



HEY CHEF!
Hey Chef! LLC
Client Terms and Conditions

1. **Agreement.** These Terms and Conditions (the “Ts&Cs”) form an integral part of the overall agreement between you (referred to herein as the “Client”) and HeyChef!, LLC, a California limited liability company (“HeyChef!”) and should be read together with the confirmation letter given to you by HeyChef! (the “Letter”). It is that Letter and these Ts&Cs which collectively form the provisions of HeyChef!’s agreement with you (referred to herein collectively as the “Agreement”). When you send us your signed copy of the Letter, you are acknowledging having read and understood all the provisions within that Letter and these Ts&Cs.
2. **Nature of Services.** In hiring HeyChef!, you understand and agree that the services requested of HeyChef! will be performed by chefs contracted for hire through HeyChef!, and by service staff which are employees of HeyChef! Our chefs will perform some or all of the following services for you: work with you to develop and create a personalized menu for your event(s), conduct all grocery shopping required to prepare the meal(s) designed by the chef, meal preparation and presentation, and kitchen clean-up, (hereafter referred to as the “Services”).
3. **Estimates.** You received an estimate in the Letter. You understand that any additions or deletions from the services, menu, or scope of the engagement will be accomplished verbally. Confirmation of such changes will be reflected in contemporaneous notes made by HeyChef! and included in the Client’s HeyChef! file. Though HeyChef! shall endeavor to send confirming e-mails to the Client to confirm the nature of a change, such an e-mail is not a prerequisite to Client being bound for the cost associated with any modification of the estimate. Final costs are subject to change for various reasons including, but not limited to, the following:
 - a. **Event Size.** If your guest count increases substantially before the event we will do our best to provide additional service staff, for which added cost Client shall be responsible. If we are unable to provide additional staffing an additional charge may be added to your final bill to cover the increase in duties. Likewise, if Client’s guest count decreases and the service staff HeyChef! has arranged is no longer needed, there will be a minimum seventy-five dollar (\$75) charge for each person we must take off the calendar.
 - b. **Planning.** You will note that “planning” is an item referenced in the estimate. This relates to the amount of time the chef dedicates to working with Client in planning the Client’s event.
 - c. **Substitutions.** The chef contracted to work for client by HeyChef! reserves the sole discretion to substitute seasonal or specialty grocery items because of availability, freshness or quality.
 - d. **Unforeseen Costs.** Client is responsible for any additional costs which are unforeseen at the time the Agreement is entered into, but arise from issues beyond the reasonable control of HeyChef! In other situations there may be other unforeseen consequences that necessitate a modification in costs.
 - e. **Gratuity.** All estimates include a gratuity of twenty percent (20%).
4. **Payment to HeyChef!**
 - a. **Advance.** A check for partial advance payment in the amount of thirty percent (30%) of the estimate must be received by HeyChef! within five (5) business days of the date on which a Client executes the Letter. Specific dates will not be guaranteed until the advance for the event is received by HeyChef!
 - b. **General.** Full payment is due on the date of the event, at its conclusion. It is acknowledged and agreed that HeyChef! is authorized to charge a Client’s credit card on file (pursuant to the authorization set forth in the Letter) at the time HeyChef! is reasonably certain what the balance owed will be for an event, and it is understood that this may be up to 24 hours or more before the event’s conclusion. It is further understood and agreed that there may be additional incidental expenses about which HeyChef! does not become aware until the conclusion of an event, and that HeyChef! will make an additional charge against the Client’s credit card on file for such additional incidental expenses as soon as possible after the event. Client represents and warrants that the credit limit for the credit card authorization granted to HeyChef! is sufficient to cover the anticipated charges arising from this agreement. HeyChef! will mail Client a final invoice (including copies of receipts for purchases made on behalf of the Client) as soon as possible after the event to which the invoice pertains.

