and by the employees' terms of employment.
- (b) In addition, SUPPLIER must file all documents, forms and other information as required by law in respect of its employees.
- (c) SUPPLIER shall indemnify, defend and hold TSA and board members harmless from and against any liability and expense related to or arising out of its failure to comply with its obligations under this section.

#### 14. CONTINUITY AND FORCE MAJEURE

##### 14.1. Event of Force Majeure

For purposes of this Agreement, an "Event of Force Majeure" is an event which is not within the control of a party and which the party could not, with the exercise of reasonable diligence, prevent, including implementation of any new law, decree, or order of any Governmental Authority, acts of sabotage, riots, public disturbances, disruption of electrical power and/or propane service to the Premises, fires and acts of God (including, without limitation, earthquakes, blizzards, floods, hurricanes, lightning, storms and other natural disasters).

##### 14.2. Liability and Excuse of Performance

- (a) An Event of Force Majeure shall not excuse the payment of money by one party to the other for or in respect of the performance of this Agreement prior to the date of the commencement of the Event of Force Majeure.
- (b) Except as set out in Section 14.2 (a), if the performance of any terms or provisions of this Agreement shall be delayed or prevented because of an Event of Force Majeure, the party so suffering may at its option suspend, without liability, the performance of its obligations hereunder during the period such Event of Force Majeure continues, the



party so prevented, delayed or interrupted shall give notice to the other party of the Event of Force Majeure as soon as reasonably possible and both parties shall use their reasonable efforts to comply with the terms of this Agreement notwithstanding the Event of Force Majeure.

## 15. TSA CONSENT

### 15.1. TSA Consent

Whenever pursuant to the terms of this Agreement the consent, approval or decision of TSA is required, SUPPLIER shall be entitled to rely on a letter from any individual holding the title of Business Manager (or any successor position) or his or her delegate stating that such consent, approval or decision has been given by TSA. Such letter shall not be unreasonably withheld or delayed. Any such consent, approval or decision given by TSA shall not, in any way, amend the terms of this Agreement.

## 16. SUBCONTRACTS

### 16.1. Conditions for Subcontracting

- (a) SUPPLIER will not engage any subcontractor to fulfill any part of this Agreement without TSA's prior written consent. Without limiting the generality of the foregoing, SUPPLIER agrees that it requires TSA's prior written approval prior to:

Any change during the Term in the nature of goods and services being subcontracted; and any change during the Term in the identity of its subcontractors.

- (b) SUPPLIER is and shall remain responsible to TSA for fulfillment of all conditions of this Agreement, whether delivered by a subcontractor or otherwise, and notwithstanding approval by TSA.
- (c) SUPPLIER shall require any subcontractors to be bound by terms and conditions which are reasonably comparable to and reflective of the spirit of this Agreement.

## 17. DISPUTE RESOLUTION

### 17.1. Good Faith Negotiation.

In the event of any dispute, controversy, claim, or disagreement arising out of or relating to this Agreement, or the breach, termination, validity, or enforceability of any provision of this Agreement (each a "Dispute"), the parties shall use their best efforts to resolve and settle any

Dispute by consulting and negotiating with each other in good faith and attempting to reach a just and equitable solution satisfactory to both parties.

#### 17.2. Binding Arbitration

- (a) If a Dispute is not resolved by good faith negotiation within ten (10) days of one party providing notice of the Dispute to the other party, then the Dispute must be referred to the arbitration of a single arbitrator.
- (b) If the parties cannot agree to the appointment of an arbitrator, then either party may apply to the Supreme Court of New Brunswick for the appointment of the single arbitrator.
- (c) The arbitration shall be conducted in Saint John, in the Province of New Brunswick pursuant to the provisions of the Arbitration Act (New Brunswick).
- (d) The arbitrator shall have the authority and discretion to award costs to the successful party.
- (e) The decision of the arbitrator shall be final and binding.

#### 18. REPRESENTATIONS, WARRANTIES AND COVENANTS

##### 18.1. By each party

The following representations, warranties, and covenants are made by the parties at the time and from the Start Date hereof and shall survive the termination of this Agreement:

- (a) The execution, delivery, and performance by the parties of this Agreement are within their respective powers, have been duly authorized by all necessary action, and do not and will not contravene their respective constating documents.
- (b) This Agreement constitutes the valid and legally binding obligations of the parties, enforceable in accordance with its terms.
- (c) SUPPLIER agrees that it has no right, title or interest in, and shall not assert or disturb TSA's right, title, or interest to, the TSA Equipment.
- (d) TSA agrees that it has no right, title or interest in, and shall not assert or disturb SUPPLIER's right, title or interest to, the SUPPLIER Equipment.

## 19. NOTICE

### 19.1. Notice

(a) Any notice or communication required or permitted to be given under this Agreement must be in writing and shall be served personally to TSA at:

Thistle St.-Andrew's Curling Club

Attention: Business Manager  
49 Dufferin Avenue  
Saint John, New Brunswick E2K 2T7

Fax: (506) 632-2062

Email: tsa@nb.aibn.com or to SUPPLIER at:

SUPPLIER Name

SUPPLIER Address

or such other address as either party may give the other by written notice.

