

THE GEORGE WASHINGTON UNIVERSITY

This catering agreement ("Agreement") is made the [insert date] ("Effective Date"), by and between (each a "Party" and together the "Parties") the George Washington University (, a congressionally-chartered nonprofit educational institution, with its principal place of business at 1918 F Street, NW, Washington, DC 20052 ("University" or "GW") and [Insert Service Provider's Legal Name] ("Caterer"), with its principal place of business at [Insert Service Provider's address].

TERMS

1. Services. Caterer will use its best efforts, skill, and abilities to perform the food preparation and catering services (the "Services"), in accordance with the highest standards customarily exercised by caterers in the greater Washington, D.C. area. Caterer will not do or permit anything be done on the University's premises beyond the scope of the Services unless approved in writing in advance by the University. Caterer shall provide Services to University, as may be mutually agreed upon in writing by the Parties from time to time and set forth in an Estimate, which will serve as a statement of work ("SOW"), which will reference this Agreement. Services provided under this Agreement may be used by the University on behalf of itself and for the benefit of all its Affiliates. "Affiliates" include any entity, individual, firm, or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control by the University (where "control" means the power to direct or to cause direction of the entity, whether through the ownership by contract, governing documents or otherwise).

2. Fees, Invoicing, and Reports.

A. Fees: Caterer must provide a full disclosure of its pricing, including, but not limited to, food and product prices, service fees, delivery fees, and gratuities. Caterer may submit adjustments to its standard menu prices to the University on an annual basis for review and approval, such approval shall not be unreasonably withheld. A written price quote must be provided to the University not later than the time the order has been placed. The University will not be responsible for expenses that were not included on the price quote, including service and gratuity fees, unless related to subsequent charges made by the University in the quantity ordered or in the case of specific pricing required for customized menu items.

B. Discounts: Caterer will provide discounts as listed below, and will clearly specify (itemized) those in the invoices and the Quarterly Reports sent (as per p.2.D).

Item	Discount
Menu	
Tarps/ Tents	
Staff	

Other (please specify)	
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C. Invoicing and Payment: All invoices for Services will be payable to Caterer within thirty (30) days after receipt of invoice. Caterer will provide with its invoice such other documentation as reasonably requested by University, including Caterer's price quote provided to University prior to the provision of Services. Payment for Services will not be unreasonably withheld or delayed. If University disapproves any amount submitted for payment by Caterer, University shall give Caterer specific reasons for disapproval in writing. Caterer must submit an invoice, via email to: invoice@gwu.edu, Accounts Payable may return invoices that do not comply with the University's policy. Questions regarding University invoicing policies or procedures should be directed to Accounts Payable Department.

D. Reports: Caterer will submit quarterly report to Elena Wittman at ewittman@gwu.edu with copy to invoice@gwu.edu within thirty (30) days after the end of each calendar quarter. Report needs to show Services provided to GW for the preceding quarter (total sales revenue and discounts provided for the reporting period). The reports will be presented in forms satisfactory to University Representative in all respects.

3. Personnel

A. Provision of Personnel and Customer Service: Caterer will obtain University authorization for all subcontractors and agents providing Services under this Agreement. All employees and authorized subcontractors and agents (the "Staff") will be properly trained and experienced to ensure performance of the Services according to the terms of this Agreement. Caterer will assign a designated representative who will be responsible for the administration and coordination of the Services. All Staff assigned by Caterer to perform the Services will maintain the highest standards of courtesy, service, and professionalism in the performance and completion of the Services. Caterer will train its Staff in appropriate handling of any customer requests and complaints. Caterer and its Staff will treat all customers with respect and fairness, and work diligently to resolve all customer complaints or concerns to the customer's satisfaction. Any unresolved customer service complaint will be referred to the University Representative. Caterer and the University Representative will discuss, in good faith, possible resolutions for such a complaint.

B. Supervision: Caterer will supervise its Staff in completion of the Services at all times. Neither University nor any other representative of University will supervise Caterer's Staff performing the Services; provided, however, the University Representatives may be available to Caterer to answer questions and provide information as necessary.

