



**I. SERVICES**

This Agreement (“Agreement”) entered into between \_\_\_\_\_ (“Member”) with an address of \_\_\_\_\_ and Kitchen Commons, Inc. doing business as **e.terra** (“e.terra” or “Facility”) with an address of **1580 Park Avenue, New York, NY 10029**.

1. **e.terra** will provide Members with nonexclusive access to, and use of, the desired commercial kitchen facility location (“Facility”) at **1580 Park Avenue, New York, NY 10029** subject to the terms of this Agreement.
  
2. **Effective Date:** This agreement shall be in effect as of \_\_\_\_\_, and end on \_\_\_\_\_, unless terminated prior to expiration date in accordance to the Termination Clause of this agreement as stated herein. If not terminated, the member shall be required to sign a new one (1) year agreement on or before the end date, for additional one-year periods until/unless terminated pursuant to Article VI herein.
  
3. **Facility:** Facilities are shared-use, equipped with commercial food production equipment, dry and refrigerated storage, as well as in some locations - demo kitchen/cooking classroom/event rental facilities. **e.terra** shall maintain the Facility in a sanitary state and ensure that all equipment available to Kitchen Members meets all applicable health and safety standards. Member shall take all reasonable measures to maintain the aforementioned items in working and safe condition during Member’s use and shall promptly notify **e.terra** of any needed repairs or other issues.
  
4. **Delivery acceptance:** Member agrees to permit Facility personnel to accept vendor deliveries on their behalf. Any received items will be deposited into appropriate dry or cold storage for Member. Member expressly acknowledges that under no circumstances shall Facility or personnel be responsible for the quality, quantity, type, or state of items received, nor for any missing item(s). Member must make direct arrangements with their vendors to allow 24 to 48 hours for inspection of products and requests for exchanges or refunds. Members acknowledge that all such arrangements be made directly with their vendor/s and without assistance from Facility personnel or management.

Members are responsible for ensuring that delivery staff check in with Facility personnel upon arrival if the Member will not be present. All deliveries must be accepted outside the shared kitchen space. **Delivery personnel are NOT ALLOWED entry to the shared kitchen space unless accompanied by e.terra staff.**

*Deliveries made after personnel working hours:* Acceptance by personnel will only be available during regular working hours (9:00am–5:00pm Monday-Friday, excluding national holidays). Facility bears no responsibility for deliveries made outside of these hours. Members are responsible for making arrangements to be present for delivery acceptance after working hours.

- Deliveries must fit into your designated space.
- For the cold storage deliveries **e.terra** obligation will be to accept delivery and make sure it gets into the refrigerator.
- **e.terra** does not check the contents of the delivery nor take responsibility for the delivery other than placing the delivery in the refrigerator.
- If delivery must be placed into a freezer, **e.terra** must be notified or expressly advised by the delivery personnel.

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- Deliveries that fall outside of the member allocated space will be charged based on daily rates which will be added to your FC account daily.
  - If there is insufficient space in the refrigerator, best effort will be made to accommodate the delivery.
  - Deliveries will be accepted between 9am and 5pm Monday through Friday only.
  - Dry goods deliveries that do not fit on members' shelves will also be charged at the daily rate.
  - Dry goods deliveries CANNOT remain in the hallways.
  - Starting 1/1/2024 the delivery acceptance fee will be \$15 for both cold and dry goods accepted.
  - Members must communicate to **e.terra** the schedule of expected deliveries and instruct delivery personnel to stop at the **e.terra** office before unloading directly into the fridge.
  - **E.terra** is NOT responsible for Any deliveries left in the lobby on the 1st floor

5. **Business Services:** Facility may provide Member an opportunity/ies to participate in business development activities and programs as announced by **e.terra**. Facility makes no representations, warranties, or guarantees that any services provided will result in additional business opportunities for the Member. Member is solely and completely in control of its company and economic success or failure. Facility, its staff, or other agents are not liable for any outcome resulting from the use of or reliance upon the business services or other programming, activities, trainings, and/or seminars provided by Facility.

