

2015-2016 Non-Profit Organization (NPO)

Concessions Operations Agreement

This NPO Operations Agreement (“Agreement”) is entered into by and between The Regents of the University of California, operating as Cal Dining Concessions (hereinafter “Cal Dining Concessions”) and:

Group Name: _____
(Hereinafter “The Group”)

Main Contact Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Day Phone: _____

Evening Phone: _____

Mobile Phone: _____

Fax: _____

E-Mail: _____

Group Website Address: _____

Group Federal Tax ID Number: _____

The Groups operating a stand at all six (6) Cal Bear Football Games must operate a stand and an additional 2 events during the 2015-2016 athletics season, unless otherwise agreed to by Cal Dining Concessions. These additional 2 events will be assigned by Cal Dining Concessions to ensure proper staffing at non-football events. If the group is unable to work assigned events, an alternative event will be assigned.

If your group will be partnering with another service group, that group must be approved by Cal Dining Concessions. Please list the names of other service groups that your group will be partnering with this season. Volunteers from these partner groups may not be used absent prior written confirmation of the acceptability of the partner group from Cal Dining Concessions.

I. RECITALS

- A. Cal Dining Concessions, operates concessions of food and beverages (“Concessions Operations”) at various sports and entertainment facilities of the University of California-Berkeley (“Athletic Venues”) under contract with the University
- B. Group is:
 - ___ A California Non-profit organization
 - ___ A California service organization
 - ___ A University affiliated student organization
 - ___ A non-affiliated University of California student organization

Purpose of group is to: _____

- C. The Group is willing to furnish unpaid, volunteer personnel to operate one or more concessions sales locations operated by Cal Dining Concessions during the term of this Agreement upon such terms and conditions as are set forth herein.

D. Definitions

- a. GSM – Group Stand Manager
- b. ASM – Assistant Stand Manager
- c. FPL – Food Prep Lead

II. TERM

This Agreement shall commence effective August 1, 2015 or date signed and submitted and shall expire on July 31st, 2016 unless terminated by Cal Dining Concessions or the Group as provided herein.

III. CONCESSION STAND

The Group shall operate one or more concession locations (“Concession Stand”) assigned to the Group at the sole discretion of and subject to the sole determination of Cal Dining Concessions as to the dates, times of operation and location(s). Dates and location(s) shall be provided at such times as Cal Dining Concessions shall deem it necessary. Cal Dining Concessions may at its option use a portion of the Concessions Stand operated by the Group for any non-food and beverage purpose or other purposes at any time at its sole discretion. As specified in Title V, Number 6, Group will work under Supervision of Stand Supervisor provided by Cal Dining Concessions.

IV. PERSONNEL

The Parties agree that the personnel to operate the Concession Stand shall be furnished by Group. Such personnel shall be unpaid volunteer members of the Group, or relatives there of (“Volunteers”) who offer their services for the sole benefit of the Group. The Volunteers shall not be considered employees

of Cal Dining Concessions for any purposes, including but not limited to any relevant federal, state or local statute, ordinance or similar provision. Cal Dining Concessions may require the Group to provide proof in a written form acceptable to Cal Dining Concessions in the sole exercise of its discretion that (a) all Volunteers provided by the Group acknowledge that the provisions of the aforementioned law(s) do not apply to them, (b) that the unpaid services they provide are volunteered for the sole benefit of the Group, (c) and they are not employees of Cal Dining Concessions.

V. OBLIGATIONS OF CAL DINING CONCESSIONS

Cal Dining Concessions will provide the following:

1. Food preparation and serving equipment and beverage dispensing equipment to be used in the operation of the Concession Stand. The Group shall use the equipment in the proper manner and shall notify Cal Dining Concessions immediately if the equipment malfunctions or is in need of repair. The Group shall clean all equipment it uses per directions provided by Cal Dining Concessions.
2. Paper, janitorial and other supplies necessary for operation of the Concession Stand. These supplies are solely for use in the Concession Stand.
3. Hats/visors, T-shirt and aprons for Group Volunteers. The number of hats issued will be equal to the maximum number of required stand volunteers as determined by Cal Dining Concessions. Hats/visor, T-shirts and aprons will be laundered at Cal Dining Concessions expense. Volunteer accountability for such uniforms is addressed under Title VI of this Agreement.
4. Food, beverages, and any other items to be sold at the Concession Stand to patrons.
5. A cash bank adequate in amount to meet the demand for change required during operation of the Concession Stand by the Group. This cash bank is to be collected by a Cal Dining Concessions representative at the close of each event day, along with the total receipts for all items sold by the Group on that event day. The Group agrees to designate a representative (the "Assistant Stand Manager") whose responsibility is to act as the "Cash Bank Representative" to perform the task of collecting the cash bank, which may include multiple pickups and requests for additional change. This must be performed with an escort from Cal Dining or its representatives in compliance with our cash handling standards. Any violation of cash handling procedures may result in termination of this contract.
6. Cal Dining will provide a Concession Stand Supervisor (Stand Supervisor) for each Concession Stand. The duties of the Stand Supervisor shall include acting as an advisor to the Group and assisting in the implementation of the policies and procedures of Cal Dining Concessions. The Stand Supervisor is not responsible in any way for cash or sales reconciliation, nor may any non-group members be allowed to handle cash with the Concession Stand. This is the sole responsibility of the Group.
7. The University will issue a Form 1099 reporting commissions paid to the Group.

