

The Niagara Convention and Civic Centre

Food and Beverage
Service Request For
Proposal



TABLE OF CONTENTS

<u>I.</u>	<u>INSTRUCTION TO PROPOSERS</u>	3
<u>A.</u>	<u>Introduction</u>	3
<u>B.</u>	<u>Definitions</u>	4
<u>C.</u>	<u>Background Information</u>	6
<u>D.</u>	<u>General Information</u>	7
<u>E.</u>	<u>Proposal Process</u>	7
<u>F.</u>	<u>Evaluation of Proposals and Award</u>	10
<u>G.</u>	<u>Proposal Format / Required Submittals</u>	14
<u>II.</u>	<u>SPECIFICATIONS</u>	15
<u>A.</u>	<u>Facilities, Equipment and Smallwares</u>	15
<u>B.</u>	<u>Financial Provisions</u>	15
<u>C.</u>	<u>Utilities</u>	15
<u>D.</u>	<u>Operations</u>	15
<u>E.</u>	<u>Maintenance and Cleanup</u>	15
<u>F.</u>	<u>Responsibilities of The Food Service Company</u>	15
<u>G.</u>	<u>Product To Be Sold and Prices</u>	15
<u>H.</u>	<u>Records, Accounting and Auditing</u>	15
<u>I.</u>	<u>Indemnity, Release, Insurance and Security</u>	15
<u>J.</u>	<u>Default and Termination</u>	15

I. Instruction to Proposers

A. Introduction

1. The Niagara Convention and Civic Centre (The NCCC) is requesting proposals from all interested parties to provide food and beverage services for the NCCC for a five (5) year term, with an option to extend the agreement for five (5) additional years, which option is in the sole and exclusive discretion of the NCCC. The scope of work includes, but is not limited to, providing a full range of catering, bar, concessions and automated vending services.
2. The NCCC is scheduled to open in the Spring of 2011.

B. Definitions

In this document the words underlined below shall have the following meaning:

1. NCCC: Niagara Convention and Civic Centre.
2. NCCC Inc.: Niagara Convention and Civic Centre Inc. the Management Company contracted by The City of Niagara Falls to manage the NCCC.
3. Accounting Period: means a period of twelve calendar months, which twelve calendar months occur each Agreement Year, for a total of 365 days.
4. Agreement Year: a period of twelve calendar months commencing on January 1st and ending December 31st of each year during the term of the Agreement.
5. President: the President of the NCCC Inc. or his/her designee.
6. Agreement: the formal Agreement executed between Food & Beverage Company and NCCC Inc. in accordance with these specifications and The Food Service Company's proposal submitted and accepted by NCCC Inc., any or all of which may be incorporated into the Agreement at the discretion of NCCC Inc..
7. Alcoholic Beverage: includes wine, distilled spirits, and beer.
8. Allowable Expense: any and all expenses as defined in Section II, Article B, Paragraph 3, that can be charged against the Gross Receipts.
9. Automated Vending: food service vending from automatic machines.
10. Catered and Banquet Services: pre-arranged food and non-alcoholic beverage related functions at an established price per person or per meal, provided to Licensees and their invitees pursuant to the terms and conditions of agreement(s) between the licensee and NCCC Inc. and/or Food Service Company.
11. Food & Beverage Company: the party selected and contracted with to provide the services set forth in this document.
12. Concession Services: over-the-counter cash and credit card sales conducted at fixed and mobile food and beverage areas at the NCCC.
13. Food Service: all food and beverage services including the service of alcoholic beverages.
14. Food Service Area: any space whether it is permanent, temporary or portable on the property occupied by NCCC where food and/or beverage is either produced or served.

15. Gross Receipts: the total amount of money or other items of value received or receivable, directly or indirectly, by The Food Service Company or any agent or employee of the Food Service Company from all sales, cash or credit, regardless of whether such credit accounts or a portion of such accounts are collected, made as a result of the service rights granted under the Agreement, excluding sales taxes collected by the Food Service Company or in the event of prepayment of sales taxes, excluding any amount so prepaid by the Food Service Company. The total amount of the service charge (gratuity) that is charged to Licensees is excluded from the definition of Gross Receipts. Funds received from the sale of any goods, food, beverage or, other items that are returned by the purchasers and accepted by the Food Service Company exclusive of any sales tax may be deducted from Gross Receipts. The net amount received from sub-contractors will be treated as Gross Receipts.
16. Licensee or Show Manager: any person or entity that may from time to time enter into any agreement for the use of NCCC for a particular purpose.
17. Net Profits: means an amount equal to the excess during an accounting period of Gross Receipts over the sum of Allowable Expenses incurred less the profit split due to The Food Service Company.
18. Non-Allowable Expenses: expenses that are specifically not Allowable Expenses as defined in Section II, Article B, and Paragraph 5 that cannot be charged against Gross Receipts.
19. Profit: an amount equal to the excess during an Accounting Period of Gross Receipts over the sum of Allowable Expenses before a profit split.
20. Proposer: any person or entity submitting a proposal to provide the services as defined by and in accordance with these specifications.
21. Request for Proposal (RFP): this document.
22. Smallwares: glassware, china, flatware, decorations, bar service ware, pots, pans, kitchen utensils, storage containers, and buffet ware.
23. City of Niagara Falls: The Corporation of the City of Niagara Falls, Ontario Canada.

C. Background Information

1. NCCC is managed, maintained, marketed, and operated by NCCC Inc. and is owned by the City of Niagara Falls. NCCC's primary use is to hold local, regional, national and international events to include conventions, consumer and trade shows, conferences, community functions, banquets, meetings, seminars, theatre productions and special events.
2. NCCC is scheduled to open with a total of about 125,000 square feet of meeting, banquet and exhibit space. The NCCC complex incorporates an exhibit hall, ballroom, theatre/Jr ballroom, lounge and meeting rooms. The 82,000 square feet exhibit hall can be configured into three equal clear span exhibit spaces. The 17,000 square feet ballroom is divisible into four separate rooms. The individual meeting rooms total 10,500 square feet divisible into 8 separate rooms. The Theatre/ Jr Ballroom is 12,000 square feet which seats 1,000 for a live performance in theatre elevated seats or can convert to ballroom/banquet space. The glass-walled lounge fronting to Stanley Avenue and located in the lobby has 4,500 square feet with a capacity of 350 people for social events or corporate meetings. A lobby café is designed in the pre-function area next to the box office and two permanent concession stands are located in the back of the exhibit hall and outside of the theatre. There are two storefront areas 429 sq feet and 366 square feet yet to be designated which can be considered for food service sales ideas. (Floor plan in appendices)
3. NCCC is located one block from the brink of the falls and within 1 mile are 5,000 upscale hotel rooms.
4. NCCC Inc. management is dedicated to consistently providing quality guest service, sound fiscal policies and employee development in programming all of its operations.

D. General Information

1. The RFP is designed to allow the Proposer the greatest degree of creativity in meeting the requirements of NCCC Inc., its Licensees, and patrons.
2. The Agreement shall be for the exclusive rights to sell product of a food and beverage nature, including Alcoholic Beverages. The exclusive rights granted hereunder shall not be construed so as to prevent or prohibit NCCC Inc. from engaging in or contracting for, outside catering services privileges for NCCC Inc. sponsored events, special charity events or events at the discretion of the President, not to exceed five (5) per year. In addition to the five (5) events there will a policy allowing up to two (2) Kosher Caterers to provide this specialized cuisine. After selection an operations plan will be developed and approved by the President.
3. The exclusive Food Service rights granted to The Food Service Company shall not be construed so as to prevent or prohibit an exhibitor from distributing, without charge, a type of good or merchandise which is manufactured and distributed in the normal course of the exhibitor's business, or from selling food items for consumption off the premises.
4. Off premise catering from NCCC may be permitted subject to the approval of the President.
5. The Agreement between the NCCC Inc. and The Food Service Company will be designed to provide the following structure: Management fee financial arrangement with a split of the Profits, for the management of all food service operations on the property occupied by NCCC to include but not be limited to the banqueting, catering, bars, vending, mobile cafe, fixed concessions, and special event area.
6. Food and Beverage Company and the NCCC Inc. recognize the importance of high quality food and beverage for the long-term success of NCCC. Accordingly, provisions of this RFP relating to food and beverage quality and service including staffing levels and appearance of staff persons are considered material terms of the Agreement.
7. The Food Service Company shall be required to obtain and hold all pertinent permits and licenses as an Allowable Expense for the sale of all alcoholic beverages including beer, wine and spirits. The said alcoholic beverage permits and licenses must be limited to NCCC and the Food and Beverage Company interest in same must terminate simultaneously with the expiration or termination of the Agreement. The privilege to sell alcoholic beverages shall be subject to the provisions of the Alcoholic Beverage Laws of Niagara falls, Ontario and the Province of Ontario. The President shall have the sole right to determine at which events alcoholic beverages may be sold.

