



Event Vendor Agreement

Sailfest New Jersey strives to provide our attendees with a safe, respectful, and family-friendly environment. As such, Sailfest NJ provides the following Terms of Agreement for all Vendors.

The term of this Vendor Agreement begins on the date payment is received and accepted and terminates upon the conclusion of the Event. **By participating in this event, you acknowledge that you have reviewed, are familiar with, and have accepted the terms of this Agreement prior to participating in the event.**

VENDOR PERFORMANCE REQUIREMENTS

- 1) Sailfest NJ reserves the right to place Vendors according to its Master Vendor Plan as may be modified from time to time.
- 2) Vendor will "load-in" all property, goods and materials during the designated set-up period between 8:00am – 9:30am on the date of the event, and all vendors must be show-ready by 9:45am.
- 3) No vehicles are allowed in/out of the Event area between 9:30 a.m. and 6:00 p.m. to ensure public safety.
- 4) All vendors receive a 10' x 10 booth space for each event space purchased.
- 5) Vendors must provide their own canopies, tents, tables, chairs, fixturing, displays, etc.
- 6) Vendor payment will be returned if you are not accepted by either Sailfest NJ or Island Heights.
- 7) All vendors are encouraged to post information about the event and their participation on their Facebook, website, Instagram, email blasts etc. to help attract interest and awareness of their participation.
- 8) Booths must remain setup and open until 6:00pm. Vendor agrees to remain until this time and leave with all boxes, debris, etc. so that the space is left in the same condition as found by Vendor.
- 9) Vendor will not arrange their exhibit in a way that will obscure/interfere with other vendors.
- 10) No more than one vendor-organization per individual booth is allowed without prior approval.
- 11) Vendor must make provisions for the safeguarding of goods, materials, equipment, and displays at all times. Tents and canopies must be weighted down with water, sand, or cement weights due to high wind that can occur. No stakes permitted. Sailfest NJ does not guarantee or protect vendors against loss or damage of any kind. Vendor is participating at his or her own risk.
- 12) All business or other activity must be conducted in Vendor's designated area only. This prohibition also applies to distribution, promotion or solicitations of any kind outside the Vendor's booth and in public areas within or surrounding the event.
- 13) Vendor is responsible for removal of ALL trash in and around booth space.

- 14) There will be no electricity provided by Sailfest NJ and Vendors must furnish all equipment necessary for operation of their booths.
- 15) No amplified sound or generators may be used without explicit prior written approval by Sailfest NJ. Generators should be kept away from flammable materials and not create excessively loud noise which disrupts other vendors or event activities.
- 16) No open flames are allowed under any canopy. All use of propane in conjunction with cooking or heating must be pre-approved by the fire inspector before use.
- 17) No alcoholic beverages are to be sampled, distributed, or sold within a booth, without express written permission by Sailfest NJ.
- 18) Non-food Vendors may NOT give away or sell any food product without prior written approval from Sailfest NJ. No beverages, including sodas and bottled water, may be sold or given away from any vendor booth without express written consent from Sailfest NJ. Violation of this rule will result in immediate booth closure without refund or recourse.
- 19) Sailfest NJ reserves the right to move or prohibit the display of any signage, article, or product that, in its opinion, is not in keeping with the nature and character of the Event, or not in harmony with other booth spaces. Vendors must be aware that offensive material or products may be required to be removed at the discretion of Sailfest NJ.
- 20) No weapons of any kind may be brought into the Event area or sold at the Event. "Weapons" will be defined as defined in Section 2C:39-1 of the New Jersey Code of Criminal Justice and will mean anything readily capable of lethal use or of inflicting serious bodily injury.
- 21) Event security / law enforcement / emergency services should be notified in the event of any theft, damage, unattended packages, injury or security concerns during the event.
- 22) It is the Vendor's responsibility to pay all appropriate Federal and State of New Jersey taxes, fees and have all required business licenses or permits.

SPECIFIC ADDITIONAL REQUIREMENTS FOR FOOD VENDORS:

- 1) All Food-Vendors are required to provide Sailfest NJ with a Certificate of Insurance which meets Sailfest NJ guidelines prior to the Event, naming Sailfest NJ, Toms River Rotary and the Toms River Rotary Charitable Foundation Inc as Additional Insureds.
- 2) All Food-Vendors must comply with all local regulations including the filing of all necessary permits and fees.
- 3) All Food-Vendors agree to remove all boxes, paper and trash belonging to them upon vacating their space and to keep space neat in appearance and in good order while selling.
- 4) All Food-Vendors may not change the prices of their menu items in order to undersell another merchant. Exceptions will be made after 5 p.m. in order to quick-sell remaining inventory.