VI. OBLIGATIONS OF GROUP

Group shall have the following obligations:

1. Provide trained Volunteers in a manner defined in Title VII below, to operate a Concession Stand(s). The Group is required to provide an adequate number of Volunteers as determined by Cal Dining Concessions in the sole exercise of its discretion. The required number of Volunteers is determined by stand. Specific requirements are stated in Exhibit B of this Agreement. Since each stand and event may vary slightly Cal Dining Concessions may require in the sole exercise of its discretion the group to provide more or less than the required number people. When the number of volunteers needed is other than what is required, Cal Dining Concessions will notify the Group's designated representative of the exact number needed at least five (5) days prior to the event. **Volunteers provided by the Group shall be at least sixteen (16) years of age. Also, all appropriate labor laws regarding the use of minors in a workplace will apply and be the responsibility of the Group.**

The Group is to staff a concession stand at the locations, time and dates with the corresponding number of volunteers, committed to by the group and confirmed by Cal Dining management. . A deduction in payment will be assessed for each volunteer short for the required number at a rate of **(eighty-five dollars) per volunteer short.**

2. The Group shall designate a representative of the Group's organization as a Group Stand Manager ("GSM"). The GSM shall also be a Volunteer. The GSM shall direct and be responsible for the operation of the Concession Stand as it relates to the Group's Volunteers. The GSM(s) shall be aware of all provisions of this Agreement and shall sign an acknowledgement. The GSM(s) shall work in conjunction with Cal Dining Concession's Stand Supervisor and communicate and ensure compliance with all requirements for Concession Stand operation by the Group's Volunteers. For each event, the Group will also designate one of its Volunteers as an assistant to the GSM with responsibility for cash control and inventory.
3. The Group shall keep concession stand open for business as directed by the Stand Supervisor or Cal Dining Concessions.
4. **Dress Code:** A gold shirt (supplied by Cal Dining) or Cal Bears apparel, will be required to be worn by all Group Volunteers while working an event. At Cal Dining Concessions discretion, any Group Volunteer not in compliance with the dress code may be asked to vacate the stand and stadium/arena.

Supplied by Cal Dining Concessions

- Headwear as approved by Cal Dining Concessions management. (Number issued based on size of assigned stand.)
- Gold shirt (number issued based on size of group.)
- Aprons – for all volunteers except cashiers
- Groups are to return same number of gold shirts, aprons and hats at completion of every event as was checked out to them.

Supplied by the Group:

- In cold weather a sweatshirt is an acceptable alternative to the Gold Shirt in the following colors: black, navy blue, gold, white or gray.

- Black Closed-Toed shoes such as Tennis Shoes. **No open toed shoes, sandals, high heeled or stilettos, Tom's style or ballet style shoes are allowed. No volunteer will be permitted to work without approved footwear.**
- Black Slacks, pants or dark blue jeans. Sweat pants, spandex pants, shorts or capri pants are not allowed. Opposing school's uniform, mascot, school colors, logo on apparel will not be allowed inside concession stand. In addition no other sporting teams' logo or apparel will be allowed in concession stands.

5. Routine cleaning of the interior of the Concession Stand before, during and immediately after the event as determined by Cal Dining Concessions. Should Cal Dining Concessions need to clean a stand because of the Group's failure to adequately clean the stand as determined in the sole discretion of Concessions Management, Cal Dining Concessions may charge the cost for Cal Dining employees to clean the stand from the group by making an offsetting adjustment to the group payment for the event. This cleaning charge shall be \$250.00. The stand is to be left with no dirty dishes, floors mopped and bucket drained, trash set outside for pick up, and all equipment cleaned and wiped down including the condiment cart(s) assigned to your stand.

