

## HEALTHY HANDS COOKING CERTIFICATION TRAINING TERMS AND CONDITIONS

### RECITALS:

1. HHC has developed and owns the Healthy Hands Cooking program (the "Program"), which includes certain digital and tangible proprietary information and materials ("Proprietary Knowledge"). The Program is a one-of-a-kind Patent-Pending cooking instruction, certification and business training program to equip certain persons who become and remain HHC Certified Instructors (as defined and more fully set forth below) to help fight childhood obesity and improve the health of children and families using the Proprietary Knowledge. HHC owns all right, title, and interest in and to the Proprietary Knowledge. HHC has selected certain Proprietary Knowledge that is utilized or useful in providing online training through its proprietary online Healthy Hands Cooking Certified Instructor Training Course ("Training Course"). HHC has made provision for the Prospective Instructor to become a Certified Instructor once the Prospective Instructor has (i) successfully completed the Training Course, and (ii) scored a passing grade on the certification examination provided by HHC,. The Training Course provides specifically developed and presented training in the use, skills, techniques, applied data, food safety considerations, and application of the Proprietary Knowledge, and is more particularly described in **Exhibit A (Description of Training Course)** attached hereto and incorporated by reference herein;
2. HHC owns all right, title and interest in and to, certain registered and unregistered trademarks, service marks, trade names and trade dress (collectively, the "HHC Marks"), including, "Healthy Hands Cooking®", "HHC®", which registered marks are set forth in **Exhibit B (Registered HHC Marks)**;
3. Subject to the terms and conditions of this Agreement, HHC desires to grant a limited, non-exclusive, revocable, non-transferable, non-assignable, and non-sublicensable, license to Prospective Instructor permitting use of so much of the Proprietary Knowledge as HHC deems necessary or appropriate (in HHC's sole and absolute discretion) for the Training Course ("Training Materials") during the Training Term or until earlier terminated by HHC in accordance with this Agreement solely to the extent necessary or appropriate (in HHC's sole and absolute discretion) for, and for the sole purpose of, Prospective Instructor participating in the Training Course with the objective of becoming a Certified Instructor; and

4. Subject to the terms and conditions of this Agreement, Prospective Instructor desires to participate in the Training Course and to access and use the Training Materials with the objective of becoming a Certified Instructor; and
5. Subject to the terms and conditions of this Agreement, HHC desires to grant a limited, non-exclusive, revocable right and license to the Prospective Instructor to utilize said Training Materials solely for the purpose of participating in the Training Course with the objective of becoming a Certified Instructor.
6. Subject to the terms and conditions of this Agreement, Prospective Instructor is becoming an authorized brand representative for HHC and Prospective Instructor agrees to use HHC licensed materials, branded images and HHC naming properly. Prospective Instructor agrees to not dilute or confuse the HHC brand by changing any of the materials.

**NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:**

1. **GRANT AND ACCEPTANCE OF LIMITED LICENSE.** Subject to the terms and conditions in this Agreement, HHC hereby grants to Prospective Instructor, and Prospective Instructor hereby accepts, a limited, non-exclusive, revocable, non-transferable, non-assignable, and non-sublicensable, right and license to access the Training Course and use the Training Materials in the USA or Canada during the Training Term or until earlier terminated by HHC in accordance with this Agreement solely to participate in the Training Course with the intent to become a Certified Instructor (the “Purpose”). HHC shall not have any obligation to provide any Proprietary Knowledge to or for the use of Prospective Instructor other than what is presented by HHC in the Training Course.
2. **OWNERSHIP RETAINED BY HHC.** The license granted in Section 1 hereof provides the Prospective Instructor a limited right to access the Training Course and use the Training Materials during the Training Term pursuant to, and in compliance with, the terms and conditions of this Agreement. Prospective Instructor covenants and agrees that it shall not at any time or under any circumstances (i) be entitled to or have or make any claim to have any ownership rights in the Training Materials, Proprietary Knowledge or Program; (ii) represent, directly or indirectly, that it is the owner of, or has any rights in, all or any portion of the Training Materials, Proprietary Knowledge or Program, other than the limited right of access to the Training Course and use of the Training Materials granted to Prospective Instructor by this Agreement solely for the Purpose. HHC reserves all rights not expressly granted Prospective Instructor in this Agreement.
3. **ADDITIONAL CONDITIONS OF USE OF THE TRAINING COURSE AND MATERIALS.** The Prospective Instructor shall access and use the Training Course and Training Materials subject to the following terms and conditions:
  - a. **Training.** In consideration of HHC’s receipt of payment in full of the Training Fee, and conditioned upon

Prospective Instructor's ongoing compliance with this Agreement, HHC will provide the Prospective Instructor access to the Training Course during the Training Term solely for the Purpose.

- b. ***Certification as Pre-Condition to the Public or Commercial Use of Proprietary Information.*** Prospective Instructor agrees that Prospective Instructor shall not use in or represent to the public in any manner whatsoever that it is trained in or certified under the Program until it has received a written certification from the HHC that it has successfully completed, satisfied the course requirements included in the Training Course, and has become a Certified Instructor and a member of HHCIC and paid all applicable fees. Prospective Instructor shall not act in any capacity as an instructor of the Program or any of its components prior to becoming a Certified Instructor.
- c. ***Training does not include a Prescribed Marketing Plan.*** Prospective acknowledges and agrees that HHC has not and shall not provide Prospective Instructor with a *prescribed marketing plan* of any kind whatsoever for marketing the Healthy Hands Cooking benefits or the application of the Proprietary Information as commercial products and/or services to third party clients. Any marketing plan shall be developed solely by the Prospective Instructor or its designees for use following satisfaction by Prospective Instructor of all requirements stated in the Program. Prospective Instructor further acknowledges and agrees that, in no manner whatsoever shall there be any training that intentionally or unknowingly affects the ***overall operations*** of Prospective Instructor's business utilizing the Proprietary Information. This provision does not prohibit HHC from providing limited information with regard to certain marketing concepts, provided such training (i) does not constitute a *prescribed marketing plan* under applicable law, and (ii) was not a primary inducement to the Prospective Instructor to enter this Agreement.
- d. ***Compliance with Laws.*** During Prospective Instructor's participation in the Training Course, Prospective Instructor shall comply with all applicable local, State and Federal laws. Upon request of HHC, the Prospective Instructor shall provide proof of such compliance with all such laws.
- e. ***Other Competing Related Activities.*** Nothing contained in this Agreement shall affect or limit Prospective Instructor's right to develop, distribute, advertise, market and/or sell any other product or service **so long as said service or product (i) does not use any Confidential Information of HHC, or (ii) is not likely to be confused by reasonable consumers with the HHC Marks or Program or any part thereof.**
- f. ***Use of HHC Name in Business Name of Prospective Instructor.*** Prospective Instructor **shall have no right or license of any kind in or to and shall not use or exploit in any manner whatsoever any HHC Mark, including any registered**

or unregistered trademark, service mark, trade name or trade dress of HHC, at any time prior to receiving certification from HHC as a Certified Instructor. Without limiting the foregoing, Prospective Instructor shall not, directly or indirectly, use any HHC Mark in whole or in part as its business name, a business entity name such as a corporation or LLC (including prohibited use as a "dba"), bank account name, online name including email address, website URL, social media handle, in its advertising, or in any other manner whatsoever. However, at such time as Prospective Instructor becomes and for so long as s/he remains a Certified Instructor and authorized member of the Healthy Hands Cooking Instructor Community in good standing, certain uses of the HHC Marks will be allowed, as more fully set forth in the Certified Instructor HHCIC Membership Agreement.

#### 4. **TRAINING FEE; POST-TRAINING COSTS.**

- a. ***Training Fee.*** Concurrent with the execution and delivery of this Agreement to HHC, and as a condition precedent to having access to the Training Course and use of the Training Materials and one year of membership access, in furtherance thereof, Prospective Instructor shall pay HHC the fee indicated on the HealthyHandsCooking.com website at time of order. ("Training Fee").
- b. ***Post-Training Fees.*** Prospective Instructor may join the optional HHCIC membership and pay a membership fee. Prospective Instructor will also need to pay other fees for food handling, criminal background and sex offender background checks fees to obtain and maintain status as a Certified Instructor. Details of those fees and costs are available in the Healthy Hands Cooking website (HealthyHandsCooking.com). A list of fees is available to Prospective Instructors from HHC.

#### 5. **TRAINING TERM.** The initial term of this Agreement ("Training Term") shall be for one (1) year beginning on the date of this Agreement, unless extended in the sole and absolute discretion of HHC, or earlier terminated pursuant to Section 6 hereof.

#### 6. **TERMINATION.**

- a. ***Termination by Either Party for Uncured Material Breach.*** Either party may terminate this Agreement without prejudice to its other remedies by notice in writing to the other if and only if the other party commits any material breach of this Agreement; provided that, if the breach is capable of remedy within thirty (30) days, the termination notice shall only be given if the party in breach shall not have remedied the same within the thirty (30) days after having been given a prior separate notice in writing specifying the breach and requiring it to be remedied.
- b. ***Termination by HHC.*** HHC may immediately terminate this Agreement without providing any right to cure by sending notice in writing to Prospective Instructor upon the occurrence of any of the following:

- (1) Failure to Pay Charges or Fees. The Prospective Instructor fails to pay any charges, fees or payments due under this Agreement (including installment payments on a promissory note) within twenty (20) days of their due date;
  - (2) Term Expires. The Training Term expires without Prospective Instructor having completed the Training Course (including earning a passing score on the certification exam) and without the term having been renewed or extended in a writing signed by HHC prior to the end of the Training Term; or
  - (3) Incurable Breach. HHC determines (in its sole and absolute discretion) that Prospective Instructor has materially breached this Agreement and the breach is not curable within thirty (30) days of notice of said breach.
- c. ***Automatic Termination.*** This Agreement shall automatically terminate if:
- (1) Achievement of Certified Instructor Status. Prospective Instructor satisfactorily completes the Training Course (including earning a passing score on the certification exam) and is granted Certified Instructor status by HHC based on (i) continued compliance with this Agreement up to date of termination; or
  - (2) Prohibited Assignment. Prospective Instructor attempts to make, or makes, an assignment for the benefit of its creditors, admits in writing to its inability to pay its debts as they come due, commences or is the subject of any proceeding under law relating to bankruptcy, insolvency, or readjustments of its debt, which proceeding is not dismissed within sixty (60) days after commencement;
  - (3) Breach of Section 8. HHC is advised, or otherwise becomes aware, of circumstances that lead HHC to reasonably determine that Prospective Instructor has misused or disclosed, or plans to misuse or disclose, any Proprietary Knowledge in contravention of the provisions of Section 8 hereof.
- d. ***Rights upon Termination.*** Upon Termination of this Agreement, (i) all rights and license granted to Prospective Instructor under this Agreement shall immediately terminate and shall concurrently therewith revert to HHC, (ii) Prospective Instructor shall remain subject to the confidentiality and non-disclosure and non-use restrictions set forth in Section 8 hereof, and (iii) notwithstanding anything to the contrary set forth in this Agreement, all of the provisions of Sections 4, 5, 11(e), 12, 14, 15, 16, 18 and 22 hereof shall survive any termination, cancellation, completion, or expiration, of this Agreement, and shall continue as valid and enforceable obligations of Prospective Instructor notwithstanding any such termination, cancellation, completion, or expiration.

7. **ACKNOWLEDGMENTS BY PROSPECTIVE INSTRUCTOR.** Prospective Instructor acknowledges and agrees with the following:

- a. ***No Earnings Representation.*** No presumption shall arise from Prospective Instructor's access to the Training Course or use of the Training Materials, and HHC shall not be deemed to have, and has not, represented, orally or in writing, that the Prospective Instructor will with certainty earn, or is likely to earn, an amount in excess of the Training Fee ***or*** earn any amount whatsoever.
- b. ***No Representation as to Market.*** HHC shall not be deemed to have, and has not, represented, orally or in writing, to the Prospective Instructor that there is an established, guaranteed, and/or commercial market that can be successfully exploited by the use of the Training Course or as a Certified Instructor. The Prospective Instructor acknowledges that HHC has clearly and specifically stated to the Prospective Instructor that whether or not there is a substantive commercial market for the exploitation and commercial use of the Proprietary Knowledge by the Prospective Instructor is wholly dependent on the business acumen and abilities of the Prospective Instructor as well as the sole due diligence of the Prospective Instructor in selecting, ascertaining the viability of, and actively pursuing, said commercial market.
- c. ***Marketing Plan.*** HHC shall not be deemed to have, and has not, provided a *prescribed marketing plan* to Prospective Instructor. The Prospective Instructor acknowledges that HHC has not in any way represented to the Prospective Instructor that there is a substantive *prescribed marketing plan* that will or is likely to successfully and commercially exploit the use of the Proprietary Knowledge.
- d. ***No Buy-Back Representation.*** HHC shall not be deemed to have, and has not, represented that HHC or anyone else may or will purchase and/or buy back or is likely to buy back any materials, equipment, or anything else provided to the Prospective Instructor by HHC or any third party on behalf of HHC.
- e. ***No Refund Guarantee.*** HHC shall not be deemed to have, and has not, represented to the Prospective Instructor that HHC shall refund the Training Fee or any other paid fees of any kind whatsoever in the event that the Prospective Instructor fails or is unable for any reason to complete the Training Course or *is unsatisfied* with the Training Course or entering into this Agreement and any ramification(s) thereof. HHC shall not be deemed to have, and has not, represented to the Prospective Instructor that HHC may or will pay to the Prospective Instructor the difference between the Training Fee and the Prospective Instructor's earnings derived from the business of the Certified Instructor.
- f. ***No Location Assistance.*** HHC shall not be deemed to have, and has not, represented to the Prospective Instructor or assisted the Prospective Instructor, directly or indirectly, in determining or finding a location and/or a premises either owned or leased by HHC or an associate of HHC, or otherwise, for Prospective

Instructor's business, including but not limited to, supplying the Prospective Instructor with the name of a locator company(s) to find the Prospective Instructor a business location.

