



COOKOUT DEPARTMENT



Cookout Date: **November 1, 2010**
Name: **Sample Contract / Information Only**
Distribution Center: **Baldwin Park**

IN-N-OUT BURGER® MOBILE UNIT AGREEMENT

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

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

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

1. COSTS:

A. PRICES, SALES TAX & MARK-UP: *The total cost of your cookout will be determined by the amount of food used, plus applicable sales tax and other charges described below or the "Minimum Charge" described below, whichever is higher.* Please refer to Addendum A for current item prices. Prices, terms and conditions quoted are subject to change; should this occur, you will be notified no less than 60 days prior to the cookout date. In-N-Out maintains a strict policy on maximum fundraiser prices that may be charged for our products. Please see Addendum A for these maximums. If at anytime these price maximums are exceeded, your cookout will be terminated.

B. MINIMUM COOKOUT CHARGE & GUARANTEE: The "Minimum Charge" or "Guarantee" is calculated in the following manner: **\$1,250.00 plus \$100 for every half hour of service time used beyond one and a half (1 ½) hours or 75% of the cost of the estimated number of items ordered based on our "average" Cheeseburger price, (which ever is higher.)**

- Our paperwork indicates you have selected **1-1/2 hours** of service time, serving a combination of approximately **250 Hamburgers, Cheeseburgers, Double-Doubles, Chips and Drinks.**
- Based on the above order, your estimated total costs including sales tax will be approximately **\$1,817.50, or higher** depending on the number of items used.
- **If you do not reach your Estimated Total, you will be responsible for the amount of actual food used or 75% of the cost of the estimated number of items ordered based on our "average" Cheeseburger price, plus applicable overtime for a minimum of \$1,250.00, whichever is higher. (Note: Product cannot be substituted for unused meals to satisfy your minimum.)**
- Please initial _____ that you agree with these amounts.
If you do not agree with these amounts or menu, please contact a cookout coordinator.

C. SERVICE TIME: The "Minimum Charge" of **\$1,250.00** entitles you to **1-1/2 hours of service time.** If additional serving time is needed, prior arrangements must be made, and may be assessed an overtime charge of \$100.00 per ½ hour. As service time is based on your total minimum order, any changes to the above estimates may also effect your service time.

D. MILEAGE SURCHARGE: A mileage charge may be assessed depending on the location of the cookout. All such charges shall be noted in this section prior to executing this Agreement. Mileage will be charged as follows: **None**

E. INCIDENTAL CHARGES: If unusual circumstances exist, In-N-Out may assess an incidental charge. All such charges shall be noted in this section prior to executing this Agreement. Your incidental charges are as follows: **None**

