

# Terms & Conditions

This Catering Services Agreement (the "Services Agreement") is entered into by and between Big Eight Concessions, LLC ("Company"), and you ("Customer"), effective on the date payment was made (the "Effective Date"). Customer is retaining Big Eight Concessions to cater Customer's service events (each, a "Catering Service"). Big Eight Concessions may retain the services of one or more food vendors ("Subcontractors") to cater each Catering Service. Big Eight Concessions and Customer are sometimes individually referred to as "Party" and collectively referred to as the "Parties."

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

- 1. Service Invoice.** Prior to each Catering Service, Big Eight Concessions will deliver to Customer a Catering Proposal (the "Service Invoice"). Each Service Invoice will include the terms of service for each Catering Service, including without limitation, (i) the date and time of Catering Service, (ii) the Catering Service's location, (iii) the number of servings (the "Servings"), (iv) a description of entrée choices, (v) the cost to be charged to the Customer for the Catering Service (including applicable sales tax for residents of CA, FL and TN) (the "Total Cost"), (vi) the food Vendor(s) providing catering for the Catering Service (the "Food Vendor" and, collectively, "Food Vendors") and (vii) the amount to be charged for the number of additional servings that exceed the Servings (the "Overage Cost").
- 2. Fees and Payment.** In consideration of the rights granted and services provided by the Company hereunder, Customer hereby agrees to pay Big Eight Concessions all fees, costs, and expenses due pursuant to each Service Invoice, including the Total Cost, as follows:
  - 1. 100% Up-Front Payment.** Customer shall pay Big Eight Concessions one hundred percent (100%) of the Total Cost upon receipt of each Service Invoice by Customer.
  - 2. Overage Costs.** Big Eight Concessions will invoice Customer for the Overage Cost at the completion of each Catering Service, if applicable (the "Overage Invoice"). Customer shall pay Big Eight Concessions the Overage Cost, pursuant to the Overage Invoice, within seven (7) days of receipt of each Overage Invoice.
  - 3. Additional Charges.** Customer agrees to pay for any and all additional services requested by the Customer, e.g. decorations, rental of facility, rental of equipment, and all supplies; set up of rental equipment, refuse removal, etc. Additional services requested shall be included, and added to the proposal where time permits. Verbal modification by the Customer the day of the event shall be billed to Customer accordingly.
  - 4. Reservation Change.** Due to the time-sensitive nature of bookings for Food Vendors, no reservation changes shall be allowed. If Customer makes a request to change the date or time of Service, Big Eight Concessions shall use its best efforts to accommodate Customer's requests but makes no representations of

warranties of availability of Food Vendor at the modified time and date. Any successful reservation changes shall result in a \$100 change fee (“Change Fee”), plus any additional costs incurred by the Food Vendor. If Big Eight Concessions and Food Vendor are unable to accommodate any reservation change by Customer, Customer shall remain obligated for any cancellation fees due under 3.6 below.

5. **Cancellation by Big Eight Concessions.** If Big Eight Concessions cancels a Service, Big Eight Concessions shall refund any amounts received from Customer.
6. **Cancellation by Customer.** If Customer cancels a Service for any reason, Customer shall be responsible for the following cancellation fees:

When Cancelled By Customer	Refund Due to Customer
Eight or more days prior to the Service	50% of Total Cost. For example, if the Total Cost of the Service is \$1,000, Big Eight Concessions would refund Customer \$500.00 (50% of \$1,000). Big Eight Concessions would retain the remaining 50% of the Total Cost (\$500).
Seven or fewer days prior to the Service	No Refund Due.