8. The term of the Agreement shall be for a period of five (5) years, subject to specific termination rights in this document, and subject to an option to extend the Agreement for five (5) additional years which option is in the sole and exclusive discretion of NCCC Inc., to be exercised not less than 270 days prior to the expiration of the initial term (“Option Exercise Date”). The financial conditions may be re-negotiated during the ninety-day period immediately preceding the Option Exercise Date; and at the conclusion of said negotiations The Food Service Company shall provide NCCC with an irrevocable written consideration offer on which the NCCC Inc. can rely in order to provide the financial basis for its decision as to whether or not to exercise the allowable option with the extension continuing the terms and conditions of the Agreement except for the financial consideration and such other provisions as may be changed by mutual agreement of the parties.
9. President is willing to consider at his sole discretion any use of any space available at NCCC. This approach to space use provides many opportunities for creative uses of the exhibit hall, lobbies, and meeting rooms. In addition, this willingness to use any space available provides NCCC Inc. and The Food Service Company with the options and alternatives necessary to cooperate in maximizing the use of NCCC. The successful Proposer and the NCCC Inc. will set a “Booking Policy” for Food Service Events, to maximize space utilization and eliminate potential double booking of space. The current Booking Policies and Procedures give priority to conventions that have the greatest economic impact for NCCC area over local or public events, which do not greatly impact the Niagara region’s economy. Non-convention dates will only be confirmed eighteen (18) months in advance of the applicable dates. Any non-convention date(s) requested in advance of eighteen (18) months requires the approval of the President. It is understood that there will be occasions where The Food Service Company will not be able to schedule an event at NCCC due to a contracted or hold date. NCCC Inc. will strive to be as flexible in scheduling when practical to meet the needs of both parties.
10. The following exhibits are provided for Proposer’s information, but NCC Inc. is providing this information with no warranties, either express or implied, as to their accuracy or reliability. The awarded Food Service Company will be expected to make every effort to increase Gross Receipts through an aggressive marketing plan, as a benefit to both The Food Service Company and NCCC Inc. In any case, NCCC Inc. makes no representation as to the potential value of the awarded Agreement.
 - PKF economic feasibility study
 - NCCC Policies and procedures manual (still being further enhanced/updated)
 - Floor plan/Capacity Chart of Rentable Spaces

- 1) Your proposal must be prepared in strict compliance with the “Proposal Format,” Section I Article G. Failure to comply with all provisions of this RFP may result in your proposal being disqualified.
- 2) Proposals must be received by 3:00 p.m. local time on January 25, 2010 you must submit one (1) signed original of the proposal. Any proposal received after the time stipulated will not be considered, but will be rejected and returned unopened to the Proposer. Proposals shall be sealed and addressed to:

Terri Seymour
Niagara Convention and Civic Centre Office
6380 Fallsview Blvd
Suite 202
Niagara Falls ON. L2G 7Y6
905-357-6222

- 3) All proposals received in response to this RFP will become the property of NCCC Inc. and will not be returned. In the event of an award, all documentation produced as part of the award will become the exclusive property of NCCC Inc.
- 4) Proposal Term: All Proposals must be irrevocable and open for 120 days from the proposal submission date.
- 5) Appointments will be made available at the Niagara Convention and Civic Centre office on January 7th and 8th, 2010 to offer companies the opportunity to come in and review the blueprints and RFP binders for the kitchen facilities, and the entire facility. To schedule an appointment please contact Terri Seymour at 905-357-6222.
- 6) Before submitting a proposal, each Proposer shall make all investigations and examinations necessary to ascertain conditions, requirements and obstacles, if any exist, affecting the operation of the proposed services. Failure to make such investigations and examinations shall not relieve the successful Proposer from the obligation to comply, in every detail, with all provisions and requirements of the RFP nor shall it be a basis for any claim whatsoever for alteration in any term or payment required by the Agreement.
- 7) Questions concerning this RFP should be submitted in writing seven (7) days prior to the proposal due date to:

Terri Seymour
Niagara Convention and Civic Centre Office
6380 Fallsview Blvd
Suite 202
Niagara Falls ON. L2G 7Y6
905-357-6222
tseymour@fallsconventions.com

- 8) If a Proposer discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify Terri Seymour in writing and request modification or clarification of the RFP. Modifications will be made by issuing an addendum and will be given by written notice to all prospective Proposers that attended the mandatory pre-proposal conference and site visit. The Proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission or other error in the RFP prior to submitting the proposal or it shall be deemed waived.
- 9) Products and services which are not specifically requested in this RFP, but which are necessary to provide the functional capabilities proposed by the Proposer, shall be included in the proposal.
- 10) All addenda will become part of this RFP. No allowance will be made after proposals are received for oversight, omission, error or mistake by Proposer. The last addenda to be issued by the NCCC will be no later than 7 calendar days of the RFP closing date stated herein.
- 11) NCCC Inc. is not responsible for any expenses which Proposers may incur in the preparation and submittal of proposals requested by this RFP, including but not limited to, costs associated with travel, accommodations, interviews or presentations of proposals.
12. In submitting a proposal it is acknowledged, understood and agreed by each Proposer that NCCC Inc. has the sole unfettered right and discretion to refuse to accept any or all proposals for any reason whatsoever and is not required to provide any reasons for its refusal of any proposal and is not responsible for paying any Proposer for any costs, expenses or damages of any kind that any Proposer claims to have incurred directly or indirectly as a consequence of responding to this RFP.

E. Evaluation of Proposals and Award

- 1) Determination of qualifications of Proposers:
 - a) NCCC Inc. at its sole discretion shall determine whether particular Proposers have the basic qualifications to conduct the desired food and beverage service for NCCC. This determination shall be in addition to procedures for selection of the Food Service Company under Paragraph 5 of this article.

- b) In determining whether a Proposer possesses the basic qualifications to conduct the desired food and beverage service, NCCC Inc. may consider the following:
 - i) Proposer's general reputation record for performance and service.
 - ii) Previous experience in operation of a convention center serving 1,500 meals (sit-down / wait service) a day over a three (3) day period and multiple, large, simultaneous events.
 - iii) Whether the Proposer has been in business continuously for five (5) years providing food and beverage services in a convention center or similar facility, which has multi-purpose facilities including 20,000 square ft. plus Ballroom and additional Meeting and Exhibit space hall and various size meeting rooms.
 - iv) Whether one or more of a Proposer's principals, partners or corporate officers have the equivalent experience while in a senior management position with another firm.
 - v) Proposer's financial condition including ability to provide required performance bond, payment bond and capital investment.
 - vi) Whether the Proposer clearly demonstrates experience and capability to operate the Food and Beverage Services at NCCC in accordance with the specifications in this RFP.
 - vii) Experience operating in a green sustainable manner and utilizing local food sources.
- 2) Proposals will first be examined to eliminate those, which are clearly non-responsive to stated requirements. Proposers should exercise particular care in reviewing the proposal format portion of this RFP. Any decision by NCCC Inc. to so eliminate will be in its sole discretion and there will be no explanation for its decision given by NCCC Inc.
- 3) Award shall be made to the responsible Proposer whose proposal is determined to be the most advantageous to NCCC Inc. in its sole discretion. A valid and enforceable contract exists when an agreement has been approved by the NCCC Inc. and fully executed by the parties.
- 4) The NCCC Inc. reserves the rights to:
 - a) Withdraw this RFP at any time and for any reason, and to issue such clarifications, modifications, and/or amendments as it may deem appropriate.
 - b) Conduct pre-award discussion and/or pre-award contract negotiations with any or all responsive and responsible Proposers who submit proposals

determined to be reasonably acceptable of being selected for award; conduct personal interviews or require presentations of any or all Proposers prior to selection; and make investigations of the qualifications of Proposers as it deems appropriate, including, but not limited to, a background investigation conducted by the Niagara Regional Police Department or any other law enforcement agency.

- c) Request that Proposers modify their proposal to more fully meet the needs of the Facility or to furnish additional information as NCCC Inc. may reasonably require.
- d) Accord fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. Such revisions may be permitted after submission of proposals and prior to award.
- e) Negotiate any modifications to a proposal that it deems acceptable, waive minor irregularities in the procedures, and reject any and all proposals.
- f) Process the selection of the successful Proposer without further discussion.
- g) Waive any irregularity in any proposal, or reject any and all proposals, should it be deemed in its best interest to do so. Any such waiver shall not modify any remaining RFP requirements or excuse the Proposer from full compliance with the RFP specifications and other Agreement requirements if the Proposer is awarded the Agreement. The NCCC Inc. shall be the sole judge of Proposers' qualifications and reserves the right to verify all information submitted by the Proposers. The proposal selected will be that proposal which is judged to be the most beneficial to the NCCC Inc.

5) Proposal Evaluation Factors

- a) A committee selected by the NCCC Inc. will evaluate proposals. Staff and Consultants of NCCC Inc. may examine proposals and documents.
- b) Any response that takes exception to any mandatory items in this RFP may be rejected and not considered. Proposals will be evaluated using the factors detailed below.

Criteria

i.) Financial Proposal

ii.) Proposer's Financial Standing

- iii.) Proposer's Experience
- iv.) Experience, Education and Perceived Ability of Proposed Food Service Management Staff.
- v.) Proposer's Sales and Marketing Plan
- vi.) Proposer's Branding Program
- vii.) Proposer's Operational Plan
- viii.) Proposer's Start up Plan
- ix.) Proposer's Green Initiatives
- x.) Conformance with RFP requirements

6) Review of Proposals

- a) The Evaluation Committee and Consultants of NCCC Inc. shall review all proposals properly submitted and received. However, NCCC Inc. reserves the right to request clarifications or corrections to proposals.
- b) Requests for clarifications or corrections shall be in writing. Clarifications or corrections shall not alter the Proposer's financial proposal or afford the Proposer with an opportunity to amend, adjust, or fix the proposal submission.

7) Agreement Development

- a) The content of the RFP and the successful Proposer's proposal will become an integral part of the Agreement, but may be modified by the provisions of the Agreement.
- b) By submission of proposals pursuant to this RFP, Proposers acknowledge that they are amenable to the inclusion in an Agreement of any information provided either in response to this RFP or subsequently during the selection process.
- c) A proposal in response to an RFP is an offer to contract with NCCC Inc. based upon the terms, conditions, scope of work and specifications contained in the RFP.

- d) If the selected Proposer fails to sign and return the Agreement within 15 days following the receipt thereof, NCCC Inc. will annul the award. Upon annulment of the award as aforesaid, The NCCC Inc. may negotiate with any proposers or with any company the NCCC solely determines to negotiate with whether the said company submitted or did not submit a proposal in response to this RFP.
- e) The NCCC Inc. shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal shall not affect this right.