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

2. TERMS OF PAYMENT:

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

- B. BALANCE DUE:** *Final payment must be made at the completion of your event, by check, VISA, MasterCard or American Express. Cash will not be accepted unless prior arrangements have been made.* Cookout crew will issue a final itemized billing indicating the amount of food sold and the amount of total charges to be billed for services, less any deposits or prior payments. ***Please remember if your total actual sold is less than the minimum indicated above you will be billed the minimum costs.***
- 3. PROMOTIONAL MATERIALS:** *The use of the In-N-Out name will be limited to use on printed materials and may not be included in any form of electronic advertising; radio, television, etc.* All printed materials, (posters, tickets or other promotional materials) using the In-N-Out name, logos, trademarks or graphics ("Names and Marks") must be approved by the In-N-Out Burger Marketing Department. Please fax your design to (949) 854-3675 for 24-hour turn around approval. Logo slicks available upon request. In-N-Out reserves all rights to its Names and Marks; Customer is not given any license to use In-N-Out's Names and Marks by entering into this Agreement.
- 4. CHANGES IN TERMS OF AGREEMENT:** If customer desires to change the date, time, location or menu of the cookout as originally agreed to in this contract, the ***customer must inform In-n-Out of such change no later than seven days prior to the scheduled date of the cookout.*** Please note that In-N-Out is unable to make a change in the cookout if such notification is less than 24 hours prior to the cookout time.
- 5. INSURANCE AND INDEMNIFICATION REQUIREMENTS:**
- A. Customer shall be required to provide a Certificate of Insurance, naming "In-N-Out Burger" as additional insured,** or a copy of homeowners' insurance policy indicating that liability insurance is in place for the property where cookout is to be held.
- B. Except to the extent such actions or claims arise out of the negligence of In-N-Out, its products, vehicles, associates (employees), owners, officers, directors and agents,** customer shall indemnify, defend and hold harmless In-N-Out, its affiliates, related business entities, successors and assigns, associates (employees), owners, shareholders, officers, directors and agents, and each of them, against any and all actions or claims of the customer and the customer's guests, invitees and representatives and against any and all actions or claims which in any way relate to or arise out of the event.
- C. Except through its own gross negligence, bad faith, or intentional misconduct,** In-N-Out does not assume liability for any damages or loss whatsoever. Customer agrees that In-N-Out and its employees shall not be liable to the Customer for any claims, liabilities, or expenses relating to this cookout for an aggregate amount in excess of the fees paid by the Customer pursuant to this engagement, except to the extent finally judicially determined to have resulted primarily from the gross negligence, bad faith, or intentional misconduct of In-N-Out.
- 6. LIMITATION OF LIABILITY:** In no event shall In-N-Out or its officers, directors, employees, contractors or suppliers be liable to customer for any punitive, special, exemplary, incidental, consequential or other indirect loss or damage (including but not limited to, loss of profits, loss of revenue, loss of opportunity and loss of use) that may arise out of or in connection with this agreement, including but not limited to, damages or costs resulting from the failure to provide the service regardless of whether such damages could have been foreseen, prevented or had been advised of.
- Under no circumstances will the collective liability of In-N-Out and its officers, directors, employees, contractors or suppliers, for any damages incurred, ever exceed the costs of the contract paid or payable by customer to In-N-Out under this agreement regardless of the form of action, whether based on contract, tort, negligence, strict liability, products liability or otherwise.
- 7. RIGHT TO RESCIND:** In-N-Out reserves the right, at any time, to unilaterally rescind this Agreement and, or to deny service, even after event has commenced, if any event is not conducted (or any personnel related to the event does not conduct themselves) in a manner consistent with the law abiding and wholesome family image of In-N-Out, which In-N-Out will decide in its sole discretion.
- 8. GOVERNING LAW AND VENUE:** The laws of the State of California shall govern this Agreement. If a dispute arises in connection with or relating to this Agreement, it shall be subject to the exclusive jurisdiction and venue of the state and federal courts located in Orange County, California, and the parties consent to the personal and exclusive jurisdiction and venue of these courts.
- 9. FORCE MAJEURE:** The parties to this Agreement will be excused from the performance of this Agreement in whole or in part if the performance by In-N-Out or Customer of any of its material obligations under this Agreement is prevented by operation of law or any cause beyond the reasonable control of such party, including without limitation fire, flood, disruption of transportation (but not the failure of a party to reasonably anticipate possible transportation delays), earthquake, public disaster, strike, labor dispute or unrest, accident, breakdown of electrical or other equipment, riot, war, insurrection, civil unrest, Act of God, any act of any legal or governmental authority (all of which causes are referred to as "events of force majeure"). If the event is cancelled or curtailed because of the occurrence of any of the foregoing events of force majeure, In-N-Out shall remit the full portion of the deposit less any out-of-pocket costs incurred by In-N-Out in connection with the cancelled or curtailed event.

