

## Kitchen Facilities Use Agreement

The parties to this Facilities Use Agreement (the "Agreement") are The Good Shepherd Preservation Society and Commissary (hereafter "Kitchen") and \_\_\_\_\_ ("User").

### I. Recitals

- A. Kitchen is created for the purpose of encouraging the development of small businesses involved with the preparation and/or processing of food. Kitchen makes available to such small businesses the shared use of DHEC certified commercial kitchen facilities at 108 East Liberty Street, York, SC 29745 (the "Facilities").
  
- B. User is a small business involved with the preparation and processing of food. Kitchen wishes to grant to User and User wishes to obtain from Kitchen the right to use the Facilities on a shared basis for the purpose of assisting User with User's preparation or processing of food in connection with its business, all subject to the terms and conditions of this Agreement set forth below.

### II. Terms of Agreement

1. Right to Use Facilities. The Kitchen hereby grants to User, and User hereby accepts from Kitchen the right to use the Facilities, including, but not limited to, stoves, sinks, refrigerators, freezers, electrical power, water, sewer, counters, individual storage areas and units and such other facilities, and services as might be provided by Kitchen to User on a shared basis with other client businesses of Kitchen ("Other Users"), all subject to the terms and conditions set forth in the Agreement. All use by User of the Facilities shall in all ways conform to those terms and conditions.

a. Use of the kitchen includes the following:

- Oven and range
- Small appliances
- Baking trays
- Dishwasher
- Refrigerator & Freezer Space
- Tables and work spaces
- Sinks
- Large Trash Cans
- Carts

b. Use of kitchen does not include the following:

- Eating utensils
- Coffee Urns
- China, silverware or glassware
- Chafing or serving dishes
- Tables & chairs
- Parish Hall

Please note that you are required to bring everything necessary to prepare your food in the preparation, cooking, serving and storing process. If desired, some storage space may be available from the Church. No equipment or utensils belonging to the church may be removed from the kitchen.

2. Interference with Use by Others. User and the associated personnel shall follow all provisions of the Statement relating to cooperation, courtesy and lack of disruptions in the use of the Facilities. User and Associated Personnel shall not make any use of the Facilities that, in Kitchen's sole discretion, disrupts the orderly operation of the Facilities by the Kitchen and/or use of the Facilities by Other Users who are authorized to do so. Behavior deemed disruptive by Kitchen, may, without limitation, include, arguing, discourteous behavior, fighting or menacing, theft, conversion, or unauthorized use of another's property; the repeated use of profanities, consumption of illegal drugs or alcohol; use of the Facilities under the influence of illegal drugs or alcohol; any behavior in violation of one or more of the provisions of the Statement; or any other behavior that might be disruptive of the orderly operation of the Facilities by Kitchen or by its client small businesses. User and the Associated Personnel shall diligently report to Kitchen any violations by User of any of the provisions of this Paragraph 2, above shall

be a default under the provisions of the Paragraph 12 of this Agreement.

2. Inspections and Removal of Items. User hereby grants to Kitchen, its authorized agents, and to all agencies of Local, State or Federal Government with jurisdiction over Kitchen and its operations, the right, at any time and without notice to User except as might be required by applicable law, to inspect all of the property belonging to User and/or Associated Personnel present or stored at the Facilities, including any equipment, utensils, products and supplies. The right to inspect described above shall extend to any private or semi-private storage area or unit, whether or not independently secured by User or the Associated Personnel, the use of which has been granted to the User by the Kitchen. User shall provide Kitchen with a spare key to any locks used by User and/or Associated Personnel to secure any such private or semi-private area or unit. User shall fully cooperate with the conduct of such inspections. User hereby authorizes Kitchen to take such actions as might be necessary, in its sole discretion, to correct any unsatisfactory conditions discovered by such inspections and to remove and dispose of, at User's sole cost and expense, any items of User posing a risk to the health and safety of the users of, or visitors to, the Facilities. User hereby waives any right to seek reimbursement for the value of any items of User so removed and/or disposed of by Kitchen. Failure by User to comply with provisions of this Paragraph 3, above, shall be a default under the provision of Paragraph 12 of this Agreement.