F. Proposal Format / Required Submittals

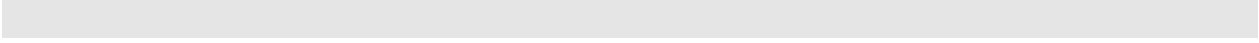
- 1) Proposers must submit proposals that are complete, thorough and accurate. Brochures and other similar collateral material may be attached to the proposal.
- 2) General Instructions
 - a) It is intended that this RFP describe the requirements and response format in sufficient detail to secure comparable proposals, recognizing that various proponent approaches may vary widely. Proposals, which differ from the described format, may be rejected. All information requested must be submitted, or alternatively, a statement giving the rationale of the Proposer for not submitting requested information must be provided. NCCC Inc. may, if it deems it to be in its best interest, take such statements into consideration in determining the responsiveness of the proposal.
- 3) Proposal Format: Proposers are to use the following section numbers:
 - a) Section 1: Identifying Information
 - i) Name, address, principle place of business, and telephone number of legal entity with whom the Agreement is to be written.
 - ii) Name, address, and telephone numbers of principal officers (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
 - iii) Legal Status of the Proposer and year entity was established.
 - iv) Name of primary contact at the firm.
 - v) State if your company is in preparation for or is being actively sold.

- b) Section 2: Letter of Transmittal: The Letter of Transmittal should be a formal letter from the Proposer prepared in standard business format. It should be brief, signed by a person who is authorized to commit the Proposer's organization to perform the work included in the proposal, and should identify all materials and enclosures being forwarded in response to the RFP.
- c) Section 3: Executive Summary: The Executive Summary of the Proposal shall be limited to three (3) single-spaced typewritten pages. The purpose of the Executive Summary is to provide a high-level description of the Proposer's ability to meet the requirements of the RFP.
- d) Section 4: Financial Proposal:
 - i) Along with the Financial Proposal to be completed and submitted with this RFP, the Proposer is to complete a two-year Pro-Forma projection.
- e) Section 5: Experience and Financial Qualifications of Proposer:
 - i) Qualifications of Proposer: Shall contain pertinent information relative to the firm's background, expertise and qualifications to accomplish all tasks set forth in this RFP.
 - ii) A list of all other convention centers or like facilities that Proposer serves or has served. Please provide detailed information, e.g., facility name, contact, position, address and telephone number of the facility, length of time served, dates served, nature of services provided, estimated number of events served annually and Gross Receipts for the last three (3) years.
 - iii) Identify at least three (3) facility references, including the name of the contract, contact name and current telephone number, type of operation (i.e., convention center, stadium, performing arts center, arena), and highest annual gross receipts the Proposer realized in this operation.
 - iv) A current audited financial statement for the most recent fiscal year of the Proposer, including balance sheet, income statement and statement of cash flow.
 - v) A statement indicating the source and amount of financing required to fulfill the terms and conditions of this RFP.
 - vi) Provide a bank reference from the Proposer's primary lender.
- f) Section 6: Proposer's Operations Staff

- i) A complete organizational chart detailing all proposed management, identifying full time positions and hourly positions. Include proposed management salaries and hourly wages along with the types of benefits offered and associated costs. The NCCC Inc. requires that the Food Service Company's administration office be staffed Monday through Friday from 8:00 a.m. to 5:00 p.m.
 - ii) Specify the minimum qualifications, experience and projected salary of the Executive Chef.
 - iii) Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of the Agreement if awarded to you. This chart is to identify the next senior level of management responsible for the administering of the Agreement.
 - iv) Provide a listing of all management employees that are eligible to receive a bonus, based on performance. Provide the criteria upon which each bonus is based. The President must approve the criteria established for the performance bonus plan of the Food and Beverage President prior to the plan being issued, throughout the term of this agreement.
 - v) Specify how your onsite management team will fill the required service staffing levels given the fact that the current high-season demands for similar employees is very high. The Proposer should address how service employees will be recruited, hired, trained, supervised, and motivated to meet the needs of NCCC Inc.'s expectation of extraordinary service and quality.
 - vi) Identify any subcontractors, if any, you would propose to use in the operation of NCCC under this Agreement, if you are selected.
- g) Section 7: Proposer's Sales and Marketing Plan:
- i) NCCC Inc. encourages Proposers to include any unique and creative material (menu, design, in house branding, national branding, regional and local branding etc.) that will have a direct impact on positively influencing per-capita sales in the area of concessions sales, catering sales, exhibit booth catering sales and corporate sales at NCCC. Proposers are encouraged to describe existing programs that they have in place at similar facilities and the financial impact that these programs have along with the cost of implementation.
 - ii) NCCC Inc. encourages Proposers to include any unique and creative material (menu, design) that will have a direct impact on

positively influencing per-capita sales in the area of concessions sales.

- iii) Provide details on current community involvement programs that the Proposer currently has in place in similar facilities. Provide a proposed community program to be implemented at NCCC.
 - iv) Proposed sample menus for both concessions and catered food and beverage at NCCC. Include pricing, portion size where applicable and a listing of the minimum purchasing standards your company adheres to for all major food provisions. Prices for catered functions are to be inclusive of all costs, but exclusive of service charge and sales tax. The service charge assessed on all catered events for the initial term of this agreement. This fee is normally retained by the Food and Beverage Company and not paid directly to the service employees in the form of a gratuity. Prices for Concessions and Bar items are to be inclusive of all costs and sales tax.
- h) Section 8: Proposer's Branding Plan:
- i) After selection, a local branding program will be required. Proposers should not contact or establish any relationship with local product for NCCC purposes until after selection process is complete.
 - ii) Proposers are encouraged to describe existing branding programs that they have in place at similar facilities and the financial impact that these programs have along with the cost of implementation.
- i) Section 9: Proposer's Operational Plan:
- i) An outline of the process and software support used by the Proposer in developing annual budgets.
 - ii) An outline of the Proposer's credit policy addressing credit references, approval requirements and payment terms.
 - iii) A general outline of the personnel policies and training programs that are currently in use.
 - iv) A general outline of purchasing policies.
 - v) Details of measurable quality control or quality assurance programs that Proposer currently has in effect in similar facilities.
 - vi) A description of positive results of recycling programs and their application to NCCC.

- j) Section 11: Conformance with RFP Requirements:
 - i) The Proposer must submit a response to any exception it takes to Section II of this RFP; Specifications. Responses shall be prefaced with the summary title and corresponding Article number.
 - k) Section 12: Appendices - the content is left to the Proposer's discretion, but should be limited to materials that will be helpful in describing the services proposed.
- 

II. Specifications

A. Facilities, Equipment and Smallwares

- 1) NCCC Inc. will provide the smallwares, kitchen preparation and service equipment. All such equipment and furnishings shall remain the property of NCCC Inc. and must not be loaned or removed from NCCC without permission from the President. No modifications or alterations may be made to this equipment without the express written approval of the President. Title to all property furnished by NCCC Inc. shall remain with the NCCC Inc.
- 2) Smallwares Inventory - The Food Service Company must maintain 3000 every day place settings (a place setting comprises: 2 salad forks, two dinner forks, two teaspoons, one soup spoon, three teaspoons, two knives, one 11 1/8" plate, one 9" plate, one 8 3/8" plate two 6 3/8" plates, one 11" pasta bowl, one coffee cup, two saucers, one bouillon cup and one plate cover).
- 3) All equipment, furnishings and fixtures, including Equipment Improvements once permanently attached to the NCCC, all mobile equipment furnishings and fixtures; all china, glassware, cutlery and utensils of whatever kind and source, as well as all office equipment and furnishings provided or installed by or under the direction of the Food Service Company, shall be the property of the NCCC Inc.
- 4) The Food Service Company shall conduct an annual food and beverage equipment inventory, documenting any damaged and/or missing equipment. The Food Service Company shall identify any equipment that has met the end of its useful life and request written approval from the President to scrap such equipment.
- 5) At the end of the term or upon termination, The Food Service Company shall return all equipment and smallwares in good condition, normal wear and tear excepted. The Food Service Company and President shall jointly conduct a closing inventory, documenting any damaged and/or missing equipment, and smallwares. The Food Service Company shall be responsible for any missing equipment, and smallwares and the cost thereof is a Non-Allowable Expense.
- 6) The Food Service Company shall be responsible for any loss or damage to property of NCCC Inc. which results from the acts or omissions of The Food Service Company, including, without limitation, failure on the part of The Food Service Company to maintain and administer that property in accordance with sound management. All costs associated with this paragraph are considered Non-Allowable Expenses.
- 7) The Food Service Company shall post and display all menu items and prices for all permanent and portable stands. All signs must be consistent with the graphics of NCCC and must be approved by the President. Hand written signs are not permitted.

- 8) Smallwares Replacement - The Food Service Company is responsible for bi-annual replacement of damaged, lost, and missing service ware as required to maintain the original inventory levels. Actual replacement expenses of up to 0.75 percent of gross receipts are considered an Allowable Expense and the Food Service Company will be solely responsible for replacements over 0.75 percent of gross receipts as a Non-Allowable Expense.
- 9) The designated spaces pertinent to The Food Service Company's operation are as follows:
 - a) Main Kitchen / Dish Room / other Kitchen spaces
 - b) Food Service Administrative Offices
 - c) Smallwares Storeroom
 - d) Beverage Stockroom
 - e) Permanent Concession Stands
 - f) Lobby Cafe
 - g) Exhibit Hall: The exhibit hall is on the main floor with a total of approximately 82,000 square feet that can be divided into three areas. The design of the exhibit halls allows them to be utilized individually; having a 30-foot ceiling enables them to be able to hold trade shows, expos, meetings, conventions, banquets and receptions.
 - h) The Ballroom: The Ballroom is located on the main floor with a total of approximately 17,000 square feet that can be divided into four sections. The Ballroom is used for trade shows, meetings, conventions, banquets and receptions.
 - i) Meeting Rooms: The Meeting Rooms are located on the second floor with a total of approximately 10,000 square feet. The Meeting Rooms are used to hold meetings, banquets, or receptions.
 - j) Club Lounge: The Club Lounge is on the second floor with a total of approximately 4,000 square feet and a capacity of 350 people. The club lounge is used to hold meetings, banquets, receptions and pre-post theatre diners.
 - k) Theatre/Jr Ballroom: The Theater/Jr ballroom is on the main floor with a total of approximately 17,000 square feet, or 1,000 elevated theatre seats. The Theatre/Jr Ballroom is used to hold live performances, meetings, banquets, receptions and pre-post theatre diners. All concession items are permitted into the Theatre during performances.
 - l) Floor plan/capacity chart available on the fallsonventions.com website.