(b) Any such notices shall be deemed to have been given upon delivery.

## 20. INTERPRETATION

### 20.1. Headings

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

### 20.2. Ordinary meaning

This Agreement shall be interpreted according to the ordinary and usual meaning of the words herein, including any usage or custom in the food trade.

### 20.3. Gender and Number

Words importing the singular include the plural and vice versa, and words importing gender include all genders.

### 20.4. Assignment

- (a) SUPPLIER may not assign or transfer this Agreement without the prior written consent of TSA, which consent shall not be unreasonably withheld. SUPPLIER may assign or transfer this Agreement to an affiliate (as that term is defined with reference to the Business Corporations Act (New Brunswick), or any successor or replacement legislation) without prior written consent of TSA, provided however that in advance of such assignment or transfer SUPPLIER must provide TSA with written notice of the proposed assignment or transfer.
- (b) TSA may assign or transfer this Agreement to any successor to TSA without the consent of SUPPLIER.

### 20.5. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of each of the parties hereto.

### 20.6. Execution in Counterparts and Delivery

- (a) This Agreement may be executed in one or more counterparts, each of which so executed will constitute an original and all of which together will constitute one and the same agreement.
- (b) This Agreement may be executed and delivered by fax or email (pdf) and shall upon such execution and delivery be fully enforceable.

## 21. ENTIRE AGREEMENT

### 21.1. Entire Agreement

This Agreement (which for greater certainty includes all appendices attached hereto), together with any documents incorporated by reference herein, constitutes the entire agreement between SUPPLIER and TSA in connection with the subject matter hereof, and there are no other representations, warranties, undertakings, promises, covenants, conditions, terms, agreements

or inducements by or between the parties hereto relating to the subject matter of this Agreement not embodied or contained in this Agreement.

#### 21.2. Precedence of Documents

In the event of any conflict in the documents comprising this Agreement, the Agreement (without reference to the Appendices) shall govern over the Appendices.

### 22. AMENDMENT

#### 22.1. Amendment

This Agreement may be amended only by written instrument executed by both parties.

### 23. WAIVER

#### 23.1. No Waiver

(a) No waiver or course of dealing shall extend to, or constitute a waiver of, any subsequent or other defaults or impair any right consequent thereon.

(b) No failure or delay on the part of any party in exercising any right, power, or privilege hereunder and no course of dealing between the parties shall operate as a waiver of any default or any such right, power, or privilege.

#### 23.2. Waiver must be in writing

No waiver to this Agreement shall be binding unless in writing signed by the waiving party.

### 24. SEVERABILITY

#### 24.1. Severability

If any term or provision of this Agreement or the application thereof to any persons or circumstances shall to any extent or for any reason be invalid or unenforceable, the remainder of this Agreement and the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each such remaining term or provision of the Agreement shall be valid and enforced to the fullest extent permitted by law.

## 25. GOVERNING LAW AND VENUE

### 25.1. Governing Law and Venue

This Agreement shall be governed by and construed in accordance with the laws of the Province of New Brunswick and the federal laws of Canada applicable therein. Subject to Article 17 in respect of Dispute Resolution, the parties irrevocably submit to the exclusive jurisdiction of the courts of the Province of New Brunswick, as applicable, with respect to any matter arising hereunder or related hereto. The parties agree that the venue for any Disputes arising under this Agreement shall be the City of Saint John in the Province of New Brunswick.

SAMPLE

APPENDIX A (Sample) SUPPLIER EQUIPMENT

Dufferin Hall

Pan Holder and trays Cutting board

Pans

Propane Stove

Ovens

Flat top grill

Pot and Pan racks

Microwave

Water Jugs

Serving Trays Plates

Coffee Machine

Small Refrigerator Serving Carts

large Coolers in Kitchen Tables in kitchen

Curtains

Large Speakers in main dining area large clock on wall in dining area Vacuum cleaner

Utility room contents (not including Christmas items)

Rubber Maid containers and contents Coffee Jugs

Dishwasher

Speakers in kitchen Computer

Audio equipment Utensils

Meat cutter Freezers Candles

Table decorations Extension cords

APPENDIX B

SUPPLIED EQUIPMENT

Thistle St. Andrews

Sinks

PA System Cupboards

Wooden tables

White Arch (Wedding) White Trees with lights

Christmas accessories in Utility room

Podium

Blodgett stove

Hood Vent over stove

Stainless steel corner counter in kitchen (far wall)

Art work on walls in dining area

Bar/Cooler, and everything at bar Hung speakers in dining area

Long wooden tables in dining area

All Plastic tables and chairs (Chair holders)



APPENDIX C

FINANCIAL TERMS Current agreement has a fixed monthly rental fee for facilities provided by TSA and Bar revenues go to TSA, TSA receives no portion of food service fees TSA is willing to entertain alternative arrangements eg revenue sharing

- 1 For the period September 1,2024 to August 31,2027 the SUPPLIER will pay TSA a monthly fee of (To be negotiated) plus applicable taxes on the first of every month.
2. The monthly fees to be paid by SUPPLIER to TSA for the renewal term under Section 2.1, shall be negotiated by the parties and set no later than July 1.