3. The cancellation fees proscribed herein are not a penalty, but a reasonable estimate of costs incurred by Big Eight Concessions due to the harm in relationship with Big Eight Concessions and Food Vendor which is difficult to ascertain or quantify.
4. **Duties of Big Eight Concessions.** Big Eight Concessions shall be responsible for the following:
  1. Big Eight Concessions shall arrange for the Subcontractor(s) to cater Customer’s Service at the day(s) and time(s) specified in each Service Invoice.
5. **Duties of the Customer.** Customer shall be responsible for the following
  1. Customer shall provide a suitable contracted facility for Big Eight Concessions to perform duties required for the number of guests expected at each Service. Customer agrees to arrange for, or personally provide access to said facility to accommodate the reasonable set-up and preparation prior to each Service. Customer acknowledges responsibility for any and all liability arising from rental and use of said facility.
  2. Customer acknowledges liability for any damage caused to the Food Vendor by any guests of Customer during the course of each Service.
  3. Customer agrees to be responsible for all financial arrangements provided for in Section 3 above.
6. **Term and Termination.** This Services Agreement shall commence as of the Effective Date and shall continue through the date and time of the last Catering Service included in this Catering Proposal.

# Terms & Conditions

These BIG EIGHT CONCESSIONS STANDARD TERMS AND CONDITIONS OF CATERING (the “Terms”) govern the rights, remedies, and obligations of Big Eight Concessions, LLC. or an entity controlled by Big Eight Concessions, LLC. (“Company”) and its customers (“Customer”) who are requesting Company to deliver certain services (“Services”) as an independent contractor of Customer, under catering Services Agreements agreed to by and between Company and Customer (“Services Agreement”). Customer and Company are individually referred to herein as “Party” and together as the “Parties”.

- **CONFIDENTIALITY.** As used in these Terms, “Confidential Information” means all information disclosed by a Party (the “Disclosing Party”) to the other Party (the “Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of each Party shall include the terms and conditions of (i) the Services Agreement and (ii) business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third Party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. During the term of the Services Agreement and for three (3) years thereafter, the Receiving Party shall: (i) use at least the same degree of care to protect the Disclosing Party’s Confidential Information that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care), (ii) not disclose any Confidential Information of the Disclosing Party for any purpose outside the scope of the Services Agreement and these Terms, and (iii) limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with the Services Agreement and these Terms and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Additionally, each Party shall provide prompt notification to the other Party of any unauthorized access to or disclosure of Confidential Information. If the Receiving Party is compelled by law or any listing or trading agreement concerning its publicly-traded securities to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. Upon termination or expiration of the Services Agreement, the Disclosing Party may make a written request to the Receiving Party to deliver to the Disclosing Party or destroy and certify destruction (at Disclosing Party’s election) of all of Disclosing Party’s Confidential Information.

- **ASSIGNMENT.** Neither Party may assign the Services Agreement nor any right or interest therein with the written consent of the other Party. Notwithstanding the preceding, it is expressly understood that Company is not in the business of owning or operating food Vendors and may subcontract some or all of the duties required under the Services Agreement as deemed necessary by Company.
- **INDEPENDENT CONTRACTOR.** It is the express intention of the Parties that Company is an independent contractor. Nothing in these Terms or the Services Agreement shall in any way be construed to constitute Company as an agent, employee or representative of the Customer, but Company shall perform the Services under the Services Agreement as an independent contractor. Company shall furnish all tools and materials necessary to accomplish the Services Agreement, and shall incur all expenses associated with performance. Company acknowledges and agrees that Company is obligated to report as income all compensation received by Company pursuant to this Agreement, and Company agrees to and acknowledges the obligation to pay all self-employment and other taxes thereon. In addition, Company has reviewed with Company's own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by the Services Agreement and the consideration to be received by Company for performance of the Services therein. Company acknowledges that it is relying solely on such advisors and not on any statements or representations of the Customer or any of its agents.
- **GOVERNING LAW/VENUE.** These Terms and the Services Agreement shall be governed by and construed under the laws of the State of Virginia, notwithstanding its conflict of law provisions. Venue shall be appropriate in the State or Federal courts located in the State of Virginia, County of Fairfax; or in the federal or state Courts where the Services are performed.
- **ATTORNEYS' FEES.** If Company or Customer shall bring any action against any Party for enforcement of these Terms or under the Services Agreement or for any other relief, declaratory or otherwise, arising out of these Terms or the Services Agreement, or any related agreement, the losing Party shall pay to the prevailing Party all reasonable attorneys' and experts' fees and costs incurred in taking such action, bringing such suit and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of reasonable attorneys' and experts' fees and costs incurred in enforcing such judgment. For the purposes of this Section, attorneys' and experts' fees and costs shall include, without limitation, fees and costs incurred in the following: (a) post-judgment motions; (b) contempt proceedings; (c) garnishment, levy, and debtor and third Party examination; (d) discovery; (e) bankruptcy litigation; and (f) appeals.
- **LIMITATION OF LIABILITY.** In no event shall either Party be liable to the other for damages for any cause whatsoever in an amount in excess of the amounts paid or due to Company under the Services Agreement. In no event shall either Party be liable to the other Party for consequential, incidental or special damages arising from any action or claim, whether based in tort, contract or other legal theory.