B. Financial Provisions

- 1) The Agreement will be structured in one of two ways. Please provide responses for both possibilities:
 - a) Food Service Company receives a Management Fee as a percentage of the gross receipts, and an Incentive Fee as a percentage of the profits, contingent on mutually agreed quality and consistency goals for food and service.
 - b) Food Service Company provides a one-time investment of \$1,000,000.00 payable to NCCC Inc. upon the execution of the Agreement to be depreciated through Management Fees and Food Service Company receives a Management Fee as a percentage of the gross receipts, and an Incentive Fee as a percentage of the profits, contingent on mutually agreed quality and consistency goals for food and service.
- 2) The Food Service Company may also commit to a one-time licensing fee (not depreciated through management fees) to off-set the capital outlay necessary to furnish the NCCC's equipment /smallwares budgets. All equipment purchased with this licensing fee remains the property of NCCC Inc. Should the contract be terminated for any reason before the expiration date, the remaining portion of the licensing fee (calculated in remaining months) shall be returned by NCCC Inc. to The Food Service Company.
- 3) The following is the structure of the management fee financial arrangement for the management of all food service operations within NCCC.
 - a) A monthly management fee will be paid to the Food Service Company as a percentage of the Gross Receipts.
 - b) The management fee will be charged as an Allowable Expense to the proforma operating statement for the food service operation.
- 4) The Food Service Company will be entitled to a percentage of the annual profits from the food and beverage operations. Profits are defined as Gross Receipts less the following Allowable Expenses:
 - a) Cost of goods sold, less company discounts directly attributable to the NCCC.
 - b) Direct labor: including applicable taxes, fringe benefits for on site management staff and employees as approved by the President. Food and Beverage Manager's bonus as approved by the President provided that Food and Beverage Manager has worked at NCCC for a minimum of twelve (12) consecutive months.
 - c) Direct Expenses paid: for supplies including but not limited to liability insurance, telephone, postage, cleaning supplies, pest control, permits,

printing, decorating, repair and maintenance, uniforms, bank charges, EBMS computer licensing and training fees, annual audit, start-up not to exceed \$50,000, plus approved personnel cost etc.

- d) Replacement of smallwares up to 0.75% of Gross Receipts. This line item is not to be treated as a reserve account, only the actual replacement expense incurred up to 0.75% of Gross Receipts is be charged as an Allowable Expense.
 - e) Bad debt allowance of up to .25% of catering sales. This line item is not be treated as a reserve account, only the actual bad debt expense incurred up to 0.25% of catering sales is be charged as an Allowable Expense.
 - f) Required reserve accounts.
 - g) Management fee.
 - h) Reimbursable expenses related to Sales, Set-up, and Clean-up.
 - i) Utilities
 - j) Applicable Sales Taxes
- 5) If in an Accounting Period available Gross Receipts are insufficient to cover Allowable Expenses, then the Food Service Company shall accrue and carry forward such insufficiency until the next Accounting Period with sufficient amounts to cover the same.
- 6) The following costs are specifically considered Non-allowable Expenses for the purposes of defining profits and are also not to be charged to the profit and loss statement for the food and beverage operations, but rather are to be considered as part of the Food Service Company's overhead and administrative cost:
- a) Refunds or credits applied to Licensee's final invoice as approved by the President for inferior services provided by the Food Service Company to the Licensee.
 - b) The Food Service Company's supervision and support services (facility planning and design, auditing, legal, purchasing, personnel, public relations etc.)
 - c) Payments to management recruiting companies.
 - d) Business Profit Taxes.
 - e) Other general corporate administrative and overhead expenses.
 - f) Bad debt expense in excess of .25% of catering sales.
 - g) Replacement of smallwares in excess of 0.75% of Gross Receipts.

- h) Performance, fidelity and payment bonds.
- 7) Within fifteen (15) days following the end of each accounting period the Food Service Company will remit the Net receipts to NCCC Inc. If in any Accounting Period that the management fee exceeds the Profits for such period, the Food Service Company will accrue and carry forward such excess until the next Accounting Period with sufficient profits to cover the same. Each payment shall be accompanied by a monthly profit/loss statement, a variance report and financial analysis in a format that is acceptable to NCCC Inc. An annual reconciliation will be conducted twenty (20) days after end of each Agreement Year.
- 8) The Food Service Company is required to provide sufficient levels of working capital to cover account receivable(s), inventory, petty cash, start-up costs and tills at no cost to NCCC Inc. to adequately serve the patrons of NCCC.
- 9) Required Reserve Accounts:
 - a) Equipment Addition and Replacement Reserve: 2.0% of Gross Receipts. The Equipment Addition and Replacement Reserve shall be expended for the purpose of replacing existing equipment, adding new equipment and making improvements to food service areas. The Equipment Addition and Replacement Reserve is an Allowable Operating Expense.
 - b) Marketing Reserve: 2.0% of Gross receipts. This Marketing Reserve shall be used to help promote the facility, handle special promotional costs when soliciting an event and their foodservice business, to host marketing initiatives, sponsor events, etc. The Marketing Reserve is an Allowable Operating Expense.
 - c) The Food Service Company shall make a monthly deposit into an interest bearing bank account separate from all other funds. The bank account shall be in a bank that has a branch office in Niagara Falls Canada and as approved by the President. The account must be set up so that no disbursement may be made unless co-signed or approved by the President. Expenditures must be approved by both parties prior to being incurred, and shall not exceed the amount of funds then available in the account and unencumbered. Following such approval, the Food Service Company shall be responsible for the expenditure of the funds and shall do so in its name, including making the arrangements with suppliers and paying the invoices therefore. The Food Service Company shall provide NCCC Inc. with a monthly statement of the balance of the account, and further agrees that NCCC Inc. may perform an annual audit of the account and books and records related to the expenditures.
 - d) The reserve account is not to be used to pay salaries.

- e) NCCC Inc. reserves the right to withdraw from the reserve account at its discretion as required to discharge the obligations for which that account is maintained.
- f) NCCC Inc. reserves the right to withdraw from the reserve account at its discretion and take such funds as Net Profit at the end of each fiscal year, the balance shall become Profit for NCCC Inc.
- g) At the expiration or termination of the Agreement, NCCC Inc. shall be entitled to all funds, including any accrued interest, remaining in the reserve account.

C. Utilities

1. NCCC Inc. shall furnish electricity, natural gas, air conditioning, heat, steam, water, sewerage and drainage as it shall determine necessary for the Food Service Company to meet the obligations of this Agreement. NCCC Inc. shall not be liable to furnish any of the above by reason of repair, replacement, labor controversy, accident, or any other reason. This is an allowable expense.
2. Should the Food Service Company require any additional utility capacity NCCC Inc. and/or outlets beyond those provided the cost of such installation and hookups will be an Allowable Expense.
3. The telephone equipment is owned by NCCC Inc. The cost of local, long distance phone charges, including maintenance program as determined by NCCC Inc. are the responsibility of the Food Service Company as an Allowable Expense.
4. The Food Service Company shall develop an effective and continuous energy management and conservation program.

D. Operations

- 1) NCCC Inc's patrons shall not be infringed upon by any activity of the Food Service Company or any of its employees or subcontractors. The activities of the Food Service Company shall be such as to render service to the patrons in a dignified and professional manner; and no undue pressure, coercion or persuasion shall be used by the Food Service Company in an attempt to influence the patrons to use the services or products of the Food Service Company. All Food Service Company's sales shall be conducted and operated within the policies and procedures as promulgated by the President or his/her duly authorized representative from time to time and shall in no way interfere with the orderly operation of any event. The sales shall be conducted at such times from and at such locations as are designated by the President.
- 2) The Food Service Company shall at all time exercise total independent, prudent, reasonable experienced judgment in the serving of alcoholic beverages. The Food Service Company shall at all time use only qualified and supervised personnel with training and experience in the sale of alcoholic beverages.
- 3) The Food Service Company will operate the spaces designated for the sale at retail at NCCC of food and beverages in a manner consistent with convenience and safety of the public and show management during designated NCCC events and at such other times as shall be required by the President.
- 4) Programming for all events requiring the services of the Food Service Company shall be performed by the President or his/her authorized representative. Any programming offered by the Food Service Company utilizing NCCC facilities may be allowed or denied in the sole discretion of the President, and if allowed will be incorporated into the official calendar of events, providing that said activities are consistent with the policies of the President.
- 5) All subcontractors of the Food Service Company require the approval of the President.
- 6) The Food Service Company shall employ a highly skilled professional full-time, on-site management staff possessing the necessary experience and expertise to provide the overall management of a first class catering operation. During each annual budget process during the term of the Agreement, The Food Service Company will present, for approval by the President, a management organizational chart detailing each position and the salary and benefits to be paid. The Food Service Company will employ a highly skilled professional for each approved position. Full time management expense that has not received prior approval will be deemed a Non-allowable Expense.
- 7) All employees of the Food Service Company shall be neatly attired in uniforms the design of which shall be subject to the prior approval of the President. All employees of the Food Service Company are required to wear a name

identification tag at all times while at NCCC. The Food Service Company's management personnel shall be neatly attired in normal business attire at all times. The President shall have the right to require specific uniform attire for the employees of the Food Service Company. The President shall have the right to require any employee(s) of the Food Service Company to permanently leave NCCC Inc's premises whenever it appears in the best interest of NCCC Inc.

