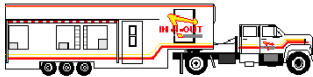




COOKOUT DEPARTMENT



Cookout Date: **Thursday - September 3, 2009**  
Name: **Pepperdine University –  
International Programs**  
Distribution Center: **Baldwin Park**

## IN-N-OUT BURGER® MOBILE UNIT AGREEMENT

IN ORDER TO OFFICIALLY RESERVE YOUR COOKOUT DATE AND TIME, WE MUST RECEIVE YOUR SIGNED CONTRACT, \$500 DEPOSIT AND CERTIFICATE OF INSURANCE BY *August 15, 2009*. IF CONTRACT AND DEPOSIT ARE NOT RECEIVED IN A TIMELY MANNER, YOUR DATE WILL BE SUBJECT TO CANCELLATION.

In-N-Out Burger's Mobile Unit is a self-contained "mobile restaurant," allowing us to prepare burgers as each customer orders. In addition, if requested, we will provide drinks and potato chips. Sorry, French-fries and shakes are not available through our Mobile Unit.

**SITE SELECTION:** In-N-Out Burger ("In-N-Out") reserves the right to pre-approve the location of the "cookout" and may require the opportunity to inspect the site. Due to the weight of the cookout trucks, they will require a firm, level surface for parking. In-N-Out maintains the right to relocate the truck if the site is unacceptable.

### 1. COSTS:

- A. PRICES, SALES TAX & MARK-UP:** *The total cost of your cookout will be determined by the amount of food used, plus applicable sales tax and other charges described below or the "Minimum Charge" described below, whichever is higher.* Please refer to Addendum A for current item prices. Prices, terms and conditions quoted are subject to change; should this occur, you will be notified no less than 60 days prior to the cookout date. In-N-Out maintains a strict policy on maximum fundraiser prices that may be charged for our products. Please see Addendum A for these maximums. If at any time these price maximums are exceeded, your cookout will be terminated.
- B. MINIMUM COOKOUT CHARGE & GUARANTEE:** The "Minimum Charge" or "Guarantee" is calculated in the following manner: ***\$1,250.00 plus \$100 for every half hour of service time used beyond one and a half (1 ½) hours or 75% of the cost of the estimated number of items ordered based on our "average" Cheeseburger price, (whichever is higher.)***
- Our paperwork indicates you have selected ***1-1/2 hours*** of service time, serving a combination of approximately ***600 Hamburgers and Cheeseburgers***.
  - Based on the above order, your estimated total costs including sales tax will be approximately ***\$2,172.00, or higher*** depending on the number of items used.
  - ***If you do not reach your Estimated Total, you will be responsible for the amount of actual food used or 75% of the cost of the estimated number of items ordered based on our "average" Cheeseburger price, plus applicable overtime for a minimum of \$1,600.00, whichever is higher. (Note: Product cannot be substituted for unused meals to satisfy your minimum.)***
  - Please initial \_\_\_\_\_ that you agree with these amounts.  
If you do not agree with these amounts or menu, please contact a cookout coordinator.
- C. SERVICE TIME:** The "Minimum Charge" of ***\$1,600.00*** entitles you to ***1-1/2 hours of service time***. If additional serving time is needed, prior arrangements must be made, and may be assessed an overtime charge of \$100.00 per ½ hour. As service time is based on your total minimum order, any changes to the above estimates may also affect your service time.
- D. MILEAGE SURCHARGE:** A mileage charge may be assessed depending on the location of the cookout. All such charges shall be noted in this section prior to executing this Agreement. Mileage will be charged as follows: ***None***
- E. INCIDENTAL CHARGES:** If unusual circumstances exist, In-N-Out may assess an incidental charge. All such charges shall be noted in this section prior to executing this Agreement. Your incidental charges are as follows: ***None***

F. **COLLECTION OF MONEY:** You ("customer") are responsible for selling tickets before the cookout or having someone at the event to handle money. The burgers will be sold only in exchange for tickets or other script, unless prior arrangements have been made.