- g. ***No Client Procurement Assistance Promised.*** HHC shall not be deemed to have, and has not, represented to the Prospective Instructor, directly or indirectly, that HHC shall provide third party clients to the Certified Instructor's business.
- h. ***Not Related to HHC.*** Prior to and following the execution of this Agreement, the Prospective Instructor has not previously done business with, and is not otherwise related to HHC in any manner whatsoever.
- i. ***No Express or Implied Warranty.*** THE TRAINING COURSE AND TRAINING MATERIALS ARE PROVIDED "AS IS", WITH ALL FAULTS. THERE ARE NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO THE TRAINING COURSE, THE TRAINING MATERIALS, OR OTHER SERVICES TO BE PROVIDED HEREUNDER, OR ANY PROSPECTS OR OUTCOME THEREOF. HHC DISCLAIMS ANY AND ALL, AND PROSPECTIVE INSTRUCTOR ACKNOWLEDGES AND AGREES THAT THERE ARE NO, REPRESENTATIONS, WARRANTIES, COVENANTS, OR CONDITIONS, WHETHER EXPRESS, IMPLIED, ARISING AT LAW, IN EQUITY, OR BY CUSTOM OF TRADE, STATUTORY OR OTHERWISE, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON- INFRINGEMENT, TITLE OR QUIET ENJOYMENT. FURTHER, HHC DOES NOT WARRANT THAT THE TRAINING COURSE, INCLUDING TRAINING MATERIALS, IS ERROR-FREE OR WILL BE AVAILABLE AT ALL TIMES OR OPERATE WITHOUT INTERRUPTION. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY HHC, ITS AGENTS, OR ITS EMPLOYEES, AT ANY TIME SHALL CREATE A WARRANTY OF ANY KIND. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. IN THAT EVENT, WARRANTIES SHALL ONLY BE IMPOSED TO THE EXTENT DETERMINED BY A COURT OF COMPETENT JURISDICTION AS REQUIRED BY APPLICABLE LAW.
- j. ***Limitation of Liability and Damages Cap.*** HHC SHALL HAVE NO LIABILITY TO PROSPECTIVE INSTRUCTOR OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OF ANY KIND OR TYPE, WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, HOWSOEVER ARISING IN CONNECTION WITH

THIS AGREEMENT OR THE PERFORMANCE THEREOF, EVEN IF A PARTY WAS ADVISED, SHOULD HAVE KNOWN OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS, DAMAGE, OR EXPENSE, INCLUDING THOSE ARISING FROM PROPERTY DAMAGE OR LIABILITY TO OR PERSONAL INJURY TO OR DEATH OF, ANY PERSON. TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOT WITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF HHC AND ITS OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES AND AGENTS, AND ANY OF THEM, TO PROSPECTIVE INSTRUCTOR AND ANYONE CLAIMING BY OR THROUGH PROSPECTIVE INSTRUCTOR, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES, INCLUDING ATTORNEYS' FEES AND COSTS AND EXPERT-WITNESS FEES AND EXPENSES, AND COSTS OF ANY NATURE WHATSOEVER, CLAIMS, OR EXPENSES, RESULTING FROM OR IN ANY WAY ARISING OUT OF OR RELATED TO THE TRAINING COURSE OR THIS AGREEMENT FROM ANY CAUSE OR CAUSES SHALL NOT EXCEED THE TRAINING FEE PAID BY PROSPECTIVE INSTRUCTOR TO HHC UNDER THIS AGREEMENT.

- k. ***ACKNOWLEDGMENT OF PROSPECTIVE INSTRUCTOR.*** By paying the Training Fee, Prospective Instructor represents, covenants, agrees and accepts the aforementioned Terms & Conditions in whole and in part Section 7.a. through 7.k hereof.

## 8. PROTECTION AND NON-DISCLOSURE.

- a. ***Acknowledgment of Confidential Information.*** Prospective Instructor acknowledges and agrees to comply on a continuing basis with the obligations and responsibilities of Prospective Instructor set forth in this Section 8, including with respect to the protection of the Confidential Information of the HHC.
- b. ***Definition of "Confidential Information".*** "Confidential Information" as used in this Agreement means any and all competitively sensitive technical and non-technical information, data, communications and materials of importance to and kept in confidence by HHC which is disclosed or made available by, or at the direction of, HHC to Prospective Instructor whether it is embodied in tangible material, written form, electronic or digital medium, or otherwise (including by way of example, prototypes, samples, documents, drawings, pictures, graphics, graphs, charts, files, databases, and software code), or is disclosed orally or visually, and which is designated, either verbally or in writing, as, or by its nature or character is or should be reasonably understood to be, confidential or proprietary to HHC, including but not limited to, the Proprietary Knowledge, the Training Course and Training Materials, and information related in any manner to the Program, and including all financial (including types and amounts of fees and charges, financial policies, and payment terms and practices), operating,



employment, strategic, research and development, and technological information, client lists, contacts, contracts, corporate records and books, processes, procedures, methodologies, know-how, show-how, Trade Secrets, intellectual property, and other confidential or proprietary information, of HHC or its customers, vendors, contractors or agents. Such Confidential Information may be valuable to HHC because of what it costs to obtain, because of the advantages HHC enjoys from its exclusive use, or because its dissemination may harm HHC's competitive position. In addition, "Confidential Information" includes any notes, analyses, derivatives, compilations, interpretations, memoranda or other information or documents (of all types, formats and forms of existence) prepared by Prospective Instructor which contain, reflect or are based upon, in whole or in part, any Confidential Information. "Trade Secrets" means information defined by the South Carolina Trade Secrets Act § 39-8-10 (the "Act"). "Representatives" means Prospective Instructor's owners, shareholders, members, managers, directors, officers, employees, agents, contractors, affiliates and representatives.

- c. ***Ownership of Confidential Information Remains With HHC.*** The Parties acknowledge and agree that all right, title and interest in and to the Confidential Information shall be and shall remain the exclusive property of the HHC.
- d. ***Disclosure and Use of Confidential Information.***
  - (1) Without limiting the definitions set forth in Section 8(b), above, Prospective Instructor shall consider and treat all Proprietary Knowledge received or accessed, directly or indirectly, by or for Prospective Instructor as Confidential Information.
  - (2) Notwithstanding any provisions of this Agreement, Prospective Instructor shall have no right to make or receive copies or reproductions of any Confidential Information which Prospective Instructor is, directly or indirectly, given the opportunity to view or review.
  - (3) Except as otherwise required by law, and subject to Section 9, Prospective Instructor shall:
    - (a) hold the Confidential Information in the strictest confidence;
    - (b) not modify, disseminate, transfer or otherwise publish or communicate, or in any way disclose to any third party, directly or indirectly, the Confidential Information, in whole or in part, except as provided herein or with the express prior written consent of HHC;
    - (c) not, directly or indirectly, use or exploit the Confidential Information for Prospective Instructor's own benefit, or for the benefit of any third party, or otherwise for any purpose, other than

collaterally in furtherance of the Purpose, and

- (d) not use or disclose the Confidential Information in any way harmful to HHC, its business or prospects.

(4) Prospective Instructor shall take reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of HHC in order to prevent it from falling into the public domain or the possession of persons other than Prospective Instructor to have any such information. Such measures shall include the degree of care that Prospective Instructor utilizes to protect its own confidential and proprietary information of a similar nature, but in no event less than a reasonable degree of care. Prospective Instructor shall immediately notify HHC upon discovery or reasonable suspicion of any misuse, misappropriation, loss, or unauthorized disclosure of or access to Confidential Information which may become known to or suspected by Prospective Instructor, and shall fully and actively cooperate fully with HHC's efforts to fully ascertain, identify, contain and mitigate same.

- e. ***Duty Not to Copy or Imitate.*** Prospective Instructor shall not during the term of this Agreement and thereafter, (i) copy, (ii) reproduce, (iii) distribute, (iv) transmit, (v) analyze, (vi) convert, (vii) translate, (viii) modify, (ix) create other works, compounds, designs, or processes, from or using, Confidential Information. Further, Prospective Instructor shall not (x) file any copyright application containing any Proprietary Knowledge or other Confidential Information, (xi) file any trademark application claiming ownership of any mark similar to the HHC Marks, (xii) attack either HHC's title in and to the HHC Marks, (xiii) file any patent application containing a claim to any subject matter derived from, any Confidential Information, or (xiv) claim ownership of or any rights in or to any trade secret a part of or derived from Confidential Information, and shall not utilize the Confidential Information to manufacture, reproduce or copy any product, or any part thereof, and shall not permit nor induce any of the foregoing by others.
- f. ***Protection of Confidential Information.*** Without limiting any other provision of this Agreement, Prospective Instructor covenants to keep the Confidential Information confidential and to use reasonable, best efforts to ensure that no third party accesses, uses or discloses any Confidential Information to third parties or causes or executes the theft of any Confidential Information.
- g. ***Return of Confidential Information.*** Prospective Instructor shall, upon the earlier of: (i) the written request of HHC; or (ii) the cessation by Prospective Instructor of participation in the Training Course for the Purpose; or (iii) termination of this Agreement in accordance with Section 6 hereof:

(1) Return to HHC within ten (10) days all documents, materials, or media, and any other tangible, physical and electronic manifestations (including all copies thereof) then in the possession, control, or held for the benefit, of Prospective

Instructor containing Confidential Information; and

(2) Delete or otherwise destroy within ten (10) days all Confidential Information (including all copies thereof) then in the possession, control, or held for the benefit, of Prospective Instructor that is not easily or fully returnable, and Prospective Instructor shall certify to HHC within three (3) days thereafter in a writing signed by Prospective Instructor that such prompt and complete deletion and destruction has occurred.

(3) Notwithstanding the return or deletion/destruction of the Confidential Information, Prospective Instructor shall continue to be bound by its obligations of confidentiality and other obligations hereunder pursuant to Section 9 hereof.

- h. ***Term of Duties of Prospective Instructor.*** The restrictions and prohibitions set forth in this Section 8 shall remain in full force and effect during the Training Term (including all extensions and renewals thereof) plus the term of any Membership Agreement or similar agreement executed (if any) between the Prospective Instructor plus five (5) years after the end of the last to expire or terminate of any such Agreements; provided, however, that portion of the Confidential Information comprising Trade Secrets shall remain protected under this Section 8 for so long as they constitute Trade Secrets under the Act.

## 9. INDEMNITY.

- a. ***Prospective Instructor Indemnity Obligations.*** The Prospective Instructor hereby agrees at its expense to defend, indemnify and hold HHC harmless from and against any and all third party claims, demands, causes of action, damages, and judgments (including attorneys' fees, court costs and expert witness fees, and claims by anyone or any entity) arising out of (i) HHC providing Prospective Instructor with the Training Course, including Training Materials, or (ii) Prospective Instructor's misuse of the Training Course, including Training Materials, or other breach of this Agreement, including resultant, direct or indirect, injury to or death of third party(s). In any dispute, HHC shall be consulted with regard to any admission or settlement that may adversely affect the interests of the Program or HHC. Under this indemnity provision in no event shall HHC be liable for any damages, including, direct, indirect, special, consequential, punitive, or other damages, including loss of profits of any type by anyone, arising from or related to the Prospective Instructor's use or misuse of the Proprietary Knowledge or the termination of this Agreement, even if HHC has notice of the possibility of such damages.

**10. INSURANCE.** Prospective Instructor is encouraged to obtain and maintain sufficient kinds and limits of insurance for any coverable losses that Prospective Instructor may encounter while implementing the knowledge obtained in the Training Course in their cooking class service business. HHC does not mandate, nor recommend, any particular type or kind, or coverage limits of, any insurance policy, as a part of the Training Course.

