

KITCHEN FACILITIES USE AGREEMENT

THIS KITCHEN FACILITIES USE AGREEMENT, is made as of the date set forth in Section ___ below (the "Effective Date") by and between Gail von Huene, an individual doing business as Steel Magnolia (hereinafter "Provider") and the user named in the Basic Use Information set forth in Section 2 below (hereinafter "User").

RECITALS

A. Provider desires to provide to User the use of that certain commercial kitchen facility held for rental to qualified users, which kitchen facility is located at _____ (insert street address of kitchen) (the Site"), and is more particularly described on Schedule "A" to this Agreement (the "Kitchen"). The Site contains multiple facilities. If this space _____/_____ is initialed by both parties to this Agreement, User agrees to use multiple facilities as indicated on Schedule "B" in consideration of the rental fees indicated Schedule "B".

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

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

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

2. **Basic Rental Information.** The following information is the "Basic User Information" and the matters set forth herein represent material terms of this Agreement:

A. **Facility Rented**, as indicated on Schedule "B";

Kitchen 1 _____
Kitchen 2 _____
Classroom _____.

B. **Period of Use;**

From _____ at __ am/pm
(date)
Until _____ at __ am/pm.
(date)

The time period stated herein is defined as and referred to as the "Period of Use" elsewhere in this Agreement.

C. **Rental Charge for the Period of Use;**

_____ and no/100 Dollars (\$_____.00)

D. **Deposit;**

Two Hundred and no/100 Dollars (\$200.00).

E. **Reservation;**

Reservations are confirmed upon receipt by Provider of the 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, and (ii) written proof of sanitation certification in a form satisfactory to Provider not later than seven (7) days prior to the Period of Use. The Deposit will be returned within three (3) days after the end of the Period of Use provided User has complied with this Agreement.

3. **Rental Charge and Deposit.** User agrees to pay the Deposit set forth in 2 D above, refundable subject to the terms and conditions set forth in Section 2E above. In compensation for rental hereunder during the "Period of Use" specified in Section 2B above, User shall pay the amount set forth in Section 2C above. In addition, User agrees to pay to Provider, for any period before or after the Period of Use during which User, 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 User to Provider not later than three (3) business days prior to the Period of Use.. Failure to meet this criteria shall result in forfeiture of the Deposit and Cancellation of the reservation.

4. **Nature and Conditions of Use.** User shall use the Facilities for the sole and exclusive purpose of preparing food for service at a location other than the Site in compliance with all laws and sound food handling practices. User shall vacate the Site not later than the end of the 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. User shall return the loading dock key and placard to the Kitchen not later than the end of the Period of Use. User 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. User 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. User 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 one (1) day before the commencement of the Period of Use, User will execute and deliver to Provider the form of Acknowledgment attached hereto as

Schedule C, confirming that User 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. User 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. User shall indemnify, hold harmless and defend Provider for, from and against any claim, cost, liability, cost or expense related to or arising out of 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, cost or expense. Except as agreed in writing by the parties hereto, Provider shall have no obligation, and User shall have no right, to make any improvements or changes to or involving the Facilities. In providing the Facilities to User hereunder, Provider shall have no obligation to pay any amount (other than amounts to be reimbursed by User 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, User shall discontinue use of and remove particular equipment and other items placed at the Site by User. All property, real or personal, or any interest therein, located at the Site shall be and remain the property of Provider, and User shall have no rights or interests therein, or in any other, equipment, furniture, products, supplies, data, writings or other property of Provider

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

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

9. **Insurance.** User shall procure and maintain, at its expense, insurance as required by Provider and all other insurance, if any, required by applicable law from time to time. All insurance procured by User 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. User shall furnish to Provider endorsements and certificates evidencing the coverage required above.

10. **Indemnity.** User shall defend, indemnify and hold Provider 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 User pursuant to this Agreement (ii) fault or negligence, or any allegation of fault or negligence, of User, its employees or agents, (iii) User's access to or use of the Facilities, (iv) damage to any property or injuries, sickness or death of any person (x) caused by, or

alleged to be caused by, any work or operations performed by User or any other entity under or by reason of this Agreement or (y) 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 10 shall survive termination of this Agreement for any reason.

11. **Acceptance.** User 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. User further acknowledges that Provider has made no attempt to make the Facilities useful or fit for any purpose for any particular user, or for uses other than those intended by Provider. THEREFORE, USER 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 USER OR OTHERS. The provisions of this Section 11 shall survive termination of this Agreement for any reason.

12. **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.

13. **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. Each party's obligation hereunder is unique. If any party should default in its obligations under this Agreement, the parties each acknowledge that it would be extremely impracticable to measure the resulting damages; accordingly, the non-defaulting party, in addition to any other available rights and remedies, may sue in equity for specific performance or injunctive relief, and the parties each expressly waive the defense that a remedy in damages will be adequate. Notwithstanding any breach or default by any of the parties of any of their respective representations, warranties, covenants or agreements under this Agreement, if the purchase and sale contemplated by it shall be consummated on the Closing Date, each of the parties waives any right that it or they may have to rescind this Agreement or the transaction consummated by it; provided, however, that this waiver shall not affect any other rights or remedies available to the parties under this Agreement or under the law. 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 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:

To User:

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.