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6. **Covered expenses:** Facility shall pay required landlord fees, insurance, shared facility & equipment scheduled deep cleaning, repairs and maintenance of equipment, pest control, preventative maintenance, and regular required facility inspections and facility permitting. Member relinquishes claim to any rebates from items Facility disposes of on their behalf or any claims it may or could have as a result of it against Facility as a result of disposal of any items. Member is solely responsible for the safekeeping and storage of any items Member wishes to keep or preserve, on premises by securing it in locked cage or container. **FACILITY IS NOT RESPONSIBLE FOR ANY MISSING ITEMS OWNED BY MEMBER.**

## II. OPERATION AND EQUIPMENT USE

1. **Standard Operating Procedures:** All Members must read and accept the Standard Operating Procedure ("SOPs") receipt of which is acknowledged. Member is responsible for ensuring their staff complete orientation with **e.terra** staff and for enforcement of the rules with each current and new employee they onboard. Repeated violations of SOPs may result in fines and/or termination as further outlined in the Breach/Default section, Paragraph VI (2) herein and **Exhibit E (Penalties)** to this agreement. Member is responsible for all of the actions taken by their employees while on **e.terra** premises.

2. **Policy & Procedure Manuals:** Member agrees to comply with the Rental and Use Policies, attached to this Agreement as Exhibit B. Facility, in its sole discretion, reserves the right to amend any or all Policies at any time, and shall provide any amendments to Member as an Exhibit F attachment to an email. If Member or Member employees violate these Policies, Facility may impose a fine upon Member and upon repeated violation, Facility may, in its sole discretion, terminate this Agreement and membership in the facility.

3. **Worker Safety:** Member agrees to ensure that Member, its employees observe proper safety procedures while using the Facility. All Member employees must be registered with the Facility Manager and provide contact details and other information as requested by Facility before being authorized to operate in Facility. No guests are allowed in the kitchen facility at any time.

4. **Interference with Use by Others/Strictly Prohibited:** Member and Member's personnel shall follow all provisions of the Statement relating to cooperation, courtesy and lack of disruptions in the use of the Facilities. Member and the Member personnel shall not make any use of the Facilities that, in Facility's sole discretion, disrupts the orderly operation of the facilities by **e.terra** and/or use of the facilities by other Members who are authorized to do so. Behavior deemed disruptive by Facility, may, without limitation, include: arguing; discourteous behavior; loud music; fighting or menacing; violence; theft; conversion; harassment or unauthorized use of another's property; the repeated use of profanities; consumption of illegal drugs or alcohol; use of the facilities under the influence of illegal drugs or alcohol; any behavior in violation of one or more of the provisions of this Statement; or any other behavior that might be disruptive of the orderly operation of the facilities by **e.terra** or by or its Member small businesses. Member and the Member personnel shall diligently report to Facility any violations of the statement and/or disruptive behavior by other Members, or any of their personnel. Violation by Member of any of the provisions of this paragraph shall be a default under the provisions of Paragraph VI (2) of this Agreement. Violations shall be documented, investigated and if confirmed, member or member employee who was the cause of said behavior will be subject to disciplinary action, including penalty payment, expulsion from facility and/or termination of membership, at the sole discretion of the Facility depending on circumstances and the severity of the conduct, as well as other factors.

5. **Scheduling of Kitchen Use:** Facility shall have the right to control the times and manner of Member's access to and use of the facility including but not limited to: the rescheduling or accommodating of Member to a different station with comparable equipment for their booked hours if deemed necessary in e.terra's sole discretion. Member must schedule use of the kitchen facility in advance using the on-line scheduling system, *The Food Corridor e.terra* does not guarantee the availability of particular times and facilities. Member will not be entitled to an abatement of membership fees or other amounts due to unavailability of desired times or kitchen equipment.

**III. BOOKINGS:** *Please remember that you must book all of your production time, including start and end times, stations, and equipment, in Food Corridor. Those found using and not booking any of the above will be charged at 1.5 times the regular hourly rate for all hours not booked but used.*

- 1) **Spreading out to multiple stations during your shift:** Please stay to only the station/s you have actually booked on Food corridor. If you booked one station, you can only use one station. If you need more space, we keep extra metro racks and sheet racks in the kitchen and you are welcome to roll one of those to your station and use the shelves to store additional items there during your shift. This applies to evening/night hours as well. If you still need more space, and are doing a large production, then book 2 stations. If you use more than one station without booking it, you will be charged for the extra stations at 1.5 times the regular hourly rate.

