

GILGANDRA SHIRE COUNCIL

PUBLIC SWIMMING POOL FACILITY

KIOSK OPERATION AGREEMENT

THIS AGREEMENT made the **DATE** day of September 2019 between the GILGANDRA SHIRE COUNCIL on the one part and **NAME** of the other part
WHEREAS:

1. The Council is the Trustee of the Gilgandra Swimming Pool Facility for public recreation. The Facility consists of a 33-metre swimming pool, wading pool, together with changing rooms, kiosk and ancillary facilities.
2. The Council agrees to appoint **NAME** under this lease agreement to operate the Gilgandra Pool Kiosk Facility for the period from 8 October 2019 to 29 March 2020 (last Sunday in March) under the terms and conditions outlined in this agreement.

In this agreement unless the context otherwise expressly states or implies:

- i) "Council" shall mean the Gilgandra Shire Council.
- ii) "The Operator" shall mean the person appointed under this agreement to operate Council's Swimming Pool Kiosk.
- iii) "Senior Officer" means Council's Director Community Services or his nominee.
- iv) The expression "Kiosk" shall mean the kiosk and turnstile areas.
- v) "Facility" shall mean the Gilgandra Public Swimming Pool facility.

3. THE COUNCIL SHALL:

- i) Provide and maintain the items set out in Annexure A to this agreement.
- ii) Pay the Operator the contract amount of 10% of the total gate takings recorded by the Operator over the term of this contract (within two weeks of the pool closing) as the Operator is registered for GST purposes.
- iii) In recognition of the four free entry days, the entry fees for these days will be deemed to equal to the four other days with the highest rate of patronage.
- iv) Remit to the Operator the Operator's Proportion of the gate receipts at the end of the season.
- v) Maintain all plant, equipment, buildings and associated items in good working order for the proper function of the facility.
- vi) Provide all necessary insurance for the proper conduct of the Swimming Pool Facility other than public liability, workers compensation and employee entitlements for the proper conduct of the Kiosk.
- vii) Duly and punctually pay for all power supplied to or used or in connection with the refreshment kiosk and all other charges and outgoings incurred in, or incidental to, the proper conduct and working of the refreshment kiosk.
- viii) Provide a float for collection of admission charges.

4. THE OPERATOR SHALL:

- i) Commence duties on Tuesday, 2 October 2018 and cease duties on Sunday, 31 March 2019 subject to weather conditions, as determined by the Pool Senior Supervisor and Council's Senior Officer.
- ii) Give free access to any authorised Officer of the Council for the purposes of carrying out inspections or official duties.
- iii) Staff and operate the turnstiles at all times whilst the swimming pool facility is open to the public.
- iv) Record all turnstile readings and gate receipts on a daily basis on the record sheet supplied by the Council.
- v) Collect all monies for season ticket applications, ensuring applications are completed correctly, and distribute season ticket discs to patrons.
- vi) Ensure that no person enters the Facility otherwise than through the turnstiles except for patrons in wheelchairs and patrons pushing prams and other patrons as approved by the Senior Officer.
- vii) Ensure that no persons enter through the turnstiles without paying the proper fee as fixed by the Council or without production of a season ticket.
- viii) Ensure that no persons under the age of 10 years are admitted to the Facility without being in the immediate presence and under supervision of a responsible adult.
- ix) Collect all gate receipts and on a daily basis from Monday to Friday (or up to once every two days outside peak attendance periods) and remit to Council between the hours of 8.30am to 4.00pm Monday to Friday. The gate receipts for Friday, Saturday and Sunday shall be remitted to the Council on the following Monday.
- x) Have the sole trading rights at the Kiosk for the sale of confectionery, ice cream, soft drinks and like products, refreshments such as tea, sandwiches, cakes and the like and the sole rights of sale or hire of towels, swimming costumes, flotation devices, flippers, goggles and such additional items as may be approved by the Council. Note that Council cannot allow other organisations to sell food or drinks at the facility without prior consultation and approval of the Kiosk Operator.
- xi) Provide all cleaning materials disinfectants and cleaning equipment necessary for maintaining the kiosk in a clean and tidy condition.
- xii) Provide Council with an appropriate Australian Business Number.
- xiii) Be responsible for any insurance necessary for the carrying on of the Operator's business dealings, eg Workers' Compensation insurance.
- xiv) Provide Council with a Certificate of Currency for Public Liability Insurance to an amount of \$10 million prior to the commencement of the pool season.
- xv) Refer to Council's Manual of Procedures for further information on daily operations.

5. The Operator will be responsible for the supplying of furniture and fittings except those provided by the Council at the commencement of the Agreement.

6. The Operator shall ensure that the kiosk is well stocked and kept clean and in accordance with the standards laid down by the Council for premises where food is sold, prepared or made. If food is prepared or packaged at the kiosk then the Operator shall ensure that it complies with the food hygiene regulations and it shall keep the Council fully indemnified in relation to any loss or damage sustained by the Council as a result of or in connection with the Operator's running of the kiosk.