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

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

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

(Date) _____
(Customer Signature)

(Organization)

COOKOUT INFORMATION
(To Be Completed by Customer)
Please Print

DATE OF COOKOUT: November 1, 2010
(Month/Day/Year)

TIME OF COOKOUT: 12:00 pm to 1:30 pm
(Time customer wants the first burger served)

ADDRESS OF COOKOUT:

Street CONTACT: _____

City State Zip County PHONE: _____
Area Code Phone Number

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

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

CREDIT CARD AUTHORIZATION

Customer # **99999**

Sample Contract / Information Only
13502 Hamburger Lane
Baldwin Park, CA 91706
Attention: Cookout Coordinator

Cookout Address:
Same

Date of Cookout: **November 1, 2010**

12:00 pm to 1:30 pm

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

VISA _____ MasterCard _____ American Express _____

Account # _____

CID # _____ Exp. Date: _____

Amount _____ (Minimum of \$500.00)

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

Name on card: _____

Signature of Cardholder: _____

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

Contact Name: _____

Contact Phone: _____

Name: **Sample Contract / Information Only**
Date of Cookout: **November 1, 2010**

ADDENDUM "A"
TO MOBILE UNIT AGREEMENT

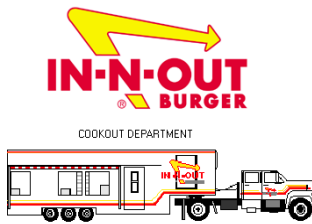
COOKOUT PRICES &
MAXIMUM FUNDRAISER PRICES THAT MAY BE CHARGED

- **The total cost of your cookout will be determined by the amount of food used, at the current prices below and other charges described on page one or the "Minimum Charge" of \$1,250.00, whichever is higher.** Prices, terms and conditions quoted are subject to change; should this occur, you will be notified no less than 60 days prior to the cookout date.
- **In-N-Out maintains a strict policy on maximum fundraiser prices that may be charged for our products.** Current maximums are listed below. If at anytime these price maximums are exceeded, your cookout will be terminated
- **All prices listed below include sales tax at the rate of 9.75%,** therefore; some counties may be slightly higher or lower and will be charged accordingly.

	Your Cost Including Sales Tax @9.75%	Maximum Fundraiser Price That May Be Charged	Profit To You
Individual Items			
Hamburgers	\$3.40 + tax = \$3.73	\$4.50	\$.77
Cheeseburgers	\$3.75 + tax = \$4.12	\$5.50	\$1.38
Double-Doubles®	\$4.90 + tax = \$5.38	\$6.50	\$1.12
Grilled Cheese	\$3.30 + tax = \$3.62	\$4.50	\$.88
20 oz Fountain Drinks	\$1.50 + tax = \$1.65	\$2.00	\$.35
Chips	\$.75 + tax = \$.82	\$1.00	\$.18
Meals			
Hamburger Meal (including chips & drink)	\$5.65 + tax = \$6.20	\$7.50	\$1.30
Cheeseburger Meal (including chips and drink)	\$6.00 + tax = \$6.59	\$8.50	\$1.91
Double-Double® Meal (including chips & drink)	\$7.15 + tax = \$7.85	\$9.50	\$1.65
Grilled Cheese Meal (including chips & drink)	\$5.55 + tax = \$6.09	\$7.50	\$1.41

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

Customer Signature



COOKOUT CONFIRMATION/INVOICE

Date: **October 22, 2010**

Invoice #: **99999**

Sample Contract / Information Only
13502 Hamburger Lane
Baldwin Park, CA 91706
Attention: Cookout Coordinator

Cookout Address:
Same

Date of Cookout: **November 1, 2010**

12:00 pm to 1:30 pm

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- Your estimated charges based on your menu of a combination of **250 Hamburgers, Cheeseburgers, Double-Doubles, Chips and Drinks** including sales tax and a serving time of **1-1/2 hours** is **\$1,817.50**.
 - If you do not reach your Estimated Total, **you will be responsible for the amount of actual food used** or 75% of the estimated "average" cheeseburger amount, plus applicable overtime for a minimum of **\$1,250.00, whichever is higher**. (Note: Product cannot be substituted for unused meals to satisfy your minimum.)

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

Payments Due:

- Deposit of **\$500.00** and signed contract to reserve your date **due by 15 days**.
- Balance of Minimum/Guarantee, **\$750.00 due on or before November 1, 2010**.
- **Balance** of any additional charges for actual product used **due at the end of your event**.

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

Please mail all remittances to:

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

Please sign that you are in agreement with these terms.