

2018 Participant Terms and Conditions

In this agreement, "Participant" refers to any exhibitor, sponsor, GO TEXAN General Store retailer, sampler, Retail Porch participant, stage/event presenter, community and its employees, agents, independent contractors or representatives.

Section 1. The Pavilion

The Texas Department of Agriculture (TDA) GO TEXAN Pavilion (Pavilion) located at 1233 Washington Avenue in Dallas, Texas (Fair Park), provides TDA with an opportunity to educate the public about the valuable resource and diverse industry that is Texas agriculture during the State Fair of Texas (Fair). TDA will promote the Pavilion, GO TEXAN members and Participants using social media and other marketing tools to attract visitors.

The Pavilion is open to the public beginning Friday, September 28, 2018, through Sunday, October 21, 2018, from 10 a.m. to 9 p.m. every Friday and Saturday, and from 10 a.m. to 8 p.m. Sunday through Thursday. Participants are not allowed inside the Pavilion before 8 a.m. or after 9 p.m. during regular Fair operations.

Section 2. General Terms

- A. Participant agrees that approved GO TEXAN member products may only be sold in the GO TEXAN General Store (Store) and designated areas identified in the Participant or Sponsorship Agreements.
- B. Participant may not transfer their rights to an assigned space or program time, or any portion thereof, to a third party without the written approval of TDA. If such consent is given, the Participant shall assume full responsibility for the conduct of the assignee and all of its representatives. No fees may be charged for exchanging stage, sampling or demonstration schedule time slots.
- C. There is no employer/employee relationship between any Participant, its employees, representatives or agents and TDA. All representations made concerning advertising, promotions, notices or distribution of publicity to potential customers and/or the general public shall be only the representations of the Participant and not made on behalf of TDA or the Fair.
- D. To be eligible to participate, Participant must maintain a current GO TEXAN membership for the duration of the Fair.

Section 3. Pavilion Access and Set Up

- A. Fairground Access and Parking. As a courtesy, to the extent possible, TDA provides Participants with a free shuttle service between designated parking areas and the Pavilion during Pavilion hours. However, **service is not guaranteed.**
 - i. **TDA cannot guarantee the availability of parking passes for Participants or Program presenters. Failure to return parking passes at the end of the day, as required, will result in a fee of \$379, for the cost of replacement of the parking pass.**
 - ii. Participant passes are solely for personnel staffing exhibits. Participants may receive a limited number of passes and should work with their organization or group for the efficient distribution of passes among members. Program presenters may receive passes for use the day of the event or program and must return them to a TDA representative at the end of that day.
 - iii. Passes may not be sold, altered or transferred under any circumstances other than as described in this section.

- iv. Extra Fair parking and season passes may be purchased individually from the Fair. All participants must comply with all Fair parking rules and regulations.
- B. Pavilion Set Up. Unless otherwise agreed to in writing, Participants:
 - i. May take possession of their assigned areas beginning on Monday, September 24, 2018;
 - ii. Are solely responsible for the maintenance, upkeep and condition of Participant provided equipment or displays, and for the items stored in exhibit space;
 - iii. May not dismantle, move their assigned space or remove any exhibits before 10 a.m. on Monday, October 22, 2018.
- C. Use of Pavilion Storage and Kitchen.
 - i. As a courtesy, TDA provides Participants with access to minimal storage and kitchen areas and may revoke usage privileges at any time for rule violations. TDA will not guarantee immediate access to any of them. Only Participants may use these areas and may not extend the privilege to anyone else.
 - ii. Participants who use storage areas must mark and identify all stored items and maintain all items in compliance with Dallas health, fire and safety codes. Items not properly marked or identified may be discarded. Participants will be required to share storage areas and must help maintain them in an orderly fashion. TDA is not responsible for lost, damaged or stolen items.
 - iii. Priority for kitchen use is for sampling participants. The kitchen is subject to inspection by city health and fire departments. Participant must ensure storage and use is consistent in a manner that meets or exceeds health department requirements.
 - iv. Participants who wish to use the kitchen are responsible for its cleanliness and may be assessed a fee of up to \$250 per incident for failure to complete clean up (dishwashing, storage, trash disposal, sweeping and wiping up spills).
 - v. Participants must provide their own supplies for cleaning, food preparation and meals, and are solely responsible for those items.
 - vi. TDA may dispose of unauthorized or improperly stored items.

Section 4. Equipment and Displays

- A. Participant Displays.
 - i. Participants will ensure that all exhibits, displays and signage are professional in appearance and appropriate in content.
 - ii. All promotional displays must fit within the contracted or assigned space. No display, sign, decoration, wires or other obstructions of any kind may extend into any other area (including pavilion columns), hang directly from walls or columns, ceilings or any other fixture or obstruct traffic flow for visitors, another exhibit area, program area, or access to exits or public restrooms.
 - iii. Participants may store items within their designated areas only if such items remain out of public view and do not obstruct public access or Participants' movement. This includes food and drink.
 - iv. Any violation of this section will result in a request to repair or remove the violation, and failure to do so may result in immediate removal of the Participant from the Pavilion and termination of this agreement.
- B. Participant Provided Equipment. Any malfunctioning equipment or displays provided by Participant must be repaired within 12 hours of notice by Store Contractor or TDA. In the event that malfunctioning or defective equipment poses a significant risk to other Participants or Pavilion visitors, TDA may exercise its discretion to immediately remove the hazard.