**11. PROSPECTIVE INSTRUCTOR'S STATUS AS INDEPENDENT CONTRACTOR.**

- a. Notwithstanding any other provision of this Agreement, this Agreement shall not be construed to, and does not, render the Prospective Instructor an employee, partner, agent, joint venturer, or franchisee, with HHC for any purpose. The Prospective Instructor is particularly not a franchisee because as a condition to do the business of the Prospective Instructor under this Agreement, HHC has *not* imposed the following: (i) there is no common prescribed marketing plan determined by HHC for the Prospective Instructor's business or products or services and (ii) as an independent contractor the Prospective Instructor is free to perform any work or business in any manner Prospective Instructor deems appropriate (so long as said work or business (i) does not use any Confidential Information of HHC, and (ii) is not likely to be confused by reasonable consumers with the HHC Marks or Program or any part thereof) and not by way of any supervisory arrangement or direction such as a franchise. The Training Course is intended to equip the Prospective Instructor with knowledge useful for promoting the health and safety of the public and specifically and intentionally NOT intended to control or influence in any manner whatsoever the overall operations of Prospective Instructor's business.
- b. Under the terms of this Agreement, the Prospective Instructor is an independent student and will so remain for the term of this Agreement.
- c. HHC shall not be responsible for withholding taxes with respect to the Prospective Instructor's earnings and/or compensation hereunder. The Prospective Instructor shall have no claim against HHC hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
- d. AT ALL TIMES IN THE PERFORMANCE OF THIS AGREEMENT, THE PROSPECTIVE INSTRUCTOR SHALL BE AND REMAIN SOLELY AN INDEPENDENT STUDENT AND NOT AN EMPLOYEE OF HHC. NOTWITHSTANDING ANY OTHER PROVISION OR PROVISIONS OF THIS AGREEMENT, THE PERFORMANCE BY THE PROSPECTIVE INSTRUCTOR SHALL (i) BE SOLELY CONTROLLED BY THE PROSPECTIVE INSTRUCTOR AS TO THE MANNER IN WHICH THE WORK UNDER THIS AGREEMENT IS PERFORMED, (ii) THE TIME AND SCHEDULING REQUIRED TO PERFORM THE COURSE WORK, AND (iii) THE METHOD, TECHNIQUES, TOOLS AND EQUIPMENT UTILIZED TO PERFORM THE COURSE WORK. THE PROSPECTIVE INSTRUCTOR IS

NOT SUBJECT TO DISMISSAL BY HHC FOR REASONS OTHER THAN THE NON-PERFORMANCE OF THE AGREEMENT AS ONLY SET FORTH IN THE AGREEMENT. THE PROSPECTIVE INSTRUCTOR IN PERFORMING THE WORK CONTEMPLATED BY THIS AGREEMENT IS NOT UNDER THE SUPERVISION IN ANY MANNER WHATSOEVER OF HHC. HHC AGREES THAT THE PROSPECTIVE INSTRUCTOR SHALL ULTIMATELY PROVIDE ALL TECHNIQUES, EQUIPMENT, TOOLS, CONCEPTS THAT PROSPECTIVE INSTRUCTOR SOLELY DEEMS NECESSARY TO PERFORM THE COURSE WORK UNDER THE AGREEMENT, WHETHER LEARNED FROM THE HHC OR NOT. THE PROSPECTIVE INSTRUCTOR UNDERSTANDS AND AGREES THAT THE PROSPECTIVE INSTRUCTOR MAY EARN A PROFIT OR SUSTAIN A LOSS IN THE PERFORMANCE OF THE WORK UNDER THIS AGREEMENT, AND THAT HHC IS NOT RESPONSIBLE TO THE PROSPECTIVE INSTRUCTOR FOR SUCH PROFIT OR LOSS. PROSPECTIVE INSTRUCTOR SHALL DEVOTE SUCH TIME TO THE PERFORMANCE OF THE WORK UNDER THE TERMS OF THIS AGREEMENT AS THE PROSPECTIVE INSTRUCTOR SHALL SOLELY DETERMINE. THE PROSPECTIVE INSTRUCTOR SHALL SOLELY DETERMINE THE HOURS OF WORK AND THE PLACE OF WORK WITHIN THE USA.

## 12. MISCELLANEOUS PROVISIONS.

- a. ***Governing Law.*** This Agreement and all amendments, modifications, alterations, or supplements hereto, and the rights of the parties hereunder, shall be construed under and governed by the laws of the State of South Carolina.
- b. ***Incorporation of Recitals.*** Each of the recitals set forth at the beginning of this Agreement are accurate, correct and true, provide important definitions which form a part of this Agreement, and are incorporated herein by this reference describing specifically the understandings and intentions of the respective parties hereto.
- c. ***Interpretation.*** The parties are equally responsible for the preparation of this Agreement and in any judicial proceeding the terms of this Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles and Sections mean the Articles and Sections of this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute

as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.

- d. ***Place of Execution.*** This Agreement and any subsequent modifications or amendments hereto shall be deemed to have been executed in the State of South Carolina.
- e. ***Headings.*** The headings contained herein and on the Exhibits are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or the Exhibits.
- f. ***Notices.*** Any notice herein required or permitted to be given, or waiver of any provision hereof, shall be effective only if given or made in writing. Notices shall be deemed to have been given on the date of delivery if delivered by hand, or upon the expiration of five (5) days after deposit in the United States mail, registered or certified, postage prepaid, and addressed to the respective parties at the addresses specified below the signature of each party to this Agreement. Any party hereto may change the address to which notices to such party are to be sent by giving notice in writing to the other party at the address and in the manner provided above.
- g. ***Assignments and Sub-Licensing.*** Without prior separate written authorization signed by HHC, Prospective Instructor has no right to, and shall not, grant, transfer, convey, sublicense, create sub-licenses, or otherwise assign any of its rights or delegate any of its obligations under this Agreement. This provision shall not in any manner whatsoever prohibit HHC from transferring, in whole or in part, its duties, rights, and obligations under this Agreement to any party or parties.
- h. ***Entire Agreement.*** This Agreement constitutes the entire agreement between HHC and Prospective Instructor with respect to the subject matter hereof and shall not be modified, amended, or supplemented except by the written consent of both parties hereto or except by another agreement in writing executed by the parties hereto which expressly provides that it succeeds this Agreement.
- i. ***Severability.*** All rights and restrictions contained herein may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws and are intended to be limited to the extent necessary so that they will not render this Agreement illegal, invalid or unenforceable. If any provision or portion of any provision of this Agreement not essential to the commercial purpose of this Agreement shall be held or suspected to be illegal, invalid or unenforceable by a court of competent jurisdiction, it is the intention of the parties that the remaining provisions or portions thereof shall constitute their agreement with respect to the subject matter hereof, and all such remaining provisions or portions thereof shall remain in full force and effect.
- j. ***Attorneys' Fees, etc.*** In the event either party brings any action, suit or proceeding against the other party to enforce any right or entitlement which it

may have under this Agreement, either party shall, to the extent it is successful in pursuing or defending the action, and in addition to all other rights or remedies available to it in law or in equity, be entitled to recover its reasonable attorneys' fees and court costs incurred in such action.

- j. ***Jurisdiction and Venue.*** The parties hereto consent to and agree that venue for any suit, action, dispute, or proceeding arising under or based upon this Agreement, shall lie in a state or federal court of competent jurisdiction sitting in Beaufort County, South Carolina, and appellate courts therefrom (the “Chosen Courts”). Each of the parties hereto hereby voluntarily, irrevocably and unconditionally submits to the exclusive jurisdiction (*in personam* or otherwise) of the Chosen Courts and hereby waives, and agrees not to assert, as a defense in any such legal proceeding that it is not subject thereto or that such legal proceeding may not be brought or is not maintainable in the Chosen Courts, or that this Agreement may not be enforced in or by such courts, and the parties hereto hereby voluntarily, irrevocably and unconditionally agree (i) that all claims for specific performance or injunctive relief with respect to any such legal proceeding shall be heard and determined in the Chosen Courts and (ii) to be bound by the decisions of such Chosen Courts. Each party hereto hereby voluntarily, irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the *in personam* jurisdiction or the laying of venue in any legal proceeding arising out of this Agreement in any Chosen Court. Each party hereto hereby voluntarily, irrevocably and unconditionally waives to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such legal proceeding or claim in such court.
- k. ***Compliance.*** The parties agree that each of them shall not at any time take any action which would ***cause Prospective Instructor or HHC*** to be in violation of any applicable laws and regulations. Neither party shall take any action that will alter the legal classification of Prospective Instructor as any status other than an independent contractor.
- l. ***Right to Legal Counsel.*** Prospective Instructor acknowledges that it has the right to have legal counsel of its own choice to review and approve this Agreement and all laws affecting or related to said Agreement. In the event that Prospective Instructor does not retain legal counsel for the review of this Agreement, Prospective Instructor intentionally, knowingly, and unconditionally, waives the right to such counsel.
- m. ***Counterparts; Agreeing Electronically.*** This Agreement may be executed in one or more counterparts for convenience of the parties and shall be given the same legal effect as if signed on a printed document. The checked box, indicating agreement to this document at time of sign up on the [healthyhandscooking.com](http://healthyhandscooking.com) website, is legally binding, and shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

- n. ***Waiver of Business Opportunity Laws.*** The Prospective Instructor hereby waives to the fullest extent such waiver is lawful the application of any Business Opportunity Statute, Seller Assisted Marketing Plan statute, or any similar statute, that is or may be applicable to the Prospective Instructor and/or HHC. [
- o. ***Limited Effect of Agreement.*** Any and all terms of this Agreement shall only affect the limited operations of the Prospective Instructor directly relating to the Training Course and do not in any manner whatsoever relate to other operations of the Prospective Instructor.

The Terms & Conditions of this Agreement consisting of seventeen (16) pages (excepting Exhibits) are accepted with the purchase of the Training Program. Hilton Head Island, South Carolina.



## **EXHIBIT A**

### **Description of the Training Course**

#### **Description:**

Healthy Hands Cooking's Instructor Certification is a patent-pending healthy cooking certification and a cooking class training program. This online self-study training program teaches participants how to provide healthy cooking classes to third party students that are operated in an efficient, effective, safe and healthy manner.

#### **Training Curriculum**

#### **HHC INSTRUCTOR CERTIFICATION MODULES**

Module 1: Getting Started

Module 2: Blueprint for

Success Business 101

Module 3: Building Your Service

Module 4: Food Handling Safety

Module 5: Media

Module 6: Target Marketing

Module 7: Class Protocol

Module 8: Recipe/Nutrition and Food Allergies

Module 9: Growing Your Revenue

Module 10: Instructor Community

Module 11: Online Presence

**\*Additional Mandatory Requirements for Certification:**

-Food Handling Safety Course: (outside vendor)

-Food Allergy Training Course: (outside vendor)

-Criminal/Sex Offender Background Check - (outside vendor)

## EXHIBIT B

### Registered HHC Marks

#### Mark 1 – Word Marks

- a) **Healthy Hands Cooking Certified Instructor** (word mark)
- b) **Real Good Food** (word mark)

#### Mark 2 - Logos



# HEALTHY HANDS COOKING INSTRUCTOR BRAND GUIDELINES

Revised: 11/2016



## Correct



Color version



Black &amp; white

## Incorrect



Rearranging the logo



Changing colors



Changing words



Skewing the logo

## Font

### Open Sans Bold

#2FC0CC - 20px

Open Sans regular

#222 - 15px

## Guidelines

HHC is a bright and vibrant brand, so feel free to take advantage of the colors in your own materials. The certified instructor logo is optional and may be used for self-promotion purposes only. If used, it must be large enough to be legible.

Please use the certified instructor logo and not the seal alone.

## Colors

### Sky blue

#2FC0CC

### Cherry Pie

#BF1E2E

### Kermit the Frog Here

#B9D536

### Copper Penny

#FD9948

### Sea at Dawn

#009BA7

## **Certified Instructor HHCIC Membership Terms & Conditions**

*Last updated: April 5, 2021*

This Certified Instructor Healthy Hands Cooking Instructor Community (“HHCIC”) Membership Agreement (“Agreement”) is entered into between Promo Trainers LLC, d/b/a Healthy Hands Cooking (“HHC”), and YOU (“Instructor and/or Member”), and is effective as of the Effective Date, as defined in Section 1 hereof. Instructor and/or Member, and HHC may be referred to in this Agreement singularly as a “Party” and collectively as the “Parties.” Instructor means certification Training Course criteria has been met (see training agreement). Member means active member with current good standing including all fees up to date with access to HHCIC online account. Instructor and/or Member means both an active Instructor and Member at the same time.