3. Food Equipment Safety and Sanitation. Each person comprising User, and all persons comprising the Associated Personnel who shall be making use of the Facilities for or on behalf of User, shall be required to complete a course regarding the safe and sanitary use of the Facilities, including food and equipment, known as the “Food Safety Manager’s Certification.” User shall at all times maintain proper food handling and safe use of the equipment comprising the Facilities in compliance with applicable provisions of the Statement, this Agreement, and applicable law, including the safety and sanitation course described in this Paragraph 4. Failure by User to comply with provisions of this Paragraph 4 shall be a default under the provision of Paragraph 12 of this Agreement.
4. Permits and Licenses. User, so long as it and/or the Associated Personnel continue to use the Facilities, shall maintain in good standing all permits, licenses, and other regulatory permissions that might be required for the conduct of User’s food preparation and/or processing business and of User’s lawful use of the Facilities, including, without limitation, the City of York business license, sales tax license, seller’s permit, and/or food processing registration. User shall maintain current at the Facilities and present for inspection a DHEC certification. User to the fullest extent provided by law, shall indemnify Kitchen for, and hold it harmless against, any damages suffered by Kitchen as a result of User’s failure to comply with provisions of this Paragraph 5 of this Agreement above. Failure by User to comply with the requirements of this Paragraph 5 of this Agreement, above, shall be a default under the provisions of Paragraph 12 of this Agreement.
5. Fees and Security Deposit. In consideration of the right to use the Facilities in accordance with the provisions of this Agreement, **security deposit of \$100- refundable** at the termination of the association with Kitchen. See Item 10 re Cleaning and the Security Deposit. User fees will be **\$9.00/hour for use of the kitchen**.

On site event fee will be \$150 dollars plus a \$50-dollar orientation and application fee. Use of tables and chairs will be covered in this fee.

6. Scheduling. User shall schedule time for use of Facilities in accordance with the applicable provisions using the online scheduling application. Kitchen shall make its reasonable best efforts to provide access for User’s use of the Facilities at times so reserved and scheduled by User. However, Kitchen shall retain the right, in its sole discretion, to determine that all or a part of the Facilities should be closed for cleaning, repairs, to make alterations of the Facilities, for necessary inspections, for public safety reasons, or for any other reason deemed by Kitchen to require the temporary closing of all or part of the Facilities. **In addition, Kitchen shall be entitled to pre-empt use of Facilities at times reserved and scheduled by User for use by Kitchen after reasonable notice of not less than 24 hours for food preparation for 5<sup>th</sup> Sunday Church Dinners,**

**visits from the Bishop, funerals, wedding receptions and/or other church events.** If such preemption is deemed necessary, Kitchen will cooperate with User to share use of Facilities and/or reschedule use at a time agreeable to User. In the event the Facilities have been closed at a time duly reserved and scheduled by User for its use, User shall comply with any such closing and shall have no recourse of any kind against Kitchen for any claims, damages or losses caused by the Facilities being closed at the reserved and scheduled time. Kitchen shall make a reasonable effort to accommodate User by making the Facilities available for use for the reserved number of hours after the same have been reopened for use. Notwithstanding any other provisions of this Agreement, Kitchen reserves to itself the sole right to determine the availability and suitability for use of the Facilities.

7. Facilities Provided "As Is". The Facilities, including all portions thereof and all equipment provided for User's use, are provided, "As Is". Kitchen makes no representations, warranties or guarantees, express or implied, including, without limitation, the warranty of merchantability, and the warranty of fitness for a particular purpose, relating to the Facilities or to User's use thereof.
8. Sign-In. User and the Associated Personnel shall make ingress and egress to and from the Facilities by use of the back entrance to the building housing the Facilities. All persons using the Facilities on behalf of User shall use a sign-in sheet or similar method provided by Kitchen to log their entrance to, and exit from, the Facilities. User shall take whatever action might be necessary to insure all of its personnel and the Associated Personnel strictly comply with the provisions of this Paragraph 9 above. Failure by User to comply with the provisions of this Paragraph 9 above shall be a default under the provisions of Paragraph 12 of this Agreement.
9. Cleaning. After each use, and prior to User's departure, User will restore to a clean and sanitary condition any portion of the Facilities used by User, including, without limitation, any floors, sinks, equipment, pots, pans, utensils, storage areas, worksurfaces and the like. User agrees it shall be charged \$100 for any cleanup required to be performed by the Kitchen to bring the Facilities to a clean and sanitary condition, within the sole discretion of Kitchen. This fee will be taken from the security deposit provided by the User. The security deposit must then be replenished to continue using the facilities. Kitchen will have the right to remove any items of personal property stored at the Facilities by User, including any items stored in any private or semi-private storage areas or units, if doing so, in Kitchen sole discretion is necessary for purposes of maintaining the health and safety of personnel present at the Facilities.