- c. **Method of Payment.** We accept payment by check and credit card only.
- d. **Late Payments.** A penalty of five dollars (\$5) per day will be applied to all invoices outstanding after two (2) weeks following the conclusion of an event. Accounts not paid within thirty (30) days are referred to an attorney or collection agency for collection

5. **Cancellation Policy.**

- a. **Cancellation by Either Party.** Either party may cancel forty-five (45) calendar days or more before the date of the event. In this situation, the full amount of Client’s advance will be refunded.
- b. **Cancellation by HeyChef!.** HeyChef! may cancel in the event it cannot obtain the appropriate service staff for a Client’s event, or for a reason outside the reasonable control of HeyChef!, but shall strive to give Client as much notice as is practicable. In the event of such cancellation, HeyChef! will refund all amounts paid by Client up to the point of cancellation.
- c. **Cancellation by Client.** If Client cancels between forty-four (44) and fourteen (14) days prior to the date of the event, Client’s advance will be refunded to Client, after deducting the following fees: i) a two hundred dollar (\$200) cancellation fee, ii) reimbursement for any out-of-pocket expenses incurred by HeyChef!, and iii) a fee of seventy-five dollars (\$75) per service staff reserved on Client’s behalf. To the extent the advance funds are insufficient, then Client shall be invoiced for the remaining balance. Cancellation within thirteen (13) days or less of the date of the event will result in a forfeiture of Client’s entire advance. In addition to forfeiture of the advance, HeyChef! reserves the right to request reimbursement for all out-of-pocket expenses incurred by HeyChef! on behalf Client. Such reimbursement is in addition to the forfeited advance.

6. **Invoices.** All invoices include a detailed break-down of costs and fees which include, but are not necessarily limited to, the following:

- a. **Chef’s Fee.** The chef’s fee is based upon the hourly rate set forth in the estimate which accompanied your Letter, with a minimum of ten (10) hours billed, and hourly increments billed after that. The chef uses his or her time to: take your calls, create your menu, visit your event site and kitchen (if necessary), provide you an estimate, shop, reserve & order, travel to (but not from) the event site, prep, present the meal and clean up.
- b. **Service Staff.** Depending on the menu, service staff may be required for your event. The service staff is arranged by HeyChef! and charged to you at three hundred dollars (\$300) per person per shift, unless provided otherwise in the estimate which accompanied your Letter. (A “shift” for this purpose is the length of service necessary for the particular meal(s) or event(s) for which HeyChef! is hired, most typically a period between five (5) and eight (8) hours. If it is necessary to extend the time beyond 8 hours, Client will be billed in additional half shift increments (i.e., additional half shift fees of one hundred fifty dollars (\$150)).
- c. **Holidays.** Holiday rates are calculated at one and a half (1.5) times the regular rate for chef and service staff charges. The following days or dates are considered holidays for this purpose:

New Year’s Eve	(December 31)
New Year’s Day	(January 1)
Martin Luther King Day	(third Monday in January)
Valentine’s Day	(February 14)
St. Patrick’s Day	(March 17)
Easter Sunday	
Mother’s Day	(second Sunday in May)
Memorial Day	(last Monday in May)
Father’s Day	(third Sunday in June)
Independence Day	(July 4)
Labor Day	(first Monday in September)
Thanksgiving Day	(fourth Thursday in November)
Christmas Day	(December 25)
- d. **Food and Beverage Costs/ Party Rental and Supply Costs.** Food and beverage and party rental and supply costs are direct costs. We do your shopping and, if requested, reserve party supplies and equipment. We do not mark up these costs or profit from them in any way. We charge for the chef’s time to shop or reserve these items and give you the receipts directly for reimbursement.
- e. **Loading Fee.** A loading fee of up to two hundred and fifty dollars (\$250) may be applied to events not held in a private home/kitchen, locations that require extensive loading and unloading, or for events of more than thirty-six (36) people.
- f. **Special Purchases.** Sometimes our clients request a menu for which their kitchen is not yet equipped. If special services or preparation time are required to accommodate Client’s request(s), HeyChef! will first determine if the items can be rented

(e.g., sushi or fondue sets); if they are unavailable for rental HeyChef! will purchase the items. The amount of these special purchases will be included on your invoice; after the event they are yours to keep. To the extent you do not wish to keep such items, HeyChef! reserves the right to charge a fee for removal of such items, and no credit against a Client's invoice will be given for their value.