- 8) The Food Service Company shall train and closely supervise all its employees so that they are aware of and habitually practice the high standards of cleanliness, courtesy and service required.
- 9) As a minimum, The Food Service Company shall be required to have all staff including management involved in the service of alcoholic beverages complete an Alcohol Awareness Training Program that has been approved by the Province of Ontario.
- 10) The Food Service Company shall employ and compensate its own help and employees, and all said employees shall meet all the requirements set out herein. The employees shall be neat and clean in appearance and courteous towards the patrons, the public and their fellow employees. All employees of the Food Service Company shall enter and leave NCCC via the entrance(s) so designated by the President. Only those employees actually working shall be permitted in NCCC without charge, and any such employees observed in NCCC at events in which they are not working may be removed by the President or his/her duly authorized representative. At no time will the Food Service Company permit the free entrance of any person not an employee for such event or events, and no surplus of employees will be permitted for any event. The President reserves the right to forbid any individual from entering NCCC, other than as a patron, if such individual is considered by the President to be unsatisfactory or not in the best interest of NCCC Inc. Drinking alcoholic beverages and/or the use of narcotic substances by employees of the Food Service Company will not be tolerated, and infractions will cause immediate removal from NCCC. President reserves the right at all times to require any employee of the Food Service Company to immediately leave the premises.
- 11) The Food Service Company shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, sexual orientation, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.
- 12) The Food Service Company shall employ an onsite Food and Beverage Manager at NCCC at all times during the term of the Agreement. The Food Service Company agrees that the Food and Beverage Manager will reside in a 45 mile radius of NCCC on a full-time basis. The Food and Beverage Manager is required to remain on site for the first three (3) years of the Agreement. All future Food and Beverage Managers will be required to remain on site for not less than

two (2) years. If the Food Service Company voluntarily transfers the Food and Beverage Manager to another location prior to the expiration of the required stay, the Food Service Company will be liable to NCCC Inc. for damages in the sum of \$30,000, which sum is set forth herein as liquidated damages and not as a penalty.

- 13) The Food Service Company is allowed a one-time relocation expense not to exceed \$10,000 for the Food and Beverage Manager if the said manager resides further than sixty (60) miles from NCCC.
- 14) If at any time the President determines that the Food and Beverage Manager is unsatisfactory, the Food Service Company shall within 30 days replace him/her with one who is satisfactory to the President. NCCC Inc. shall not be liable to the Food Service Company if any Food and Beverage Manager's contract with the Food Service Company is breached and/or modified and/or terminated.
- 15) The Food Service Company is required to have its next senior level of management to the Food and Beverage Manager visit NCCC a minimum of once every other month (six times a year).
- 16) In the event the Food Service Company desires to sub-license or assign any part of NCCC's food and beverage service, the Food Service Company must request permission from President. The President may refuse to approve permission at his sole discretion.
- 17) The Food Service Company shall not interfere with the free distribution of food, beverages or any other items of any nature whatsoever, where such distribution has been authorized by the President. Free samples may be given away by or on behalf of or with permission of any person or organization that has properly engaged NCCC Inc. for meetings, trade shows, cooking schools, exhibitions, conventions and the like at the discretion of the President. The Food Service Company will be required to provide specialized or modified food and beverage operations upon request of any Licensee, when it has been approved by the President as in the best interest of the Licensee, and/or NCCC Inc. or is necessary to comply with the terms of the contract between NCCC Inc. and said Licensee.
- 18) The President reserves the right to issue policies and procedures governing the general provision of food and beverage so as to maintain a consistency of kind and quality of food and beverage service, adequacy of number of personnel providing food and beverage service, compatibility of food and beverage products with the events at NCCC and other parameters of food and beverage service which policies and procedures shall be adhered to by the Food Service Company.
- 19) Final decision as to whether or not alcoholic beverages may be sold at any event shall be determined by the President. The decision to refuse service of alcoholic beverage to any individual shall be the sole responsibility of the Food Service Company.

- 20) The Food Service Company shall within three (3) months of signing the Agreement, as a professional entity engaged in the operation of food and beverage services at NCCC, develop a Convention Center Operations Manual (the Manual). The Manual is to set policy and procedures and establish minimum acceptable operational standards. The President will have final authority in determining the minimum acceptable operational standards.
- 21) The Food Service Company shall within three (3) months of signing the Agreement, as a professional entity engaged in the operation of food and beverage services at NCCC, develop a standard recipe file for the catering and concession menus. The standard recipe file is to, at a minimum, set product specifications, portion size, preparation procedure, product holding time and plate presentation.
- 22) The Food Service Company shall provide food and beverage service requested by NCCC Inc. as part of its in-house activities. The charge to NCCC Inc. for said services shall be “at cost” (cost of the product and labor to prepare and serve the product). The Food Service Company will not collect a management fee on the discounted sale.
- 23) It is the intent of NCCC Inc. that the Food Service Company’s operation at NCCC provides a level of food and beverage quality and high standards of service that are equal to or exceed the levels of same in nearby hotels. Some specific requirements for the Food Service Company are the following:
 - a) All coffee and beverage service (with the exception of concessions) is to be served in china and/or glassware, rather than foam, plastic or paper cups, packaged creamers, pre-wrapped butter pats, are considered unacceptable.
 - b) Tables used for and food and beverage functions shall be covered with appropriate linen tablecloths, properly cleaned and pressed. The Food Service Company shall in addition to providing the linen shall also provide the necessary labor to cloth food and beverage functions. The cost of the linen and labor necessary for such functions shall be an Allowable Expense.
 - c) The Food Service Company will charge NCCC Inc. and its other suppliers for the cleaning and maintenance of uniforms and linens used by them at cost.
 - d) All banquet and head tables used for catered functions shall have a floral arrangement (minimum to be a bud vase) at no charge to licensee.
 - e) All food and beverage service shall take into account sustainable practices such as no plastic water bottles, no pre-wrapped creamers, no pre-poured pitchers of water, etc...

E. Maintenance and Cleanup

1. The Food Service Company shall maintain all equipment and smallwares used in performance of its duties in a good state of repair, including maintenance or repair necessitated by ordinary wear and tear. The cost of repair and maintenance shall be an Allowable Expense.
2. The Food Service Company shall be responsible for keeping clean, covered, polished and in good repair, all bars, equipment, and other facilities, either permanent or temporary, of NCCC Inc., as are used by it in the performance of the Agreement. Damage incurred to the property of NCCC Inc. as a direct result of negligence or lack of maintenance on the part of the Food Service Company is a Non Allowable Expense charged directly to the Food Service Company.
3. The Food Service Company is required to establish preventative maintenance programs on all food service related equipment in accordance with manufacturers' recommendations to maintain equipment in current condition (normal wear and tear excepted) throughout the term of the Agreement. NCCC Inc., in consultation with the Food Service Company, will determine which preventative maintenance programs will require outside contracts, the cost of which shall be an Allowable Expense. Final authority in this regard rests with the President.
4. The Food Service Company will notify President when it is no longer economically feasible to repair any individual piece of kitchen equipment supplied by NCCC Inc.. If notification to the Food Service Company is made by the President that such equipment is in need of replacement, the Food Service Company will have thirty (30) days to remedy said condition to the reasonable satisfaction of the President. The cost of the replacement described herein (except for smallwares) shall be paid from the Equipment Addition and Replacement Reserve. Any replacement expenditure in excess of the 2.0% Equipment Addition and Replacement Reserve shall be NCCC Inc's responsibility and shall be done at NCCC Inc's sole discretion.
5. Replacement of Smallwares to the original inventory levels of 3,000 every day place settings. The actual replacement expense of up to 0.75% of Gross Receipts is considered an Allowable Expense and the Food Service Company will be solely responsible for replacements over 0.75% of Gross Receipts. The Equipment Addition and Replacement Reserve will not be used to replace Smallwares below 3,000 everyday place settings. A complete inventory will be conducted and submitted to the President by the Food Service Company annually, at which time the Food Service Company will ensure that purchases are made so that the proper Smallwares levels are maintained.
6. The Food Service Company shall maintain all food and beverage service facilities in a clean and sanitary condition in accordance and consistent with all applicable rules, demands and requirements of law, pertinent health and other authorities of

NCCC Inc. and the Province of Ontario and the City of Niagara Falls and any other department having jurisdiction.

7. The Food Service Company shall engage exterminators to control vermin and pests as is necessary or required by law. Such extermination services shall be supplied in all areas where food is prepared, dispensed or stored. Green solutions are preferred. This is an Allowable Expense.
8. The Food Service Company shall be responsible for the professional removal of grease to avoid any spillage. Collection will be made on a biweekly basis or more often when required. Grease traps will be pumped on a quarterly basis. This is an Allowable Expense.
9. All refuse and waste materials created by the Food Service Company's operations in all food service areas including café(s) and portable cafeteria(s), shall be promptly disposed of after each event by the Food Service Company directly into a compactor designated by NCCC Inc., from which it shall be removed by NCCC Inc.. The cost of this waste removal will be an allowable cost. This expense shall be a mutually agreed amount representing accurately estimated costs. NCCC Inc. will invoice the Food Service Company monthly as an Allowable Expense. Waste foods shall be kept in closed metal or plastic containers until removed from NCCC. Such removal shall be made promptly during and after the event to a central collection area designated by NCCC Inc., from which it shall be removed by NCCC Inc. The entire area, including the floor in the seating areas when a cafeteria operation is in place and the area, within a radius of 25 feet of each food service area, shall be kept free and clear by the Food Service Company from all nuisance and damage done to floors, walls, windows or other property in said radius by reason of the Food Service Company's operation in said areas. The Food Service Company shall employ the necessary personnel before, during and after the hours of any event to comply with these provisions. In the event that the Food Service Company does not sufficiently clean the stated area NCCC Inc. will clean the same and submit an invoice to the Food Service Company for services rendered as a Non-Allowable Expense. Nothing contained herein shall be construed to alter or affect any duty which the Food Service Company has or may have under applicable local, state or federal laws and regulations.
10. The Food Service Company will maintain on a continuing basis in a sanitary and clean manner the section of the receiving dock or area where food and beverages are delivered and will be responsible for the return of all pallets, storage containers, linens and other equipment used in the conduct of operating the food service that belongs to the suppliers.
11. The Food Service Company shall be responsible for the regular servicing of fire protection and fire extinguishing systems in the kitchen and food preparation areas to ensure they are fully operable. This is an Allowable Expense.
12. The Food Service Company will develop and adhere to a recycling program approved by President.