2. **TERMS OF PAYMENT:**

A. **DEPOSIT:** *A \$500.00 deposit is required upon signing of this Agreement.* Deposits are non-refundable if cookout is canceled less than 14 days from the cookout date. *The receipt of your deposit by In-N-Out will confirm the reservation of your cookout, and must be received by the due date above for your reservation to be held.* The full amount of the deposit will be credited against the total charges for the Mobile Unit service. MasterCard, VISA and American Express are accepted.

B. **BALANCE DUE:** *Final payment must be made at the completion of your event, by check, VISA, MasterCard or American Express. Cash will not be accepted unless prior arrangements have been made.* Cookout crew will issue a final itemized billing indicating the amount of food sold and the amount of total charges to be billed for services, less any deposits or prior payments. *Please remember if your total actual sold is less than the minimum indicated above you will be billed the minimum costs.*

3. **PROMOTIONAL MATERIALS:** *The use of the In-N-Out name will be limited to use on printed materials and may not be included in any form of electronic advertising; radio, television, etc.* All printed materials, (posters, tickets or other promotional materials) using the In-N-Out name, logos, trademarks or graphics ("Names and Marks") must be approved by the In-N-Out Burger Marketing Department. Please fax your design to (949) 854-3675 for 24-hour turn around approval. Logo slicks available upon request. In-N-Out reserves all rights to its Names and Marks; Customer is not given any license to use In-N-Out's Names and Marks by entering into this Agreement.

4. **CHANGES IN TERMS OF AGREEMENT:** If customer desires to change the date, time, location or menu of the cookout as originally agreed to in this contract, the *customer must inform In-n-Out of such change no later than seven days prior to the scheduled date of the cookout.* Please note that In-N-Out is unable to make a change in the cookout if such notification is less than 24 hours prior to the cookout time.

5. **INSURANCE AND INDEMNIFICATION REQUIREMENTS:**

A. *Customer shall be required to provide a Certificate of Insurance, naming "In-N-Out Burger" as additional insured,* or a copy of homeowners' insurance policy indicating that liability insurance is in place for the property where cookout is to be held. *In-N-Out Burger shall provide a Certificate of Insurance, naming Pepperdine University as additional insured,* showing that they have general liability insurance and vehicle liability insurance.

B. *Except to the extent such actions or claims arise out of the negligence or willful misconduct of In-N-Out, its products, vehicles, associates (employees), owners, officers, directors and agents,* customer shall indemnify, defend and hold harmless In-N-Out, its affiliates, related business entities, successors and assigns, associates (employees), owners, shareholders, officers, directors and agents, and each of them, against any and all actions or claims of the customer and the customer's guests, invitees and representatives and against any and all actions or claims which in any way relate to or arise out of the event.

C. *Except to the extent such actions or claims arise out of negligence or willful misconduct of Pepperdine University, its employees, owners, officers, directors and agents,* In-N-Out Burger shall indemnify, defend and hold harmless *Pepperdine University* against any and all actions and claims which arise from the negligence or misconduct of In-N-Out Burger or its employees.

D. *Except through its own negligence, bad faith, or intentional misconduct,* In-N-Out does not assume liability for any damages or loss whatsoever. Customer agrees that In-N-Out and its employees shall not be liable to the Customer for any claims, liabilities, or expenses relating to this cookout for an aggregate amount in excess of the fees paid by the Customer pursuant to this engagement, except to the extent finally judicially determined to have resulted primarily from the negligence, bad faith, or intentional misconduct of In-N-Out.

6. **LIMITATION OF LIABILITY:** In no event shall In-N-Out or its officers, directors, employees, contractors or suppliers be liable to customer for any punitive, special, exemplary, incidental, consequential or other indirect loss or damage (including but not limited to, loss of profits, loss of revenue, loss of opportunity and loss of use) that may arise out of or in connection with this agreement, including but not limited to, damages or costs resulting from the failure to provide the service regardless of whether such damages could have been foreseen, prevented or had been advised of.

7. **RIGHT TO RESCIND:** In-N-Out reserves the right, at any time, to unilaterally rescind this Agreement and, or to deny service, even after event has commenced, if any event is not conducted (or any personnel related to the event does not conduct themselves) in a manner consistent with the law abiding and wholesome family image of In-N-Out, which In-N-Out will decide in its sole discretion.

8. **GOVERNING LAW AND VENUE:** The laws of the State of California shall govern this Agreement.

