

Independent Contractor Contract -Catering

This Independent Contractor Contract-Catering Agreement (the "Agreement"), effective _____ 2006 is entered into by and between _____ with its principal place of business at _____ ("Vendor"), and Rochester Institute of Technology, a corporation, with offices at 1 Lomb Memorial Drive Rochester, New York 14623 ("RIT").

1. SERVICES

1.1 Vendor agrees to prepare, deliver, and serve food products at the area and time mutually agreed upon as specified in "Attachment A".

1.2 Vendor shall supply its own staff and food preparation/service equipment.

1.3 Vendor agrees to use only the freshest and highest quality ingredients, meeting or exceeding industry standards in prepared food products that are to be provided under the terms of this Agreement. Any food products to be provided that RIT in its sole discretion deems not to meet these standards shall be disposed of at the direction of RIT and will not be paid for.

1.4 Vendor agrees that all food products served at RIT under this agreement will be stored/transported/held for serving at the appropriate temperature as follows:

- "Hot" foods at an internal temperature of no less than 140° F;
- "Cold" foods at an internal temperature of no greater than 40° F;
- "Frozen" foods at an internal temperature of no greater than 0°F.

Vendor agrees not to deliver or serve any food product that varies from these temperature standards, or has varied for more than a two (2) hour period. Any food product that does not meet these standards must be disposed of immediately and not served.

1.5 Vendor agrees upon request by RIT to provide RIT with a detailed listing of ingredients for all food products prepared, and served under the terms of this Agreement.

2. VENDOR PRICING AND PAYMENT

2.1 Pricing shall be as set forth in "Attachment B", attached hereto.

2.2 RIT, or its authorized representative may, upon written notice to Vendor, review and audit such records and documentation as may be reasonably necessary for RIT to determine the accuracy of Vendor's invoiced charges. Such audit shall be conducted during Vendor's normal business hours at a time mutually acceptable to both parties. RIT will notify Vendor of outcome of audit and of any overcharge RIT believes it has discovered. Vendor agrees then to credit RIT accordingly for such overcharge. If the audit reveals an overcharge of 10% or more, Vendor will reimburse RIT both for the

amount of the overcharge and for the actual cost of the audit. This clause shall survive the term of this Agreement for a period of six (6) years.

3. COMPLIANCE

3.1 In the performance of this Agreement, each party agrees to comply with all applicable laws, rules, and regulations of duly constituted governmental bodies.

3.2 Vendor agrees to provide RIT with a copy of its current permit from the Monroe County Department of Health prior to the execution of this Agreement. Vendor understands that if RIT is not in possession of a current valid copy of a permit from the Monroe County Department of Health, Vendor may not present or serve any food at RIT and RIT may cancel this agreement immediately without notice.

3.3 Vendor certifies that it abides by food preparation and storage guidelines that meet or exceed current industry standards.

3.4 Vendor agrees that while on RIT's campus to abide by all RIT safety rules and shall otherwise meet or exceed current industry safety standards for food preparation and service.

3.5 Vendor agrees to keep RIT assigned work and food service area clean and sanitary at all times and to leave the premises in the same condition as they were found, normal wear and tear excluded.

3.6 Vendor certifies that all its employees have participated in and passed all training that is required by law.

3.7 While on the RIT campus, Vendor's personnel, agents and subcontractors shall comply with all reasonable requests, standard rules, and regulations of RIT regarding personal and professional conduct (which can be found at <http://www.rit.edu/~620www/Manual/>), including without limitation any security or privacy requirements, and shall otherwise conduct themselves in a professional and courteous manner.

3.8 Vendor agrees to provide all records and other documentation that may be required of any regulatory agency with jurisdiction over the activities of RIT. If such records and other documentation need to be provided RIT agrees to provide best efforts to provide Vendor with at least thirty (30) days notice or whatever period required by law with respect to such regulatory request.

4. TERM AND TERMINATION

4.1 The term of this Agreement shall be for only the event specified in Attachment A

4.2 Either party may cancel this agreement upon thirty (30) days prior written notice.

4.3 Each party has the right to terminate this Agreement immediately upon written notice to the other party, at any time, in the event of any material breach by the other party of its obligations under this Agreement.

5. RELATIONSHIP OF PARTIES

At all times during the term of this Agreement, Vendor shall be an independent contractor to RIT and nothing in this Agreement shall be construed to place the parties in a relationship whereby Provider would be considered to be the agent of RIT for any purpose whatsoever. Provider is not authorized to enter into any contract or assume any obligation for RIT.

6. INSURANCE

Vendor shall, at its own expense, maintain insurance as outlined below with minimum limits as referenced. Rochester Institute of Technology shall be named as an additional insured on policies providing coverage for #1 and #3 below;

Note: For Contracts providing goods/services to the RIT Inn, in addition to RIT's name, include as an additional insured "The 5257 West Henrietta Road, LLC." For Contracts providing goods/services to the RIT High Technology Incubator, Inc., in addition to RIT's name, include as an additional insured "RIT High Technology Incubator, Inc."