C. Criminal Background Checks: Each individual who is assigned to perform Services will be an employee or agent of Caterer, or an employee or agent of an authorized subcontractor engaged by Caterer. Caterer shall be solely responsible for the performance of all Staff performing any Services. Caterer shall ensure that appropriate background and reference checks are conducted in advance on its Staff who will regularly perform work for the University in connection with the Services. Caterer, at a minimum, shall conduct criminal background checks on all such persons, searching federal, state, district, and county of residence records and

verify that such background checks have been conducted. Caterer shall not knowingly assign any such person who has a history of conduct unacceptable for a university environment to provide any direct Services under this Agreement. Caterer shall be solely responsible for conducting proper background checks and for securing any necessary consent from Staff. Caterer shall abide by all applicable federal, state, or local laws, rules, and regulations when conducting the background checks. Caterer agrees to indemnify and hold University harmless for any and all claims relating to the conducting of such checks and any adverse action that may be taken as a result of such checks.

4. Beverage Vending and Distribution Contracts: University has agreements with certain beverage vendors to grant such vendors exclusive rights on University premises, including the exclusive right to sell, distribute, and vend certain beverages. Caterer shall comply with the terms of such agreements with respect to which brands are to be distributed and/or sold on University premises and the advertising and signage for those brands. University reserves the right to change such agreements at any time.

A. Campus Health & COVID-19: GW expects Contractor Staff that will be campus to comply with COVID-19 policies. For campus commitment and policy, please review: <https://coronavirus.gwu.edu/campus-commitment-policy>

B. Safety and Sanitation:

i. Compliance with Law: Caterer will comply with all applicable laws related to safety, health, sanitation, and use of food service areas and equipment.

ii. Response to Emergencies: Caterer will immediately respond to and take corrective action for, all emergencies associated with the Services under this Agreement, including but not limited to chemical spills, or fuel/motor oil spill. Caterer will ensure that there is no danger to the public health, safety, or welfare due to the Services provided herein.

iii. Sanitation and Cleanliness: Caterer will at all times maintain clean, orderly, and sanitary conditions (satisfactory to University in all respects) in all kitchens, food preparation areas, service areas, loading dock areas, cooking equipment, floors, chairs, tables, and any other locations associated with the Services under this Agreement. Caterer will leave University's premises in as clean a condition, or cleaner condition, than existed prior to the Caterer's entry on to University's premises.

iv. Standards of Sanitation and Safety:

- a. The Caterer will provide cleaning along with requisite sanitation services for dedicated food service areas.
- b. The Caterer will ensure that all Staff are trained in the highest standards of sanitation and safety and supervised in a "clean as you go" policy that will result in a clean and orderly facility at all times.
- c. The Caterer will use non-toxic, biodegradable (earth friendly)

cleaning products that do not threaten employee health and do not negatively impact the environment.

- d. The Caterer will assure that food-handling practices are within current ServSafe and United States Department of Agriculture ("USDA") Hazard Analysis and Critical Control Points ("HACCP") standards in all operations.
- e. The Caterer's Staff will be neat and tidy in appearance and will follow established hygiene legal mandates and food service industry best practices in the handling of food.
- f. The Caterer will not allow Staff to work with known illnesses (those transmitted through the air or via the food products, equipment, or other mediums), open sores, or other symptoms. Any contagious disease such as, but not limited to, hepatitis must be reported immediately to the University.
- g. The Caterer will immediately fix and report to the University any conditions cited in any citations by local, state, or federal agencies or those identified by the University, as unsafe conditions to the University.
- h. Inspectors for all state and local authorities and from the University will have complete cooperation from the Caterer. When state and local authorities arrive for inspection, the University will be notified and, whenever practical, will be present for the inspection. The Caterer will transmit to the University a copy of the inspection report within 48 hours of receipt. Within five (5) working days, the Caterer will provide the University with a written report of corrective action if necessary. In the event that corrective action is a joint responsibility, the Caterer will notify the University of its responsibility in the matter and will work with the University in the implementation of such action.

