



FACILITY USE AGREEMENT

This Agreement made this ____ day of _____, 20__, by and between the Pretzel City Kitchens and _____ (“User”).

- A. Pretzel City Kitchens is the owner of the facility commonly referred to as PCK in Freeport, Illinois.
- B. User desires access to the kitchen, as well as the common areas of the facility.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Prerequisites.** Before User shall have any right to access or use the Kitchens, User shall:
 - a. Provide Pretzel City Kitchens with the certificate of insurance as required pursuant to paragraph 6 below; and;
 - b. Complete the Certified Food Protection Manager Course. Upon completion of the course, User will be issued a certificate of completion (“Sanitation Certificate”), a copy of which will be kept on file.
 - c. Pass a background check
 - d. Pay all required intake and usage fees.

The date upon which User has fulfilled all requirements of this paragraph 1 shall be referred to as the "Access Date."

2. **Usage Rights and Restrictions.** From and after the Access Date, and throughout the term of this Agreement, User shall have the following rights, and shall be subject to the following restrictions, with respect to the Kitchens:
 - a. User shall have the right to use the Kitchens to: _____
 - b. User’s use of the Kitchens shall be in strict conformance with all lawful orders, rules, and regulations, and User shall not permit the Kitchens to be used for any unlawful purpose. Additionally, User shall not use in the Kitchens, or keep at the Facilities, anything that would adversely affect any policy of insurance related to the Facilities.
 - c. User acknowledges that other persons and entities have the right to use the Kitchens on terms and conditions similar to those set forth in this Agreement, and that, as a result, User must reserve the Kitchen in advance if User wishes to use the same. The Kitchen is available for reservation on a “first-come, first-served” basis, and all reservations must be made at least one day prior to the day upon which User’s use of the Kitchen pursuant to such reservation is to begin.

- d. User, along with any other users who are scheduled to use a separate portion of the Kitchen Space, shall have the right to use of the Kitchen Space reserved during the period(s) reserved by User for the use thereof; provided, however, Pretzel City Kitchens may, without notice, enter the Kitchen at any time, and for the amount of time reasonably required, to inspect the Kitchen, make repairs, or address a health or safety emergency exists.
 - e. User shall comply with “Pretzel City Kitchens Rules” as a condition of User’s continuing right to access and use the Kitchens. Pretzel City Kitchens reserves the right to establish additional rules regarding User’s access to and use of the Kitchens.
 - f. After the use of a Kitchen, User shall clean the Kitchen thoroughly, returning it to the condition it was in when User began their scheduled period. If the Kitchen is not cleaned properly, there will be a \$50 cleaning fee applied to cover cleaning costs.
 - g. The individual in whose name the Sanitation Certificate was issued must be on-site at all times when User is using a Kitchen.
 - h. All employees or agents of User who are to use the Kitchens must be registered with the Kitchen Manager, as designated by Pretzel City Kitchens.
3. **Facility Usage Fees.** User shall pay Pretzel City Kitchens fees for the use of a Kitchen, which shall be determined pursuant to the fee schedule attached hereto as Exhibit A, which is incorporated herein by reference. The fee schedule may be amended from time to time by Pretzel City Kitchen by posting a new fee schedule at the Facilities. The amendment of the fee schedule shall be binding upon User fourteen (14) days after posting at the Facilities.
4. **Additional Covenants and Agreements.** Pretzel City Kitchens and the User further agree as follows:

- a. The Kitchen shall be accessible during the times that the user has scheduled.
- b. Pretzel City Kitchens is not responsible for the security of any of User’s equipment or supplies.
- c. The Pretzel City Kitchens campus is a smoke-free property, and, as such, all users are prohibited from smoking on the premises. If they must smoke, they are required to leave the grounds and, upon returning, must wash their hands and face well to cut down on as much of the scent as possible. Anyone found smoking on the Pretzel City Kitchens property will be issued a warning on their first offense. A second offense will result in a suspension of Kitchen privileges for a period of up to three days. If there is a third offense the user will not be allowed to use the Kitchens for a period of time determined by management up to and including a lifetime ban. Leaving the property involves fully leaving the property and parking lot surrounding the Kitchens. Personal vehicles in the parking lot are still considered to be on the Kitchens property and will fall under the terms of user conduct.
- d. A user of Pretzel City Kitchens consents to allow the use of personally identifiable information (business name, contact name, physical address, telephone number, e-mail, website, and fax), photographs and other presentation materials by Pretzel City Kitchens. It is further understood that no special compensation will be provided to the user for use of their food processing/kitchen-related information, materials, or photographs.
- e. User shall be responsible for the consequences of his or her own acts, errors, or omissions and those of his or her employees, officers, officials, agents, boards,

committees, and representatives and shall be responsible for any losses, claims, or liabilities that are attributable to such acts, errors, or omissions including providing its own defense.