[the remainder of this page is intentionally blank]

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

Provider:
Steel Magnolia

Dated: _____

By: _____
Gail von Huene

User:

Dated: _____

LIST OF SCHEDULES

Schedule A – Plans and Rate Sheets, First Kitchen, Second Kitchen and Classroom Area

Schedule B – Acknowledgment Regarding Preparation of Facilities For Use

Schedule C – Policies and Procedures

Schedule A
Description of Site

Steel Magnolia Kitchen is a commercial kitchen rented on an hourly/daily/weekly basis. It is comprised of two separate, fully stocked kitchens. The equipment in each kitchen is listed below:

- Six burner gas range with dual ovens
- Commercial food processor
- Convection oven
- Wisks, spoons, ladles and other tools
- Large immersion blender
- Kitchenaid professional tabletop mixers

The kitchens share a walk in refrigerator, sinks and 20 qt. mixer.

Your assigned kitchen is exclusively yours for the time you have reserved.

Schedule B
Plan and Rate Sheet, Kitchen 1 and Kitchen 2

First 3 hours	\$140.00
Additional hours	\$40.00/hour

Plan and Rate Sheet, Classroom Area

Up to Four hours (with SM provided assistant)	\$100.00
Up to Four hour (no assistant)	\$60.00
Four to eight hours (with SM provided assistant)	\$200.00
Four to eight hours (no assistant)	\$110.00

Schedule C
Acknowledgment Regarding Preparation of Facilities For Use

I, _____ acknowledge that I am responsible for bringing my work area up to sanitation standards prior to use.

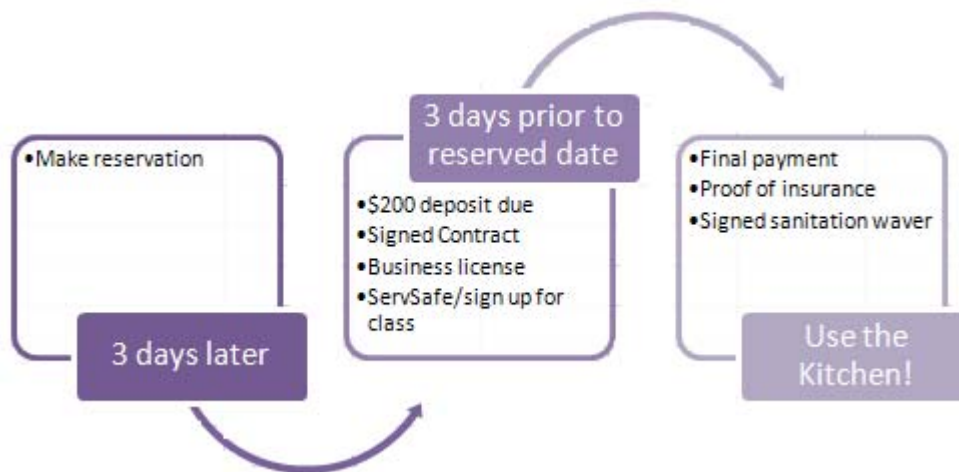
Schedule D

Policies and Procedures

Kitchen

1. The rental is for one of two kitchens unless otherwise stated. The user must use only their kitchen for the entire rental time unless cleared with the owner prior to use, even if the second kitchen appears to not be in use.
2. Money:
 - A deposit of \$200.00 in the form of a check is required to hold the reservation.
 - The check will be returned within 3 days after the rental provided:
 - a. The kitchen space is left in a clean condition. There is a checklist posted in the kitchen of what determines a 'clean condition'.
 - b. The user has vacated the premises by the end of their reserved time
 - Full payment for rental time is required 3 days prior to renting the kitchen. A reminder email will be sent. Steel Magnolia accepts Visa, MasterCard or cash for the final payment. If payment is not received the deposit is forfeit.
3. Documents
 - Signed contract
 - ServSafe certificate.
 - Proof of liability insurance with Steel Magnolia listed as an additional loss payee
 - City of Sacramento business license

Timeline:



4. The user is allowed to use the kitchen only for the hours contracted. If the user does not vacate the kitchen at the end of their reserved hours they will be charged a deposit of \$500.00 for their next rental. If the user again exceeds their reserved hours they can no longer use Steel Magnolia.
5. You must notify us directly at 916-862-3822 if you need to cancel your reservation. Any cancellation within two days of your reservation forfeits your deposit. There are no exceptions to this rule including personal situations or your client's cancellation of the function.
6. All food and equipment must be removed at the end of the rental time. This includes the walk in refrigerator. Storage is available for multi-day rentals. Call Steel Magnolia for details.
7. The user is responsible for their own equipment and towels

Classroom

Steel Magnolia has a fully equipped demo classroom with a 4 burner gas range and seating for 25 students.

Included in the classroom rental is:

1. Pots, pans, and other cooking utensils (except knives)
2. Copies of recipes/handouts for students

If the instructor chooses, Steel Magnolia will provide an assistant to do prep work, set up chairs, clean up the demo kitchen, and take down the chairs other general duties. Rates are in the attached rate schedule