13. The Food Service Company shall be responsible for maintaining its office in a neat, clean and professional manner and for the regular cleaning thereof.

F. Responsibilities of The Food Service Company

- 1) The Food Service Company shall be responsible for all aspects of the food service operation, including, but not limited to, the following:
 - a) Upon award of the Agreement, the Food Service Company will assign a qualified representative to answer questions relating to the food service operation from Licensees and prospective users of NCCC. This will include menu development.
 - b) At a time to be mutually agreed to (4 to 9 months), prior to the opening of the NCCC, The Food Service Company will assign and relocate a Food and Beverage Manager to NCCC. The Food and Beverage Manager will have no additional operational responsibilities to the Food Service Company other than to manage the food service operations at NCCC.
 - c) The Food Service Company shall incorporate the sustainable field-to-table menus and marketing programs in place with FOOD Network Canada Chef Anna Olson.
 - d) Receiving all food, merchandise, supplies, and food equipment at NCCC food receiving area, and then moving these items to kitchen and storage in NCCC. The Food Service Company is responsible for providing all necessary equipment to properly move product from one location to another. The Food Service Company will not be permitted use of NCCC's pallet-jacks or forklifts, except with specific permission of the President.
 - e) Preparing and serving food and beverages in all areas of NCCC.
 - f) The Food Service Company shall have food and beverage outlets open and in operation before, during and after all events at times determined by the President.
 - g) Moving supplies and equipment from storerooms in NCCC to areas where such supplies and equipment are required for food and beverage preparation and service functions.
 - h) Unless otherwise directed by the President, the covering and draping of tables, placing of decorations (i.e., flags, balloons, drapes, flowers, wedding favors, table stands with numbers, etc.) on tables, cleaning and removing of all service ware and table cloths and draping at the completion of the function in areas where food service functions are held.
 - i) The Food Service Company shall provide decorations for coffee service, food stations, buffets, etc. to provide a "hotel like" atmosphere suitable for the area.

- j) It is specifically understood and agreed that NCCC Inc. shall be responsible for the setup and tear-down of all tables and chairs except those used for break service and those specifically required by the Food Service Company for serving and staging. These labor costs will be charged to the Food Service Company as an Allowable Expense.
- k) Delivering and dispensing all food, beverage, supplies, and other articles for portable concession stands and portable bars, portable cafeterias, and portable carts.
- l) The Food Service Company shall be responsible for coordinating the final hook-up of electricity, gas, water or drainage on all portable (temporary) stands. The NCCC Inc. staff will make hookups unless otherwise determined by the President. This is an Allowable Expense.
- m) The Food Service Company shall be responsible for the provision and cleaning of items required for event water services including, but not limited to, water pitchers, trays, ice and glasses. The Food Service Company shall set up and supply the water service for all tables and lecterns. The cost of supplying such service and equipment shall be an Allowable Expense.
- n) The Food Service Company shall be responsible for scheduling semi-annual inspections by NCCC Ins. appropriate public health officials in January and July of each year. Copies of the inspections shall be forwarded to NCCC Inc's President for review with the Food and Beverage President.
- o) The Food Service Company further agrees to operate within the framework of the NCCC event schedule. NCCC Inc. agrees, when possible, to build reasonable time periods into the event schedule for set-up and removal of the Food Service Company's equipment. However, if necessary, the Food Service Company must provide adequate staff to perform required set-up and removal to accommodate the NCCC schedule. Any use of NCCC Inc's staff to set up or remove the Food Service Company's equipment will be charged back to the Food Service Company as a Non-Allowable Expense.
- p) The Food Service Company is responsible for the development and execution of an acceptable Sales and Marketing Program for the catering and concessions services at NCCC. All advertising and promotional material requires the prior approval of the President before it is printed, published, or broadcast. The Food Service Company shall not use its corporate name or logo on any NCCC sales brochures, menus or uniforms, business cards, letterhead or other materials. The marketing program shall include participation in the web site maintained by NCCC Inc.

- q) The Food Service Company will pay all bills and payroll incurred in the normal operation of the Agreement according to established terms of credit.
- r) The Food Service Company will comply with all safety and disability requirements as well as all federal, provincial and local laws, regulations and ordinances.
- s) The Food Service Company shall provide not less frequently than on an annual basis, loss or claim runs under all insurances required in Section II, Article I.

G. Product To Be Sold and Prices

1. The Agreement shall give The Food Service Company the exclusive right, subject to other provisions of this RFP, to sell product of a food and beverage nature, including alcoholic beverages.
2. The Food Service Company will endeavor through its own sales efforts, its policies and procedures, the quality of the food and beverages it serves and the quality and experience of the people it employs at NCCC, to continually increase Gross Receipts.
3. The Food Service Company's exclusive rights shall extend to the food and beverage service needs of the patrons of NCCC as stated above only to the extent that the Food Service Company maintains availability and quality with competitiveness to other commercial vendors. Maximization of the use of the facilities of NCCC is the goal of the NCCC and all effort shall be made by the Food Service Company not to discourage use of NCCC facilities by reason of the Food Service Company's exorbitant pricing, unavailability of service, inferior quality or other non-competitive practices. NCCC Inc. reserves the right to intercede in the negotiations in those instances where NCCC Inc. determines that the Food Service Company is failing to provide the competitive and representative services required by this RFP. If the Food Service Company consistently fails to perform for a particular portion of the food and beverage services then NCCC Inc. may obtain service from other Vendors for such portion without terminating the Agreement, provided that such action does not prevent NCCC Inc. from proceeding with notifying the Food Service Company that it is in default and that the same is to be corrected as detailed in Section II Article J.
4. The Food Service Company recognizes that the quality of items sold and services performed at NCCC is a matter of highest concern and is the essence of the Agreement. All food, beverages and other items sold or kept for sale at NCCC shall be of first quality, wholesome and pure and must conform in all respects to all applicable federal, provincial and local health statutes, ordinances and regulations. No imitation, adulterated or misbranded article shall be sold or kept for sale and all merchandise offered for sale at NCCC shall be stored and handled with due regard for sanitation, and shall conform with the quality, type, brand, size, and weights as agreed upon and approved by the President. All food products sold to individuals through various outlets shall be prepared and handled to provide fresh, high quality products. The Food Service Company will only serve fresh brewed coffee; the use of instant, liquid, or freeze-dried coffee will not be permitted. Written policies shall be developed and adhered to regarding shelf life of all perishable merchandise. All merchandise kept for sale shall be subject to inspection and approval or rejection by the President. Any article rejected by the President as not being first quality, wholesome and pure shall be removed

from the premises and shall not be offered for resale. The Food Service Company will comply with industry standards of beer, wine, and other alcoholic beverages regarding quality, quantity, storage and handling.

5. President agrees to meet with the Food Service Company to review products to be sold and prices to be charged on an annual basis using August 1 as the review date. Prices shall be set by mutual agreement of the President and the Food Service Company; and in case of conflict, the decision of the President shall control. Whenever unique economic conditions result in unusual cost increases to the Food Service Company, President will consider a request by the Food Service Company for price changes at times other than the annual date specified above. The Food Service Company shall submit a detailed written price schedule for all items it proposes to sell showing size, weight, grade, cost, and price of item along with a price comparison sheet of the local market which shall be subject to final approval of President. All prices of all products submitted by the Proposer and accepted by NCCC Inc. shall be used as the basis for current and future pricing.
6. The Food Service Company shall provide products and their presentation of a quality and at prices at least consistent with those presently being offered locally in competing facilities.
7. Proposers must propose a food and beverage service that allows for competitive pricing, with service availability and capability for a 24 hour 365 days per year operation for all NCCC functions at all times to the extent convenient to the utilization of NCCC by its Licensees, show managers, and patrons. Sales by the Food Service Company from NCCC to persons and entities off the premises of NCCC shall be subject to the consent of the President.
8. NCCC Inc. reserves the sole right to grant advertising and sponsorship rights for food and beverage products consumed in NCCC. Pursuant to granting advertising and sponsorship rights, NCCC Inc. reserves the final right to specify any or all of the Food Service Company's product sources of supply; provided however, the Food Service Company shall, in its sole discretion, select the vendors of the supply sources and shall not be obligated to use sources of supply whose level of quality, services and/or prices are not competitive with the marketplace. The Food Service Company shall not execute any supplier contracts for supplies at NCCC, other than those cancelable on 30 days notice, without the written consent of NCCC Inc., which consent, may be arbitrarily withheld.
9. Should the Food and Beverage Company use it's contacts and influence to jointly sell sponsorships for food and beverages the Food Service Company shall be eligible to share in an agreed upon percent of the sponsorship dollars.

