

## **CLUB CATERING TERMS OF AGREEMENT**

All food service and catering providers (“Caterer(s)”) approved by \_\_\_\_\_ (“Club”) to offer catering services (the “Services”) on Club’s premises must comply with the following terms and conditions (“Terms of Agreement”).

### **1. Caterer Representations & Warranties**

- 1.1 Standards; Compliance with Laws and Policy.** Caterer will use its best efforts, skill, judgment, and abilities to perform the Services and to further the interests of Club in accordance with Club’s requirements and procedures, in accordance with the highest standards of Caterer’s profession or business and in compliance with all applicable national, federal, state, and municipal, laws, regulations, codes, ordinances and orders (collectively, the “Applicable Laws”). In addition, Caterer will perform the Services and conduct all its operations on Club’s premises in conformity with all applicable Club rules. Without limiting the foregoing, Caterer will comply, and cause its employees, representatives, agents, and subcontractors to comply, with Club’s rules and policies related to personal health, security, environmental quality, safety, fire prevention, noise, smoking, parking and access restrictions.
- 1.2 Licenses, Registrations and Permits.** Caterer warrants, represents, and agrees that Caterer and all individuals assigned to provide Services will obtain and maintain, at Caterer’s own cost, any and all approvals, licenses, filings, registrations and permits required by Applicable Law for the performance of the Services including, but not limited to, all required food handling permits.
- 1.3 Catering Guidelines.** Caterer will perform the Services in accordance with any and all Club Catering Guidelines promulgated by Club.

### **2. Safety & Sanitation**

- 2.1 Compliance with Law.** Caterer will demonstrate compliance with all Applicable Laws related to safety, health, sanitation, and use of food service areas and equipment.
- 2.2 Response to Emergencies.** Caterer will immediately respond to and take corrective action for, all emergencies associated with the Services, including but not limited to chemical spills, or fuel/motor oil spill. Caterer will ensure that there is no danger to the public health, safety or welfare due the Services provided herein.
- 2.3 Sanitation and Cleanliness.** Caterer will at all times maintain clean, orderly, and sanitary conditions (satisfactory to Club in all respects) in all kitchens, food preparation areas, service areas, loading dock areas, cooking equipment, floors, chairs, tables, and any other locations associated with the Services. Caterer will leave Club's premises in as clean a condition, or cleaner condition, than existed prior to the Caterer's entry on to Club's premises. Caterer will not do or permit anything to be done on the Club's premises beyond the scope of the Services unless approved in writing in advance by Club.

Should Club be required to utilize its personnel or another contractor to remove any food, utensils, dinnerware, trash, or otherwise perform any repairs or cleaning as a result of Caterer's non-performance of services (collectively, "**Club Maintenance**"), then Caterer will be invoiced for Club Maintenance costs, and Caterer will promptly pay such invoice.

#### **4. Access to Club Premises.**

- 4.1 Limited Access.** Caterer, its employees, permitted subcontractors and agents, will have the right to use and access only those Club facilities that may be reasonably necessary to perform its obligations hereunder and will have no right to use or access any other facilities of Club. Club will provide to Caterer reasonable access to the Club's facilities, and will otherwise cooperate with Caterer, only as reasonably necessary for Caterer to perform its obligations under these Terms of Agreement.
- 4.2 Identification and Refusal of Entry.** Caterer acknowledges that Club has the right to (a) require identification from any person on the Club's premises, (b) refuse entry to persons having no legitimate business on the Club's premises, and (c) eject any undesirable person refusing to leave peaceably on request. Caterer will cooperate with all authorized Club representatives in the exercise of Club's rights described in the preceding sentence.
- 4.3 Conduct on Premises.** Caterer represents, warrants and agrees that it will conduct all of its activities on Club's premises in a manner that (1) does not disturb or interfere with Club's business; (2) does not interfere with entry to or exit from a building, structure, or facility; (3) does not interfere with the flow of pedestrians or vehicular traffic on sidewalks or streets or at places of ingress and egress to and from Club property, buildings, or facilities; (4) does not harass, or intimidate any person or persons; and (5) provides appropriate protection for the privacy of Club's members and staff, including without limitation, Caterer's adherence to all applicable laws and industry standards for preserving the confidentiality of personal financial information and personal identification numbers.
- 4.4 Caterer Vehicles.** All Caterer's vehicles and equipment associated with the Services will be kept clean and maintained in good working condition. All such vehicles and equipment will be in compliance with all Applicable Laws. All Caterer's vehicles will also be in compliance with Club Parking rules.