5. Access to University Property

A. Limited Access: Caterer and its Staff will have the right to use and access only those University facilities that may be reasonably necessary to perform the Services and will have no right to use or access any other facilities of University. University will provide Caterer and its Staff with reasonable access to the University's facilities, and will otherwise cooperate with Caterer, only as reasonably necessary for Caterer to perform the Services.

B. Instrumentalities: Caterer shall supply all equipment, tools, materials, and supplies to accomplish the Services, unless University, in its discretion, agrees to provide any equipment, tools, materials, and supplies. Caterer is responsible for all repairs to all equipment and tools provided by Caterer and used to accomplish the Services.

C. Alcoholic Beverages:

i. Required Permits, Licenses, Registrations: For Services, including alcohol, Caterer warrants, represents, and agrees that Caterer and all Staff assigned to provide Services will obtain and maintain, at Caterer's sole cost and expense, any and all approvals, licenses, filings, registrations, and permits required by the District of Columbia, Virginia, or Maryland, as required by the jurisdiction where the Services are provided.

ii. University Approvals and Procedures: Caterer represents, warrants, and agrees that alcoholic beverages will be served and sold in accordance with the Services and only when service of alcohol has been approved in writing by University prior to the specific catered event.

iii. Certified Training: Caterer will require that all Staff serving alcoholic beverages in completion of the Services have completed all bartender and server training certifications, such as Training for Intervention Procedures, in accordance with the laws and regulations of the jurisdiction in which the Services are provided. Caterer will provide proof of certification at each function.

6. CANCELLATION and SUSPENSION; TERMINATION.

A. Cancellation and Suspension. University may partially cancel and/or suspend Services performed pursuant to a SOW by providing reasonable written notice to and coordinating such partial cancellation or suspension of Services with the Caterer; the Parties will document such partial cancellation or suspension of Services via an amendment or change order to a SOW. University acknowledges that all partial cancellations or suspensions are subject to the Caterer's reasonable ability to partially cancel, or suspend orders related to the Services. Caterer shall use commercially reasonable efforts to mitigate costs and charges arising from the partial cancellation or suspension and shall be responsible for all avoidable expenses and losses related to partial cancellations or suspensions.

B. Termination

i. Termination without Cause. Either Party may, at any time, terminate this Agreement or SOW without cause by providing written notice of termination to the other Party at least thirty (30) days before the date of intended termination, which shall be specified in the written notice of termination.

ii. Termination for Cause.

a. Either Party may terminate this Agreement or SOW immediately for cause in the event that: (i) either Party dissolves or ceases to exist, becomes bankrupt or insolvent, or takes a substantially equivalent action under applicable local law; or (ii) either Party commits a material default relating to nonfinancial issues that is subject to cure and which is not cured within a thirty (30) day period following written notice of the nature of the default. If the breaching party does not cure the alleged default within the cure period the non-breaching party shall have the right to seek specific performance of this Agreement and/or recover money damages, if any, or terminate this Agreement effective as of the date set forth in the default notice without further notice. For defaults not reasonably subject to cure within the cure period, this Agreement will terminate effective as of the date set forth in the default notice.

b. Termination of this Agreement shall automatically terminate all outstanding SOWs. Termination of a SOW shall not modify the term of this Agreement, or the term of any other SOW.

c. Upon termination of any SOW made pursuant to this Agreement by either Party, (a) University also agrees that upon termination of a SOW it shall pay Caterer for all fees for approved, received and completed Services, and costs incurred in the performance of its Services up to and including the effective date of termination; (b) Caterer will deliver any completed work or deliverables; and (c) each Party shall promptly return, at the written request of the other Party, all the other Party's related data, materials and other property held by it. Notwithstanding the foregoing, Caterer will not be paid for any avoidable costs incurred after the date of termination. Any request for an equitable adjustment must be made within thirty (30) days after the date of Caterer's receipt of notice of termination, with reasonable support for the amount requested, and shall be negotiated by the Parties in good faith on an expedited basis. To the extent necessary under the circumstances of termination, Caterer agrees to cooperate with the University in the transition of the work performed under this Agreement to the University or its designee.

d. All rights and obligations of the Parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of this Agreement and each SOW.