### **Recitals**

1. HHC has developed and owns the Healthy Hands Cooking program (the "Program"), which includes HHC Proprietary Knowledge and HHC IP. The Program is a one-of-a-kind Patent-Pending cooking instruction, certification and business training program to equip certain persons who become and remain HHC Certified Instructors (as defined and more fully set forth below) to help fight childhood obesity and improve the health of children and families using the Proprietary Knowledge and HHC IP (the “Purpose”) through provision of educational services in the field of nutrition and healthy cooking (“Educational Services”).
2. Instructor and/or Member, subject to the terms and conditions of this Agreement, desires to become a Certified Instructor and/or Member of the HHCIC in order to access and make use of the HHC Proprietary Knowledge and HHC IP.
3. Subject to and consistent with the terms and conditions of this Agreement, HHC provides to Instructor and/or Member the right to commercially employ the Proprietary Knowledge and the HHC IP, including the HHC Marks, solely for the Purpose (the Proprietary Knowledge and HHC IP, collectively, the “Licensed Property”).

4. As a part of the Licensed Property, HHC makes available to Instructor and/or Member, solely for the Purpose, the Healthy Hands Cooking Instructor Community ("HHCIC"), as described below.
5. Subject to the terms and conditions of this Agreement, Instructor and/or Member is becoming an authorized brand representative for HHC and Instructor and Member agrees to represent healthy cooking classes and events using HHC licensed materials, branded images and HHC naming properly. Instructor agrees to not dilute or confuse the HHC brand by using any other brands, naming or description as part of their healthy cooking class and event offerings.

In consideration of the foregoing, the mutual promises set forth below, the Parties agree as follows:

1. **Definitions.** For purposes of this Agreement, the following terms have the following meanings:

- 1.1. **"Confidential Information"** has the meaning set forth in Section 8(b) hereof.
- 1.2. **"Effective Date"** of this Agreement means the date the Instructor and/or Member signed up for their HHC account through the [healthyhandscooking.com](http://healthyhandscooking.com) website and paid in full.
- 1.3. **"HHCIC"** means the Healthy Hands Cooking Instructor Community, which provides Instructors with a personal login to a private instructor back office containing proprietary tools, community, and support to help each independent business owner accelerate and expand its offerings as a provider of Educational Services.
- 1.4. **"HHC IP"** means all patents, trademarks, service marks, trade names, and trade dress (whether or not registered), domain names, copyrights, trade secrets, and any patentable improvements or copyrightable derivative works thereof, websites and intellectual property rights therein and relating thereto, licenses and authorizations, associated with, arising from, or fundamental to, the Program and HHCIC and all rights with respect to the foregoing. Without limiting the foregoing, HHC owns all right, title and interest in and to, the HHC Marks.
- 1.5. **"HHC Marks"** means collectively certain registered and unregistered trademarks, service marks, trade names and trade dress, owned or licensed and controlled by HHC, including, "Healthy Hands Cooking®", "HHC®", "Real Good Food" ® which registered marks are set forth in Exhibit A (Registered HHC Marks).

**1.6. “HHC Related Parties”** means HHC’s affiliates, subsidiaries, related companies, employees, directors, officers, agents, representatives, vendors and suppliers.

**1.7. “Proprietary Knowledge”** means all digital and tangible proprietary information and materials, including the Confidential Information, owned or used under license by HHC, including and/or incorporating the HHC Training Course and Training Materials, HHCIC materials or postings accessed or obtained from or viewed in the “Healthy Hands Cooking FB Instructor Community”, and any and all materials provided for or used in any HHC class, demonstration, camp, party or other event that uses, displays, contains, or is based upon any portion of HHC IP; in full or in part.

**1.8. “Termination”** means, subject to any continuing obligations expressly provided herein, the termination, cancellation, completion, or expiration of this Agreement.

**2. Certification and Membership.** Instructor acknowledges and agrees that:

**2.1 Eligibility.**

(a) Only individual persons are eligible to receive HHC certification and to practice as Certified Instructors of HHC.

(b) HHCIC membership is available to HHC Certified Instructors and individual members.

(c) Certified Instructor status and Membership in HHCIC are available only to individual persons, and may not be awarded to or held by corporations, partnerships, associations, companies or other non-individual persons. Certification is provided on an individual basis only, such that any one or more Certified Instructors who desire to partner together must each obtain their own HHC certification; provided, however, they may choose to share a back office under one HHC account after obtaining written approval from HHC (in its sole and absolute discretion), provided that each such individual must remain a Certified Instructor and/or an active Member of HHCIC in good standing.

**2.2 *Instructor Representation of Intent.*** Instructor represents and warrants that s/he has completed the official HHC Certified instructor Training Course, has received a passing score, is current on all Fees, and desires to become a Certified Instructor and an HHCIC member, and to make use of the HHC IP and Proprietary Knowledge in accordance with this Agreement. Member represents and warrants that s/he is current on all Fees and desires to become an HHCIC member, to make use of the HHC IP and Proprietary Knowledge in accordance with this Agreement.

**2.3 Enrollment in HHCIC.** Instructor and/or Member's date of enrollment in the Healthy Hands Cooking Instructor Community ("HHCIC") will be concurrent with the effective date of acceptance of these Terms & Conditions via the check box and automatic payment processed through the HHC website at sign up.

**Maintenance of Certificate.** In order to maintain credentials as a Certified Instructor, Instructor must (i) maintain a valid and up-to-date Food Handling Safety certificate, Food Allergy Course, and national Criminal/Sex Offender background check, (ii) (ii) timely pay all fees and charges, as more fully set forth in Section 4 hereof, and (iii) otherwise remain in compliance with this Agreement, as it may be amended from time to time by HHC in its sole and absolute discretion.

**2.4 Other Activities.** Nothing contained in this Agreement shall affect or limit Instructor's right to develop, distribute, advertise, market, or sell any other product or service **so long as said service or product does not use the Licensed Property or any part thereof, and is not confused with the healthy, whole foods based classes like those of HHC.**

**2.5 Prices for Services Provided Using Licensed Property.** All retail prices charged by Instructor to its clients for HHC-related services and/or products shall be as solely determined by Instructor and/or Member.

**2.6 Offer of Additional Training and Services.** From time to time, HHC may at its sole discretion offer to Instructor and/or Member for purchase other products and/or services, including training, not referred to in this Agreement. Instructor shall have the sole right to make the determination if Instructor desires to purchase said products and/or services. The prices of said items paid by Instructor shall be solely determined by the HHC.

**3. Acknowledgments and Covenants By Instructor.** Instructor acknowledges and agrees with the following:

- 31 No Earnings Representation.** No presumption shall arise from Instructor and/or Member's certification, membership in HHCIC, or access to the Licensed Property, and HHC shall not be deemed to have, and has not, represented, orally or in writing, that the Instructor and/or Member will with certainty earn, or is likely to earn, an amount in excess of the collective Fees paid or payable during the Term or earn any amount whatsoever.
- 32 No Representation as to Market.** HHC shall not be deemed to have, and has not, represented, orally or in writing, to the Instructor and/or Member that there is an established, guaranteed, and/or commercial market that can be successfully exploited by the use of the Licensed Property or as a Certified Instructor and/or Member.

The Instructor and/or Member acknowledges and agrees that HHC has clearly and specifically stated to the Instructor and/or Member whether or not there is a substantive commercial market for the exploitation and commercial use of the Licensed Property. Instructor and/or Member is wholly dependent on the business acumen and abilities of the Instructor and/or Member as well as the sole due diligence of the Instructor and/or Member in selecting, ascertaining the viability of, and actively pursuing, said commercial market.

- 33     **Marketing Plan.** HHC shall not be deemed to have, and has not, provided a prescribed marketing plan to Instructor. The Instructor acknowledges that HHC has not in any way represented to Instructor that there is a substantive prescribed marketing plan that will or is likely to successfully and commercially exploit the use of the Licensed Property.
- 34     **No Buy-Back Representation.** HHC shall not be deemed to have, and has not, represented that HHC or anyone else may or will purchase and/or buy back or is likely to buy back any materials, equipment, or anything else provided to the Instructor and/or Member by HHC or any third party on behalf of HHC.
- 35     **No Refund Guarantee.** HHC shall not be deemed to have, and has not, represented to the Instructor and/or Member that HHC shall refund any Fee or any other paid charges of any kind whatsoever in the event that the Instructor and/or Member fails or is unable for any reason to complete the Initial Term or any Renewal Term or is unsatisfied with the Program or entering into this Agreement and any ramification(s) thereof. HHC shall not be deemed to have, and has not, represented to the Instructor and/or Member that HHC may or will pay to the Instructor and/or Member the difference between any Fee and the Instructor and/or Member's earnings derived from the business of the Instructor.
- 36     **No Location Assistance.** HHC shall not be deemed to have, and has not, represented to the Instructor and/or Member or assisted the Instructor and/or Member, directly or indirectly, in determining or finding a location or premises either owned or leased by HHC or an associate of HHC, for Instructor and/or Member's business.
- 37     **No Client Procurement Assistance Promised.** HHC shall not be deemed to have, and has not, represented to the Instructor and/or Member, directly or indirectly, that HHC shall provide third party clients to the Instructor and/or Member's business.
- 38     **Not Related to HHC.** Prior to and following the execution of this Agreement, the Instructor and/or Member has not previously done business with, and is not otherwise related to HHC in any manner whatsoever.
- 3.9    **Compliance with Laws.** Prior to and while performing services under the terms of this Agreement and all times during the Term, Instructor and/or Member covenants that it will comply with all local, state and federal laws required for the operation of a business utilizing the Licensed Property, and Instructor and/or Member shall be responsible for each individual hired by it, either as an employee or an independent contractor, to comply with all local, state and federal laws involved in commercially utilizing the Licensed Property. Upon request of HHC, the Instructor and/or Member shall provide to HHC written proof of such compliance with all laws. Without limiting the foregoing,



Instructor and/or Member shall during the Term comply in all respects with the Children's Online Privacy Protection Act. (COPPA)

**3.10 No Express or Implied Warranty.** THE LICENSED PROPERTY IS PROVIDED "AS IS", WITH ALL FAULTS. THERE ARE NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO THE HHC IP, THE PROPRIETARY KNOWLEDGE, OR OTHER SERVICES OR PRODUCTS TO BE PROVIDED HEREUNDER, OR ANY PROSPECTS OR OUTCOME THEREOF. HHC DISCLAIMS ANY AND ALL, AND INSTRUCTOR AND/OR MEMBER ACKNOWLEDGES AND AGREES THAT THERE ARE NO, REPRESENTATIONS, WARRANTIES, COVENANTS, OR CONDITIONS, WHETHER EXPRESS, IMPLIED, ARISING AT LAW, IN EQUITY, OR BY CUSTOM OF TRADE, STATUTORY OR OTHERWISE, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE OR QUIET ENJOYMENT. FURTHER, HHC DOES NOT WARRANT THAT THE LICENSED PROPERTY IS ERROR-FREE OR WILL BE AVAILABLE AT ALL TIMES OR OPERATE WITHOUT INTERRUPTION. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY HHC, ITS AGENTS, OR ITS EMPLOYEES, AT ANY TIME SHALL CREATE A WARRANTY OF ANY KIND. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. IN THAT EVENT, WARRANTIES SHALL ONLY BE IMPOSED TO THE EXTENT DETERMINED BY A COURT OF COMPETENT JURISDICTION AS REQUIRED BY APPLICABLE LAW.

**3.11 Limitation of Liability and Damages Cap.** HHC SHALL HAVE NO LIABILITY TO INSTRUCTOR AND/OR MEMBER OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OF ANY KIND OR TYPE, WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, HOWSOEVER ARISING IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE THEREOF, EVEN IF A PARTY WAS ADVISED, SHOULD HAVE KNOWN OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS, DAMAGE, OR EXPENSE, INCLUDING THOSE ARISING FROM PROPERTY DAMAGE OR LIABILITY TO OR PERSONAL INJURY TO OR DEATH OF, ANY PERSON. TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOT WITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF HHC AND ITS OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES AND AGENTS, AND ANY OF THEM, TO INSTRUCTOR AND/OR MEMBER AND ANYONE CLAIMING BY OR THROUGH INSTRUCTOR AND/OR MEMBER, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES, INCLUDING ATTORNEYS' FEES AND COSTS AND EXPERT-WITNESS FEES AND EXPENSES, AND COSTS OF ANY NATURE WHATSOEVER, CLAIMS, OR EXPENSES, RESULTING FROM OR IN ANY WAY ARISING OUT OF OR RELATED TO THE PROGRAM OR THIS AGREEMENT FROM ANY CAUSE OR CAUSES SHALL

NOT EXCEED THE TOTAL FEES PAID BY INSTRUCTOR TO HHC UNDER THIS AGREEMENT DURING THE INITIAL TERM OR THE RENEWAL TERM DURING WHICH SUCH CLAIMS, EXPENSES OR CAUSES ACCRUED.