#### **5. Alcoholic Beverages**

- 5.1 Required Permits, Licenses, Registrations.** For Services including alcohol, Caterer warrants, represents, and agrees that Caterer and all individuals assigned to provide Services will obtain and maintain, at Caterer's own cost, any and all approvals, licenses, filings, registrations and permits required by the state alcoholic beverage authority.
- 5.2 Club Approvals and Procedures.** Caterer represents, warrants and agrees that alcoholic beverages will be (a) served and sold in completion of the Services only when service of alcohol has been approved in writing by Club prior to the specific catered event.

- 5.3 Certified Training.** Caterer will require that all employees serving alcoholic beverages in completion of the Services have prior certified server training and provide proof of training at each function.

## **6. Fiscal Arrangements and Reporting**

- 6.1 Fees.** Caterer will provide a discount off of its standard menu pricing for the Club. With the exception of specific pricing required for customized menu items, Caterer will not charge Club any service fees, gratuity fees, or any other fees unless such fees are expressly described on Caterer's published price menu.
- 6.2 Invoice Documentation and Payment.** All invoices for Services will be payable to Caterer within thirty (30) days after receipt of invoice and acceptance of Service by Club. Each invoice will be accompanied by documentation listing Caterer's fees, standard menu price, and the provided discount. Caterer's will provide with its invoice such other documentation as reasonably requested by Club, including Caterer's fee quote provided to Club prior to the provision of Services. Payment for Services will not be unreasonably withheld or delayed. If Club disapproves any amount submitted for payment by Caterer, Club shall give Caterer specific reasons for disapproval in writing.

## **7. Personnel**

- 7.1 Provision of Personnel & Customer Service.** Caterer will provide a staff of properly trained and experienced personnel to ensure satisfactory performance of the Services. Caterer will assign to the project a designated representative who will be responsible for the administration and coordination of the Services.

All staff assigned by Caterer to perform the Services will maintain the highest standards of courtesy, service, and professionalism in the performance and completion of the Services. Caterer will train its employees in appropriate handling of any customer requests and complaints. Caterer will (i) treat all customers with respect and fairness; (ii) work diligently to resolve all customer complaints or concerns to the customer's satisfaction. Any unresolved customer service complaint will be referred to the Club's General Manager or his or her designee ("**Club Representative**"). Caterer and the Club Representative will in good faith discuss possible resolutions for such a complaint.

- 7.2 Supervision.** Caterer will provide adequate, competent supervision of its employees in completion of the Services. Neither Club nor any other representative of Club will supervise Caterer's employees or agents performing the Services; provided, however, the Club's designated representatives will be available to Caterer to answer questions and provide necessary information.
- 7.3 Employee Conduct.** Caterer will require all of its employees and personnel to adhere to Applicable Laws and all Club Rules. Caterer will perform the Services without interfering in any way with the activities of Club's members, staff, visitors or invitees.
- 7.4 Identification.** In completion of the Services, all of Caterer's personnel will wear

identification satisfactory to Club in all respects.

- 7.5 Responsibility for Individuals Performing Services; Criminal Background Checks.** Each individual who is assigned to perform Services will be an employee of Caterer or an employee of a permitted subcontractor engaged by Caterer. Caterer is responsible for the performance of all individuals performing any Services. Prior to commencing the Services, Caterer will have an appropriate criminal background screening performed on all such individuals. Caterer will determine on a case-by-case basis whether each individual assigned to perform the Services is qualified to provide such services. Caterer will not knowingly assign any individual to provide Services on Club's premises who has a history of criminal conduct unacceptable for a Club campus, including violent or sexual offenses. Prior to providing Services, Caterer will provide to the Club Representative written certification of compliance with this Section.

## **8. Indemnification**

**CATERER WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS CLUB AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS COSTS, DAMAGES, AND LIABILITIES, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CATERER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR OR SUPPLIER OF CATERER IN THE EXECUTION OR PERFORMANCE OF THE SERVICES.**

## **9. Insurance**

- 9.1 Minimum Insurance.** Caterer, consistent with its status as an independent contractor, will carry at least the following insurance in such form and with such companies as Club finds reasonably acceptable in all respects, and in the following minimum amounts:
- (a) Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limit of not less than One Million Dollars (\$1,000,000) per accident or disease. Policies must include All States Endorsement and a waiver of all rights of subrogation and other rights against the Club;
  - (b) Comprehensive General Liability insurance, including Blanket Contractual Liability, Broad Form Property Damage, Personal and Advertising Injury, Completed Operations/Products Liability, Medical Expenses, Interest of Employees as additional insureds and Broad Form General Liability Endorsements, for at least One Million Dollars (\$1,000,000) per occurrence on an occurrence basis;
  - (c) Liquor Liability with minimum limits of \$2,000,000 per each single occurrence.
  - (d) Comprehensive Automobile Liability Insurance covering all owned, non-owned or hired automobiles to be used by Caterer, with coverage for at least One Million Dollars (\$1,000,000) Combined Single Limit Bodily Injury and Property Damage.