**SPECIAL:** Members are permitted to use the dining room at the 2191 3<sup>rd</sup> Avenue location for tastings and other business promotional events at no cost under the following conditions:

- Event must take place during **e.terra** Kitchen staff business hours, Mon-Fri 9am-5pm;
- Arrangements must be made with either the Community and/or Office Manager;
- Member is responsible for ensuring the dining room has been reserved;
- Under no circumstances are any persons under the age of 18 allowed;
- Members may book the dining room for after-hours use for a fee. Please discuss with Stephani/Emily.
- If any member/personnel are found using the space without making prior arrangements and getting verbal approval from **e.terra** management, or conducting a private party rather than a tasting, they will be charged a penalty double that of the regular booking price.

**STORAGE: ANY UNIDENTIFIABLE PRODUCTS/ITEMS OR OTHER GOODS FOUND OUTSIDE OF ASSIGNED STORAGE AREAS WILL BE DISPOSED OF BY E.TERRA STAFF AT IT'S SOLE DISCRETION. YOU MUST REACH OUT TO YOUR E.TERRA KITCHEN COMMUNITY MANAGER OR KITCHEN COORDINATOR TO DISCUSS YOUR OPTIONS IF YOU FIND THAT YOU ARE IN NEED OF ADDITIONAL STORAGE SPACE.**

1. **Kitchen Equipment use outside of scheduled shift hours:** Members shall abide by the SOP's as they relate to all shared equipment, including but not limited to sheet racks, metro shelving, refrigeration, tables, small wares, pots, pans, small electronic equipment such as but not limited to Robot Coupes, mixers and cooking equipment (collectively "shared equipment"). Unless they have made prior arrangements and have rented shared equipment on a weekly or monthly basis, Member is required to clean shared equipment and leave it free of their business supplies or food production for the use of other members of the kitchen. Facility management reserves the right to remove any items left on unreserved / unrented shared equipment and either place said items in a location of their choosing or dispose of it as needed in their judgment.

#### IV. MEMBER DUTIES

Member agrees to the following in its use of the Facility under this Agreement:

1. **Member Prerequisites:** Prior to utilizing the Facility, Member must have completed the Documentation Checklist, attached to this Agreement as **EXHIBIT A**, and provided all required documentation in full to Facility Management, attended a Facility Orientation session, passed all appropriate regulatory inspections (unless approved by Regulatory Facility to start use of Facility while awaiting inspection), and paid all necessary amounts as further indicated in this agreement and its exhibits. Member shall also be responsible for ensuring that each of their employees and managers for the duration of their membership will be required to attend an in person training session on 1) the use of the Facility; 2) use of all relevant equipment and 3) sexual harassment in the workplace training, which will be arranged promptly with Facility management and prior to each employee's first day of work in the Facility; and which needs to be done on a yearly basis. Member and employee will certify employee attendance at all training session in writing to the Facility Manager and shall also maintain their own record of each employee's training(s).

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## 2. Equipment

- a) **Downtime:** Facility agrees to maintain equipment in working order and conduct necessary cleaning and repairs in a timely manner. Facility will make every effort possible to inform Members of equipment failures that may result in product loss. However, Facility is not liable and will not reimburse Members for product loss due to unexpected repairs, breakage or contractor delays in making repairs. Members shall promptly notify Facility in writing in the event Member experiences issues or disruptions which require Facility's repair.
- b) **Use:** Facility makes no guarantee or representation that any particular equipment located in the Facilities will be available for Member's use at any particular time. Member must book all small electronic wares and mixers in Food Corridor prior to using and arrange for access to and return of said equipment with **e.terra** staff for the booked time. Member shall seek instruction for each person using the facilities for or on behalf of Member in the safe use and proper cleaning of all such equipment. Failure to do so shall be a default under the provisions of Paragraph VI(B) of this Agreement. Member and the Member personnel will refrain from operating any equipment located in the Facilities without having first obtained such instruction. Member shall be responsible for any damage, injury, or loss, including personal injury and property damage, resulting from the improper use or cleaning of any equipment in the Facilities by Member and/or the Member personnel.
- c) **Equipment Use:** If a member is new to commercial kitchen and equipment use, in addition to **e.terra** orientation session, member must first arrange an additional training session with an **e.terra** approved kitchen consultant for additional training to ensure equipment is properly used. Payment for kitchen consultant time for member's first session at **e.terra** will be arranged between member and consultant, including any payment for additional training.
- d) **e.terra Smallwares and Equipment:** Removing of equipment off premises is strictly forbidden. This includes sheet racks for transport, sheetpans, other smallwares, small electronics. We provide this equipment for use ON PREMISES and ask all of you to abide by this rule as it is provided for all members to use in the kitchen and removal impairs other operations AND causes the kitchen loss of equipment. You are allowed to roll sheet racks, utility carts to your vehicle curbside to off load and bring these carts back to the kitchen (3rd or 4th floor, not in the building lobby) immediately following. This equipment is NOT to be loaded into your vehicles under any circumstances. If you need any of this equipment for transport, you need to bring your own or rent it from a 3rd party equipment provider for your limited off premise use.