**3.12 Acknowledgment of Instructor and/or Member.** By joining the HHCIC, Instructor and/or Member represents, covenants, agrees and accepts these terms & Conditions in whole and in part, Section 3.1 through 3.12 hereof.

**4. Grant of Use.** Subject to the terms and conditions in this Agreement, HHC hereby grants to Instructor and/or Member, and Instructor and/or Member hereby accepts, for only so long as s/he retains Certified Instructor or Member status and is an active member of the HHCIC in good standing, a limited, revocable, nonexclusive, nontransferable, non-assignable, without right to sublicense, and without warranty of any kind, right and license during the Term only in the USA and Canada (the “Territory”) to access and use the Licensed Property solely to promote, market, and teach Instructor and/or Member’s HHC classes and approved events, including use of the HHC Marks to identify Instructor as an HHC Certified Instructor and/or Member.

- 4.1 (a) No Alterations or Blended Use.** HHC Marks must be used when marketing an HHC class, or approved demonstration, camp, party or other event that contains any portion of the Licensed Property. This is to identify to the consumer that the service is an HHC offering under the instructor’s business name. HHC materials may not be altered in any way but can be used in any combination to create unlimited and unique instructor service offerings. An instructor’s company name may include an HHC specialty mark on Instructor and/or Member’s personal business marketing items such as business cards.
- (b) Territory.** The use of HHC Marks is limited to the Territory stated in the license grant, above, and shall not be used in any other country or

jurisdiction without the express prior written consent of HHC, in its sole and absolute discretion.

- 4.2 *Affiliation.*** All uses of the HHC IP must be made in accordance with this Agreement and shall not represent or imply an affiliation with any third party, including with any brand, organization or company, and/or with any individual not expressly a Party hereunder. Where Instructor and/or Member desires to use the name, logo or marks of a third party in connection with the HHC IP, Instructor and/or Member must obtain HHC's prior written consent, in HHC's sole and absolute discretion. Without limiting the foregoing, Instructor and/or Member shall not use "Healthy Hands Cooking", "HHC", the HHC Marks, or any derivations of the foregoing, in any manner not expressly permitted in this Agreement, including as a business name, trade name, logo, domain or website URL, or email address, or in any personal application such as a private website, social media page, email address, or website URL, during the Term and thereafter.
- 4.3 *Disparagement.*** Instructor and/or Member shall not commit any act, make any statement, or otherwise do anything, which might reasonably be considered: (i) to be immoral, deceptive, scandalous or obscene; or (ii) to injure, tarnish, damage or otherwise negatively affect the reputation and goodwill associated with the HHC, the Program, or the Licensed Property. The foregoing includes by way of example Instructor and/or Member committing any act of significant public disrepute or becoming the subject of a scandal such that HHC believes, in its sole and absolute discretion, has or will negatively affect the marketability or reputation of any HHC class or event, or HHC's corporate image. Instructor and/or Member agrees to promptly comply with any instructions from HHC, including the removal, deletion or withdrawal of such remarks, content or materials. HHC may, in its sole and absolute discretion, terminate this Agreement without right to cure following such act, statement or other undertaking.
- 4.4 *Ownership of the HHC IP.*** HHC owns all right, title and interest in the HHC IP and Instructor and/or Member must not take any action inconsistent with HHC's ownership thereof. Instructor's use of the HHC IP inures to the sole benefit of and is on behalf of HHC. In that regard, HHC shall own all live performance copyright rights in and to any HHC classes or events taught by Instructor and/or Member, including any copyright rights in the filming, recording, streaming, uploading or reproduction of such classes or events. Nothing in this Agreement gives Instructor and/or Member any right, title or interest in the HHC IP other than the right to use the HHC IP as permitted herein. Instructor and/or Member covenants and agrees that it will not contest HHC's ownership of all or any portion of the HHC IP, the validity or enforceability of the HHC IP, or the validity of this Agreement. Instructor and/or Member further covenants and agrees that it will not register or attempt to register, nor assist any party in doing so, any trademark, service mark, logo, copyright, trade name or business name that incorporates "Healthy Hands

Cooking”, "HHC", or the other HHC Marks, or any derivations thereof, during the Term and thereafter.

- 4.5 *Material Inducement for Grant.*** The limitations on Instructor and/or Member access, use and exploitation of the Licensed Property, and protections thereof, provided to HHC in this Agreement, and Instructor and/or Member’s agreement to comply therewith during the Term of this Agreement and thereafter, are a material inducement for HHC entering into this Agreement, and constitute an essential part of the consideration bargained for and received by HHC under this Agreement.

## **5. Fees.**

- 5.1 *Schedule of Fees.*** In consideration of the resources made available to Instructor by HHC pursuant to Instructor and/or Member’s compliance with this Agreement, Instructor and/or Member acknowledges and agrees to timely pay to HHC all fees, including a subscription fee established by HHC, as the same are set forth (subject to changes from time to time) in the Schedule of Fees (the “Fees”) as published on the Healthy Hands Cooking Website. The Fees are subject to change at HHC’s discretion and will always be published on Healthy Hands Cooking website.
- 5.2 *Changes and Additions.*** HHC reserves the right to establish, revise, modify or amend its billing practices, methods, Fees and charges, including its collection practices, payment practices, and fees or charges for content or services provided on its website(s) and such changes shall be effective 30 days after notice is posted on the HHC website, [healthyhandscooking.com](http://healthyhandscooking.com). Instructor agrees to accept as effective all notices and agreements posted on the HHC website.
- 5.3 *Payment of Fees.*** Instructor and/or Member shall pay all Fees, charges and any other amounts due and payable to HHC, with a credit or debit card setup within the Dashboard of their HHC Website on the date indicated for the monthly or annual payment.. Instructor and/or Member’s failure to make timely payments due hereunder is a material breach permitting HHC to terminate this Agreement.
- 5.4 *Right to Set-Off.*** HHC shall be entitled to set off any amount owing at any time from Instructor and/or Member to HHC or any of its affiliated companies against any amount payable at any time by HHC in connection with this Agreement.

**6. Term.** Subject to earlier termination as hereunder provided, the term of the this Agreement shall commence on the Effective Date, and shall remain effective for 12 months (the “Initial Term”), at which date the Initial Term shall be automatically renewed for successive additional 12-month terms (each, a “Renewal Term”) thereafter, for an unlimited period of 12 month terms from the Effective Date (the “Term”) unless the Agreement is earlier terminated or cancelled at any time. If the Term is renewed for any Renewal Term(s) pursuant to this Section 6, the terms and conditions of this Agreement during

each such Renewal Term shall be the same as the terms in effect immediately prior to such renewal, subject to any change in the amount of Fees payable hereunder by Instructor and/or Member as provided in Section 5 or other changes made in accordance with this Agreement.

## **7. Termination.**

**7.1 Termination for Convenience.** Either Party may terminate this Agreement for convenience by giving written notice of termination to the other Party at least 30 days prior to the beginning of any Renewal Term.

**7.2 Termination by Either Party for Uncured Material Breach.** Either Party may terminate this Agreement without prejudice to its other rights and remedies by notice in writing (“termination notice”) delivered to the other Party stating the other Party is in material breach of the Agreement and providing reasonable detail of such breach; provided, however, except as provided in Section 7.3, where such breach is reasonably capable of being fully cured within thirty (30) days, the breaching Party shall have 30 days from the date of receipt of the termination notice to fully cure such breach; provided, further, the breaching Party must promptly advise the noticing Party of its intent to fully cure the breach within such 30 day period, but the failure of the breaching Party to so advise shall not toll or extend the cure period beyond such 30 day period. If, at the conclusion of such 30 day period, the breach has not been fully cured, then this Agreement shall immediately terminate, provided that, the noticing Party may, in its sole and absolute discretion, provide the breaching Party with additional opportunity to cure any breach prior to termination.

**7.3 Termination by HHC.** Notwithstanding the provisions of Section 7.2, HHC may immediately terminate this Agreement without providing any right to cure by sending notice in writing to Instructor and/or Member upon the occurrence of any of the following:

- (a) **Failure to Pay Charges or Fees.** The Instructor and/or Member fails to pay any charges, fees or payments due under this Agreement (including installment payments on a promissory note where permitted by HHC) within twenty (20) days of their due date; or
- (b) **Incurable Breach.** HHC determines (in its sole and absolute discretion) that: (i) Instructor and/or Member has materially breached this Agreement, and (ii) the breach is not curable within thirty (30) days of notice of said breach.
- (c) **Detrimental Actions.** HHC determines (in its sole and absolute discretion) that an action, statement, or conduct by Instructor and/or Member is detrimental or damaging in any way, in the whole or in part, to the Program, the HHC IP, the HHC brand or the goodwill associated therewith.
- (d) **Prohibited Assignment.** Instructor and/or Member attempts to make, or makes, an assignment

for the benefit of its creditors, admits in writing to its inability to pay its debts as they come due, commences or is the subject of any proceeding under law relating to bankruptcy, insolvency, or readjustments of its debt, which proceeding is not dismissed within sixty (60) days after commencement;

(e) **Breach of Section 8.** HHC is advised, or otherwise becomes aware, of circumstances that lead HHC to reasonably determine that Instructor and/or Member has misused or disclosed, or plans to misuse or disclose, any Licensed Property in contravention of the provisions of Section 8 hereof; or

(f) As otherwise provided in this Agreement.

**7.4 Effects and Rights upon Termination.** Upon Termination of this Agreement, (i) all rights and license granted to Instructor and/or Member under this Agreement shall immediately terminate and shall concurrently therewith revert to HHC, (ii) Instructor shall immediately discontinue any and all access to and use, in whole or in part, of the Licensed Property, including any websites or emails containing HHC IP, (iii) Instructor and/or Member shall remain subject to all restrictions and obligations set forth in Section 8 hereof, including the confidentiality, non-disclosure and non-use, and non-circumvention restrictions, (iv) Instructor and/or Member will promptly return or delete/destroy all Licensed Property in its possession or control as provided in Section 7.5 hereof, and (v) notwithstanding anything to the contrary set forth in this Agreement, all of the provisions of Sections 4, 5, 11(e), 12, 14, 15, 16, 18 and 22 hereof shall survive any termination, cancellation, completion, or expiration, of this Agreement, and shall continue as valid and enforceable obligations of Instructor and/or Member notwithstanding any such termination, cancellation, completion, or expiration. All rights in and title to the Licensed Property, including HHC IP and the goodwill associated therewith, remain the exclusive property of HHC.

**7.5 Return of Licensed Property.** Instructor and/or Member shall, upon the earlier of: (i) the written request of HHC; or (ii) a breach by Instructor and/or Member or any one or more of its Representatives of this Agreement; or (iii) termination of this Agreement in accordance with Section 6 hereof:

(a) Return to HHC within ten (10) days all documents, materials, or media, and any other tangible, physical and electronic manifestations (including all copies thereof) then in the possession, control, or held for the benefit, of Instructor and/or Member or any of its Representatives containing any Licensed Property; and

(b) Delete or otherwise destroy within ten (10) days all Licensed Property (including all copies thereof) then in the possession, control, or held for the benefit, of Instructor or any of its Representatives that is not easily or fully returnable, and Instructor and/or Member shall certify to HHC within three (3) days thereafter in a writing signed by Instructor and/or Member that such prompt and complete deletion and destruction has occurred.

(c) Notwithstanding the return or deletion/destruction of the Licensed Property, Instructor and/or Member and its Representatives shall continue to be bound by its obligations of confidentiality and other obligations hereunder, including Section 7.4 and Section 9 hereof.

**8. Proper Use of the HHC Marks.** Instructor and/or Member shall use (i) the HHC Marks (including Logos) strictly in compliance with this Agreement, including Section 8 and Section 9, and with the Brand Usage Guidelines, set forth in Exhibit B hereto (as may be modified from time to time and posted in the HHCIC membership zone under marketing tools/logos and images), including strictly adhering to the colors, fonts, stylization, proportionality and other elements of the HHC Marks; and (ii) the appropriate trademark symbol (® or ™) with each use of an HHC Mark.

**8.1 With Permission Language.** Instructor and/or Member shall use the following “used with permission” language on all materials, printed or electronic, which bear the HHC Marks:

**Healthy Hands Cooking® and other HHC logos and trademarks are used with permission of Healthy Hands Cooking.**

**8.2 Quality Standards.** HHC Marks must conform to the minimum standards set by HHC (i) in the HHC Training Course and Materials; (ii) at [healthyhandscooking.com](http://healthyhandscooking.com); and (iii) in this Agreement, including the Brand Usage Guidelines. Without limiting the foregoing, the "quality standard" utilized by the Instructor and/or Member in the use of the Licensed Property shall not threaten or do harm to the health and safety of the public and/or diminish the value or reputation of Licensed Property, including the HHC Marks, or any part thereof.