- **DISPUTES WITH COMPANY.** This Agreement shall be governed by and construed under the laws of the State of Virginia, notwithstanding its conflict of law provisions. All actions or proceedings between Company and Customer arising in connection with, touching upon or relating to this Agreement, the breach thereof and/or the scope of the provisions of this Section as between the Company and Customer, shall be submitted to Judicial Arbitration and Mediation Service (“JAMS”) for binding arbitration under its Comprehensive Arbitration Rules and Procedures if the matter in dispute is over \$25,000, or under its Streamlined Arbitration Rules and Procedures if the matter in dispute is \$25,000 or less, to be held solely in the County of Fairfax, Virginia, United States, in the English language in accordance with the following provisions: (i) Each arbitration shall be conducted before a single arbitrator selected by JAMS; (ii) The parties shall share the costs of the arbitration; and (iii) THE PARTIES HEREBY WAIVE THEIR RIGHT TO JURY TRIAL WITH RESPECT TO ALL CLAIMS AND ISSUES ARISING UNDER, IN CONNECTION WITH, TOUCHING UPON OR RELATING TO THIS AGREEMENT, WHETHER SOUNDING IN CONTRACT OR TORT, AND INCLUDING ANY CLAIM FOR FRAUDULENT INDUCEMENT THEREOF. Notwithstanding the preceding, any claims regarding the performance of the Food Vendor shall be resolved solely under the dispute resolution procedures proscribed in the section titled "Disputes between Customer and Subcontractor" below. (1) Consent to Personal Jurisdiction. The arbitrator(s) shall apply Virginia law to the merits of any dispute or claim, without reference to conflicts of law rules. Company and Customer hereby consent to the personal jurisdiction of the state and federal courts located in Virginia for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants. (2) Costs. The Customer and Company shall each pay one-half of the costs and expenses of such arbitration, and each shall separately pay its counsel fees and expenses unless otherwise required by law. (3) Equitable Relief. The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without abridgment of the powers of the arbitrator. (4) Acknowledgment COMPANY AND CUSTOMER HAVE READ AND UNDERSTAND THIS SECTION, WHICH DISCUSSES ARBITRATION. COMPANY AND CUSTOMER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, COMPANY AND CUSTOMER AGREE TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF, TO BINDING ARBITRATION, EXCEPT AS PROVIDED IN THE SECTION TITLED "DISPUTES BETWEEN CUSTOMER AND SUBCONTRACTOR" BELOW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF COMPANY AND CUSTOMER’S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF THE RELATIONSHIP BETWEEN THE PARTIES.
- **ENTIRE AGREEMENT.** The Services Agreement and these terms are the entire agreement of the Parties and supersedes any prior agreements between them, whether written or oral, with respect to the subject matter hereof. No waiver, alteration, or modification of any of the provisions of these Terms or the Services Agreement shall be binding unless in writing by duly authorized representatives of the Parties hereto.