H. Records, Accounting and Auditing

- 1) All the Food Service Company's operations must conform with the laws, by-laws and regulations of NCCC Inc., the City of Niagara Falls, Province of Ontario, and the Federal Government. The Food Service Company shall be subject to policies and procedures, which may be set up by the President.
- 2) The Food Service Company must, as an Allowable Expense, procure and keep in force during the entire period of the Agreement all permits and licenses required by all laws and regulations of NCCC Inc. and the Province of Ontario .
- 3) NCCC Inc. will provide the Food Service Company the necessary computers, printers and software. Food Service Company will be on NCCC Inc. facilities management program (EBMS/Ungerboeck). Food Service Company will utilize this software package as their system. All files located within the Food Service Company's computers must be accessible through a direct interface with NCCC Inc's computers.
- 4) The Food Service Company shall maintain an original set of books and records of sales, receipts and inventory regarding operations at NCCC, all in accordance with generally accepted accounting procedures. Said records and procedures shall be sufficient to clearly reflect all direct and indirect costs of any nature incurred in the performance of the Agreement including original invoices of all materials brought on the premises. The Food Service Company shall also maintain payroll summaries, copies of payroll, tax returns, deposit receipts and bank statements.
- 5) The Food Service Company will provide the following reporting:
 - a) Revenue reports detailing the event name, event type, attendance, square footage utilized, and gross receipts by sales category generated by show on a weekly basis; this report will be supplied 48 hours after the completion of the established week.
 - b) Profit / Loss statement by event where food and beverage services are provided. Profit / Loss statement by event will be submitted 72 hours after the completion of each event.
 - c) The Food Service Company shall submit a written monthly profit/loss statement to the President no later than the 15th of each month covering the entire preceding month. An executive summary, variance report and financial analysis explaining the differences between actual financial results obtained and budget with a variance over 2.0% will accompany the profit/loss statement.
 - d) A month to date reconciliation report at the end of each accounting period.

- e) On a timeline consistent with NCCC Inc's needs, The Food Service Company shall prepare and submit for President's approval, a budget for the food, and beverage operations at NCCC. This budget shall include, but not be limited to, detailed revenue projections by event and by revenue source, as well as costs and other information required by NCCC Inc. to prepare its annual budget. The Food Service Company will submit along with its annual budget a marketing and operations plan.
 - f) President may prescribe the form of records to be kept by The Food Service Company in accordance with this provision. The Food Service Company shall, on reasonable demand, make available to President all records, books of account and statements maintained with respect to operations at NCCC. All records will be made available locally at the President's request within five (5) days of said request. The Food Service Company shall also permit designated agents of President to make periodic inspections of the operations of The Food Service Company at NCCC.
 - g) The Food Service Company will have an annual audit of the food service operation conducted by a certified public accounting firm selected by The Food Service Company and approved by the President no later than ninety (90) days after the end of each fiscal year, which audit is an Allowable Expense.
- 6) The President shall be entitled, at any time, to conduct his/her own inventory of products and equipment maintained at NCCC pursuant to the Agreement.
 - 7) The Food Service Company shall establish a separate commercial account at a bank approved by the President with a local branch in Niagara Falls Canada, through which all Gross Receipts under the Agreement shall be deposited and records of the Gross Receipts so deposited shall be kept in NCCC Inc. office of The Food Service Company.
 - 8) The President shall have the right to make a special audit, by auditors selected by the President, of the books and records required to be made and preserved locally by The Food Service Company. If such audit shall show a deficiency in payments for any period covered, in excess of 1%, the amount thereof plus interest at the highest legally allowable amount and the cost of the audit shall be paid by The Food Service Company upon demand by the President. The cost of the audit, deficiency in payment and interest will be a Non-Allowable Expense.
 - 9) The Food Service Company shall collect and promptly disburse all taxes required by Federal, Provincial and local authorities and shall pay any applicable taxes relating to or resulting from food service operations, equipment and inventory or The Food Service Company's use of NCCC. The Food Service Company shall be responsible for all sales, use and similar taxes on the sale of merchandise, purchase of supplies and the payment, under the Agreement.

I. Indemnity, Release, Insurance and Security

1) The Food Service Company Insurance - General

- a) The Food Service Company shall at all times enforce by adequate supervision and training of supervisory personnel a safe working environment for all employees including the supervision of all services which relate to the general safety and welfare of any persons exposed to the services performed under this Agreement by The Food Service Company.
- b) The Food Service Company agrees to fully cooperate with NCCC Inc. in any employee and public safety program sponsored by NCCC Inc.. The Food Service Company agrees to conduct all of its operations with due diligence and care for the safety of all persons at all times.
- c) A certificate of insurance, in the form satisfactory to NCCC Inc., evidencing the insurance coverage's required by this RFP shall be provided to NCCC prior to commencement of the Agreement. Throughout the term of the Agreement, The Food Service Company shall provide an updated certificate of insurance upon expiration of the current certificate.

2) Insurance Requirements

- a) The Food Service Company shall provide and maintain throughout the term of this Agreement and any extension thereof as an Allowable Expense the following insurance:
- b) Commercial General Liability Insurance on the "occurrence " form (not Claims Made) covering all operations by or on behalf of The Food Service Company providing insurance for bodily injury and property damage liability for the limits of liability indicated below and including coverage for:
- c) Premises and operations;
- d) Products and Completed Operations;
- e) Contractual Liability for Bodily Injury or Property Damage assumed by The Food Service Company under the Save Harmless and Indemnification Provision of its Agreement with NCCC Inc..
- f) Personal Injury Liability - with the contractual Exclusion deleted;
- g) Employees of The Food Service Company as Additional Insurers

- h) Liquor Law Liability including any liability there may be under any Ontario Liquor License Act..
 - i) Broad form Property Damage (including Completed Operations)
 - j) Cross Liability or Separation of Insurers clause
- 3) The limits of liability for the Commercial General Liability policy shall not be less than:
- a) \$5,000,000 per-occurrence limit.
 - b) \$1,000,000 for Personal Injury Liability
 - c) \$5,000,000 Aggregate for Products-Completed Operations
 - d) \$5,000,000 General Aggregate
- 4) The policy shall be endorsed to provide that the General Aggregate Limit applies separately to the NCCC.
- 5) Automobile Liability Insurance (Bodily Injury and Property Damage Liability) including coverage for all owned, hired and non-owned automobiles. The Limits of liability shall not be less than \$5,000,000 for each accident limit.
- 6) Workers' Compensation and Employer's Liability Insurance Workers' Compensation insurance shall be provided as required by any applicable law or regulation and endorsed (WC 00 01 06 A) on an "if any basis. Employer's Liability insurance shall be provided in amounts not less than:
- a) \$ 1,000,000 each accident for bodily injury by accident,
 - b) \$ 1,000,000 policy limit for bodily injury by disease, and
 - c) \$ 1,000,000 each employee for bodily injury by disease.
- 7) The Workers' Compensation policy shall be endorsed to provide that the insurance company waives its rights of subrogation against NCCC Inc., and the officers, representatives, agents and employees of NCCC Inc.
- 8) All insurance shall be provide by companies licensed / admitted in Ontario Canada and rated by A.M. Best as "A VIII" or better.
- 9) NCCC Inc., its Counsel and the officers, representatives, agents and employees of NCCC Inc. shall have no responsibility whatsoever to The Food Service Company with respect to any insurance coverage required herein, its procurement or absence thereof. The policies of insurance procured and maintained hereunder shall not affect The Food Service Company's liability to NCCC Inc., its Counsel and the representatives, agents and employees of NCCC Inc. for the performance of any obligation assumed by The Food Service Company under this Agreement.

- 10) Additional Insured Endorsement
- a) The Commercial general Liability policy shall be endorsed with the following endorsement:
 - b) Who is Insured (section II) is amended to include as an insured the persons or organization shown in the Schedule of this endorsement but only with respect to liability arising out of work or operations by or on behalf of The Food Service Company, or the use or occupancy of NCCC premises by or on behalf of The Food Service Company in connection with providing food and beverage services at NCCC.
 - c) The insurance extended by this endorsement for the persons or organizations shown in the Schedule shall apply as primary insurance and other insurance including Self Insurance and Self-Insured Retention for such person or organization shall be excess insurance only and shall not be called upon to contribute with this insurance.
- 11) Schedule
- a) Proof of Insurance Coverage
 - i) Each required insurance policy shall be evidenced by Proof of Insurance Coverage in the form of properly endorsed Certificates of Insurance and/or Policies as determined by NCCC Inc. and shall require that sixty (60) days written notice be given NCCC Inc. by Registered Mail Prior to cancellation or material change in such policy. All such notices must identify The Food Service Company as the vendor. Proof of all required insurance coverage shall be submitted to the President.
- 12) Subcontractor' Insurance (subcontractor to The Food Service Company)
- a) The Food Service Company shall also secure Certificates of Insurance as evidence that each subcontractor has in force and will maintain in effect at all times during the performance of work for The Food Service Company not less than the following coverage's and limits of insurance which shall be maintained with insurers and under forms of policies satisfactory to The Food Service Company and NCCC Inc..
 - b) Commercial General Liability Insurance on the "occurrence" form (not Claims Made) covering all operations by or on behalf of Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
 - i) Premises and operations:
 - ii) Products and completed operations:

- iii) Contractual liability insuring the obligations assumed by Subcontractor under its contract with The Food Service Company;
 - iv) Broad form property damage (including completed operations)
 - v) Explosion, collapse and underground hazards and ;
 - vi) Personal injury liability with the contractual exclusion deleted.
- c) The limits of liability for the Commercial General Liability policy shall not be less than:
- i) \$5,000,000 per occurrence limit
 - ii) \$1,000,000 for Personal Injury Liability
 - iii) \$2,000,000 Aggregate for Products-Completed Operations
 - iv) \$2,000,000 General Aggregate
 - v) The policy shall be endorsed to provide that the General Aggregate Limit applies separately to NCCC Inc.
- d) Automobile Liability Insurance (Bodily Injury and Property Damage Liability) including coverage for all owned, hired and non-Owned automobiles. The limits of liability shall not be less than \$5,000,000 each accident limit.
- e) Workers' Compensation and Employer's Liability Insurance. Workers' Compensation insurance shall be provided as required by any applicable law or regulation and endorsed (WC 00 01 06 A) on an "if any basis". Employer's Liability insurance shall be provided in amounts no less than \$1,000,000 each accident for Bodily Injury by accident \$1,000,000 policy limit for bodily injury by disease, and \$1,000,000 each employee for bodily injury by disease.
- f) All subcontractors' policies shall contain an endorsement providing that written notice shall be given to The Food Service Company and NCCC Inc. at least sixty (60) days prior to cancellation or reduction of coverage in the policy.
- g) Additional Insured Endorsement
- i) The Commercial General Liability policy shall be endorsed with the following endorsement:
 - ii) Who is Insured (Section II) is amended to include as an insured the person or organizations shown in the Schedule of this endorsement but only with respect to liability arising out of work or work or

operation by or on behalf of (show name of subcontractor) for The Food Service Company.