**V. Inspections and Removal of Items**

1. **Right of Inspection:** Member hereby grants to Facility, its authorized agents, including third-party consultants, and to all agencies of local, State or Federal government with jurisdiction over e.terra and its operations, the right, at any time and without notice to Member except as might be required by applicable law, to inspect all of the property belonging to User and/or the Associated Personnel present or stored at the Facilities, including any equipment, utensils, products, and supplies. The right to inspect described above shall extend to any private or semi-private storage area or unit, whether or not independently secured by Member or the Associated Personnel, the use of which has been granted to Member by e.terra. Users shall fully cooperate with the conduct of such inspections, including, if needed, prompt removal of any locks to provide additional access. If, after notification from Facility, Member does not remove the requested locks, Facility may do so at Member’s expense.

2. **Removal of items:** Facility shall have the right to remove any items of personal property stored at the facilities by Member, including any items stored in any private or semi-private storage areas or units, if doing so is necessary for purposes of maintaining the health and safety of all personnel and/or other persons present at the Facilities. Member hereby authorizes Facility to take such actions as might be necessary, in its sole discretion, to correct any unsatisfactory conditions discovered by such inspections and to remove and dispose of, at Member’s sole cost and expense, any items of Member posing a risk to the health and safety of the users of, or visitors to, the facilities. Member hereby waives any right to seek reimbursement for the value of any items of Member so removed and/or disposed of by Facility. Failure by Member to comply with the provisions of this paragraph, shall be a default under the provision of Paragraph VI(B) of this Agreement and will be subject to penalties.

**VI. General Terms**

1. **Marketing/Image Release:** Member agrees to allow and grants permission to Facility to utilize photo, film, recordings or otherwise of the Member, their partners and/or employees in connection with all media and marketing in perpetuity for purposes of publicity, advertising and sales promotion; and to use Member name, business name, logo, likeness, or other information concerning them in connection with the filming, merchandising and for any other purpose deemed necessary by Facility. Member further acknowledges that Facility owns all rights to any resulting, created marketing. Member agrees material may be edited at Facility sole discretion. Member releases Facility, its employees, agents and assignees from any and all claims Member has or may have for invasion of privacy, defamation, royalties, use of likeness and image, and/or any other cause of action arising out of production, distribution, broadcast or exhibition of any filming or photography Facility undertakes.

2. **Authorized Products:** All Members producing packaged products must obtain approval from the appropriate regulating authority for their process prior to operating in the Facility or otherwise be in full compliance with local regulations regarding production of packaged goods, having filed all necessary paperwork and awaiting permitting/certification. Member must provide a valid written copy of approval to Facility for its records.

3. **Payment Terms:** Member shall have access to and utilize the Facility and services according to the payment schedule attached to this agreement as Kitchen Pricing **Exhibit D**. Member shall be invoiced by facility on or before the first (1<sup>st</sup>) day of each month for Member’s monthly kitchen and storage plan (“Monthly Plan”), as well as for any additional shifts or hours from the preceding month, as well as for any



items purchased from Facility’s commissary, and any individual services, fees, fines, short-term or specialized equipment requests from the preceding month (collectively “Additional Monthly Fees”) . Member shall pay the Monthly Plan and the Additional Monthly Fees in full on or before the seventh (7<sup>th</sup>) day of the month.