7. Indemnification: The Caterer agrees to defend, indemnify, and hold harmless the GW and its board members, trustees, officer, employees and subsidiaries, irrespective of their negligence or fault, from and against any and all claims, actions, judgments, damages, liability and expenses incidental thereto (including but not limited to reasonable attorney's fees) imposed upon, incurred by or asserted against any or all of them as a result of injury, death, disease, or occupational disease to any person, and for damage (including environmental impairment) to or loss of any property, including property of GW arising out of or in any degree directly or indirectly caused by or resulting from: 1) activities of or work performed by Caterer, its officers, employees, contractors, subcontractors, or any other person acting for or by permission of Caterer; or 2) any breach of this Agreement by Caterer, its officers, employees, contractors, subcontractors, or any other person acting for or by permission of Caterer. The foregoing obligation shall not extend to situations where the negligence or fault of GW, its officers, directors, employees, agents, servants, or subsidiaries, is the sole causal negligence or fault; provided, however, that it shall so extend to injury, death, disease, or occupational disease to employees of the Caterer, its contractors, subcontractors, or any other person acting for or by permission of Caterer. The obligations under this paragraph shall survive the termination of this Agreement.

8. Compliance with Laws and University Rules:

A. Caterer agrees, and will require its entire Staff to comply in all material respects with all applicable laws, statutes, ordinances, rules, regulations, and judicial and administrative orders and decrees while performing Services for University.

B. Caterer agrees to perform the Services and conduct all its operations on University's premises in conformity with all applicable University rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs. Caterer agrees to perform the Services in compliance with University's rules and policies related to personal health, security, environmental quality, safety, fire prevention, noise, smoking, parking, and access restrictions.

C. The University and Contractor (and any subcontractor) agree to abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered parties take affirmative action to employ and advance in employment individuals without regard race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

D. This Section shall survive the termination or expiration of this Agreement.

9. Licenses, Registrations, and Permits: Caterer represents and warrants that it has all licenses, permits, registrations, approvals, and other authorizations from the appropriate jurisdictions necessary to perform the Services, including, but not limited to, food handling permits. Caterer's obligations under this provision continue and survive the termination or expiration of this Agreement.

Caterer agrees to provide the following documentation to the University's Procurement Department representative: Current Business License; (A) County-Issued Food Permit, if applicable; and (B) Copies of three (3) most recent health inspections from the Health Department. The University's Office of Risk Management will determine the adequacy of proof of license and permits. Failure to provide subsequently renewed documentation after initial approval will suspend Caterer from providing Services to the University until documentation is provided.

10. Cancellation: The Caterer may suffer damages attributable to lost revenue from canceled services should the University cancel the Agreement without cause. The University Department agrees that the Caterer may assess damages against GW as damages and not as a penalty, provided such damages shall be reasonable and shall not exceed actual damages.

In the event of cancellation of the Agreement by University without cause, the Caterer shall be required to make good faith efforts to mitigate its damages. The Caterer shall submit, within thirty (30) days after the Event date, an invoice of such damages. The Caterer shall include with such submission for damages, documentation in support of the request to the University Department. The University reserves the right to audit the Caterer records to determine the amount of actual liability resulting from the canceled Agreement. Notice of cancellation must be received by the Caterer in writing (email acceptable).