During its initial training by Cal Dining Concessions liaison personnel, the Group shall be made aware of all applicable federal, state and municipal health and sanitation codes and regulations and be responsible for compliance with all such regulations each time the Group operates the Concession Stand. The Parties hereby affirm their understanding that compliance with all applicable sanitation codes and regulations [including, but not limited to, all cleaning and custodial requirements related to the operation of the Concession Stand(s)] is of the essence of this Agreement and that Group's failure to comply with this term of the Agreement may result in termination of this Agreement by Cal Dining Concessions

6. Provide healthy Volunteers. All Volunteers furnished by Group shall be in good health and meet all applicable federal, state and local health laws or codes, including the requirements listed in Exhibit A attached hereto and made a part hereof.
7. ALL VOLUNTEERS WORKING ON BEHALF OF GROUP ARE PROHIBITED FROM CONSUMING ALCOHOL DURING ANY TIME THAT THEY ARE OPERATING A CONCESSION STAND. THIS INCLUDES BEFORE, DURING OR AFTER ANY EVENT WHILE VOLUNTEERS ARE AT ATHLETIC VENUES. FAILURE TO COMPLY WITH THIS PROVISION MAY RESULT IN IMMEDIATE TERMINATION OF THIS AGREEMENT.
8. **Group's Volunteers' may not consume food inside the Concession Stand.** Non-alcoholic beverages may be consumed in the Concessions Stand provided it is in an approved container. Food prepared but not sold when the Concession Stand closes must be recorded as waste and shall not be consumed by any Volunteer. Group hereby affirms its understanding that it is prohibited from bringing any food or beverage of any kind into the Concession Stand or Athletic Venue.
9. The Group agrees its Volunteers shall comply with University of California and State of California policy which strictly prohibits smoking or any other use of tobacco products within the Concession Stand(s) or Athletic Venue.

10. In operating the Concession Stand, the Group shall reasonably minimize waste of food, beverage and supplies. The Stand Supervisor will communicate with the Group exact preparation levels of products needing to be cooked or prepared. As business dictates, there may be occasions when lower/additional product may be needed below/above the stated levels. Group must obtain permission from Stand Supervisor prior to preparing additional product in excess of the original preparation level. Unnecessary spoilage caused by the Group by exceeding original preparation levels may be charged back to the group, at Cal Dining Concessions discretion. Additionally, the group may be asked to supplement food production for the operation as a whole.
11. The use and display of 'Tip Jars' is prohibited at all times in all concessions areas. No solicitation is allowed.
12. Operation of the Concession Stand shall be pursuant to guidelines and procedures provided by Cal Dining Concessions and instructions delivered by Stand Supervisor or other management personnel.

VII. ARRIVAL AND DEPARTURE OF GROUP

Unless otherwise advised by Cal Dining Concessions, representatives from Group shall arrive and depart as follows:

1. GSM and all Volunteers shall arrive three and one-half hours before kickoff, or as may be required by Cal Dining Concessions, to begin preparations for the event. Nobody will be permitted to arrive after designated check in times and may not leave early without prior permission from Cal Dining Concessions. Any member leaving early may incur the commission deduction detailed in Section 1.
2. GSM and ASM shall remain on site until all cash and inventory reconciliations and all other event-related obligations have been performed by Group at the Concession Stand(s), including cleaning the stand(s) and condiment cart(s). Cal Dining Concessions has the final authority on all reconciliation matters.
3. All Group Volunteers shall depart as mutually agreed between Group and Cal Dining management, ***but in no event shall any Volunteer depart from the Concession Stand(s) prior to the conclusion of the event without the consent of an authorized representative of Cal Dining Concessions.***
4. As required by Cal Dining Concessions and Cal Athletics for a particular event, GSM shall identify all Volunteers working for an event and provide Cal Dining Concessions with a written listing (the "Pass List") of said Volunteers not later than **ninety-six hours (96 hrs.)** prior to the pre-event arrival time. Any volunteer whose name is not listed may not be allowed into Cal Memorial Stadium.
5. The Parties hereby affirm their understanding that compliance with the arrival and departure times indicated in this paragraph is of the essence of this Agreement.

