

KITCHEN FACILITIES USE AGREEMENT

The parties to this Facilities Use Agreement (the “Agreement”) are Forty-North Catering, LLC DBA Cooking Block, and _____ (“User”).

I. RECITALS

A. Cooking Block is created for the purpose of encouraging the development of small businesses involved with the preparation and/or processing of food. Cooking block makes available to such small businesses the shared use of high quality commercial kitchen facilities located at 721 Nevada Street #407, Redlands, CA. 92373 (the “Facilities”).

B. User is a small business involved with the preparation and processing of food. Cooking Block wishes to grant to User, and User wishes to obtain from Cooking Block, 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 THE AGREEMENT

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

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 the Associated Personnel shall not make any use of the Facilities that, in Cooking Block’s sole discretion, disrupts the orderly operation of the Facilities by Cooking Block and/or use of the Facilities by Other Users who are authorized to do so. Behavior deemed disruptive by Cooking Block, 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

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Facilities by Cooking Block or by or its client small businesses. User and the Associated Personnel shall diligently report to Cooking Block any violations of the Statement and/or disruptive behavior by the Other Users, or any of them. Violation by User of any of the provisions of this Paragraph 2, above, shall be a default under the provisions of Paragraph 15 of this Agreement.

3. Inspections and Removal of Items. User hereby grants to Cooking Block, its authorized agents, and to all agencies of local, State or Federal government with jurisdiction over Cooking Block 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 the 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 User by Cooking Block. User shall provide Cooking Block with a spare key to any locks used by User and/or the Associated Personnel to secure any such private or semi-private storage area or unit. User shall fully cooperate with the conduct of such inspections. User hereby authorizes Cooking Block 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 Cooking Block. Failure by User to comply with the provisions of this Paragraph 3, above, shall be a default under the provision of Paragraph 15 of this Agreement.

4. 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 the provisions of this Paragraph 4 shall be a default under the provisions of Paragraph 15 of this Agreement.

5. 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

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preparation and/or processing business and of User's lawful use of the Facilities, including, without limitation, any required business license, sales tax license, seller's permit, and/or processing food registration. User shall maintain current at the Facilities, and present for Cooking Block inspection upon request, a Food Safety Mangers Certificate or a Servsafe Certificate covering all persons using the Facilities for or on behalf of User. User, to the fullest extent provided by law, shall indemnify Cooking Block for, and hold it harmless against, any damages suffered by Cooking Block as a result of User's failure to comply with the 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 15 of this Agreement.

6. Fees and Security Deposit. In consideration of the right to use the Facilities in accordance with the provisions of this Agreement, User shall pay Cooking Block the following fees:

(a) A refundable security deposit in the amount of Five Hundred Dollars (\$500.00) (the "Security Deposit") to cover damages that might result from User's use of the Facilities, payable concurrently with the execution of this Agreement by the parties.

(b) Hourly Rate: ☐ _____ per hour
☐ Other

(c) A cleaning fee in the amount of Thirty Dollars (\$30.00) per hour for the time required to clean and organize User's working area following User's use of the Facilities in the event that in Cooking Block sole discretion, User's working area requires professional cleaning. The cleaning fee shall be charged as required on a monthly basis, at the same time and in the same manner as the usage fees. User shall pay all cleaning fees within fourteen (14) days of invoice.

7. Scheduling. User shall schedule time for use of the Facilities in accordance with applicable provisions of the Statement. Cooking Block 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, Cooking Block 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 Cooking Block to require the temporary closing of all or a part of the Facilities. 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 Cooking Block for any claims, damages, or losses caused by the Facilities' being closed at the reserved and scheduled time. Cooking

Block 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 provision of this Agreement, Cooking Block reserves to itself the sole right to determine the availability and suitability for use of the Facilities.

8. Facilities Provided “As Is”. The Facilities, including all portions thereof and all equipment provided for User’s use, are provided “As Is.” Cooking Block 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.

9. 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 Cooking Block to log their entrance to, and exit from, the Facilities. User shall take whatever action might be necessary to insure that 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 15 of this Agreement.

10. Use of Equipment. Subject to the provisions of Paragraph 8 of this Agreement, Cooking Block makes no guarantee or representation that any particular equipment located in the Facilities will be available for User’s use at any particular time. User shall seek instruction for each person using the facilities for or on behalf of User in the safe use and proper cleaning of all such equipment. Failure to do so shall be a default under the provisions of Paragraph 15 of this Agreement. User and the Associated Personnel will refrain from operating any equipment located in the Facilities without having first obtained such instruction. User shall be responsible for any damage, injury, or loss, including personal injury and property damage, resulting from the improper use or cleaning of any equipment comprising the Facilities by User and/or the Associated Personnel.

11. Reporting of Injuries and Damage. User shall immediately notify Cooking Block of the following: (a) any injuries requiring medical attention; (b) any damage to or malfunction of the equipment located in the Facilities; and/or (c) any other condition that may affect the safe and orderly operation of the Facilities.