**8.3 Identification as "Certified Instructor or Member".** Instructor and/or Member may optionally identify to the public through signage and other media that Instructor is an "Authorized Brand Representative of Healthy Hands Cooking" and that Instructor and/or Member. Such identification shall not be done in such a manner that is likely to convey in any manner whatsoever to the public that Instructor is a franchise or affiliate outlet of HHC.

**8.4 Copyright Notice.** Any and all use of the Proprietary Knowledge shall bear, as applicable, the appropriate copyright information setting forth the ownership of the materials by HHC or its affiliate.

**8.5 Monitoring Use of Licensed Rights.** The application and execution of Sections 8 and 9 hereof by the Instructor and/or Member may in the sole and absolute discretion of HHC be regularly and periodically monitored by HHC for potential and actual breaches hereof. Certified Instructor and/or Member shall fully cooperate with HHC in the monitoring of the application and execution of this Section, and upon request of HHC deliver for review by HHC all related advertising of the Instructor and/or Member. This Section 2.10 is an essential

element and a substantive provision of this Agreement.

- 8.6 *Instructor and/or Member's Right to Use Other Trade Names, etc.*** Subject to the terms of this Agreement, Instructor and/or Member shall have the right to use and register in its name any trade names or trademarks it deems appropriate and which is lawful in performing the work of its business; provided, however, **Instructor and/or Member shall not use attempt to register any trademark, service mark, trade name, logotype, advertising or other commercial symbol that is based upon, similar to, or likely to cause consumers confusion with any HHC Marks in the sole and absolute discretion of HHC,** from which Instructor and/or Member shall seek consent prior to any such use or attempt to register.
- 8.7 *Compliance With Laws.*** Instructor and/or Member must comply with all applicable laws, regulations and ordinances in the country, state and locality in which Instructor and/or Member teaches HHC classes and approved events and obtain all appropriate government approvals pertaining to marketing, advertising, or providing Instructor's services, including any special requirements for the instruction of children or adults.
- 8.8 *Promotional materials.*** Instructor and/or Member may use the HHC Marks on flyers, posters, emails and other printed and digital materials whose purpose is to promote Instructor's HHC classes, parties, camps, demos, and other events that use any of the Licensed Property.
- 8.9 *Email addresses.*** Instructor and/or Member shall not use "HHC", "Healthy Hands", or "Healthy Hands Cooking" as part of an email address.



**8.10 Internet Uses.** Instructor and/or Member may use the HHC Marks on a website, including blogs and social media sites, where Instructor and/or Member uses the HHC Marks to promote Instructor and/or Member's HHC classes and approved events in accordance with this Agreement and under the following guidelines, which are in addition to the Brand Usage Guidelines:

- (a) **Link to <http://healthyhandscoking.com>.** Instructor and/or Member will include a logo and hyperlink on their home page or their self-created websites, blogs, and social media accounts to healthyhandscoking.com, which shall be prominently displayed.
- (b) **Ownership.** Instructor and/or Member may identify him/her self as the owner of Instructor and/or Member self-created website.
- (e) **Adwords/Keywords.** Instructor and/or Member must not use any HHC Marks as AdWords, paid search, keywords or otherwise for search engine optimization and/or for creating "sponsored links".
- (f) **Social Media Titles.** Instructor and/or Member must include his/her name in the title of any social media page(s) incorporating the HHC Marks. This Section applies to social media pages created and/or used for events. Any Instructor Facebook page created on or before December 15, 2011 is exempt from this Section. Such exemption requires that Instructor and/or Member list in the "About Me Section" Instructor's legal name, as it appears on healthyhandscoking.com, and a link to his/her HHC Microsite. This exception does not affect any other provision of the Agreement.

**8.11 Radio, Television and News Coverage.** Instructor and/or Member may use the HHC Marks on radio or television without HHC's prior approval. Instructor and/or Member may promote Instructor and/or Member's classes or approved events through live or print news coverage, or through mainstream news organizations or print publishers. In the event of use of HHC Marks, Instructor and/or Member must inform the news organization or publisher of HHC's Brand Usage Guidelines.

**8.12 Re-Sale of Products Purchased from HHC Store.** Instructor and/or Member may use the HHC Marks in connection with the resale of genuine HHC products purchased from HHC or an authorized distributor, so long as such sales are subordinate to Instructor and/or Member HHC classes or approved events. Instructor and/or Member may resell original HHC products on online trade boards but may not resell products within the private instructor Facebook support group. Except as may be provided for in a separate agreement, Instructor and/or Member may not provide or sell HHC products outside of the

Territory where those products were purchased (e.g., products purchased in the U.S. must be resold in the U.S. and not sold outside the U.S.).

**8.13 Charitable Fund Raising Services/Other Events.** Instructor and/or Member may conduct classes or events in connection with fund raising activities for charitable or other worthy causes. Such events may use the HHC Mark in accordance with applicable laws. Instructor and/or Member related to the event. HHC reserves the right to prohibit Instructor and/or Member from using any HHC Mark in connection with any fundraising activities that HHC determines, in its sole and absolute discretion, is in conflict with this Agreement or is inconsistent with HHC's business objectives or interests. Instructor and/or Member is prohibited from using any Licensed Property where HHC consent to use of an HHC Mark has been withheld. For permission to host a charitable event or other event using the HHC Marks, Instructor and/or Member must obtain prior written consent of HHC by submitting an approval request to [support@healthyhandscooking.com](mailto:support@healthyhandscooking.com)

**8.14 Trade Shows/College Classes.** With HHC's prior approval in its sole and absolute discretion, Instructor and/or Member may conduct HHC classes at trade shows and in classes for college credit. An approval request must be submitted at least fourteen days, but no more than thirty days, in advance of the request, to [support@healthyhandscooking.com](mailto:support@healthyhandscooking.com). Whenever Instructor and/or Member participates in or conducts such trade shows or classes, Instructor and/or Member name must be listed in any promotional materials. Instructor and/or Member must not participate in any class using the HHC Marks if any other class-teaching participant is not an HHCIC instructor and/or member.

**9.0 Restricted Use of the HHC IP.** HHC may at any time and for any purpose use or permit others to use, in whole or in part, the Licensed Property, including in connection with various goods and services. Instructor and/or Member must not and shall not access or use the Licensed Property for any purpose other than in compliance with the grant of license set forth at Section 3 hereof. HHC reserves the right to require immediate removal of any content posted on the Internet and/or used by Instructor and/or Member that violates HHC's rights in the Licensed Property, and Instructor and/or Member agrees and covenants to promptly comply with all such requirements. Instructor and/or Member shall not in any circumstance obtain or retain any tangible or digital copy of any Licensed Property following Termination of this Agreement.

- i. **Never Modify the HHC Marks.** Instructor and/or Member must use the HHC Marks in accordance with the terms of this Agreement and as provided in the Brand Usage Guidelines , and shall refrain from modifying the HHC Marks (e.g., Instructor and/or Member must not (i) refer to a class as, for example, “HHC Core”, “HHC Kiddies Cooking” or “HHC Veggie Warriors”; etc., or (ii) changing the spelling of the HHC Marks, such as, by way of example, using the phrases “HHC 8-Hour Core Cooking Program” or “HHC Sprouts Preschool Class”) or title an HHC class as an instructor and/or Member’s company class such as “Sally’s Kitchen Creation’s Healthy Snack Class” HHC Class names must remain unchanged if HHC materials are used.
- ii. **Never Use the HHC Marks in Business or Trade Names.** Instructor and/or Member must not use the HHC Marks in the name of a personal business or trade name including, by way of example, “HHC Club”, "Healthy Hands Cooking Club", “HHC Culinary Studio”, “HHC Cooking Center", etc.
- iii. **Never Use the HHC Marks as Verbs or Nouns.** Instructor and/or Member must not use the HHC Marks as nouns or verbs including, for example, “I Love to HHC”, “Once you HHC, you’ll be hooked”. Instructor and/or Member must always use the HHC Marks as adjectives including, for example, “I Love the Healthy Hands Cooking® program”, “Once you attend a Healthy Hands Cooking® class, you’ll be hooked” or “My school offers HHC® classes.”
- iv. **Use of the HHC Marks as Titles to Newsletters or Publications.** Instructor and/or Member may use the HHC Marks, in whole, as titles for print, digital newsletters, or publications.
- v. **Merchandise.** Instructor and/or Member must not manufacture, create, offer for sale, sell or distribute any merchandise, including recipes, nutrition plans, books, CDs, DVDs or promotional items, bearing the HHC IP or any names, designs

or logos similar to the HHC Marks. Notwithstanding the foregoing, Instructor and/or Member may modify or repurpose official HHC products for Instructor and/or Member's personal use. Modification and repurposing includes, for example, cutting or altering an official HHC product from its intended use and form into a different use or form. Permitted modification and repurposing expressly excludes the application or combination of any HHC product or portion thereof, whether bearing the HHC Marks or not, to any other non-HHC merchandise or products. Instructor and/or Member must not offer for sale, sell, or distribute modified or repurposed HHC products.

- vi. **HHC Materials.** Instructor and/or Member must not copy, duplicate, sell, translate, distribute, upload, stream or otherwise disseminate any HHC materials, such as welcome kits, or their contents; training manuals; recipes, nutrition games, CDs and DVDs. In the event of termination or cancellation of this Agreement, Instructor and/or Member must return all Licensed Property, including HHC IP and Proprietary Knowledge, in its entirety to HHC, or delete or destroy all such items.
- vii. **Mobile Applications.** Instructor and/or Member must not use the Licensed Property, including HHC IP, in connection with a mobile application, including in the title, icon and content of the application.

## **10 Protection, Non-Use, Non-Disclosure and Restrictive Covenants.**

**10.1 Acknowledgment of Confidential Information.** Instructor and/or Member acknowledges and agrees to comply on a continuing basis with the obligations and responsibilities of Instructor and/or Member set forth in this Section 10, including with respect to the protection of the Confidential Information of the HHC for the Term of this Agreement and for a period of five years after the expiration or termination of this Agreement; provided, however, any Trade Secrets will continue to receive protection under this Section 10 for so long as it remains a Trade Secret under the Act.

**10.2 Definition of "Confidential Information".** "Confidential Information" as used in this Agreement means any and all competitively sensitive technical and non-

technical information, data, communications and materials of importance to and kept in confidence by HHC which is disclosed or made available by, or at the direction of, HHC to Instructor or its Representatives (as defined below) whether it is embodied in tangible material, written form, electronic or digital medium, or otherwise (including by way of example, samples, documents, drawings, pictures, graphics, graphs, charts, files, databases, and software code), or is disclosed orally or visually, and which is designated, either verbally or in writing, as, or by its nature or character is or should be reasonably understood to be, confidential or proprietary to HHC, including but not limited to, the Proprietary Knowledge, HHC IP, and information related in any manner to, arising from, on in connection with, the Program, and including all financial (including types and amounts of fees and charges, financial policies, and payment terms and practices), training (including processes, practices, and materials), operating (including class themes, names, structure, recipes, and practices), employment, strategic, research and development, and technological information, client lists, contacts, contracts, corporate records and books, processes, procedures, methodologies, know-how, show-how, Trade Secrets, intellectual property, and other confidential or proprietary information, of HHC or its customers, vendors, contractors or agents. Such Confidential Information may be valuable to HHC because of what it costs to obtain, because of the advantages HHC enjoys from its exclusive use, or because its dissemination may harm HHC's competitive position. In addition, "Confidential Information" includes any notes, analyses, derivatives, compilations, interpretations, memoranda or other information or documents (of all types, formats and forms of existence) prepared by Instructor and/or Member or its Representatives which contain, reflect or are based upon, in whole or in part, any Confidential Information. "Trade Secrets" means information defined by the South Carolina Trade Secrets Act § 39-8-10 (the "Act"). "Representatives" means Instructor's owners, shareholders, members, managers, directors, officers, employees, agents, contractors, affiliates and representatives.

**10.3 *Excluded Information.*** The term "Confidential Information" specifically excludes information which (i) is or becomes generally available to the public other than as a result of a disclosure or breach of this Agreement directly or indirectly by the Instructor, (ii) becomes available to Instructor and/or Member on a non-confidential basis from a source other than from HHC, provided that such source is not legally prohibited from disclosing such information to Instructor, or (iii) was known by Instructor prior to the date of this Agreement as demonstrated by written evidence.

**10.4 *Ownership of Confidential Information Remains With HHC.*** The Parties acknowledge and agree that all right, title and interest in and to the Confidential Information shall be and shall remain the exclusive property of the HHC.