- iii) The insurance extended by this endorsement for the persons or organizations shown in the Schedule shall apply as primary insurance and any other insurance including Self Insurance and Self-Insured Retention for such person or organization shall be excess insurance only and shall not be called upon to contribute with this insurance.
 - h) Each contract between The Food Service Company and a subcontractor shall also contain the following “ Save Harmless and Indemnification” clause:
 - i) Subcontractor shall indemnify and hold NCCC Inc. and its officers, directors, agents, servants, employees, successors, and assigns harmless of and from any and all claims for personal injury, death or property damage, any other losses, damages, charges or expenses, including attorneys’ fees (whether at the trial or appellate level, or otherwise), witness fees, court costs and the reasonable value of any services rendered by any officer or employee of NCCC Inc., and any orders, judgments or decrees which may be entered, which arise or are alleged to have arisen out of, in connection with, or attributable to, Subcontractor’s acts or omissions in connection with its activities under this Agreement. The Subcontractor shall undertake at its own expense the defense of any action or claim which may be brought against NCCC Inc. for damages, injunctive relief or for any other cause of action or claim arising or alleged to have arisen out of, in connection with or attributable to, the foregoing and, in the event any final judgment therein should be rendered against NCCC Inc. resulting from the foregoing, the Company shall promptly pay the final judgment together with all costs relating thereto.
 - j) Subcontractor’s aforesaid obligation to hold harmless and indemnify under this agreement shall apply to any acts or omissions, or negligent conduct, whether active or passive, on the part of Subcontractor (its subcontractors or employees) or The Food Service Company, NCCC Inc. or any other party indemnified hereunder except that Subcontractor’s obligation to hold harmless and indemnify shall not be applicable to “Claims” arising from the sole negligence or willful misconduct of The Food Service Company, NCCC Inc. or any other party indemnified hereunder.
 - k) Subcontractor further agrees to investigate, handle, respond to, provide defense for and defend any such “Claim” at its sole expense and agrees to bear all other cost and expenses related The Food Service Company.
- 13) Indemnification and Hold Harmless

- a) The Food Service Company shall indemnify and hold NCCC Inc. and its officers, directors, agents, servants, employees, successors, and assigns harmless of and from any and all claims for personal injury, death or property damage, any other losses, damages, charges or expenses, including attorneys' fees (whether at the trial or appellate level, or otherwise), witness fees, court costs and the reasonable value of any services rendered by any officer or employee of NCCC Inc., and any orders, judgments or decrees which may be entered, which arise or are alleged to have arisen out of, in connection with, or attributable to, The Food Service Company's acts or omissions in connection with its activities under this Agreement. The Food Service Company shall undertake at its own expense the defense of any action or claim which may be brought against NCCC Inc. for damages, injunctive relief or for any other cause of action or claim arising or alleged to have arisen out of, in connection with or attributable to, the foregoing and, in the event any final judgment therein should be rendered against NCCC Inc. resulting from the foregoing, the Company shall promptly pay the final judgment together with all costs relating thereto.

J. Default and Termination

- 1) NCCC Inc. may declare the Agreement terminated in its entirety upon the happening of any one or more of the following and may exercise all rights of entry and re-entry with or without process of law, upon the premises occupied by The Food Service Company hereunder:
 - a) If the rentals, fees, charges or other money payments which The Food Service Company has agreed to pay NCCC Inc. hereunder, are unpaid after the date specified for such payments.
 - b) Discovery of fraud or deliberate, material, misrepresentation of financial or other records which results in underpayment of rentals, fees, charges or other money payments due.
 - c) If The Food Service Company has failed in the performance of any duty or obligation required to be performed hereunder.
 - d) Upon the happening of any act or omission which results in the suspension or revocation of any act, power, license, permit or authority which terminates the conduct of any of The Food Service Company's operations in NCCC or suspends it for any time in excess of five (5) days except, with respect to the license to sell and serve alcoholic beverages, if the suspension is in excess of two (2) days.
 - e) If the interest or estate of The Food Service Company under this Agreement is transferred to, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation other than a subsidiary or affiliate of The Food Service Company in a merger of a constituent corporation in a consolidation.
 - f) If The Food Service Company shall voluntarily abandon, desert, vacate or discontinue all or part of its operations in NCCC or any other action that result in a failure by The Food Service Company to provide the public and others with the services contemplated by the Agreement.
 - g) In the event The Food Service Company cannot perform its obligations under the Agreement because of a labor dispute, unless such dispute is the result of the Food Service Company's negligence or bad faith, such non-performance will not be considered a default; provided, however, that in the event of a labor dispute, NCCC Inc. may operate the concessions until the labor dispute is settled. During the period of operation by NCCC Inc., NCCC Inc. shall be entitled to use all facilities and equipment at NCCC and any supplies and inventory of The Food Service Company on hand and The Food Service Company shall not be entitled to any moneys received from such operations. In such event, NCCC Inc. agrees to pay The Food Service Company a sum equal to the cost of The Food Service

Company's supplies and inventory consumed by NCCC Inc. in such operation. In the event said labor dispute remains unresolved for a period in excess of thirty (30) consecutive days, NCCC Inc. retains the option to terminate the Agreement upon 30 days notice.

- h) In the event a decree or order by court having jurisdiction shall be issued
 - a) adjudging The Food Service Company bankrupt or insolvent; or b) approving as properly filed a petition seeking reorganization of The Food Service Company under any section of the Bankruptcy Act, as amended; c) ordering or approving the winding up or liquidation of The Food Service Company's affairs; or d) appointing a receiver or a liquidator or a trustee in bankruptcy for The Food Service Company or its property; if The Food Service Company shall institute proceedings to be adjudicated a voluntary bankrupt or shall consent to the filing of any bankruptcy or insolvency proceedings against it, or shall file a petition or answer a consent seeking a reorganization under any section of the Bankruptcy Act, as amended, or under any provincial insolvency law, or shall admit in writing its inability to pay its debts generally as they become due, or take any action in furtherance of any of the aforesaid purposes, or shall abandon the Agreement, then NCCC Inc. may immediately terminate the Agreement and all rights of The Food Service Company to continue to operate the concession thereunder. In the event of such termination, The Food Service Company shall be liable, but not in limitation, for all payments required to be made to NCCC Inc. up to and including said date of termination.
 - i) In the event of an emergency situation or natural catastrophe beyond the control of NCCC Inc. may terminate the Agreement upon five (5) days written notice. The type of the emergency situation or natural catastrophe contemplated shall include, but not be limited to, occurrences of the following: Conditions which render NCCC or any part thereof unsafe or unavailable for their intended use whether such conditions result from fire, storm, explosion, earthquake, flood, riot, civil commotion or otherwise.
 - ii) Acts or activities which, if not terminated quickly, may result in substantial damage to either the NCCC or its operations or in direct and substantial interference with the use of the NCCC.
- 2) NCCC Inc. may terminate the Agreement with 90 days written notice irrespective of whether or not the Food Service Company has met all obligations of the Agreement.
- 3) In the event The Food Service Company shall default in any of the payments, obligations or conditions set forth in the Agreement, the President may notify The Food Service Company of such default in writing.

- 4) Written notice referred to in this article shall be deemed delivered upon presentation to any person designated by The Food Service Company as the manager or, in the case of notice by The Food Service Company, the President or by mailing the same certified or registered mail to the address for The Food Service Company in the proposal, or the address listed in the Agreement.
- 5) Failure on the part of NCCC Inc. to notify The Food Service Company of default shall not be deemed a waiver by NCCC Inc. of NCCC Inc's rights on default of The Food Service Company and notice at a subsequent time will have the same effect as if promptly made.
- 6) Within five (5) days of receipt of notice of default from NCCC Inc., The Food Service Company shall correct such default if the default is with respect to any payment required to be made by The Food Service Company, or within ten (10) days of receipt of the notice of the default if it is of any other nature. In the event The Food Service Company fails to correct the default to the satisfaction of NCCC Inc. within the time specified, or such greater period as NCCC Inc. may permit, NCCC Inc. shall have all rights accorded by law, including the right to immediately terminate the Agreement. Such termination shall not relieve The Food Service Company of any liability to NCCC Inc. for damages sustained by virtue of any default by The Food Service Company.
- 7) The Food Service Company agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the Agreement, and in the event NCCC Inc. prevails, The Food Service Company shall pay all expenses of such action including NCCC Inc's legal fees and costs at all stages of the litigation.
- 8) Termination of the Agreement by NCCC Inc. upon default shall be sufficient grounds for the forfeiture of the bonds required to be posted by The Food Service Company, and the bonds shall so specify.
- 9) In the event that the Agreement is terminated upon default, NCCC Inc. may assume immediate control of the operation and all equipment installed at NCCC and NCCC Inc. may continue to operate the same until satisfactory arrangements may be reached with The Food Service Company concerning the default, or until NCCC Inc. shall obtain the services of another The Food Service Company entity.
- 10) Upon termination, The Food Service Company shall immediately remove its employees and property from the premises.