- g. **Chef's Supply & Pantry Fee.** If you request the use of the private chef's supplies (e.g. tables, serving bowls and platters, etc.) we will apply a chef's supply fee for the use of these items. Additionally, rather than purchasing every item needed to complete your menu (e.g. baking soda or salt, etc.) we may choose to use ingredients from the chef's pantry and apply a nominal pantry fee to your invoice.
- h. **Gratuity.** All invoices will include a gratuity of twenty percent (20%).
- i. **The Administration Fee.** The administration fee is thirteen percent (13%). This is not the gratuity. It is HeyChef!'s charge for office services such as securing service staff, submitting quotes and menu drafts, invoicing, etc. (Catering companies traditionally charge eighteen percent (18%) for these services.) This charge is applied to your chef and staff costs only.
7. **Insurance.** HeyChef! reserves the right to request that Client do either or both of the following, at Client's own expense: a) Make HeyChef! an additional insured on Client's homeowners insurance policy; and/or b) obtain an HO-3 rider through Client's homeowner's insurance carrier which will protect chefs and service staff working for Client under the Agreement.
8. **Indemnification.** Client shall indemnify, defend and hold harmless HeyChef!, and HeyChef!'s managers, members, employees and contractors from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs, that HeyChef! may incur or suffer and that result from Client's breach or failure of Client to perform any of the obligations set forth in this Agreement, or from Client's negligence or any willful act, or the negligence or willful act of any of Client's agents, guests, associates, or related parties.
9. **Limitation of Liability.** The chef, service staff, equipment and food prepared for Client are all provided by or through HeyChef! entirely at the Client's risk. HeyChef! shall be under no liability to the Client for any loss or damage resulting from any defect in the services or food, or the failure of any equipment or supplies, regardless of whether HeyChef! had any prior knowledge. HeyChef! is not liable for any injuries sustained as a result of HeyChef!'s involvement at a Client's event, including but not limited to any injury resulting from the action or inaction of the chef or service staff, or sickness from any food prepared. It is the sole obligation of Client to discern the potential of Client or Client's guests for allergic reactions, and Client's obligation to affirmatively discern from the chef what ingredients pose a special threat.
10. **Alcohol.** If alcohol is to be served at a Client's event, it is the Client's obligation to procure all alcohol and the bar setup necessary (e.g., olives, napkins, mixer, etc.) for the event; however, HeyChef! may assist Client in determining the amount and variety of beer, wine and liquor which may be appropriate given the nature of the event, and food to be served. While HeyChef! service staff may assist a Client in the serving of alcohol, this is done under the strict direction and control of the Client. It is Client's sole and absolute obligation to ensure those served are of legal age. Unless HeyChef! service staff is expressly advised otherwise, it shall be presumed that all attendees at a Client's event where alcohol is to be served have all been confirmed by Client to be of legal age, using proper identification, with picture and birth date. It is also Client's sole responsibility and liability to ensure that those who are attending an event who will be driving are not served alcohol after their blood alcohol content reaches or exceeds the legal limit for intoxication for purposes of violations for driving under the influence. Client understands and agrees that HeyChef! service staff will rely exclusively on Client's active direction in this regard.
11. **Noninterference with Business.** During and for a period of eighteen (18) months immediately following the conclusion of services provided by HeyChef! for Client, Client agrees not to solicit or induce any employee or independent contractor to terminate or breach an employment, contractual or other relationship of HeyChef! which results in the employee or contractor performing services for a third party (i.e., not the Client) directly, or becoming associated with a company other than HeyChef! for the performance of substantially similar services as those provided by the employee or contractor to HeyChef! The parties recognize that it is impossible to fix the damages for breach of this provision, due to a number of factors, including the difficulty of putting a price tag on the type and quality of services provided by the departing employee or contractor, the efficacy of any replacement found, the future profits lost by HeyChef!, the foregone future gratuity and administrative fees, or foregone rental fees from the rental of kitchen equipment. As a result, the parties agree that if the Client breaches this provision, Client shall pay to HeyChef! an amount of liquidated damages equal to thirty-five percent (35%) of all remuneration paid to the employee or contractor within the one (1) year period following the employee's or contractor's departure from HeyChef! In addition to the above liquidated damages, either party may seek any other available legal or equitable remedies.
12. **Placement Fee.** Should Client hire or engage an employee, independent contractor, or sub-contractor of HeyChef! directly, Client agrees to pay HeyChef! an amount equal to twenty-five percent (25%) of all remuneration paid to such individual for the one (1) year period commencing on the date the individual first performs such direct services for Client, as a placement fee, regardless of the duration of employment or engagement or whether the worker is employed on a permanent, temporary or consulting basis. In