Member will incur a late fee of 2% on Member’s account for any amounts of the Monthly Plan or Additional Monthly Fees remaining unpaid after the seventh (7th) day of the month. Additionally, if member does not pay or reach out to make alternate arrangements by the 10th, his/her access to the kitchen will be suspended. The key card access will be deactivated as of 12:01 am on the 11th and the member will not be allowed to use the facility until payment is made in full. Alternative arrangements must be agreed to by e.terra management prior to being implemented.

**Guarantee** - The duly authorized officer of **Member** entity signing this agreement hereby personally and unconditionally guarantees the full and prompt payment of all **Member** kitchen rental fees and any other charges due under this agreement, including any late fees, penalties, and/or other incurred costs. If the **Member** fails to pay any rent or other charges due under this agreement, the **Member** and/or the **Member’s** duly authorized officer/s agree to personally pay in addition to all collection costs, any reasonable attorneys’ fees incurred by **e.terra** Kitchen in enforcing the terms of this agreement.

No delay on the part of **e.terra** in exercising of its options, power of rights, or partial or single exercise thereof, shall constitute a waiver thereof. No waiver of any of its rights hereunder, and no modifications or amendment of this guarantee, shall be deemed made by **e.terra** unless the same shall be in writing, duly signed on behalf of **e.terra** and each such waiver, if any, shall apply only with respect to the specific instance involved, and shall in no way impair the rights of **e.terra** or the obligations of **Member** to **e.terra** in any other respect at any other time. The rights, remedies and benefits of **e.terra** under this guarantee are cumulative and not exclusive of any other rights, remedies or benefits which **e.terra** may have.

This guarantee is binding on **Member**, his/her heirs, distributors, executors, administrators, successors and assignees, and shall inure to the benefit of **e.terra** and its successors and assignees.

**4. Refundable Deposit:** The deposit is refundable at the end of the membership term, as long as the member gives a 30-day notice of termination of membership, leaving **e.terra** in good standing, having paid all due amounts.

**5. Contact Information:** Member affirms that the identification, address and contact information stated at the end of this document is current and correct. Member must notify Facility in writing of any changes in Member’s legal identity, address, licensing, or other contact information.

**6. Security:** Member agrees that Facility assumes no responsibility for the loss or theft of any product, personal equipment, supplies or property the Member brings for their use in the facility. Member further agrees they shall store all dry and cold items in locked bins or cages, as mandated by the Health Department.

**7. Insurance:** Each Member will maintain the required and type of insurance coverage as set forth in the Documentation Checklist, and the sample COI provided as part of Exhibit A attached to this agreement as **EXHIBIT A for the duration of their membership with e.terra Facility. E.terra** corporate entities and Landlord will be listed as additional insured on all policies held by Member. **Member will ensure that e.terra is also listed as an additional party for all notices of renewal, default and changes in policy coverage with their insurance company for each policy they hold.** Any violation of any of the terms set out in this paragraph shall be considered a breach of this agreement and may be grounds for immediate termination. Members shall provide a copy of all insurance policies to Facility at the start of this agreement, and within ten (10) days of the renewal of any policies.

**8. Tax:** The responsibility to report and pay Federal, State and local Taxes, including but not limited to Sales and Use Tax for goods sold and services provided by each Member remains the sole responsibility of each individual Member's operation. **E.terra** is a separate entity and shall not be held liable for said tax payments or reporting. Any use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, shall be paid by Member. In the event Facility is required to pay any such tax, fee or charge, Member shall reimburse **e.terra** immediately upon request by **e.terra** or in lieu of such payment, Member shall provide **e.terra** an exemption certificate or other document acceptable to the authority imposing the tax, fee or charge, to satisfy the levy of said tax, fee or charge. Any such charges incurred by Facility shall be considered Additional Monthly Fees under this Agreement, of which failure to pay shall constitute default.

**9. Limitation of Liability:** Member agrees that any and all claims involving Facility are strictly subject to the following limitations related to any breach of this agreement:

**a) Facility** (including its affiliated entities):

- 1. Shall not be liable** for any damage to either person or property sustained by the Member or by any third party arising in any way out of the Member's use, operation, occupancy of any Facility premises, or sale or distribution of any product manufactured on the premises, or employment or invitation of any individuals in the Premises.
- 2. Shall not be liable** for any damage, theft, injuries, or death caused by Member's or Member's employees' or agents' negligence or willful wrongdoing, or for the wrongdoing or negligence of other Members or their employees. Member shall, at its sole expense, promptly observe and comply with all statutes, laws, ordinances, rules, regulations, orders and requirements of all governmental, quasi-governmental or regulatory authorities applicable to the Premises and the conduct of its business.