- **SEVERABILITY.** The invalidity or unenforceability of any provision of these Terms or the Services Agreement, or any terms thereof, shall not affect the validity of the remainder of the Terms or the Services Agreement, which shall at all times remain in full force and effect.
- **AUTHORITY.** Each Party represents and warrants that the individual executing any agreement on behalf of the Party is duly authorized to so execute, and when executed and delivered by such Party, shall constitute the valid and binding agreement of such Party, enforceable in accordance with its terms.
- **INTELLECTUAL PROPERTY.** The Parties hereby acknowledge and agree that nothing contained in this Services Agreement shall be construed to mean that the intellectual property or other proprietary rights of each Party are conveyed to the other Party as part of this agreement.
- **FORCE MAJEURE.** Neither Party shall be liable for any default or delay in the performance of its responsibilities under the Services Agreement if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, strikes, civil disorders, quarantine restrictions, epidemics, pandemics, or any other cause beyond the reasonable control of such Party (“Force Majeure”). The time for performance for the non-defaulting Party under the Services Agreement will be extended as necessary, without penalty or liability to such Party, for the same period of time as the delay.
- **NO WARRANTIES.** Company has not made any warranties oral, express, written or otherwise of profitability or projected outcomes or satisfaction of Customer. Customer shall remain obligated for all payments due under the Services Agreement regardless of Customer’s satisfaction of Company’s performance.
- **TERM.** Unless otherwise specified in the Services Agreement, the term of any agreement shall be the date of execution of any Services Agreement until the date of completion of all Services under the Services Agreement.
- **INSURANCE.** Company carries general liability insurance and at the written request of Customer shall provide Customer with evidence of such insurance naming Customer and third parties required by Customer as additional insured. Notwithstanding the preceding, unless otherwise agreed to by the Parties in the Services Agreement, Customer acknowledges that Company is not in the business of owning or operating food Vendors or of performing the Services and that Company shall retain the services of one or more Subcontractors to perform the Services. The Subcontractors retained by Company shall be obligated to maintain reasonable and customary workers compensation, general liability and commercial automobile insurance with limits of at least \$1,000,000 per occurrence and at the written request of Customer, shall be added as additional insured with certificates of insurance provided to Customer. The failure of Customer to approve or request insurance certificates provided to Customer by Company shall be considered approval of all such insurance policies.
- **INDEMNIFICATION.** Company shall indemnify, defend and hold harmless Customer and its officers, directors, partners, agents, members, managers and employees from and against any and all demands, claims, damages to persons or property, losses and

liabilities, including reasonable attorney's fees (collectively "Claims") arising out of or caused by the Company's negligence in connection with Services, except to the extent attributable to the Customer or its members', agents', employees' negligence. Customer shall indemnify, defend and hold harmless the Company and its officers, directors, partners, agents, members, managers and employees from and against any and all Claims arising out of or caused by the Customer's negligence in connection with the Services, except to the extent attributable to the Company or its members', agents', employees' negligence. Customer acknowledges that the Services shall be performed by one or more Subcontractors of Company and shall seek recourse first through a Claim against Subcontractor.

- **SALES TAX.** Should the Services be subject to local or state sales or use taxes, Customer shall be obligated to pay all taxes to Company and Company or its Subcontractors shall be responsible for directing tax payments to the appropriate tax authority.
- **Disputes between Customer and Subcontractor.** Customer acknowledges that Company shall hire and coordinate with the Food Vendor to provide the Services for Customer's benefit. Customer agrees that Company shall mediate any disputes between the Customer and Food Vendor regarding Food Vendor's performance of Services. Should Customer determine Food Vendor's performance of services unsatisfactory, Customer may submit a written complaint to Company to resolve any disputes between Customer and Food Vendor. Upon receipt of a written complaint by Customer, Company shall notify Food Vendor of the dispute. Within fourteen days of notification of dispute, Food Vendor and Customer shall submit written statements and any other evidence necessary to establish their respective claims. Upon good faith review of all the evidence provided to Company, Company shall issue a final binding ruling which may result in a maximum forfeiture of Food Vendor's right to payment under the Services Agreement and any agreement entered into between Company and Food Vendor. Any disputes between Customer and Food Vendor in an amount greater than the Total Cost shall be tried in the courts in the county in which the Services are performed. Big Eight Concessions shall ensure that the Food Vendor has executed a provision in similar form to this Section agreeing to dispute resolution with Customer as proscribed herein.

CONCESSIONS

- ALLERGY FRIENDLY -