- f. To the fullest extent permitted by law, User shall defend, indemnify and hold harmless Pretzel City Kitchens, its employees, officers, officials, agents, boards, committees, and representatives, or any of them from and against all injuries, claims, losses or damages whatsoever arising out of or in any way related to this Agreement from any cause or causes, whether in contract or tort, including, but not limited to attorneys' fees and litigation costs, but only to the extent caused by User's acts, errors, or omissions and those of its employees, officers, officials, agents, boards, committees, and representatives.
 - g. Pretzel City Kitchens' liability to User for any and all injuries, claims, losses or damages whatsoever arising out of or in any way related to this Agreement from any cause or causes, whether in contract or tort, shall be limited to User's direct damages and shall not exceed, including attorney fees and litigation costs, the usage fees paid by User. In no event shall Pretzel City Kitchens be liable for incidental, special, consequential, or exemplary damages. User acknowledges and agrees that it would be unreasonable for Pretzel City Kitchens to assume an unlimited amount of liability in return for permitting user access to and use of the kitchens, and user acknowledges that this limitation on Pretzel City Kitchens liability is a material term of this agreement and a material factor in the determination of the fee charged by Pretzel City Kitchens.
5. **Term of Agreement.** This Agreement shall be effective as of the Access Date and shall thereafter remain in effect through the end of the current calendar year. Thereafter, this Agreement shall be renewed and in effect from January 1 to December 31 until terminated by either party, provided such termination must be preceded by written notice given by the party electing to terminate this Agreement to the other party no later than thirty (30) days from the termination date. Notwithstanding the provisions of this paragraph, the restrictions appearing at paragraphs 4(d) and (e) above shall continue in effect in accordance with its terms following termination of this Agreement.
6. **Insurance.** User shall maintain general liability insurance during the term of this Agreement with coverage limits of not less than \$1,000,000 and shall provide Pretzel City Kitchens with a certificate of insurance confirming such coverage and evidencing that Pretzel City Kitchens is listed as an additional insured.
7. **Remedies.**
- a. In the event User violates any term or covenant of this Agreement and such violation shall remain uncured after ten (10) days written notice given by Pretzel City Kitchens to User, Pretzel City Kitchens may declare User to be in default of this Agreement and terminate this Agreement without further notice to User, as well as exercise any additional or alternative rights and remedies, and to seek any other relief, as may be available at law or in equity.
 - b. Pretzel City Kitchens shall be entitled to recover all costs of collection and enforcement of its rights under this Agreement, including reasonable attorney's fees.
8. **Miscellaneous.**
- a. No waiver of any default by User hereunder shall be implied from any omission by Pretzel City Kitchens to take any action on account of such default if such default persists or is repeated and no express waiver shall affect any default other than the

default specified in the express waiver, and then only for the time and to the extent herein stated. One or more waivers of any covenant, term or condition of this Agreement by Pretzel City Kitchens shall not be construed as a waiver of subsequent breach of the same covenant, term or condition.

- b. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and shall not be amended except by written agreement signed by all parties.
- c. This Agreement shall bind, and shall inure to the benefit of, Pretzel City Kitchens' successors and assigns, but this Agreement shall be personal as to User and User may not sell, assign or otherwise transfer any of its rights or interests in or under this Agreement to any other party without the written consent of Pretzel City Kitchens.
- d. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
- e. User acknowledges that the kitchen space shall be monitored via security camera at all times. User agrees that such monitoring does not constitute an infringement on their privacy.
- f. This Agreement may be executed in any number of identical counterparts, each of which shall, for all purposes, be deemed to be an original.
- g. Nothing in this Agreement shall be construed to create any partnership, principal and agent, landlord and tenant, joint venture or other similar relationship between the parties hereto and no party may incur debts or liabilities in the name, or on behalf of, another party.
- h. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

- 9. **Cancellation.** The user may cancel the Facility Use Agreement and will receive a full refund of the paid fees as shown on the Fee Schedule attached, not including the \$50 Intake Fee, if Pretzel City Kitchens is notified a minimum of seven days prior to the Access Date shown in this agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above-written.

By: _____
(Signature) Pretzel City Kitchens Representative

By: _____
(Print)

Date: _____

By: _____
(Signature) Business Operator

By: _____
(Print)