**b) Member** hereby agrees to defend, indemnify, and hold Facility and the Property Owner harmless from and against any and all costs, damages, expenses, and liabilities (including reasonable attorney's fees) arising out of or related to any breach of this agreement.



- c) **Member** covenants and agrees to indemnify, defend, and hold harmless Facility, and their Members, partners and employees from all claims, costs, and liability arising from or in connection with damages, injuries to persons (including death), or property in, upon, or about the Facility premises, or any portions thereof, or resulting from the sale, distribution, and use of any product manufactured by the Member on the Facility premises.
- d) **Facility** shall only be liable to Member for intentional wrongdoing of Facility or its employees.

**10. Confidentiality and confidential information:**

- i. Member and Facility agree and acknowledge that the Facility is a shared-use facility. The Parties further acknowledge and agree that the Member’s operation may involve the use of proprietary information that is owned and used exclusively by the Member and shall remain confidential for the protection of Member’s business (“Confidential Information”). Member acknowledges and agrees that other members may also have Confidential Information that applies to their own business. Member shall respect other Members and make reasonable efforts not to share or make easily available any information learned from other members that can be considered Confidential. Any spying, recording, photographing, or deliberate intrusion into others’ Confidential Information is grounds for terminating this Agreement. Member and Facility acknowledge and agree that Member’s Confidential Information may be disclosed to Facility for the sole purpose of providing product authorization, training, marketing/advertising or business services to Member. Member shall take care to inform Facility in writing whenever Member is disclosing Confidential Information to Facility. Facility shall make all reasonable efforts to prevent disclosure of Member’s Confidential Information to any third party.
- ii. Confidential Information does *not include* information that is already known to Facility, to the public, or to any third party beyond Member’s control, or obtained by Member from an independent source or otherwise developed independently from the Member. This agreement does not cover any disclosure required by applicable law or regulation.
- iii. The obligations of this Section 10 shall survive this Agreement.

**10. Modification of Terms:**

- a) Facility may, in its discretion, modify the terms of this Agreement upon renewal, or upon a 7-day notice to Member, requiring Member to execute a new version of this Agreement as a condition of continued members or renewal, except as it specifically relates to any changes in the laws, regulations or policies of any government regulatory agency, in which case, Facility may modify the terms on 48 hour written notice. If, after receipt of the notice as outlined in this provision, Member declines or fails to execute a new version of this Agreement, then this Agreement shall be deemed automatically terminated as of the date stated in the notice.
- b) Notwithstanding the foregoing paragraph, the Facility may modify its Documentation Checklist (**Exhibit A**), Rental and Use Policies (**Exhibit B**), Standard Operating Procedures (**Exhibit C**), Price List (**Exhibit D**), Penalties (**Exhibit E**), Agreement Updates (**Exhibit F**) and/or Payment Policies (**Exhibit G**) in its sole discretion and without the need for execution of a new Agreement or consent of Member. Any amendments to the exhibits shall be distributed to Member electronically and shall be deemed to substitute for any existing exhibits annexed hereto as of the date of the transmission of the amended exhibits.