12. 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, work

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surfaces, and the like. User agrees it shall be charged the amount of \$30.00 per hour (1 hour minimum) for any cleanup required to be performed by Cooking Block to bring the Facilities to a clean and sanitary condition, within the sole discretion of Cooking Block. Cooking Block shall 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 Cooking Block sole discretion is necessary for purposes of maintaining the health and safety of personnel present at the Facilities.

13. Deliveries. User shall bear sole responsibility for damage or loss to, and the fitness for a particular purpose of, any items of personal property delivered to the Facilities for, or at the request of, User, including, without limitation, supplies and equipment required for the conduct of User's food preparation or processing business. In the event, Cooking Block, by prior arrangement with User, agrees to accept delivery of any such items or equipment for, or on behalf of, User, Cooking Block shall not be responsible in any way for the condition of the items or equipment so accepted. Cooking Block reserves the right to refuse to accept delivery of, and/or to require the immediate removal from the Facilities of, any items of personal property, including supplies and equipment, that appear, in Cooking Block sole discretion, to be defective, spoiled, or otherwise unsatisfactory for their intended use by User.

14. Insurance.

(a) Commencing within fourteen (14) days after execution of this Agreement 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 Cooking Block and its respective directors, officers, employees, and building owners against any loss, liability, or expense whatsoever from personal injury, theft, death, property damage, 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 14(a) shall expressly cover claims based on product liability, property damage, and personal injury. Cooking Block and the building owner, shall be named as an additional insured, in such policy or policies of insurance and User shall execute a waiver of subrogation in favor of Cooking Block. Such policy or policies of insurance shall be written by an insurance company acceptable to Cooking Block 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 California. 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 Cooking Block.

No later than ten (10) days from the day that the parties execute this Agreement, User shall furnish to Cooking Block evidence showing compliance with the provisions of this Paragraph 14(a). Evidence of insurance shall include a statement that the policy or policies may not be cancelled or altered without at least thirty (30) days' prior notice to Cooking Block. User shall, throughout the term of this Agreement and any extension term thereof, provide Cooking Block with such information regarding the insurance required by the Provisions of this Paragraph 14(a) of this Agreement, as Cooking Block might request from time to time.

(b) Commencing within fourteen (14) days after execution of this Agreement and continuing throughout the entire term of this Agreement and any extension term or terms thereof, User may at User's sole cost and expense, procure and maintain in full force and effect an insurance policy or policies protecting User, Cooking Block and the owner of the building against damage to, or loss of, User's personal property present at the Facilities, including all of User's equipment and supplies. In the event that User procures such insurance, the insurance shall expressly cover claims based on fire, burglary, and vandalism. Cooking Block and the owner of the building shall be named as an additional insured in such policy or policies of insurance and User shall execute a waiver of subrogation in favor of Cooking Block. Such policy of insurance shall be written by an insurance company acceptable to Cooking Block and shall include coverage of a minimum of One Million Dollars (\$1,000,000). Evidence of insurance shall include a statement that the policy or policies may not be cancelled or altered without at least thirty (30) days' prior notice to Cooking Block. User may, throughout the term of this Agreement and any extension term thereof, provide Cooking Block with such information regarding the insurance referred to by the Provisions of this Paragraph 14(b) of this Agreement, as Cooking Block might request from time to time. This provision as set forth in Paragraph 14(b) regarding User's personal property present at the Facilities is the only insurance provision in this Agreement that is not required under the terms of this Agreement. The provisions as set forth in 14(a) and 14(c) in connection with obtaining Workers' Compensation, product liability, property damage and personal injury coverage are mandatory.

(c) User shall provide Workers' Compensation insurance in an amount that complies with statutory limits in the State of California for all personnel using the Facilities for or on behalf of User who are employees of User, and User shall pay, and be solely responsible for the 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 Cooking Block, or make any commitments or incur any liabilities on behalf of Cooking Block without first having

obtained Cooking Block express written consent. User shall, throughout the term of this Agreement and any extension term thereof, provide Cooking Block with such information regarding the Worker's Compensation insurance required by the Provisions of this Paragraph 14(c) of this Agreement, as Cooking Block might request from time to time.

(d) Failure by User to comply with the provisions of Paragraphs 14(a) through 14(c) of this Agreement, above, shall be a default under the provisions of Paragraph 15 of this Agreement.

15. Default and Termination.

(a) This Agreement shall be terminated: (a) upon the 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) The following shall constitute an event of default under this Agreement:

(1) 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 2,3,4,5,9,10 and 14(d) of this Agreement; and/or

(2) Failure by User to perform any material duty or obligation arising under the provisions of this Agreement that is not otherwise listed in Paragraph 15(b)(1), above.

