

PICK-A-PECK KITCHENS FACILITIES USE AGREEMENT

THIS KITCHEN FACILITIES USE AGREEMENT (“Agreement”) is made as of _____ (the “Effective Date”) by and between Brubco LLC (DBA: Pick-A-Peck Kitchens, hereinafter “Provider” and _____ (hereinafter “Client”).

RECITALS

A. Provider will provide to Client the use of commercial kitchen facility held for rental to qualified users. Kitchen facility is located at 463 Teegarden Avenue, Yuba City, California 95991 (the “Site”), and is more particularly described on Schedule “A” to this Agreement as “Kitchen”.

B. Client desires to rent kitchen facility or facilities described and contracted for in this Agreement and located at the Site under the terms and conditions described herein.

NOW THEREFORE, in consideration of the mutual agreements made herein, Client and Provider agree as follows:

1. Conditional Use. So long as Client has complied with all of the terms and conditions of this Agreement, and for so long as Client shall continue to so comply, Provider grants to Client the nonexclusive right and license to use the kitchen facilities described in Section 2 below, for the uses, during the times mutually agreed upon, and in consideration of the rental payments and other promises made herein.

2. Basic Rental Information. The following information is the “Basic Client Information” and the matters set forth herein represent material terms of this Agreement:

A. Facility Rented: According to expectations and agreements indicated on Schedule “A” and Schedule “B”.

B. Period of Use: The rental time period is defined as and referred to as the “Period of Use” elsewhere in this Agreement.

C. Cleaning Deposit: Two hundred dollars (\$200.00). Refundable based on compliance with all cleaning requirements stated herein.

D. Equipment Fee: Non-refundable fifty dollars (\$50.00).

E. Security Deposit: The Provider will, at their discretion, charge a nonrefundable security deposit equal to 30% of the total cost of the rent upon signing of contract and confirmation of rental date.

F. Reservation: Reservations are confirmed upon receipt by Provider of the Cleaning Deposit. Reservations remain valid subject to compliance with this Agreement and the receipt by Provider of (i) written proof of insurance in a form satisfactory to Provider, (ii) written proof of ServeSafe sanitation certification in a form satisfactory to Provider not later than seven (7) days

prior to the Period of Use, and (iii) confirmation of registration with Sutter County Environmental Services Department for all required permitting. The Cleaning Deposit will be returned within three (3) days after the end of the Period of Use provided Client has complied with this Agreement.

3. Rental Charge and Deposit. Client agrees to pay the Deposit(s) set forth in 2) C, 2) D and 2) E above, refundable subject to the terms and conditions set forth above. In compensation for rental hereunder during the "Period of Use" Client shall pay the amount based on the rental time and rate documented in Schedule A for each use. In addition, Client agrees to pay to Provider, for any period before or after the Period of Use during which Client, its equipment, materials, product or personnel are present at the Site, (i) the applicable rental rate for the portions of the Site so affected as the rate is published as the regular rental rate for the facility on the date in question, and (ii) the amount of any direct or indirect loss, cost, claim, liability or expense incurred or suffered by Provider and/or its customers and users by reason of the lack of readiness for use of the portions of the Site so affected. The full amount of the Rental Charge for the Period of Use shall be paid by Client to Provider not later than seven (7) business days prior to the Period of Use. Failure to meet these criteria shall result in forfeiture of the Security Deposit and cancellation of the reservation.

4. Nature and Conditions of Use. Client shall use the Facilities for the sole and exclusive purpose of preparing food for service either on site or at a location other than the Site in compliance with all County of Sutter Environmental Health Department laws and sound food handling practices. Client shall vacate the Site not later than the end of the agreed upon Period of Use, leaving the Site and the Facilities in a clean condition, as "clean condition" is defined according to the policies and procedures of Provider. Client shall comply with all applicable laws with respect to its use of the Facilities, its presence at the Site, its service and the consumption of any food prepared at the Site, and all laws, rules and regulations with respect to food safety and sanitation as may govern the preparation of food at the Site during the Period of Use. Client shall take good care of the Facilities and shall comply with the terms and conditions of any leases, licenses or other agreements relating to the Facilities. Client shall comply with all of Provider's policies and procedures regarding access to and use of the Facilities, including, without limitation, procedures for the cleaning, hygiene and physical security of the Facilities. Not later than seven (7) days before the commencement of the Period of Use, Client will execute and deliver to Provider the form of Acknowledgment attached hereto as Schedule C (3), confirming that Client has acquired all necessary legal documents for rental and will bring the kitchen to sanitary condition prior to the commencement of food preparation at the Site.

5. Management and Scheduling. Provider retains the exclusive right, in its sole discretion, to manage and schedule the Site, including, without limitation, the establishment of appropriate policies and procedures for use of the Site. Client agrees to comply with such policies and procedures as they are adopted and updated from time to time by Provider. Provider retains unilateral discretion with respect to the identification and selection of users for the Site for times and uses other than those contracted for herein. Client shall indemnify, hold harmless and defend Provider for, from and against any claim, cost, liability, or expense related to or arising out of Client's failure to conform to the selection or scheduling of Client by Provider which impacts the selection or scheduling of other users of all or a portion of the Site, without

regard to the nature of any such claim, cost, liability, or expense. Except as agreed in writing by the parties hereto, Provider shall have no obligation, and Client shall have no right, to make any improvements or changes to or involving the Facilities. In providing the Facilities to Client hereunder, Provider shall have no obligation to pay any amount (other than amounts to be reimbursed by Client in accordance with this Agreement) or incur any other obligation or liability in order to permit its provision of the Facilities. Upon Provider's request, Client shall discontinue use of and remove particular equipment and other items placed at the Site by Client. All property, real or personal, or any interest therein, located at the Site shall be and remain the property of Provider, except such property which Client brought to the Site for Client's personal use, and Client shall have no rights or interests therein, or in any other, equipment, furniture, products, supplies, data, writings or other property of Provider.