**VI. Termination and Breach**

1. **Automatic Renewal.** This Agreement shall automatically renew, without further notice on the expiration of the initial six (6) month period outlined in Article I, Section 3, for an additional six (6) months, unless terminated pursuant to Section 2, herein. Member shall be required to sign a new one (1) year agreement on or before the end date, for additional one-year periods.
2. **Termination.** Either Member or Facility, upon written notice given at least thirty (30) days prior to the expiration of the initial six-month period, or the expiration of any subsequent renewal periods, may terminate this Agreement for any reason. Members’ obligations pursuant to Section II (Confidentiality) of this Agreement and any financial obligation and limitation of liability to Facility shall survive the termination of this Agreement.
3. **\*Breach or Default.** The following shall constitute an event of default under this Agreement:
  - i. Failure by Member to meet its payment obligations under this Agreement, including the timely payment of Monthly Plan(s), Additional Monthly Fees, late fees, and any other amounts due and owing to Facility.
  - ii. Failure by Member to perform a duty or obligation arising under this Agreement the occurrence of which is expressly designated as a default under the provisions of any Paragraph or Section of this Agreement; and/or
  - iii. Failure by Member to perform any material duty or obligation arising under the provisions of this Agreement that is not otherwise listed in any Paragraph of this agreement.
4. **Cure.** Member must cure any violation, breach, or failure to keep or perform any conditions of this Agreement, or its Exhibits, including financial obligations, within five (5) days after receiving written notice of such from Facility Management. If more than five (5) days pass without any corrective action taken by the Member, Facility may, in its sole discretion, immediately terminate this Agreement, and shall provide written notice to Member indicating the termination of this Agreement effective as of the date of the written notice.
5. **Member Property.** Upon termination, Member shall remove all of Member’s property from the Facility within three (3) business days of written notice of termination. Member has to arrange with Management for removal of their property during regular business hours, Monday through Friday from 9:00 a.m. to 5:00 p.m., in the presence of e.terra Facility management. Member’s key card access to the facility shall be de-activated. If Member’s property is not promptly removed, it shall be deemed abandoned and Facility may take possession of and remove Member’s property, disposing of it as it sees fit without further notice to Member. Should Facility elect to store such property, Member shall be liable to Facility for a reasonable storage cost for any property Facility stores on behalf of Member and shall make at least one months’ storage payment prior to Facility’s undertaking of any storage efforts.
6. **Notice of Updated Address.**

Member acknowledges that upon termination of their Membership, Facility will contact any and all regulatory agencies and notify them of the termination of Membership. Member must take all steps to remove Facility as its address and properly re-direct any deliveries.



**7. Effective Termination Date.**

Termination will be effective immediately upon written notice of termination, as of the date of the notice, from Facility to Member if any default arising under the provisions of this Agreement has occurred and has not been cured by Member to the complete satisfaction of e.terra within such time as is set forth in the notice of default.

**8. Discretionary Termination** – Facility reserves the right to terminate this Agreement and Member’s membership at any time and for any reason at the discretion of Facility management upon thirty (30) days written notice

**9. Termination of Rights** – Member’s rights to the use of the facility shall cease immediately upon termination of this Agreement. Member will have three (3) business days from termination notice to remove all business supplies and equipment from the premises. Should Member need additional time to remove possessions, Member shall request same in writing from Facility and make arrangements with Facility Management, additional storage fees may be charged at Facility’s discretion.

**VIII. Miscellaneous Provisions**

- 1. Jurisdiction and Venue:** Any disputes regarding this Agreement shall be resolved in the courts of New York County and according to the laws of New York State.
- 2. Relationship of Parties:** This Agreement shall not be construed to form a partnership or any other business association between the Parties other than as independent parties to a contract. Member, its officers, agents and employees are not employees or agents of the Facility. This Agreement shall not be construed in any way to create an interest of Member in the Facility’s leasehold interest in the Premises, and Member in no way is considered a subtenant or assignee of the Premises.
- 3. No Oral Modification:** This Agreement may only be modified in writing signed by the parties.
- 4. Notices** required under this Agreement may be transmitted to all parties as follows:

**FACILITY:** Via electronic mail: [cook@eterrakitchen.com](mailto:cook@eterrakitchen.com) OR post: **1580 Park Avenue, New York, NY 10029.**

**MEMBER:** Via electronic mail to \_\_\_\_\_ OR Post: \_\_\_\_\_.

**OVERNIGHT** delivery by FedEx, UPS, or USPS;

**IN-HAND DELIVERY** to Facility personnel during business hours, Monday-Friday 9:00am-5:00pm at the Premises, provided that Facility personnel is present. Either party shall notify the other in writing of any changes to electronic mail address or mailing address. If no such written notification is made informing the other party of a change of electronic mail address or mailing address, then notice shall be deemed effective if transmitted to the electronic mail or mailing address(es) stated in this Agreement.



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This Agreement is executed this date \_\_\_\_\_, by the duly authorized representative of each party.

\_\_\_\_\_  
Legal Name of Member's Business

**e.terra** Kitchen

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title