(c) In the event of the occurrence of an event of default caused by an act or omission of User:

(1) Termination will be effective thirty (30) days after written notice of default is given to User by Cooking Block if the event of default complained of in the notice has arisen under the provisions of Paragraph 15(b)(2), above.

(2) Termination will be effective immediately upon written notice of default from Cooking Block to User if any default arising under the provisions of Paragraphs 2,3,4,5,9,10 and 14(d) of this Agreement has occurred and has not been cured by User to the complete satisfaction of Cooking Block within such time as is set

forth in that notice of default.

(d) Upon termination of this agreement for any reason User shall pay to Cooking Block all unpaid 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 of the Facilities. User shall also remove all of 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.

16. Limitation On Liability. COOKING BLOCK IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, EVEN IF COOKING BLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES ARISING. COOKING BLOCK LIABILITY FOR DAMAGES UNDER THE PROVISIONS OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS OF FEES ACTUALLY PAID BY USER FOR USE OF THE FACILITIES AND/OR OTHERWISE PURSUANT TO THE PROVISIONS OF THIS AGREEMENT. COOKING BLOCK MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED AND THE FACILITIES PROVIDED FOR USERS'S USE UNDER THE PROVISIONS OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

17. Release; Indemnity.

(a) Except for the willful or grossly negligent acts or omissions of Cooking Block or its agents or employees, User shall, to the fullest extent provided by law, defend, indemnify, and hold Cooking Block 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 of 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.

(b) User's obligations under this section specifically extend to any actions, orders, penalties, or enforcement procedures brought by or on behalf of any governmental agency or unit connection with the personal property of User, including equipment and materials, stored or otherwise present at the Facilities. User's obligations to indemnify Cooking Block under the provisions of Paragraph 29(a) hereof shall survive the termination of this Agreement.

(c) User on behalf of User and the Associated Personnel, now and forever releases and discharges Cooking Block and its attorneys, insurers, brokers, principals, officers, directors, partners, agents, employees and contractors, and whoever else may be liable, from any and all claims, liabilities, damages, and causes of action of any nature, including, but not limited to, those for personal injury, death, and/or property damage, that in any manner arise from or are relate to User's use of the Facilities pursuant to the provisions of this Agreement.

(d) The release provided by User under the provisions of Paragraph 17(d) of this Agreement, above, extends to and includes any and all claims, liabilities, injuries, damages, and causes of action that the parties do not presently anticipate, know, or suspect to exist, but which may develop, accrue, or be discovered in the future. User EXPRESSLY WAIVES ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

User represents and warrants that User has considered the possibility that claims, liabilities, injuries, damages, and causes of action that User does not presently know or suspect to exist in its favor may develop, accrue, or be discovered in the future and voluntarily assumes that risk as part of the consideration for this Agreement.

18. Entire Agreement. This Agreement constitutes the entire agreement of the

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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 Cooking Block. This Agreement replaces and supersedes all prior written or oral agreements by and between the parties to this Agreement.

19. 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.

20. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

21. Severability. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable, that provision shall be deemed to be severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.

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

23. Additional Acts. The parties to this Agreement shall promptly execute and deliver any additional documents, instruments, notices, and other assurances, and shall do any other acts and things, reasonably necessary in connection with the performance of their respective obligations under the provisions of this Agreement and to carry out the intent of the parties.

24. Authority. Each party to this Agreement warrants to the other party that the warranting party has the capacity and authority to enter into this Agreement.

25. Titles and Headings. The paragraph titles and headings contained in this Agreement are inserted as matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Agreement or any of its provisions.

26. Benefit of the Parties. This Agreement is made solely for the benefit of the parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any rights by virtue of this Agreement.

27. Notices. 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, by first-class mail, registered or certified, postage prepaid, and properly addressed to that party at its address set forth on the signature page of this Agreement, or any other address that any party may designate by written notice to the others.

28. Modification. Except as provided in Paragraphs 3 and 9 of this Agreement relating to changes to the Statement and to service rates charged by Cooking Block to User, this Agreement may not be modified except by a writing signed by each of the parties.

29. Inconsistent Position. No party shall take a position with any third party or governmental agency, instrumentality, department or authority that is contrary to, or inconsistent with, the provisions of this Agreement.

30. 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.

31. Interpretation. This Agreement shall not be construed against any party because that party or that party's attorney drafted any of its provisions.

32. Cancellation Policy. Notice of cancellation given prior to 48 hours of reservation time for client kitchen use will be at no charge to client. Notice of cancellation 24 hours or less will be charged at the full hourly rate agreed upon.

[SIGNATURES NEXT PAGE]

Dated: _____

Forty North Catering LLC,
DBA Cooking Block
A California Limited Liability corporation

By:

Its:

Address

City, State, Zip

Dated: _____

By:

Its:

Address

City, State, Zip

Scan and e-mail back to info@cookingblock.com or fax to 714-200-0476

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