VIII. PROPERTY INTEREST

The Concession Stand(s) to be operated pursuant to this Agreement, including equipment, inventory, supplies, cash bank and receipts, shall at all times remain and be the sole property of Cal Dining Concessions; and the Group shall have no right to that property other than the right to occupy, use and operate the Concessions Stand(s) on the dates and times assigned by Cal Dining Concessions and upon the terms and conditions contained in this Agreement.

IX. CASH ACCOUNTING AND CONTROL/INVENTORY RECONCILIATION

The following conditions shall apply to all receipts generated through and all inventory used in connection with the operation of the Concession Stand(s):

1. The Group will be financially responsible for the extended value of all goods sold by it at its concession stand(s), which amount will be the amount on which the Group's commission will be based. If, for any reason, the cash/credit card deposits/coupon values obtained by the Group for goods sold are less than the extended value of the goods sold, the shortage will be deducted from the commission earned by the Group. All overages will be retained by Cal Dining.
2. The ASM shall accept full responsibility for and maintain exclusive control of the cash bank and inventory provided by Cal Dining Concessions and all receipts from the sale of all items by the Group until such cash bank and all receipts are counted and returned to Cal Dining Concessions for its verification and control at the end of an event. The location of cash verification and control is otherwise notated as the Money Room. At no point will money be left unattended or in a location other than the secure Money Room.
2. The GSM will complete an itemized report setting forth net product usage (sales totals) at the conclusion of each event. This net product usage report shall include adjustments for spoilage as approved by Stand Supervisor, unused food product and other adjustments. Responsibility for this function remains solely the responsibility of the Group.
3. Cal Dining Concessions and its representatives reserve the right to inspect the operation of Concession Stand(s) at all times and to take appropriate action if necessary to bring the Group's operation into compliance with this Agreement.

X. PAYMENT

The attached Exhibit B sets forth the terms and conditions of payments to Group and is incorporated by reference into this agreement.

XI. INDEMNIFICATION

Group shall defend, indemnify, and hold harmless Cal Dining Concessions, its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of this agreement and/or Group's performance hereunder, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Group, its officers, agents, employees or members. Cal Dining Concessions shall defend, indemnify, and hold

harmless the Group, its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of this agreement and/or Cal Dining Concessions' performance hereunder, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Cal Dining Concessions, its officers, agents, employees. Agents, subcontractors, or anyone directly or indirectly employed by them, or any person or persons under Cal Dining Concessions' direction and control. In the event of any receipt of service of any suit or claim, each Party shall promptly notify the other in writing of the assertion of the suit or claim and properly forward all papers in connection therewith. Such notice shall be served by personal service upon the other Party as follows:

If to Cal Dining: Executive Director
 Cal Dining
 2610 Channing Way
 Berkeley, CA 94720

If to the Group _____

XII. INSURANCE

Group, at its sole cost and expense, shall insure its activities in connection with the work under this agreement and obtain, keep in force, and maintain insurance as follows:

- A. Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with limits as follows:
 - Each Occurrence \$1,000,000.00
 - Products/Completed Operations Aggregate \$2,000,000.00
 - Personal and Advertising Injury \$1,000,000.00
 - General Aggregate (Not applicable to the Comprehensive Form) \$ 2,000,000.00

• If this insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

- If the Group is a Registered Student Organization of the University of California-Berkeley, insurance standards already identified by the Association of Students of the University of California (ASUC) will be accepted.
- The Regents of the University of California shall be named as an additional insured under Group's insurance policy. It is understood that the coverage and limits referred to above shall not in any way limit the liability of the Group.

XIII. TERMINATION

Any Party may terminate this Agreement by serving written notice on the other Party setting a date for termination not less than forty-five (45) days from the date notice is served. Cal Dining Concessions has the right to terminate this Agreement immediately without notice in the event of a breach of the Agreement by Group. Failure to comply with all elements of this MOA may result in immediate termination of contract and removal from fundraising program.

Notice under the provisions of this title shall mean personal service on the Parties designated in Title XI herein; or, in the case of Cal Dining Concessions, a delivery of written notice to the address set forth in Title XI during normal business hours. Service may be by mail and date of termination shall, in that case, be not less than ten (10) days from the date that such notification is placed, postage paid, in the United States mail.

XIV. MODIFICATION

This Agreement may be modified by Cal Dining Concessions at any time in order to comply with the rules, orders, or directives of any federal, state or local agency of government.

XV. NO ASSIGNMENT

No assignment, transfer, or pledge of the Agreement, in whole or in part, may be made by Group.