9. **FORCE MAJEURE:** The parties to this Agreement will be excused from the performance of this Agreement in whole or in part if the performance by In-N-Out or Customer of any of its material obligations under this Agreement is prevented by operation of law or any cause beyond the reasonable control of such party, including without limitation fire, flood, disruption of transportation (but not the failure of a party to reasonably anticipate possible transportation delays), earthquake, public disaster, strike, labor dispute or unrest, accident, breakdown of electrical or other equipment, riot, war, insurrection, civil unrest, Act of God, any act of any legal or governmental authority (all of which causes are referred to as "events of force majeure").

10. **MISCELLANEOUS:** This Agreement constitutes the entire Agreement between the parties and supersedes any and all prior offers, negotiations and agreements. Only a written agreement executed by the parties shall modify this Agreement. If any provision of this Agreement is declared invalid, the remaining provisions shall remain in full force and effect. The section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

We very much hope that this Agreement will serve to acquaint you with the In-N-Out Mobile Unit service and that you and your group will be as pleased with the service as In-N-Out is to bring it to you.

I have read the above and any attachment or addendum and agree to the terms and conditions thereof. Furthermore, I have completed the COOKOUT INFORMATION section of this Agreement and agree to the terms and conditions thereof.

\_\_\_\_\_  
(Date) (Customer Signature)

\_\_\_\_\_  
(Organization)

COOKOUT INFORMATION  
(To Be Completed by Customer)  
Please Print

DATE OF COOKOUT: Thursday - September 3, 2009 TIME OF COOKOUT: 7:30 pm to 9:00 pm  
(Month/Day/Year) (Time customer wants the first burger served)

ADDRESS OF COOKOUT:

\_\_\_\_\_  
Street CONTACT: \_\_\_\_\_  
\_\_\_\_\_  
City State Zip County PHONE: \_\_\_\_\_  
Area Code Phone Number

All mobile unit cookout correspondence and payments should be sent to: In-N-Out Burger - Attn.: Cookout Coordinator, 13502 Hamburger Lane, Baldwin Park, CA 91706 or faxed to 626-813-7300. **For additional assistance please phone (888) 700-7774 or (626) 813-8295. After hours and weekends, please call customer service at 800-786-1000.** Federal ID # 95-2246829.

**For payment by credit card, please initial here \_\_\_\_\_, and complete the attached credit card authorization form.**

**CREDIT CARD AUTHORIZATION**

Customer # **17226**

**Pepperdine University - International Programs**  
**24255 Pacific Coast Hwy**  
**Malibu, CA 90263-4230**  
**Attention: Kailey Fullerton**

Cookout Address:

**Alumni Park**  
**24255 Pacific Coast Hwy - Malibu**

Date of Cookout: **Thursday - September 3, 2009**

**7:30 pm to 9:00 pm**

**IF YOU WISH TO PAY BY CREDIT CARD, PLEASE COMPLETE THE FOLLOWING:**

VISA \_\_\_\_\_ MasterCard \_\_\_\_\_ American Express \_\_\_\_\_

Account # \_\_\_\_\_

CID # \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Amount \_\_\_\_\_ (Minimum of \$500.00)

Balance to be charged to this card at end of cookout: Yes \_\_\_\_\_ No \_\_\_\_\_.

Name on card: \_\_\_\_\_

Signature of Cardholder: \_\_\_\_\_

**PLEASE NOTE THAT FOR YOUR SAFETY THIS INFORMATION WILL BE HELD UNDER STRICT SECURITY AND INFORMATION WILL BE SHRED AT COMPLETION OF YOUR EVENT AND PAYMENT IS MADE IN FULL.**

Contact Name: \_\_\_\_\_

Contact Phone: \_\_\_\_\_

Name: **Pepperdine University - International Programs**  
 Date of Cookout: **Thursday - September 3, 2009**