no event may the compensation against which the placement fee owed to HeyChef! is determined be less than reasonably comparable compensation for a similar position in a similar assignment. If Client fails to provide reasonably adequate proof of the total remuneration paid to the worker for the one (1) year period, then it shall be rebuttably presumed that the worker worked for the Client for 20 hours per week, for 12 weeks during the one (1) year period. Whether such a placement is with or without HeyChef!'s permission, Client is solely responsible, and HeyChef! expressly disclaims all responsibility for, all background checks, contacts, references, interviewing, screening, and the drafting responsibility for any employment or other agreements. HeyChef! makes no guarantee, express or implied, that the individual hired will remain with Client for any particular length of time, or that the individual's services will be of a certain quality.

13. Miscellaneous Provisions.

- a. **Severability.** If a court holds any provision of the Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected unless an essential purpose of the Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
- b. **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of foul weather, road blockages, power outages, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party. In the event that HeyChef! cannot provide the Services as planned, we will submit for payment an invoice for the labor and expenses incurred up to that point.
- c. **Choice of Law and Forum.** The Agreement is entered into and is to be performed, and/or deemed performed, in Truckee, California. The Agreement, and any dispute arising from the relationship between the parties to the Agreement, shall be governed by California law regardless of any conflict of law provisions, including any laws that direct the application of another jurisdiction's laws, unless rights concerning intellectual property are at issue, in which case federal law shall apply. The parties expressly submit to the jurisdiction of California in general, and specifically to the jurisdiction of the courts of Placer County, California for any action brought in state court. The parties expressly submit to the jurisdiction of the federal courts located in the Northern District of California in general, and the District Court located in San Francisco, California specifically, with respect to actions brought in federal court.
- d. **Waivers.** No waiver or amendment, including those by custom, usage of trade or course of dealing, of any provision of these Ts&Cs will be effective unless in writing. One party's waiver of any default or breach under these Ts&Cs by the other shall not constitute a waiver of any subsequent default or breach.
- e. **Signatures.** These Ts&Cs may be signed in counterparts, which together shall constitute one contract. Faxed signatures shall be construed to be as valid as originals.
- f. **Survival.** The rights and obligations of the parties under this Agreement shall survive any termination of this Agreement to the extent necessary to protect the rights and enforce the obligations of the parties.
- g. **Modifications.** Except for verbal changes in the menu or scope of the Services as referenced above, the Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of the Agreement shall be binding unless it is in writing and signed by the party to be charged.
- h. **Notice of Terms and Conditions.** Upon signing the Letter, Client will attest to having read these Ts&Cs, and will be provided a copy of them. These terms and conditions are also posted online at the HeyChef! website, (the URL to which is www.heychef.com). Attestation of having read these Ts&Cs in the Letter and the availability of them on our website prior to signing the Letter shall be deemed to constitute actual notice to the Client of these Ts&Cs and the Client shall be bound hereby.
- i. **Mediation & Arbitration.** The parties agree to meet and confer in good faith to attempt to resolve any dispute arising out of the Agreement. Any disputes which are not resolved by meeting and conferring may be submitted to mediation in Truckee, California under a mutually agreeable mediator, or, if one cannot be found, under the rules of JAMS Endispute. If the parties cannot agree on mediation or a mediator within twenty (20) days, they may agree to submit the dispute to binding arbitration in Truckee, California in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. It is expressly agreed that the arbitrator shall be empowered and permitted to grant preliminary and permanent equitable relief in addition to awarding damages. To the extent the parties cannot agree to mediation or arbitration, and a mediator or arbitrator, within forty (40) days of the dispute, this alternative dispute resolution section shall be void and inapplicable. To the extent mediation, arbitration or judicial proceedings involve enforcement or payment of money owed to a party, or for other fees or costs incurred by that party in enforcing its rights under the Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, including mediation or arbitration fees (if applicable).