In the event that the University cancels Services without cause, the University will rebook an event of equal or greater value within 180 days from the Event's original start date and suffer no liability for the cancelled Services; otherwise, the University

agrees that it will pay the Caterer per the assessment as liquidated damages listed below:

From Date of Agreement to 120 Days Prior	25% of total projected Caterer's revenue
From 119 Days to 90 Days Prior	35% of total projected Caterer's revenue
From 89 Days to 60 Days Prior	60% of total projected Caterer's revenue
From 59 Days to Date of Services	80% of total projected Caterer's revenue

11. Refund of Deposit/Prepayment: In the event the Agreement is canceled by Caterer for reason not attributable to the University or if terminated by the University with cause or due to Force Majeure, then within thirty (30) days after such cancellation or termination, Caterer will reimburse University for all deposits and other advance payments paid by University to Caterer that were (a) not earned by Caterer prior to termination, or (b) for goods or services that the University did not receive from Caterer prior to termination.

12. Force Majeure. Neither Party shall be responsible for any failure or delay in its performance due to an occurrence that has made it impossible to perform under this Agreement due to causes beyond its reasonable control, including but not limited to strikes, lockouts, shortages of or inability to obtain labor, shortages or disruption of the electrical power supply causing blackouts or rolling blackouts or other essential utilities, shortages in raw materials or supplies, war or threat of war, riot, acts of terrorism or threats of terrorism as substantiated by governmental warnings or advisory notices, civil unrest, government or World Health Organization regulation or travel advisory/warning, curtailment of transportation services or facilities, epidemic or pandemic, an act of God (including but not limited to fire, water, earthquake or other natural disasters) or acts of government or subdivision thereof affecting the terms of a SOW or this Agreement (including but not limited to any law, regulation, or decree), or any other events or circumstances not within the reasonable control of the Party affected, whether similar or dissimilar to any of the foregoing. In the event that either Party wishes to invoke force majeure, that party shall (a) as soon as practicable and no less than seven (7) calendar days after the occurrence of the event of force majeure has become known to that Party, send written notice of such event to the other Party; and (b) take all reasonable steps to recommence performance of its obligations under this agreement as soon as possible. In the event that a force majeure event prevents either Party's performance for a period of thirty (30) calendar days, either Party shall be entitled to terminate the affected SOW or Agreement, upon written notice to the other Party. The provisions of this paragraph shall not apply to the payment of fees or to any other payments due for Services already performed. The Parties will work in good faith to prevent one Party from unfairly benefitting from the force majeure event.

13. Insurance: Caterer, consistent with its status as an independent contractor, shall procure and maintain, at its sole cost and expense, the types of

insurance specified below. Caterer shall evidence such insurance by submitting Certificates of Insurance prior to commencement of the Services. All insurances shall be procured from insurers authorized to do business in the jurisdictions where the Services are performed. The Caterer shall require all authorized subcontractors to carry the insurance required herein, or Caterer may, at its option, provide the insurance for any or all subcontractors, provided the evidence of insurance submitted by the Caterer to the University so stipulates. The insurance specified below shall provide for thirty (30) days prior written notice to the University in the event coverage is substantially changed, canceled, or non-renewed. The insurance coverage specified below is to be considered minimum requirements under this Agreement and will in no way limit the liability or obligations of Caterer under this Agreement. Caterer's failure to comply with the insurance requirements set forth herein shall constitute a material violation of this Agreement. Caterer shall present a certificate of insurance stating all applicable coverage and limits stated in Section 13 to University prior to the start of this Agreement.

A. Commercial General Liability Insurance: Covering the liability of the Caterer with respect to all services to be performed and all obligations assumed by the Caterer under the terms of this Agreement. Products/Completed Operations Liability, Independent Contractors Liability, and Contractual Liability coverage are to be included. The policy shall name the University as an additional insured with respect to the Services to be performed. Coverage under this policy or policies shall have combined single limits of not less than \$2 million per occurrence.

B. Workers Compensation Insurance Complying with the requirements of the statutes of the jurisdiction(s) in which the Services will be performed, covering all Staff of Caterer. Employers' Liability coverage with limits of not less than \$1 million each accident or illness shall be included.

C. Automobile Liability Insurance: Covering the liability of Caterer arising out of the use of ANY VEHICLES which bear, or are required to bear, licenses plates according to the laws of the jurisdiction in which they are to be operated, and which are not covered under the Caterer's Commercial General Liability insurance. The policy shall name the University as an additional insured with respect to the services to be performed. Coverage under this policy shall have combined single limits of liability of not less than \$1 million per occurrence.