**ADDENDUM "A"  
 TO MOBILE UNIT AGREEMENT**

**COOKOUT PRICES &  
 MAXIMUM FUNDRAISER PRICES THAT MAY BE CHARGED**

- **The total cost of your cookout will be determined by the amount of food used, at the current prices below and other charges described on page one or the "Minimum Charge" of \$1,600.00, whichever is higher.** Prices, terms and conditions quoted are subject to change; should this occur, you will be notified no less than 60 days prior to the cookout date.
- **In-N-Out maintains a strict policy on maximum fundraiser prices that may be charged for our products.** Current maximums are listed below. If at anytime these price maximums are exceeded, your cookout will be terminated
- **All prices listed below include sales tax at the rate of 9.75%, therefore; some counties may be slightly higher or lower and will be charged accordingly.**

|  | <b>Your Cost<br/>Including Sales<br/>Tax @9.75%</b> | <b>Maximum<br/>Fundraiser<br/>Price<br/>That May<br/>Be Charged</b> | <b>Profit<br/>To<br/>You</b> |
|--|---|---|------------------------------|
| <b>Individual Items</b>                          |   |   |                              |
| Hamburgers                                       | <b>\$2.95 + tax = \$3.24</b>                        | \$4.00  | \$ .76                       |
| Cheeseburgers                                    | <b>\$3.30 + tax = \$3.62</b>                        | \$5.00  | \$1.38                       |
| Double-Doubles®                                  | <b>\$4.40 + tax = \$4.83</b>                        | \$6.00  | \$1.17                       |
| Grilled Cheese                                   | <b>\$2.90 + tax = \$3.18</b>                        | \$4.00  | \$ .82                       |
| 20 oz Fountain Drinks                            | <b>\$1.50 + tax = \$1.65</b>                        | \$2.00  | \$ .35                       |
| Chips  | <b>\$ .75 + tax = \$ .82</b>                        | \$1.00  | \$ .18                       |
| <b>Meals</b>                                     |   |   |                              |
| Hamburger Meal<br>(including chips & drink)      | <b>\$5.20 + tax = \$5.71</b>                        | \$7.00  | \$1.29                       |
| Cheeseburger Meal<br>(including chips and drink) | <b>\$5.55 + tax = \$6.09</b>                        | \$8.00  | \$1.91                       |
| Double-Double® Meal                              | <b>\$6.65 + tax = \$7.30</b>                        | \$9.00  | \$1.70                       |

|                           |                              |        |        |
|---------------------------|------------------------------|--------|--------|
| (including chips & drink) |                              |        |        |
| Grilled Cheese Meal       | <b>\$5.15 + tax = \$5.65</b> | \$7.00 | \$1.35 |
| (including chips & drink) |                              |        |        |

I have read the above and agree to the terms and conditions thereof.



Customer Signature

## COOKOUT CONFIRMATION/INVOICE

Date: **August 18, 2009**

Invoice #: **17226**

**Pepperdine University - International Programs**  
**24255 Pacific Coast Hwy**  
**Malibu, CA 90263-4230**  
**Attention: Kailey Fullerton**

Cookout Address:

**Alumni Park**  
**24255 Pacific Coast Hwy - Malibu**

Date of Cookout: **Thursday - September 3, 2009**

**7:30 pm to 9:00 pm**

- Your estimated charges based on your menu of a combination of **600 Hamburgers and Cheeseburgers** including sales tax and a serving time of **1-1/2 hours** is **\$2,172.00**.
- If you do not reach your Estimated Total, **you will be responsible for the amount of actual food used** or 75% of the estimated "average" cheeseburger amount, plus applicable overtime for a minimum of **\$1,600.00, whichever is higher**. (Note: Product cannot be substituted for unused meals to satisfy your minimum.)

**(Please note: Trailers do not carry extra product! Any changes made to this agreement, MUST be made no later than seven days prior to the scheduled date of cookout. We will only come prepared to serve what you have ordered above and must all be served in the scheduled time above.**

### Payments Due:

- Deposit of **\$500.00** and signed contract to reserve your date **due by August 27, 2009**.
- Balance of Minimum/Guarantee, **\$1,100.00 due on or before Thursday - September 3, 2009**.
- **Balance** of any additional charges for actual product used **due at the end of your event**.

For your convenience we accept checks, money orders, MasterCard, VISA and American Express.

Please mail all remittances to:

In-N-Out Burger  
Attn: Cookout Coordinator  
13502 Hamburger Lane  
Baldwin Park, CA 91706  
(888) 700-7774  
Federal ID # 95-2246829

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Please sign that you are in agreement with these terms.