INDEMNIFICATION

Vendor (the "Indemnifier") shall, at its sole cost and expense, defend, indemnify, and save and hold harmless Sailfest NJ, Toms River Rotary, Toms River Rotary Charitable Foundation Inc and its successors, assigns, officers, directors, employees, shareholders, representatives and agents from and against any and all liabilities from all loss, cost, expense, claim, damage, liability, lawsuits and other judicial proceedings including reasonable attorney's fees and court expenses, arising out of the violation by the Indemnifier of any material term, representation, or warranty arising under this Agreement or by the negligence, gross negligence, or bad faith of the Indemnifier with respect to the performance of its obligations under the Agreement.

LIMITATION OF LIABILITY & DAMAGES

Under no circumstances will Sailfest NJ, Toms River Rotary or the Toms River Rotary Club Charitable Foundation Inc be or become liable to any party or third party for demands, claims regarding personal or property damage, or injury of any kind suffered or incurred in connection with the participation of Vendor in Sailfest NJ, and any and all actions, causes of action, claims, counterclaims, cross claims, third party claims, indirect, liquidated, incidental or consequential loss or damage (including without limitation loss of revenue or use, loss of profits, wasted expenditure, diminution in value or loss of agreements), physical injury, debts, demands, liabilities, lawsuits, fees, losses, compensation, accounts, covenants, contracts, promises, agreements, doings, omissions, obligations, costs, attorneys' fees, expenses, damages, and claims of every name and nature, of any kind whatsoever, whether contingent or vested, known or unknown, asserted or unasserted, accrued or unaccrued, discovered or undiscovered, in law and in equity, arising at any time shall be subject to this limitation.

Sailfest NJ assumes no responsibility for, nor guarantees of the safety of, the property of Vendor, its agents, and their employees, against theft, damage, accident, or any other cause whatsoever; and should an accident occur within the vendor's space caused by the Vendor's display or debris left by the Vendor, the Vendor will be held liable. By applying to this event, the Vendor agrees to save and hold harmless Sailfest NJ, its management, agents, employees, volunteers, and sponsors from any liability resulting from such accidents.

VENDOR EXPRESSLY AGREES THAT ANY FINDING OF DAMAGES AGAINST Sailfest NJ WILL NOT EXCEED THE AMOUNT OF THE VENDOR FEE ACTUALLY PAID.

CANCELLATION AND FORCE MAJEURE

Sailfest NJ reserves the right to reschedule or cancel the event or any associated events if necessary for any reason. Sailfest NJ will continue to monitor the pandemic and CDC advisories to ensure that staging this in-person Event is in compliance with federal, state and local guidelines.

Sailfest NJ will not be liable for any cancellations, delays or failures in performance due to circumstances beyond its control. In case of cancellation of the Event or unavailability of the event space for specified use due to Acts of God, war, invasion, or military action, orders, civil disturbance, action by any governmental authority, national or regional emergency, epidemic or pandemic, strikes, lock outs, trade disputes causing cessation or slow-down of work, or inability to procure services or material after due and timely diligence, late deliveries or late performances of services, breakdown of machinery, fire, flood, hurricane, or accident or any cause beyond the reasonable control of Sailfest NJ whether or not similar to the causes specifically mentioned within this Agreement, this Agreement will terminate, and the Vendor will be entitled to the return of the fee paid for the space less an amount equal to the pro-rata vendor share of total event expenses, logistics and marketing costs incurred by Sailfest NJ.

Refund of the vendor application fee (or a portion thereof, as applicable and as provided in this section), will be the exclusive remedy of the Vendor against Sailfest NJ or its representatives, employees, agents, invitees, licensees, affiliates, and all other related parties in the case the Event is canceled, or the Event location is unavailable for use.

DEFINITIONS

"Sailfest NJ" includes its successors, assigns, employees, agents, and volunteers. The term "Vendor" also includes heirs, assigns, successors, employees, volunteers, agents, and

associations of every kind.

RESERVED RIGHTS

Sailfest NJ reserves the right to refuse applications for any reason and to refuse or eject any person from the festival or violation of any rules, local, state, or federal laws or whose conduct is deemed illegal, disorderly, dangerous, or offensive. Sailfest NJ also reserves all rights to its intellectual property including trademarks, copyrights, and other creative elements.

PROMOTIONAL USE

By accepting these Terms, Vendor authorizes Sailfest NJ to use for promotional purposes any pictures and any audio or visual recordings made at the Event that depict or record Vendor and/or individuals associated with the Vendor.

CANCELLATION BY VENDOR

As occupancy of the Event space is the essence of the Agreement, no refunds will be made in connection with any rental space fee after the acceptance of said fee by Sailfest NJ.

Sailfest NJ HAS NO OBLIGATION TO ATTEMPT TO RE-BOOK OTHER VENDORS TO FILL THE VOID CREATED BY ANY CANCELLATION AND NO OBLIGATION TO MITIGATE ANY DAMAGES OR FEES.

INSURANCE

Food vendors must show proof of General Liability insurance (\$500,000 per occurrence) and name Sailfest NJ, Toms River Rotary, and Toms River Rotary Charitable Foundation Inc. as additional insured. **Proof of insurance for Food Vendors MUST BE PROVIDED TO SAILFEST NJ AND RECEIVED PRIOR TO EVENT.**

All Other Vendors must carry their own appropriate insurance through carriers licensed to provide coverage in the State of NJ, containing such limits, terms and conditions as Sailfest NJ may require and will deliver to Sailfest NJ copies of all such policies of insurance and/or certificates thereof as Sailfest NJ may request.

In no event, will Sailfest NJ, nor their representatives, contractors, nor corporate sponsors of the Event be responsible for any injury, loss nor damage that may occur to the Vendor's employees, agents, contractors, representatives, or property from any cause whatsoever. It is the Vendor's responsibility to protect merchandise, perishables, and other items so that no injury will result to the public visitors, guests, or persons, or property. If property does not appear to be properly maintained, it will be promptly withdrawn from the Event site. All property of the Vendor, including foodstuffs and other perishables is understood to remain in Vendor's care, custody and control in transit to, from, or within the confines of the event area. The Vendors expressly release, hold, keep, save harmless and indemnify the foregoing persons and entities, named organizations and committees, and individuals from and against all claims for such a loss, damage, or injury.

ADHERENCE TO TERMS

Should Vendor fail to strictly adhere to and follow the terms set by Sailfest NJ, then Vendor will be in default under this Agreement and Sailfest NJ may immediately terminate this Agreement upon notice to Vendor. In the event of a default by the Vendor, the Vendor will forfeit as liquidated damages the amount paid for participation, regardless of whether or not Sailfest NJ enters into another agreement for the space. Said damages are agreed to in no way constitute a penalty, but rather a reasonable estimate of Sailfest NJ damages which are incalculable with any degree of certainty. **Sailfest NJ reserves the right to make changes to the terms of this Agreement at any time for any reason.**

ENTIRE AGREEMENT

This Agreement including all Schedules created presently, or in the future, constitute the entire Agreement, also referred to as “this Agreement”, between the Parties and supersedes all prior agreements and understandings.

SEVERABILITY

If any provision of this Agreement will be declared invalid or illegal for any reason whatsoever, then, notwithstanding such invalidity or illegality, the remaining terms and provisions of this Agreement will remain in full force and effect in the same manner as if the invalid or illegal provisions had not been contained within this Agreement.

NO STRICT CONSTRUCTION

The Parties hereto participate jointly in this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties hereto, and no presumption or burden of proof will arise favoring or disfavoring any Party hereto by virtue of the authorship of any of the provisions of this Agreement.

COUNTERPARTS & EXECUTION

This Agreement may be executed in any number of counterparts, each of which will be deemed an original instrument, and said counterparts will collectively constitute one and the same agreement which may be sufficiently evidenced by one counterpart. Signatures exchanged via pdf/email will be binding.

BY AGREEING TO BE A VENDOR AT THIS EVENT, VENDORS CONFIRM THAT THEY HAVE READ, UNDERSTAND & AGREE TO THE ABOVE TERMS OF THIS AGREEMENT.

Sailfest NJ Presented by Toms River Rotary

Toms River Rotary Charitable Foundation Inc EIN 22-3057040 a 501-C-3

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