D. Liquor Liability: Of not less than \$2 million each single occurrence.

E. Employee Crime Insurance: With a client protection endorsement to protect the assets, property, and contract earnings due University under this Agreement, of not less than \$1 million per claim.

14. Limitation of Liability: In no event will University be responsible to Caterer for any amounts in excess of the amount paid by University to Caterer hereunder.

15. Governing Law; Forum: This Agreement shall be governed and construed, and the rights and obligations of the parties shall be determined, in accordance with the laws of the District of Columbia, Virginia, or Maryland, depending on where the Services were performed without regard to conflicts of law

issues. Any dispute regarding this Agreement shall be brought solely in the local or federal courts of the District of Columbia, Virginia, or Maryland, depending on where Services were performed, and all parties hereby consent to the personal jurisdiction and venue of such courts for any such action, regardless of where they may reside or work at the time of such dispute. **All parties hereby waive any right they may have to a trial by jury in any action relating to this Agreement.**

16. Confidentiality of Information: Caterer agrees to keep confidential and not to disclose to third parties any information provided by the University pursuant to this Agreement unless Caterer has received prior written consent of the University to make such disclosure. This obligation does not extend to any information that: (a) was in the possession of the Caterer at the time of disclosure by the University; (b) is or shall become, through no fault of Caterer, available to the general public; or (c) is independently developed and hereafter supplied to Caterer by a third party without restriction or disclosure. Except when defined as part of the Services, Caterer will not make any press releases, public statements, or advertisement referring to the Services or the engagement of Caterer as an independent contractor of University, or release any information relative to the Services for publication, advertisement, or any other purpose without the prior written approval of University. Caterer will require assurances similar to those contained in this Section from its Staff. Caterer further agrees to adhere to all applicable laws and industry standards for preserving the confidentiality of personal financial information and personal identification numbers.

17. Severability: The terms of this Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

18. Paragraph Headings: The paragraph headings in this Agreement are inserted for convenience only and shall not be construed to limit or modify the scope of any provision of this Agreement.

19. Non-Waiver: The delay or failure of either Party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights, nor shall the same be deemed to be a waiver of any subsequent breach, either of the same provision or otherwise.

20. Assignment; Subcontracting: Caterer may not assign or subcontract the rights or obligations under this Agreement without the University's prior written consent.

21. Supplier Diversity Initiate Program (MBE/WBE): GW is interested in encouraging participation of diverse trading partners, including minority-owned and women-owned business enterprises (MBE/WBEs). The university's supplier diversity initiative aims to increase the participation MBE/WBEs through primary and second-tier suppliers. As appropriate, Caterer should submit a subcontracting plan that reflects a goal of 30% use of MBE/WBEs as part of their Services. The subcontracting plan should indicate how they intend to use minority and women

owned vendors as their second-tier suppliers if the prime contract holder is not a MBE/WBE.

22. Use of University Name or Marks. The name of the University and its registered marks may not be used without the prior written consent of the University in each instance. This prohibition extends to inclusion of the name of the University in client lists or press releases.

23. Entire Agreement; Modification. This Agreement (and its attachments, if any) constitutes the entire understanding between the parties with respect to the subject matter hereof and may not be amended except by an agreement signed by Caterer and an authorized representative of the University.

24. Signatures: This Agreement and its amendments may be executed in any one or more counterparts (including by confirmed electronic (e.g. scanned document/pdf) or facsimile transmission), each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. An electronic signature of a Party done pursuant to law, or a signature of a Party transmitted by electronic means, shall be deemed an original signature for purposes of this Agreement.

IN WITNESS WHEREOF, the Parties agree to be bound by the terms hereof as of the Effective Date and have caused this Agreement to be executed by their duly authorized representatives.

[Insert Service Provider's Legal Name] The George Washington University

By: _____

By: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____