**10.5 *Disclosure and Use of Confidential Information.***

- (a) Without limiting the definitions set forth in Section 8(b), above, Instructor and/or Member shall consider and treat all Proprietary Knowledge received or accessed, directly or indirectly, by or for Instructor and/or Member as Confidential Information.
- (b) Notwithstanding any provisions of this Agreement, Instructor and/or Member shall have no right to make or receive copies or reproductions of any Confidential Information which Instructor and/or Member is, directly or indirectly, given the opportunity to view or review.
- (c) Except as otherwise required by law, and subject to Section 9, Instructor shall:
  - (1) hold the Confidential Information in the strictest confidence;
  - (2) not modify, disseminate, transfer or otherwise publish or communicate, or in any way disclose to any third party, directly or indirectly, the Confidential Information, in whole or in part, except as provided herein or with the express prior written consent of HHC;
  - (3) not, directly or indirectly, use or exploit the Confidential Information for Instructor's (or its Representatives') own benefit, or for the benefit of any third party, or otherwise for any purpose, other than in furtherance of the Purpose, and
  - (4) not use or disclose the Confidential Information in any way harmful to HHC, its business or prospects.
- (d) Notwithstanding the foregoing, Instructor and/or Member may disclose Confidential Information to its Representatives who need to have the information in order to carry out the Purpose, provided that each such Representative has agreed in writing to keep confidential and protect the confidentiality of such Confidential Information in a manner substantially similar to the requirements of this Confidentiality Agreement. Neither Instructor and/or Member nor its Representatives may use any Confidential Information disclosed to it by, on behalf of, or at the direction of, HHC for any purpose other than the Purpose, and shall not, directly or indirectly, use or exploit such Confidential Information for Instructor and/or Member's (or its Representatives') own benefit, or for the benefit of any third party. Instructor and/or Member shall take reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of HHC in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Such measures shall include the degree of care that Instructor and/or Member utilizes to protect its own confidential and proprietary information of a similar nature, but in no event less than a reasonable degree of care. Instructor shall immediately notify HHC upon discovery or reasonable suspicion of any misuse, misappropriation, loss, or unauthorized

disclosure of Confidential Information which may become known to or suspected by Instructor and/or Member or any of its Representatives, and shall fully and actively cooperate fully with HHC's efforts to fully ascertain, identify, contain and mitigate same.

**10.6 *Duty Not to Copy or Imitate.*** Instructor and/or Member shall not during the term of this Agreement and thereafter, (i) copy, (ii) reproduce, (iii) distribute, (iv) transmit, (v) analyze, (vi) convert, (vii) translate, (viii) modify, (ix) create other works, compounds, designs, or processes, from or using, Confidential Information. Further, Instructor and/or Member shall not (x) file any copyright application containing any Proprietary Knowledge or other Confidential Information, (xi) file any trademark application claiming ownership of any mark similar to the HHC Marks, (xii) attack either HHC's title in and to the HHC Marks or the validity of this License, (xiii) file any patent application containing a claim to any subject matter derived from, any Confidential Information, or (xiv) claim ownership of or any rights in or to any trade secret a part of or derived from Confidential Information, and shall not utilize the Confidential Information to manufacture, reproduce or copy any product, or any part thereof, and shall not permit nor induce any of the foregoing by others.

**10.7 *Return of Confidential Information.*** Instructor and/or Member shall, upon the earlier of: (i) the written request of HHC; or (ii) the cessation by Instructor and/or Member of participation in the Training Course or HHCIC for the Purpose; or (iii) termination of this Agreement in accordance with Section 6 hereof:

- (a) Return to HHC within ten (10) days all documents, materials, or media, and any other tangible, physical and electronic manifestations (including all copies thereof) then in the possession, control, or held for the benefit, of Instructor and/or Member or any of its Representatives containing Confidential Information; and
- (b) Delete or otherwise destroy within ten (10) days all Confidential Information (including all copies thereof) then in the possession, control, or held for the benefit, of Instructor and/or Member, or any of its Representatives that is not easily or fully returnable, and Instructor and/or Member shall certify to HHC within three (3) days thereafter in a writing signed by Instructor and/or Member that such prompt and complete deletion and destruction has occurred.
- (c) Notwithstanding the return or deletion/destruction of the Confidential Information, Instructor and its Representatives shall continue to be bound by its obligations of confidentiality and other obligations hereunder pursuant to Section 9 hereof.

**10.8 *Duties of Instructor and Its Employees.*** During the Term (including all extensions and renewals thereof) of this Agreement or similar agreement executed

(if any) between the Instructor and/or Member, plus five (5) years after the end of the last to expire or terminate of any such Agreements, the Instructor and/or Member and the Instructor and/or Member's employees covenant and agree to keep the Confidential Information confidential and to use reasonable, best efforts to ensure that none of Instructor and/or Member's employees or others use or disclose any Confidential Information to third parties or cause or execute the theft or misuse of any Confidential Information.

**10.9 *Non-Circumvention.*** During the Term and for a period of five (5) years thereafter, Instructor and/or Member covenants and agrees not to directly or indirectly circumvent, attempt to circumvent, avoid, by-pass, or obviate the interest or relationship between HHC and individuals, corporations, or other entities (including nonprofit associations) with whom HHC had any business transactions or relationship, or about whom HHC disclosed any information or made any introduction, at any time during the Term, including YMCA, magnet schools, and others.

**10.10 *Restrictive Period.*** The term "Restrictive Period" means that period of time stated in relation to a restrictive covenant or prohibition set forth in this Agreement. Restrictive Periods vary depending on application.

**11. Acceptance of and Modifications to Agreement.** Payment of the Fees pursuant to this Agreement or completing the click-through process required to accept this Agreement shall be effective as an original signature and constitutes Instructor and/or Member's unequivocal acceptance without condition to the terms and conditions stated herein. Instructor and/or Member acknowledges that s/he has read and understands this Agreement in its entirety and that Instructor and/or Member acknowledges and agrees that this Agreement may be modified in whole or in part at any time in HHC's sole and absolute discretion. Such changes shall be effective upon posting by HHC of a change notice or new agreement on the HHC website at [healthyhandscooking.com](http://healthyhandscooking.com). Such modified terms are deemed incorporated herein and made part hereof when posted. HHC will make commercially reasonable efforts to notify Instructor and/or Member of all modifications prior to implementation. The enforceability of such changes is not contingent upon actual notification, provided that HHC has posted the changes on [healthyhandscooking.com](http://healthyhandscooking.com). In the event Instructor and/or Member does not agree to abide by the terms of the Agreement, as modified, Instructor and/or Member's sole remedy is to terminate this Agreement. Instructor and/or Member must monitor [healthyhandscooking.com](http://healthyhandscooking.com) for changes to this Agreement.

**12. Relationship of the Parties.** The Parties' relationship is that of membership provider and membership user. Nothing herein shall be construed as creating, and nothing herein creates, any partnership, joint venture, agency, franchise, sales representative or



employment relationship between the Parties, nor shall HHC be deemed to be acting in a fiduciary capacity with respect to Instructor and/or Member.

- 12.1** Under the terms of this Agreement, the Instructor and/or Member is an independent individual and will so remain for the term of this Agreement, including any extensions or renewals. Instructor and/or Member has no authority to make or accept any offers or representations on behalf of HHC or to act for or bind HHC in any manner. Instructor and/or Member must not make statements or take actions that may contradict the relationship set forth herein or confuse or mislead any person regarding the nature of the Parties' relationship.
- 12.2** Instructor and/or Member shall not be deemed to be, and is not, a franchisee, and HHC shall not be deemed to be, and is not, a franchisor, because as a condition to do the business under this Agreement, HHC has not imposed on Instructor and/or Member the following: (a) any supervisorial arrangement or direction such as a franchise, and (b) as an independent contractor, Instructor and/or Member is free to perform any work or business, in any manner Instructor and/or Member deems appropriate so long as said work or business does not misuse any Licensed Property of HHC.
- 12.3** HHC shall not be responsible for withholding taxes with respect to Instructor and/or Member's (or its employees' or agents') earnings and/or compensation hereunder. Instructor and/or Member (and its employees and agents) shall have no claim against HHC hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
- 12.4** AT ALL TIMES IN THE PERFORMANCE OF THIS AGREEMENT, INSTRUCTOR AND/OR MEMBER SHALL BE AND REMAIN SOLELY AN INDEPENDENT BUSINESS OWNER AND NOT AN EMPLOYEE OF HHC. NOTWITHSTANDING ANY OTHER PROVISION OR PROVISIONS OF THIS AGREEMENT, THE MARKETING, PERFORMANCE OF PREPARATION FOR CLASS, AND INSTRUCTION BY INSTRUCTOR AND/OR MEMBER, SHALL (i) BE SOLELY CONTROLLED BY INSTRUCTOR AND/OR MEMBER AS TO THE MANNER IN WHICH THE EDUCATIONAL SERVICES UNDER THIS AGREEMENT ARE PERFORMED, (ii) THE TIME AND SCHEDULING REQUIRED TO PERFORM THE EDUCATIONAL SERVICES, AND (iii) THE METHOD, TECHNIQUES, TOOLS AND EQUIPMENT UTILIZED TO PERFORM THE EDUCATIONAL SERVICES. THE INSTRUCTOR AND/OR MEMBER IS NOT SUBJECT TO DISMISSAL BY HHC FOR REASONS OTHER THAN THE NON-PERFORMANCE OF THE AGREEMENT AS ONLY SET FORTH IN THE AGREEMENT. THE INSTRUCTOR AND/OR MEMBER IN PERFORMING THE

EDUCATIONAL SERVICES CONTEMPLATED BY THIS AGREEMENT IS NOT UNDER THE SUPERVISION IN ANY MANNER WHATSOEVER OF HHC. HHC AGREES THAT THE INSTRUCTOR AND/OR MEMBER SHALL ULTIMATELY PROVIDE ALL TECHNIQUES, EQUIPMENT, TOOLS, CONCEPTS THAT INSTRUCTOR AND/OR MEMBER SOLELY DEEMS NECESSARY TO PERFORM THE COURSE WORK UNDER THE AGREEMENT, WHETHER LEARNED FROM THE HHC OR NOT. THE INSTRUCTOR AND/OR MEMBER UNDERSTANDS AND AGREES THAT THE INSTRUCTOR AND/OR MEMBER MAY EARN A PROFIT OR SUSTAIN A LOSS IN THE PERFORMANCE OF THE EDUCATIONAL SERVICES UNDER THIS AGREEMENT, AND THAT HHC IS NOT RESPONSIBLE TO THE INSTRUCTOR AND/OR MEMBER FOR SUCH PROFIT OR LOSS. INSTRUCTOR AND/OR MEMBER SHALL DEVOTE SUCH TIME TO THE PERFORMANCE OF THE EDUCATIONAL SERVICES UNDER THE TERMS OF THIS AGREEMENT AS THE INSTRUCTOR AND/OR MEMBER SHALL SOLELY DETERMINE. THE INSTRUCTOR AND/OR MEMBER SHALL SOLELY DETERMINE THE HOURS OF WORK AND THE PLACE OF WORK WITHIN THE USA OR CANADA.

**13. Disclaimer & Limitation of Liability.** HHC makes no representations or warranties, express or implied, with respect to HHCIC, the HHC Services, or any HHC-related products, including warranties of health, merchantability or non-infringement. Under no circumstances, or legal or equitable theory, whether in tort, contract, strict liability or otherwise, will HHC or the HHC Related Parties be liable to Instructor and/or Member or any other person for any indirect, special, incidental or consequential losses or damages of any nature arising out of or in connection with this Agreement, including damages for lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or computer failure or malfunction, even if an authorized representative of HHC has been advised of or should have known of the possibility of such damages. HHC makes no representation that the operation of HHC's website(s) will be uninterrupted or error-free. HHC is not liable for the consequences of any interruptions or errors, although HHC will make commercially reasonable efforts to correct errors or interruptions.

**14. Instructor and/or Member Responsibility for Services.** HHC classes or events may not be safe or appropriate for everyone. Any information HHC may provide to Instructor and/or Member through any HHC training, in HHC materials, or otherwise, regarding health and nutrition is intended solely as educational aids and are not substitutes for medical advice. Instructor and/or Member must ensure that he/she complies with all applicable laws, regulations and ordinances governing instruction in general, and instruction of children in particular, in the county, state, locality, or other jurisdiction, where Instructor and/or Member provides instruction. HHC and the HHC Related Parties assume no responsibility for any accident, injury, illness, death, loss, damage to person or property, or other consequences, occurring from or caused by, directly or indirectly, any action or omission of Instructor, whether or not based on the information, services, or other resources provided by HHC. While HHC strives to provide complete, up-to-date and accurate information on its website(s) and in other materials, HHC and the HHC Related Parties do not guarantee, and will not be responsible or liable in any respect for, any accident, injury, illness, death, loss damage to person or property, or other consequences, related to or arising out of the accuracy, completeness, or timeliness of such

information. Instructor and/or Member hereby waives and releases from liability and holds harmless HHC and the HHC Related Parties for any accident, injury, illness, death, loss, damage to person or property, or other consequences, suffered by any person arising or resulting from Instructor and/or Member's provision of the Services. If Instructor and/or Member is injured while providing, or in connection with, the Services, Instructor and/or Member waives and releases HHC from any and all liability, and Instructor and/or Member solely assumes any financial obligations for any medical and other costs Instructor and/or Member may incur. HHC disclaims any responsibility for any medical or other costs or expenses, injury, or damages suffered by Instructor and/or Member's employees and agents, or Instructor and/or Member's students and observers, in connection with the provision of the Services.