XVI. NON-DISCRIMINATION

In its performance under this Agreement, the Parties agree there shall be no discrimination, by reason of race, color, creed, gender, disability, age, national origin or sexual orientation against any person who is qualified and available to perform such work and that they shall comply with all applicable federal, state, and local laws.

XVII. ENTIRE AGREEMENT

Except as otherwise stated in this Agreement, this instrument contains the entire Agreement between the Parties with respect to its subject matter and supersedes all prior negotiations and understandings.

XVIII. RELATIONSHIP

The relationship between Cal Dining Concessions and the Group is that of contractor and independent contractor, and neither shall have the right or authority to bind or create liability for the other by its acts or omissions. The Volunteers who assist the Group in operating the Concession Stand(s) are and remain the sole responsibility of the Group for all purposes.

XIX. APPLICABLE LAW

This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any litigation or proceedings with respect to it shall be commenced in the state of California with venue in Alameda County.

XX. ACCEPTANCE OF TERMS

I hereby acknowledge that I have read the foregoing agreement, that I understand the complete terms of this agreement, to be bound by the terms of this agreement, and that I have the authority to sign on behalf of _____ and to do so bind the Group to the Agreement.

NON-PROFIT GROUP

Printed Name: _____
Signature: _____
Title: _____
Date: _____

CAL DINING CONCESSIONS

By: _____
Title: _____
Date: _____

CAL DINING

CONCESSION STAND OPERATION AGREEMENT

EXHIBIT A HEALTH REQUIREMENTS AND WORK SITE SAFETY

1. No person knowingly infected with a disease in a form that is communicable by food handling may be used by the Group at Athletic Venues and the Group shall insure that such person(s) are not supplied.
2. If Cal Dining Concessions reasonably believes that any person used by Group has a communicable disease that may be transmitted by food handling, GSM, upon notification by Cal Dining Concession, shall assist the Volunteer's departure from Athletic Venue.
3. Effective hair restraints, such as hairnets, visors or caps, shall be used by all Volunteers. Hair sprays and headbands are not acceptable hair restraints. Effective hair control to eliminate unnecessary touching or handling of hair shall be practiced by all Volunteers.
4. Volunteers shall handle soiled tableware in a way that minimizes contamination of their hands.
5. Volunteers shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all work periods.
6. The Group acknowledges the importance of safe working conditions throughout the period of time related to the Agreement. Both parties agree to use their best efforts to maintain the following policies:
 - A. Tobacco Consumption – The Group's Volunteers shall comply with Cal Dining Concessions' policy which strictly prohibits smoking or any other use of tobacco products within the Concession Stand(s) or in the Athletic Venue.
 - B. Alcoholic Beverage Consumption - All Volunteers working on behalf of group are prohibited from consuming any beer, wine or intoxicating liquor during any time that they are operating a Concession Stand. This includes before, during or after any event at Cal Dining Concessions while Volunteers are at the Athletic Venue. Failure to comply with this sub-paragraph may result in immediate termination of this Agreement. No open containers of alcoholic beverages of any kind will be permitted in any event or other work areas. Volunteers consuming or possessing alcoholic beverages in these areas shall be ordered to vacate the premises immediately.
 - C. Controlled Substances - All Volunteers are prohibited from possessing, delivering or consuming all controlled substances other than legally prescribed pharmaceuticals for which such Volunteers must be able to substantiate legal possession. All Volunteers consuming delivering, or possessing, for sale or any other purpose, any controlled substance other than the aforementioned prescription pharmaceuticals will be subject to immediate ejection from the premises and all legal sanctions available through both the civil and criminal justice systems.

CAL DINING
CONCESSION STAND
OPERATION AGREEMENT

EXHIBIT B

1. Commission Schedule

Cal Memorial Stadium & Haas Pavilion & other venues as assigned

When operating a Concession Stand and providing all required workers, the Group will receive 10% of net sales generated from the concession stand(s) or \$350 per concessions location, whichever is the greater to which the group is assigned (gross sales less all applicable sales taxes and deposit shortages). If Group is unable to provide the minimum number of required volunteers for a particular event, the payment to the Group shall be reduced as stated in Title VI of this agreement.

Payments will be evaluated and distributed monthly, after completion of football games, through Cal Dining, RSSP and University channels.

Example: Payment for all September Football games volunteered will be evaluated and processed in October.

Commission Payments may be delayed or adjusted if there are un-reconciled discrepancies in the inventory, sales recorded and cash deposited records for the event in which the Group participated. It is the groups' responsibility to ensure all necessary information to receive payment including current address are up to date. Failure to do so may result in the delay payment.