## 10. Insurance.

- a. Commencing with User's initial use of the Facilities, and continuing throughout the entire term of this Agreement and any extension term or terms thereof, User shall at User's sole cost and expense, procure and maintain in full force and effect an insurance policy or policies protecting User and Kitchen and its respective clergy, vestry members, directors, officers and employees against any loss, liability, or expense whatsoever from personal injury, theft, death, damage to real or personal property, or otherwise, arising out of, or occurring upon or in connection with, User's business, of the Facilities pursuant to this Agreement, or by reason of User's and/or the Authorized Personnel's use of the business premises comprising the Facilities. The insurance required by this Paragraph 11(a) shall expressly cover claims based on product liability, property damage, and personal injury. Kitchen and the Episcopal Diocese of Upper South Carolina shall be named as an additional insured, in such policy or policies of insurance. Such policy or policies of insurance shall be written by an insurance company acceptable to Kitchen and shall include general liability coverage of One Million Dollars (\$1,000,000) per incident; and such insurance as may be required by law in the State of South Carolina. The insurance afforded by the policy or policies of insurance described above shall not be limited in any way by reason of any insurance that may be maintained by Kitchen.
- b. User shall provide Worker's Compensation insurance when so required by the State of South Carolina for all personnel using the Facilities for or on behalf of
- c. User who are employees of User, and User shall pay, and be solely responsible for payment of, all social security, Federal and State unemployment taxes, and any similar payroll taxes relating to such employees. User shall for all purposes, be considered an independent contractor and will not directly or indirectly act as an agent, servant or employee of Kitchen, or make any commitments or incur any liabilities on behalf of Kitchen. User shall, throughout the term of this Agreement and any extension thereof, provide Kitchen with such information regarding the Worker's Compensation insurance required by the Provision of this Paragraph 11(b) of this Agreement, as Kitchen might request from time to time.
- d. Failure by User to comply with the provisions of Paragraphs 11(a) and 11(b) of this Agreement above, shall be a default under the provisions of Paragraph 12 of this Agreement.

## 11. Default and Termination.

- a. This Agreement shall be terminated: (a) upon expiration of the term hereof and any extension term, if not renewed by mutual agreement by the parties; (b) by either party on 30 days prior written notice to the other' and/or (c) if destruction has rendered the Facilities substantially unfit for use by User for purposes of this Agreement.
- b. Failure by User to Perform a duty or obligation arising under this Agreement the occurrence of which is expressly designated as a default under the Provisions of Paragraphs 2,3,4,5,9,11(c) of this Agreement.
- c. Termination will be effective immediately upon written notice of default from Kitchen to User if any default arising under the provisions of Paragraphs 2,3,4,5,9,11(c) of this Agreement has occurred and has not been cured by the User to the complete satisfaction of Kitchen within such time as is set forth in that notice of default.
- d. Amounts that User might be obligated to pay pursuant to the provisions of this Agreement and shall be credited for any unused but paid for time reserved and scheduled for use by the Facilities. User shall also remove all its items of personal property, including supplies and equipment, from the Facilities, and shall leave the portions of the Facilities used by User in clean, sanitary, and orderly condition, ordinary wear and tear excepted.

## 12. Indemnity.

- a. Except for the willful or grossly negligent acts or omissions of Kitchen or its agents or employees, User shall, to the fullest extent provided by law, defend, indemnify and hold Kitchen harmless from and against any and all claims, losses, actions damages, liabilities, and expenses (including reasonable attorney's fees) that:
  - 1. Arise from or are in connection with User's use, maintenance or control of the Facilities, or any portion of the Facilities;
  - 2. Arise from or are in connection with any willful or negligent act or omission of User, the Associated Personnel, or any of their respective agents, employees, guests, service providers, creditors or invitees;
  - 3. Result from any default, breach, violation or nonperformance or User arising under the provisions of this Agreement; and/or

4. Arise from injury or death to persons or damage to property sustained on or about the leased premises.

13. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement and shall not be modified or amended in any respect except by a written instrument executed by User and Kitchen. This Agreement replaces and supersedes all prior written or oral agreements by and between the parties to this Agreement.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

15. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of South Carolina.

16. Successors and Assign. This Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

17. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing.

18. Advice of Counsel. Each party to this Agreement warrants that that party has had the opportunity to consult with an attorney of that party's own choosing regarding the provisions of this Agreement.

19. Food Trucks.

- a. Food Truck operators must follow all sections 1-18 of the established contract.
- b. In addition, Food Trucks must set up a minimum of ten (10 feet) from the nearest building wall.
- c. Food trucks may not remove any equipment or utensils from the kitchen for use in the food truck. All equipment and utensils belonging to Good Shepherd must remain in the kitchen.
- d. Only quiet generators (40-60 dB of sound) for auxiliary power will be allowed.
- e. Extra illumination around exterior operations is prohibited.
- f. Attached to this document is the National Fire Protection Association publication "Fact Sheet-Food Truck Safety" and US Department of Transportation publication, "Compressed Gas Cylinder Testing and Qualification".
- g. Overnight Parking is not permitted.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Church of the Good Shepherd Preservation Society and Commissary Kitchen  
108 East Liberty Street York, SC 29745

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

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*Address*

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*City State Zip*

Scan or email back to Libby Bradford to [libbybradford@bellsouth.net](mailto:libbybradford@bellsouth.net).