- 1) Commercial General Liability (1986 ISO form or later) with minimum limits of \$1,000,000 per occurrence/\$2,000,000 aggregate written on an occurrence basis.
- 2) Auto Liability (including owned, hired and non-owned autos): \$1,000,000 combined single limit (each accident).
- 3) Excess Liability: \$3,000,000 minimum limits in excess of underlying limits. The umbrella shall be no more restrictive than underlying coverage.
- 4) Worker's Compensation and Employer's Liability: Statutory New York State limits.

Additionally, if applicable:

- 5) Professional Liability: Minimum limits of \$1,000,000. Coverage shall be maintained for at least four years subsequent to the termination date of this contract; during such four-year period, Supplier shall assure that there is no change to the retroactive date of coverage.

These coverage's and limits are to be considered minimum requirements under this contract and in no way limit the liability of Vendor.

This insurance shall be written by a company licensed to do business in New York State with a minimum A.M. Best rating of A- VII. Each policy shall provide for notification to

RIT thirty (30) days prior to termination, material change or restrictive amendments. The insurance companies issuing the policies shall have no recourse against RIT for payment of any premiums or for any assessments under any form or policy. RIT reserves the right to request copies of insurance policies.

The insurance policies referred to above shall be primary insurance ahead of any insurance carried by RIT with respect to the Contract. Vendor shall furnish written consent of the insurer to the primacy of these policies if requested by RIT.

Vendor shall provide a certificate of insurance to RIT evidencing this coverage prior to performance of the Contract and annually thereafter, at policy renewal dates throughout the period services/goods are provided by the Vendor. This certificate of insurance should also note any self-insured retention/deductible amounts for each policy.

7. INDEMNIFICATION

Notwithstanding the availability and policy limits of any insurance, Vendor, shall defend, indemnify and hold harmless RIT and its trustees, officers and employees ("Indemnified Parties") against any claims made or legal actions brought against an Indemnified Party(ies) by any person or entity as a result of injuries, damages, expenses and losses actually or allegedly incurred by such a person or entity ("Liabilities") arising out of or relating to Vendor's performance or failure to perform pursuant to this Agreement, except where the Liabilities are the result of the Indemnified Party's own direct and sole negligence. Vendor's obligation shall include the cost of the Indemnified Party(ies)' defense against such claims or actions. This obligation shall survive the termination, completion or expiration of this Agreement.

8. MISCELLANEOUS

8.1 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns. This Agreement shall not be assigned or delegated in whole or in part by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

8.2 Governing Law. This Agreement shall be governed by and construed and enforced according to the laws of the State of New York, without regard to its conflict of law rules. The parties consent to the exclusive personal jurisdiction of the state and federal courts located in Monroe County New York if there is any dispute between them related to this Agreement.

8.3 Counterparts. This Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.4 Severability. In the event that any provision of this Agreement or the application thereof becomes or is declared by a court of competent jurisdiction to be illegal, void or

unenforceable, the remainder of this Agreement will continue in full force and effect. The parties further agree to replace such illegal, void or unenforceable provision of this Agreement with a legal, valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such illegal, void or unenforceable provision.

8.5 Waiver. The failure of either party to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed to be a waiver of such provisions or of its right thereafter to enforce each and every provision.

8.6 Survival. Any respective obligations of Provider or RIT hereunder which by their nature would continue beyond the termination, cancellation or expiration of this Agreement shall survive such termination, cancellation or expiration.

8.7 Complete Understanding; Modification. This Agreement, together with all attachments, exhibits and addenda attached hereto, constitute the full and complete understanding and agreement of the parties relating to the subject matter hereof and supersedes all prior or contemporaneous understandings and agreements relating to such subject matter. Any waiver, modification or amendment of any provision of this Agreement shall be effective only if in writing and signed by the parties hereto.

8.8 Headings. Section headings are included for convenience only and are not to be used to construe or interpret this Agreement.

8.9 Notices. Any notice required or permitted to be delivered by one party to another under or in connection with this Agreement shall be deemed sufficiently given after three business days if sent by certified U.S. mail, return receipt requested, or after one business day if sent by nationally recognized overnight carrier to the attention of the individual(s) and at the address(es) indicated below:

If to Vendor, to:

If to RIT, to:

Tina Karol
RIT
1 Lomb Memorial Drive
Rochester, NY 14623

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below, to be effective as of the date first set forth above.

Provider

RIT

By: _____ By: _____

Printed Name: _____ Printed Name

Date: _____ Date: _____

ATTACHMENT A

1. Vendor agrees to deliver, prepare, and serve the above referenced food items as follows:

ATTACHMENT B

1. Pricing under this agreement will be as follows: