

Commercial Vendor Agreement

This Commercial Vendor Agreement [known hereafter as the "Agreement"] is executed on this _____ between _____, [known hereafter as the "Vendor" or "you"] and Beaverdale Fall Festival, Inc, [known hereafter as the "Organizer", "we" or "us".]

WHEREAS, Organizer has the exclusive right to organize and conduct a festival which is to be held on Friday, September 15th, 2023 5 PM - 11 PM and Saturday, September 16th, 2023 9 AM - 11 PM in the Beaverdale - Des Moines, IA Neighborhood (hereinafter known as the 'Festival');

WHEREAS, Vendor desires to promote their organization/business or sell products/services at the Festival.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the Parties agree to the terms as follows:

1. Term of The Agreement

This Agreement will be valid upon signing and until 12:31 AM September 17, 2023.

2. Organizer Obligations

The Organizer will give the Vendor the following benefits:

- _____ commercial vendor space within the festival grounds, with the specific location to be determined by the organizer.
- Listing on organizer's website as a commercial vendor

3. Vendor Obligations

The vendor agrees to pay the application fee amount of \$_____ made payable to Beaverdale Fall Festival, Inc. Payment is due in full upon signing and is non-refundable except as defined in this agreement.

The vendor acknowledges that vendor space placement is determined by the Festival. Locations will be marked on the street or parking lot at set up time, however set-up cannot begin until instructed by a representative of the organizer.

The vendor agrees to begin setting up in the timeframe between 2 and 4 pm Friday, September 15th and to be complete with setup by 5 pm Friday, September 15th, 2023. The Organizer will permit the vendor 15 minutes to unload from their vehicle on the festival grounds, after which the vendor must safely move their vehicle to a location outside of the festival grounds. Vendor vehicle parking is not provided. The Festival officially closes at 11:00 PM Friday Night, although the vendor is permitted to leave prior as long as they do not bring vehicles onto the festival grounds or otherwise create a hazard for festival goers.

The Festival officially opens at 9 AM Saturday, September 16th, 2023 and closes at 11:00 PM September 16th, 2023, although the vendor is permitted to leave prior as long as they do not bring vehicles onto the festival grounds or otherwise create a hazard for festival goers. The vendor must be completely torn down, remove any trash from their area into festival waste receptacles, and move all of their property and officials out of the festival grounds (barricaded street area) by 12:30 AM Sunday, September 17th.

The vendor agrees that if excessive clean-up is required at the end of the event, the vendor will be charged at the rate of \$150/hour, with a minimum of a \$150 (1-hour) charge, for any time spent by festival employees, agents, or volunteers to clean up the space of the vendor.

The vendor agrees to be charged a late teardown fee of \$75 for every 15 minutes past 12:30 AM Sunday, September 17th that their property or agents are still on the festival grounds, with a minimum fee of \$75.

The Vendor agrees to provide all their own needs, including tables, chairs, tents, and electricity. The vendor agrees that if they are supplying their own electricity via a portable generator, that the generator is rated to run at 70 dB or less at 90% load and will not present a hazard - noise, tripping, fire, or otherwise to the organizer or its agents, employers, volunteers, other vendors, or patrons. The organizer agrees to provide a water source that the vendor may use to fill portable containers but is not authorized to connect hoses of any kind.

The vendor agrees to comply with any rules, regulations, or direction from local, state, or federal agencies, including but not limited to the Des Moines Fire Department, City of Des Moines, Polk County Health Department, and State of Iowa. It is the vendor's responsibility to procure and display any permits, inspections, or other designations as required by local, state, or federal regulations.

The vendor agrees to secure and provide to the organizer a general liability policy in the amount of at least \$1,000,000 coverage per occurrence that lists the organizer as additionally insured prior to the start of the festival. The vendor may be required to provide proof of other local, state, or federal licenses, inspections, or permits as deemed necessary by the organizer prior to being allowed to set up at the festival.

The vendor agrees to not modify any product, food, or service offerings as indicated on their application unless advance written notice is given to the organizer and the organizer has given written approval.

4. Promotion Rights

During the duration of this Agreement, the organizer is granted by the vendor the right to use Vendor's Trademarks as described herein in advertising and promoting Vendor's Products and Services as defined herein.

Vendor shall have the right to use the name of the festival in Vendor's advertising and/or promotional campaigns.

5. Trademarks and Trade Names

Subject to the terms and conditions of this Agreement, the Vendor grants the Organizer the right to use the Vendor's trade names and company descriptions as provided in Vendor application. These assets may be used in any medium of advertising, promotional products, or marketing materials distributed solely in connection with the Festival. Nothing in this agreement will be read to guarantee that any advertising or marketing is being committed by the organizer on behalf of the vendor.

6. Warranty

Each party warrants that they have the full legal right and capacity, including having the necessary governmental licenses and permits in conducting business in the State to enter into this Agreement and comply with the necessities of their rights and obligations in accordance with its terms and conditions without violating the rights of any third person.

7. Termination

The Organizer may terminate this agreement for breach of Agreement by the Vendor after giving Vendor at least ten (10) days prior written notice specifying the nature of the breach and giving the Vendor at least ten (10) days to resolve such breach. If breach occurs less than ten (10) days before the event, the Organizer may terminate this Agreement if breach is not resolved by the first day of the event. The Organizer may terminate this agreement and ask any vendor to leave or remove booth content due to disruptive behavior, content, or other activity to the Festival or its employees, directors, agents, volunteers, patrons, or guests during the festival, setup, or teardown. In a termination due to breach of agreement by the Vendor, the Organizer shall return any materials, equipment, hardware, or software loaned by the Vendor for the event, at the Vendor's expense. The organizer will not refund any fees paid by the Vendor. In the case of a terminated agreement the vendor understands that they may not be allowed, at the organizers discretion, to be a vendor at a future festival or event in connection with the organizer.

The Vendor may terminate this Agreement for breach of Agreement by the Organizer after giving Organizer at least ten (10) days prior written notice specifying the nature of the breach and giving the Organizer at least ten (10) days to resolve such breach. If breach occurs less than ten (10) days before the event, Vendor may terminate this Agreement if breach is not resolved by the first day of the event. In a termination due to breach of agreement by the Organizer, the organizer agrees to refund all fees already paid back to the Vendor.

8. Force Majeure

A cancellation of the festival or any events planned in conjunction due to severe weather, pandemic, act of government, act of god, or other reason beyond the organizer's control shall not constitute a breach of this contract.

9. Independent Contractor

Parties agree that this Agreement will not be construed as having an employer-employee relationship, an agency, partnership, joint venture, or any other similar legal or business relationship other than independent contractors. Neither party is allowed to represent the other whether or not consented by the other.

10. Indemnity

The Vendor will indemnify, defend, and hold the organizer harmless from and against any claims relating directly or indirectly to, or arising out of, content posted on the Vendor's respective website, use of Vendor materials, or use of Vendor's logos and trademarks.

The Organizer will not be responsible for damage to or loss of property belonging to the Vendor, its employees, contractors, or agents or for personal injury to the Vendor's employees, contractors, agents, directors, or invitees except to the extent that claims may be solely and directly attributed to willful misconduct or gross negligence of the Organizer and Organizer's employers, directors, or officers.

Vendor will give the Organizer prompt written notice of any suit or claim that comes within the purview of these indemnities.

11. Limitation of Liability

In no event shall either party be liable to the other party for any consequential, incidental, indirect, or punitive damages regardless of whether such liability results from breach of contract, breach of warranties, tort, strict liability, or otherwise.

12. Assignment

Neither party may assign, transfer, or delegate any of its rights and obligations hereunder, without the prior written consent of the other.

The vendor acknowledges that they are not allowed to share or sublet their vendor space to another vendor, organization, or business

13. Miscellaneous

The section headings contained in this agreement are for reference purposes only and shall not affect the meaning or interpretation of this agreement.

This Agreement will supersede any or all prior oral or written forms of understanding between the Vendor and Organizer. Should any provision in this Agreement be construed and held invalid by any competent court, the rest of the remaining provisions hereof shall remain valid and enforceable. This Agreement may not be amended or modified except when one or both parties execute amendments in writing and amendments are signed by both parties.

The Parties agree that this Agreement shall be governed, construed and enforced in accordance with the laws of the State of Iowa.

IN WITNESS WHEREOF, the parties have signed this agreement on the date first above written.

Beaverdale Fall Festival, Inc
Organizer

Vendor

Date

Date

Name

Name

Title

Title

Signature

Signature