

GENERAL TERMS AND CONDITIONS FOR SERVICES

1. Applicability.

(a) These terms and conditions for services (these “**Terms**”) are the only terms that govern the provision of services by Carried Away, LLC (along with its representatives, “**Carried Away**”) to you, the Client (“**Client**”).

(b) The accompanying order confirmation (the “**Order Confirmation**”), if any, and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the Order Confirmation, the Order Confirmation shall govern.

(c) These Terms prevail over any of Client’s general terms and conditions regardless whether or when Client has submitted its request for proposal, order, or such terms. Provision of services to Client does not constitute acceptance of any of Client’s terms and conditions and does not serve to modify or amend these Terms.

2. Services. Carried Away shall provide Client with a proposed menu customized based upon Client’s submitted food preferences form. Upon approval of the menu by the Client, Carried Away will provide cooking services as agreed on the scheduled date of service (the “**Service Date**”). Carried away will provide all necessary food items and other ingredients for the menu, and prepare the meal on the Client’s premises (together with the cooking services, the “**Services**”).

3. Client’s Obligations. Client shall:

(a) cooperate with Carried Away in all matters relating to the Services and provide such access to Client’s premises, and any other facilities as may reasonably be requested by Carried Away, for the purposes of performing the Services and

(b) respond promptly to any Carried Away request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Carried Away to perform Services in accordance with the requirements of this Agreement;

4. Client’s Acts or Omissions. If Carried Away’s performance of its obligations under this Agreement is prevented or delayed by any act or omission of Client, Carried Away shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Client, in each case, to the extent arising directly or indirectly from such prevention or delay.

5. Cancellation Policy. All cancellations must be received by Carried Away at least forty-eight (48) hours prior to the Service Date. Any cancellations within forty-eight (48) hours of the Service date shall be charged the half fee for the Services, including the cost of any food items or other ingredients procured by Carried Away for the Client.

6. Product Availability. Carried Away will make its best reasonable efforts to meet all food preferences. However, it is possible that certain food items may be unavailable on the Service Date. In the event that an food item or other ingredient the Client has requested is unavailable, Carried Away will provide the Client with a comparable substitute. Carried Away will not redeliver any food items or other ingredients that are unavailable on the Service Date.

7. Fees and Expenses; Payment Terms.

(a) In consideration of the provision of the Services by the Carried Away and the rights granted to Client under this Agreement, Client shall pay the fees set forth in the Order Confirmation or as otherwise mutually agreed.

(b) Client agrees to reimburse Carried Away for all reasonable out-of-pocket expenses incurred by Carried Away in connection with the performance of the Services, including for the provision of food items and other ingredients. If such expenses are anticipated to be in excess of \$300, the Client shall provide Carried Away with a deposit for the Services.

(c) Client shall provide Carried Away with valid credit card information which Carried Away will keep on file. The credit card will be charged by Carried Away for the Services and any associated fees following the Service Date, unless an alternate method of payment is mutually agreed to by Carried Away and the Client.

8. Representation and Warranty.

(a) Carried Away represents and warrants to Client that it shall perform the Services using chefs of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

(b) Carried Away shall not be liable for a breach of the warranty set forth in Section 8(a) unless Client gives written notice of the defective Services, reasonably described, to Carried Away within thirty (30) days of the time when Client discovers or ought to have discovered that the Services were defective.

(c) Subject to Section 8(b), Carried Away shall, in its sole discretion, either:

(i) re-perform such Services (or the defective part); or

(ii) credit or refund the price of such Services at the pro rata contract rate.

(d) THE REMEDIES SET FORTH IN SECTION 8(c) SHALL BE THE CLIENT'S SOLE AND EXCLUSIVE REMEDY AND CARRIED AWAY'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 8(a).

9. Disclaimer of Warranties. EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 8(a) ABOVE, CARRIED AWAY MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ANY (A) WARRANTY OF MERCHANTABILITY OR (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

10. Limitation of Liability.

(a) IN NO EVENT SHALL CARRIED AWAY BE LIABLE TO CLIENT OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT CARRIED AWAY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL CARRIED AWAY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO CARRIED AWAY BY CLIENT PURSUANT TO THIS AGREEMENT OR THE APPLICABLE ORDER CONFIRMATION.

11. Termination. In addition to any remedies that may be provided under this Agreement, Carried Away may terminate this Agreement with immediate effect upon seven (7) days' written notice to Client. Carried Away has, in its sole discretion, the right to determine to whom it will provide services.

12. Waiver. No waiver by Carried Away of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Carried Away. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

13. Force Majeure. The Carried Away shall not be liable or responsible to Client, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Carried Away including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

14. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the

other party in any manner whatsoever.

15. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New York.

16. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of New York in each case located in the City of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

17. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth in the Order Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

18. Communications. Client agrees that Carried Away may rely on email or other online communication received from the Client.

19. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

20. Survival. Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement.

21. Amendment and Modification. This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each party.