6. Included Items and Services. Except as set forth in this Section, no supplies, products, labor, services, equipment or other items are guaranteed for use by Client. In addition to the provision of access to the Facilities pursuant to this Agreement, Provider will provide to Client dish sanitizer, dish soap, cleaning supplies including sanitizer, mops, floor cleaner, garbage bags, and utilities normally supplied to the Site at no additional charge.

7. Costs of Operation. Except as otherwise provided in this Agreement or as otherwise agreed in writing by Provider and Client, Provider and Client shall each be responsible for any costs and expenses it incurs in connection with the performance of this Agreement or operation of its business.

8. Insurance. Client shall procure and maintain, at its expense, insurance as required by Provider and all other insurance, if any, required by applicable law. All insurance procured by Client pursuant to this Agreement must be procured from an insurer or insurers approved by Providers, which approval shall not be unreasonably withheld. Such insurance shall name Provider as additional insured and loss payee where applicable to the Facilities and the Site. All liability policies shall be primary without right of contribution from any insurance carried by Provider. Client shall furnish to Provider endorsements and certificates evidencing the coverage required above no less than seven (7) days prior to use of Facility.

9. Indemnity. Client shall defend, indemnify and hold Provider, its officers, agents and employees harmless from any liability, loss, claim, action, damage, cost and expense (including, without limitation, reasonable attorneys' fees and court costs) arising out of (i) breach, or any allegation of a breach, by Client pursuant to this Agreement (ii) fault or negligence, or any allegation of fault or negligence, of Client, its employees or agents, (iii) Client's access to or use of the Facilities, damage to any property or injuries, sickness or death of any person caused by, or alleged to be caused by, any work or operations performed by Client or any other entity under or by reason of this Agreement or which damage, injury, sickness or death occurs on, in or about, or is claimed to have occurred on, in or about the Site, or relate to, or is claimed to relate to, access to or use of the Facilities. The provisions of this Section 9 shall survive termination of this Agreement for any reason.

10. Acceptance. Client hereby acknowledges that it has been offered the opportunity to independently examine and evaluate the Facilities and shall continue to do so throughout the

term of this Agreement. Client further acknowledges that Provider has made no attempt to make the Facilities useful or fit for any purpose for any particular Client, or for uses other than those intended by Provider. THEREFORE, CLIENT ACCEPTS THE FACILITIES "AS IS" AND PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, SUITABILITY, OR FITNESS, FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE FACILITIES, OR RESULTS TO BE DERIVED FROM THE USE OF THE FACILITIES, BY CLIENT OR OTHERS. The provisions of this Section 10 shall survive termination of this Agreement for any reason.

11. Forces Majeure. Provider shall be excused from performance pursuant to this Agreement for any period it is prevented from performing in whole or in part, as a result of an act of God, war, civil disturbance, court order, labor dispute or other cause beyond its reasonable control. And such nonperformance shall not be a ground for liability to Provider.

12. Assignment. Provider may, at its option, assign this Agreement to subsequent purchaser(s) of the Site. Client may not assign their interest under this Agreement voluntarily or by operation of law without first obtaining Provider's written consent, which consent shall not be unreasonably withheld.

13. Termination. Provider can terminate this Agreement at any time for any purpose. Provider shall give Client thirty (30) days written notice of the date of termination. Provider shall have the right, at any time during the Period of Use and term described in Schedule "A", to terminate this Agreement immediately by written notice to Client upon a breach of this Agreement by Client or upon a violation by Client, or any of its employees or agents, of any law, rule or regulation or ordinance. Any early termination under this Section shall not release Client from the payment of any sum then due to Provider or from any claim for damages or rent previously accrued or then accruing against Client. Upon termination or expiration of this Agreement, Client shall surrender use of the Site, remove all personal property, and leave the Site, including any Provider-owned fixtures, in a neat and clean condition with no damage thereto.
Client's initials: _____

14. Incorporation of Recitals and Schedules. The Recitals and each Schedule attached hereto are hereby incorporated herein by reference.

15. Miscellaneous. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No modification hereof shall be binding unless executed in writing by all of the parties. No waiver shall be deemed to constitute a waiver of the same or any similar provision in any contemporaneous or subsequent circumstance. No waiver shall be binding unless executed in writing by the party making the waiver. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument. This Agreement shall bind and inure to the benefit of the parties to it and their respective heirs, legal representatives, successors and assigns. If any legal action or other arbitration or proceeding is brought for the enforcement of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred

PICK-A-PECK KITCHENS FACILITIES USE AGREEMENT

in the action or proceeding, in addition to any other relief to which it or they may be entitled. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

To Provider:

Brubco LLC DBA: Pick-A-Peck Kitchens
1051 Shotwell Street
San Francisco, California 94110

To Client:

Any party may change its address for purposes of this paragraph by giving the other parties written notice of the new address in the manner set forth above. This Agreement shall be construed in accordance with and governed by the laws of the State of California. If any provision of this Agreement, or any portion of such provision is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement shall be construed to remain full valid, enforceable, and binding upon the parties.

IN WITNESS WHEREOF, the parties to this Agreement have duly executed it on the day and year set forth herein below.

Provider Name, Title

Provider Signature

Client Name, Title

Client Signature

Client email

Client phone number