- 15. Third-Party Infringement.** Instructor and/or Member must promptly notify HHC of any unauthorized disclosure or use of any portion of the Proprietary Knowledge or HHC IP by a third party of which Instructor and/or Member becomes aware. HHC has the sole right and discretion to take action, including bringing action involving the affected Proprietary Knowledge and HHC IP and retaining the proceeds of any settlement or recovery in such action. Instructor and/or Member agrees to cooperate with HHC in enforcing and protecting the Proprietary Knowledge and HHC IP.
- 16. Indemnification.** Instructor and/or Member hereby agrees at its expense to defend, indemnify and hold HHC harmless from any and all third party claims, demands, causes of action, damages, and judgments (including attorneys' fees, court costs and expert witness fees, and claims by anyone or any entity) arising out of: (i) Instructor and/or Member's use of the Proprietary Knowledge or HHC IP; (ii) Instructor and/or Member's advertising, promotion, or sale of Educational Services; (iii) Instructor and/or Member's provision of Educational Services utilizing the Proprietary Knowledge or HHC IP, either in a manner consistent with or not permitted by this Agreement; (iii) Instructor and/or Member's misuse or unauthorized disclosure of the Proprietary Knowledge or HHC IP causing, directly or indirectly, causing injury or death to one or more third parties; (iv) Instructor and/or Member's business operations directly or indirectly causing injury or death to one or more third parties; (v) Instructor and/or Member's performance of this Agreement directly or indirectly causing injury or death to one or more third parties in any manner whatsoever; (vi) criminal or negligent acts of Instructor and/or Member; (vii) other act or omission of Instructor and/or Member; (viii) Instructor and/or Member's other breach of this Agreement; or (ix) withdrawal by HHC of permission of the Instructor and/or Member to use the Proprietary Knowledge or HHC IP. In any dispute, HHC shall be consulted with regard to any admission or settlement that may adversely affect the interests of HHC, including the Proprietary Knowledge or HHC IP. Under this indemnity provision HHC shall in no event or circumstance be liable for any claims, demands, causes of action, damages, and judgments (including attorneys' fees, court costs and expert witness fees), including without limitation, direct, indirect, special, consequential, punitive, or other damages, including loss of profits of any type by anyone, arising from or related to one or more of the above-enumerated items, even if HHC has notice of the possibility of such damages.

**17. Insurance.** As a pre-condition to its status as an Instructor and/or Member, the Instructor and/or Member shall obtain and maintain at all times, those types and amounts of insurance coverage as are generally held by or for commercial instructional businesses.

**17.1 Insurance Selected, Obtained and Maintained.** In consultation with a respected insurance broker of Instructor's choice, and considering the particular business and circumstances of Instructor and/or Member, Instructor and/or Member hereby represents and warrants that it has elected to, and has as of the effective date of this Agreement, obtained and will at all times that it is an Instructor and/or Member, maintain the following insurances during the term of this Agreement:

**17.2**

- (a) General liability insurance policy of minimum of One Million Dollars.
- (b) Workers' compensation insurance as required by the State where Instructor and/or Member is employing third party workers, if any.
- (c) State Disability Insurance for Instructor and/or Member's staff employees, if any, to the extent required by applicable law.

**17.3 Ancillary Requirements.** On all appropriate insurance policies, Instructor and/or Member shall cause HHC to be named as additional insured for the original term and any renewal terms thereof, and that HHC shall be given at least thirty (30) days prior written notice of any termination, amendment, cancellation or modification thereof. All insurance policies and documents shall be renewed, and upon such renewal and request, a renewal Certificate of Insurance shall be furnished to HHC prior to the expiration date of the existing term of the policy(ies) in question. HHC may at any time require the Instructor to forward to HHC full copies of all or any insurance policies.

**17.4 Evidence of Insurance.** Upon the request of HHC, Instructor and/or Member from time to time shall provide written copies of all insurance coverage.

## **18, Miscellaneous Provisions.**

- 18.1 No Waiver & Reservation of Rights.** HHC's failure to enforce a provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or other provisions hereof. HHC reserves all rights not granted herein.
- 18.2 Governing Law.** This Agreement and all amendments, modifications, alterations, or supplements hereto, and the rights of the Parties hereunder, shall be construed under, enforced in accordance with, and governed by, the laws of the State of South Carolina.
- 18.3 Incorporation of Recitals.** Each of the recitals set forth at the beginning of this Agreement are accurate, correct and true, provide important definitions which form a part of this Agreement, and are incorporated herein by this reference describing specifically the understandings and intentions of the respective Parties hereto.
- 18.4 Construction.** The Parties are equally responsible for the preparation of this

Agreement and in any judicial proceeding the terms of this Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

- 18.5 *Interpretation.*** For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles and Sections, and Exhibits, mean the Articles and Sections of this Agreement and Exhibits referenced in and appended to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Exhibits referred to herein, and shall be construed with, and are incorporated as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.
- 18.6 *Place of Execution.*** This Agreement and any subsequent modifications or amendments hereto shall be deemed to have been executed in the State of South Carolina.
- 18.7 *Headings.*** The headings contained herein and on the Exhibits are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or the Exhibits.
- 18.8 *Notices.*** All notices and other communications herein required or permitted to be given, or waiver of any provision hereof, shall be effective only if in writing and shall be deemed effectively given: (a) upon personal delivery to the Party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a national recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be addressed to the respective Parties at the addresses specified in this Agreement. Notices given by email, are to be addressed as follows:

If to HHC:                      E-mail: [support@healthyhandscooking.com](mailto:support@healthyhandscooking.com)

If to Instructor:              To the email address on Instructor's HHCIC registration, as updated from time to time on his/her profile page.

Any Party hereto may change the address to which notices to such Party are to be sent by giving notice in writing to the other Party at the address and in the

manner provided in this sub-paragraph (h).

- 18.9 *Assignments and Sub-Licensing.*** Without prior separate written authorization signed by HHC, Instructor and/or Member has no right to, and shall not, grant, transfer, convey, sublicense, create sub-licenses, or otherwise assign any of its rights or delegate any of its obligations under this Agreement. This provision shall not in any manner whatsoever prohibit HHC from transferring, in whole or in part, its duties, rights, and obligations under this Agreement to any Party or Parties.
- 18.10 *Entire Agreement.*** This Agreement constitutes the entire agreement between HHC and Instructor and/or Member with respect to the subject matter hereof and shall not be modified, amended, or supplemented except by the written consent of both Parties hereto or except by another agreement in writing executed by the Parties hereto which expressly provides that it succeeds this Agreement.
- 18.11 *Severability.*** All rights and restrictions contained herein may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws and are intended to be limited to the extent necessary so that they will not render this Agreement illegal, invalid or unenforceable. If any provision or portion of any provision of this Agreement not essential to the commercial purpose of this Agreement shall be held or suspected to be illegal, invalid or unenforceable by a court of competent jurisdiction, it is the intention of the Parties that the remaining provisions or portions thereof shall constitute their agreement with respect to the subject matter hereof, and all such remaining provisions or portions thereof shall remain in full force and effect.
- 18.12 *Attorneys' Fees, etc.*** In the event either Party brings any action, suit or proceeding against the other Party to enforce any right or entitlement which it may have under this Agreement, either Party shall, to the extent it is successful in pursuing or defending the action, and in addition to all other rights or remedies available to it in law or in equity, be entitled to recover its reasonable attorneys' fees and court costs incurred in such action.
- 18.13 *Jurisdiction and Venue.*** The Parties hereto consent to and agree that venue for any suit, action, dispute, or proceeding arising under or based upon this Agreement, shall lie in a state or federal court of competent jurisdiction sitting in Beaufort County, South Carolina, and appellate courts therefrom (the "Chosen Courts"). Each of the Parties hereto hereby voluntarily, irrevocably and unconditionally submits to the exclusive jurisdiction (*in personam* or otherwise) of the Chosen Courts and hereby waives, and agrees not to assert, as a defense in any such legal proceeding that it is not subject thereto or that such legal proceeding may not be brought or is not maintainable in the Chosen Courts, or that this Agreement may not be enforced in or by such courts, and the Parties hereto hereby voluntarily, irrevocably and unconditionally agree (i) that all claims for specific performance or injunctive relief with respect to any such legal proceeding shall be heard and determined in the Chosen Courts and (ii) to be bound by the decisions of such Chosen Courts. Each Party hereto hereby

voluntarily, irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the *in personam* jurisdiction or the laying of venue in any legal proceeding arising out of this Agreement in any Chosen Court. Each Party hereto hereby voluntarily, irrevocably and unconditionally waives to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such legal proceeding or claim in such court.

**18.14 *Mandatory Non-Binding Mediation.*** In the event there is any material dispute between the Parties to this Agreement relating in any way to or arising out of this Agreement, the Parties must mediate such dispute before commencement of any legal action. For clarity, no Party to this Agreement can bring legal action against another Party to this Agreement without first participating in mediation, unless one Party refuses to submit to mediation and legal action is brought to specifically enforce this mandatory mediation provision of this Agreement. Mediation shall take place only in Hilton Head Island, South Carolina. If the Parties cannot agree upon the person to act as the mediator, then the American Arbitration Association of Charlotte, NC, shall select a person to act as the mediator. The mediator's charges and expenses shall be split by the Parties on a 50/50 basis. The mediation fees and costs do not include each Party's attorney fees and costs, nor any travel or other expenses of the Party, its attorneys or other representatives. Each Party shall be responsible for his or her own attorneys' fees and costs at mediation. Those costs may not be assessed against the other Party if the other Party is the prevailing Party. If the dispute cannot be resolved at mediation either Party may then proceed to pursue litigation in accordance with subparagraph (j) of this Section.

**18.15 *Limitation on Time to Sue.*** EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW AND WITHOUT LIMITING ANY PROVISION HEREOF, ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PROGRAM, OR THE SERVICES, INCLUDING ANY PROCEEDING BY YOU TO ENFORCE AN OBLIGATION, DUTY OR RIGHT ARISING HEREUNDER, WHETHER AT LAW, IN EQUITY, BY STATUTE, OR OTHERWISE, MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CLAIM OR CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS IRREVOCABLY WAIVED AND PERMANENTLY BARRED.

**18.16 *Compliance.*** The Parties agree that each of them shall not at any time take any action which would *cause Instructor and/or Member or HHC* to be in violation of any applicable laws and regulations. Neither Party shall take any action that will alter the legal classification of Instructor and/or Member as any status other than an independent contractor.

**18.17 *Right to Legal Counsel.*** Instructor a and/or Member acknowledges that it has the right to have legal counsel of its own choice to review and approve this Agreement and all laws affecting or related to said Agreement. In the event that Instructor does not



retain legal counsel for the review of this Agreement, Instructor intentionally, knowingly, and unconditionally, waives the right to such counsel.

**18.18 Waiver of Business Opportunity Laws..** Instructor and/or Member hereby waives to the fullest extent such waiver is lawful the application of any Business Opportunity Statute, Seller Assisted Marketing Plan statute, or any similar statute, that is or may be applicable to the Instructor and/or HHC.

**18.19** The Terms & Conditions of this Agreement consisting of thirty (30) pages (except Exhibits) are accepted with the purchase of the HHCIC Membership.

## EXHIBIT A

### HHC Registered Marks

#### Mark 1:

**Healthy Hands Cooking Certified Instructor** (word mark)

**Mark 2: Real Good Food** (word mark)



## EXHIBIT B

### Instructor Use of HHC Marks

## HEALTHY HANDS COOKING INSTRUCTOR BRAND GUIDELINES

Revised: 11/2016



#### Correct



Color version



Black & white

#### Incorrect



Rearranging the logo



Changing colors



Changing words



Skewing the logo

#### Font

### Open Sans Bold

#2FC0CC - 20px

Open Sans regular  
#222 - 15px

#### Guidelines

HHC is a bright and vibrant brand, so feel free to take advantage of the colors in your own materials. The certified instructor logo is optional and may be used for self-promotion purposes only. If used, it must be large enough to be legible.

Please use the certified instructor logo and not the seal alone.

#### Colors

**Sky blue**  
#2FC0CC

**Cherry Pie**  
#BF1E2E

**Kermit the Frog Here**  
#B9D536

**Copper Penny**  
#FD9948

**Sea at Dawn**  
#009BA7