- (e) Employee Crime Insurance to protect the assets, property, and contract earnings due Club under these Terms of Agreement, of not less than One Million Dollars (\$1,000,000) per claim.

All such insurance policies, with the exception of Workers' Compensation and Employer's Liability, will be endorsed to designate Club and its affiliates, and their respective regents, officers, employees and agents as an Additional Insureds with respect to liability arising out of performance of Caterer's duties and obligations under these Terms of Agreement, and will provide that the policies will not be canceled until after thirty (30) days' unconditional written notice to Club, giving Club the right to pay the premium to maintain coverage. If Caterer fails to pay any of the renewal premiums for expiring policies, Club will have the right to make such payments and, at Club's option, collect such amounts from Caterer or set off the amount thereof against any payment due to Caterer by Club.

These insurance coverage's and limits are to be considered minimum requirements under these Terms of Agreement and will in no way limit the liability or obligations of Caterer under these Terms of Agreement.

**9.2 Evidence.** Caterer will deliver to Club:

- (a) Certificates evidencing the existence of all such insurance promptly after the execution and delivery hereof and prior to the continued or additional performance of any Services; and
- (b) Replacement certificates not less than thirty (30) days prior to the expiration of any such insurance. If, however, Caterer fails to pay any of the renewal premiums for the expiring policies, Club will remove Caterer from its preferred Caterer list.

Such Certificates will name Club as an Additional Insured, with the exception of Workers' Compensation and Employer's Liability, and will provide that the policies will not be cancelled until after thirty (30) days' unconditional, unqualified written notice to Club, giving the Club the right to pay the Premium to maintain coverage.

**9.3 Period.** The insurance policies required in Terms of Agreement will be kept in force for the periods specified below:

- (a) Commercial General Liability Insurance and Business Auto Liability, will be kept in force until receipt of final payment by the Caterer;
- (b) Workers' compensation Insurance will be kept in force until the Caterer's obligations have been fully performed and accepted by Club in writing.

Caterer will provide Club a full and complete copy of any insurance policy promptly upon request by Club, and without charge to Club.

**10. Limitation of Liability**

Except for Club's obligation (if any) under these Terms of Agreement to pay Caterer certain fees,

Club will have no liability to Caterer or to anyone claiming through or under Caterer by reason of the execution or performance of the Services or these Terms of Agreement. Notwithstanding any duty or obligation of Club to Caterer or to anyone claiming through or under Caterer, no present or future affiliated enterprise, subcontractor, agent, officer, director, employee, representative, or attorney of Club, has or will have any personal liability to Caterer or to anyone claiming through or under Caterer by reason of the execution or performance of the Services or these Terms of Agreement.

**11. Additional Statutory & Regulatory Provisions**

**11.1 Governing Law; Venue.** These Terms of Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State and county in which the Services are performed, will be the proper place of venue for suit on or in respect of these Terms of Agreement.

**11.2 Confidential Information; Public Information.** All information owned, possessed or used by Club that is communicated to, learned, developed or otherwise acquired by Caterer in the performance of services for Club, that is not generally known to the public, will be confidential and Caterer will not, beginning on the date of first association or communication between Club and Caterer and continuing through these Terms of Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Caterer's own benefit or the benefit of another, any Confidential Information, unless required by Applicable Laws. Except when defined as part of the Services, Caterer will not make any press releases, public statements, or advertisement referring to the Services or the engagement of Caterer as an independent contractor of Club, or release any information relative to the Services for publication, advertisement or any other purpose without the prior written approval of Club. Caterer will obtain assurances similar to those contained in this Section from employees, representatives, agents, and subcontractors retained by Caterer.

Caterer acknowledges that it has received, read and understand these “Catering Terms of Agreement. By signing below Caterer agrees to be bound by the terms and conditions as set forth above.

Caters Company’s Name \_\_\_\_\_

Caterers Signature \_\_\_\_\_

Date \_\_\_\_\_