Should Council issue to the Operator any notice in respect of the Kiosk or the preparation, packaging or sale of food therein then the Operator shall comply with such notice forthwith and should such notice not be fully complied with within seven (7) days, Council may order the Operator to close the kiosk for such period as he may specify in a further notice and Council shall in no circumstances be liable for or accountable to the Operator for any loss of profit or any loss or damage suffered by it as a result of the issue of either notice mentioned in this clause. If the Operator undertakes any upgrading of the kiosk or fittings/fixtures, whether associated with complying with the food hygiene regulations or not, at the termination of the Contract she shall not be entitled to remove the same, nor be entitled to receive any compensation.

7. Under no circumstances whatsoever shall any beverage or food containing alcohol or other drugs be stocked.
8. Under no circumstances shall bottles or glass containers be permitted to be sold from the kiosk.
9. The Operator shall trade on his/her own account in the kiosk and shall be entitled to all profits but liable for all losses in relation thereto. The Operator hereby indemnifies the Council in respect of all damage claims, costs, expenses and demands arising out of this contract thereof.
10. The Operator agrees to permit and allow the Council by its officers, servants, agents or workmen to enter the refreshment kiosk at all reasonable times to examine the same and make repairs, renewals and alterations as the Senior Officer shall deem necessary for the safety, preservation or improvement of the same.
11. The Operator may install additional kiosk equipment approved by the Senior Officer, however any structural alterations being necessary for such installation shall be at the Operator's expense and he/she shall be required to make good any damage caused by such installation and where directed by the Senior Officer shall remove and make good such installation at the termination of this agreement.
12. The Operator will ensure that all persons who are employed at the Facility are suitably clad in clean clothing and conduct themselves in a professional and polite manner.
13. The contractor shall abide by Council's policies and procedures including Council's code of conduct and social media policy.

14. ADMISSION FEES

Admission fees shall be received by the person operating the kiosk. The entry fees (including GST) for the 2019/2020 swimming season are:

Single Entry	\$3.00
School Entry	\$1.00
School holidays (17 December 2016 – 29 January 2017 incl)	\$1.00
Season Ticket - Single	\$110.00
Season Ticket - Family (as per medicare card)	\$210.00
Half Season Ticket – Single	\$68.00
Half Season Ticket – Family (as per medicare card)	\$110.00

Four promotional activity days with free admission are also scheduled.

15. OPENING HOURS OF KIOSK & FACILITY TO THE PUBLIC

The Kiosk and Facility will be opened to the public for the hours set out below, subject to inclement weather (clause 15).

Month	Monday to Friday	Weekends
October	3pm – 6pm	12 noon – 6pm
November	3pm – 6pm	12 noon – 6pm
December (non school holidays)	12 noon – 7pm	10am – 7pm
Xmas School holidays	10am – 7pm	10am – 7pm
February to March	3pm – 6pm	12 noon – 6pm

Council has delegated authority to the General Manager to vary the pool opening hours to suit climatic conditions and community activities.

16. INCLEMENT WEATHER

- i) During periods of inclement weather the facility shall be closed. A decision to close the facility for this purpose shall be done in consultation with the Pool Supervisor on duty. The decision of Council or Council's Senior Officer to close the facility shall be final and binding on the Kiosk Operator.
- ii) During periods of very hot weather or unseasonal weather and, where patronage so dictates, the hours accumulated due to inclement weather may be used to extend the times the facility is open to the public or extend the season beyond 29 March 2020.

A decision to extend daily operating hours or, the swimming season shall be made by Council in consultation with the Pool Supervisor.

17. SPECIAL GROUPS

The Facility will be open to special groups as determined by the Pool Supervisor in conjunction with Council's Senior Officer.

18. TERMINATION

This contract may be terminated before 29 March 2020 in the event of any of the circumstances as specified below:

- i) by the General Manager and the Operator agreeing in writing.
- ii) by the Operator, with two months notice in writing.

The Council shall be entitled to terminate this Contract at any time forthwith by notice if:

- i) The Operator or his/her servants is guilty of gross breach of faith or gross neglect or gross misconduct or of any act or conduct calculated to or which shall in fact cause any damage or discredit to the premises;
- ii) The Operator or his/her servants is guilty of dishonesty whether relating to the conduct of the premises or otherwise or shall not act at all times in good faith towards the Council;
- iii) The Operator or his/her servants is guilty of any breach or non-observance of any term of this agreement.

IN WITNESS whereof the parties have hereunder placed their signatures.

General Manager

Director Community Services

Kiosk Operator

Witness

Print Name:

ANNEXURE "A"

Pool Kiosk

- 1 Drinks Refrigerator - double door
- 1 Westinghouse 210 Freezer
- 1 Westinghouse 320 Freezer
- 1 Kelvinator 332 Refrigerator
- 1 Westinghouse 393 Silhouette Freezer
- 1 Crown 20 litre Urn
- 1 Mop bucket and mop
- 1 Apollo wall clock
- 1 Flat Screen TV – Wall mounted
- 1 Printer/Scanner HP1050 Deskjet, Serial No. CN09H2C22N