Malfunctioning equipment or displays will be removed at the cost of the Participant, if the issue is not addressed by Participant within the prescribed time.

- C. Electrical Outlets. A maximum of 2,000 watts of electrical current per exhibit area and 110 volts AC 60-cycle single phase will be available for power and supplemental lighting. For electrical service, Participants must plug into the electrical outlet with their own heavy-duty, multi-plug extension cord with a circuit breaker. In the event Participants need higher voltage, three-phase power lines or additional electrical service, Participant must make arrangements with the Fair electrician at Participants' sole risk and expense.

Section 5. Exhibit Space

TDA reserves the right to fill, at its discretion, any space that remains vacant 24 hours prior to the start of the Fair or that becomes vacant during the course of the Fair. No refunds shall be made for space that is not utilized.

- A. Exhibitor placement within the Pavilion shall be determined by TDA based on registration date, exhibit size, theme and level of exhibit interactivity. Every effort will be made to accommodate the Participant's space choices, but TDA decisions regarding exhibit placement are final. TDA reserves the right to transfer assignment of space when such action is deemed to be in the best interest of TDA and Pavilion visitors.
- B. All signs provided by Participants must be professionally produced and installed in a good and workmanlike manner, free from hazardous conditions, and safe for the Participants and general public. TDA has the right to request removal of signage it deems to be inappropriate, unprofessional, or that detracts from the overall theme and appearance of the Pavilion.
- C. Each Participant's space must be constructed in a good and workmanlike manner and shall be maintained in an orderly, sanitary and safe condition.
- D. Participants must be ready to open 10 minutes prior to the Pavilion opening daily and must coordinate staffing to ensure daily coverage.
- E. To accommodate increased traffic during high traffic times, including holidays and game days, Participants should anticipate having additional staffing, resources and/or samples available.
- F. Participants must keep individual space clean and free of hazards, and are responsible for breaking down boxes and placing such items in the dumpster.
- G. Sampling is only permitted in exhibit space during times approved by TDA.
- H. Motion pictures, slide projectors, music, loud speakers and public address systems may not be operated if, in the opinion of TDA, such operation interferes with, nor is a nuisance to any Participants or Pavilion visitors. All programs and presentations must use the sound system provided by TDA, unless prior written arrangements are made with TDA at least one week before the program. TDA has sole discretion regarding the use of public address systems for announcements and reminders.

Section 6. GO TEXAN General Store

TDA contracts with a Store Contractor to provide turn-key GO TEXAN General Store (Store) operations.

- A. Item Placement. Retailer placement within the Store shall be determined by TDA. TDA decisions regarding product placement are final.
- B. Inventory.
 - i. Participants offering items for sale in the Store must coordinate with the Store Contractor for the shipping and receipt of inventory.
 - ii. After the start of the Fair, all deliveries and inventory adjustments must be made by 9 a.m. each day as prescribed by the Store Contractor in its Store Policies and Procedures.

- iii. Participants are responsible for providing the Store Contractor with special instructions for product handling, if necessary. TDA is not responsible for the storage of or damage to any inventory. All issues or concerns must be handled directly with the Store Contractor.
 - iv. Store Contractor may arrange return shipping of Participant's remaining inventory at Participant's cost. All shipping arrangements must be made with the Store Contractor. Fees will be prescribed in the Store Policies.
 - v. Any items not picked up, identified for shipping or designated for other disposal by noon on Tuesday, October 23, 2018 will be discarded or used in the promotion of the GO TEXAN program, at the sole discretion of TDA.
 - vi. Neither TDA nor any of its contractors are responsible for items remaining in the Pavilion after 4 p.m. on Tuesday, October 23, 2018.
- C. Final Approval of Products. TDA has sole authority to determine whether a product may be sold in the Store. This includes reviewing individual products to ensure they meet eligibility requirements such as grown, produced, made or value-added in Texas. Products that are offensive, dangerous or do not meet the quality expectations of TDA will not be approved.

Section 7. Event Stage

- A. Participants may utilize the Event Stage (Stage) in the Pavilion for pre-approved educational or entertainment programs and related activities during times set by TDA. Every effort will be made to accommodate the Participants' time preferences, but TDA's decision will be final.
- B. Participants who fail to use their time or who cancel less than 24 hours in advance of their scheduled time may forfeit all future Stage opportunities. TDA reserves the right to reschedule a program or to fill a vacancy when deemed in the best interest of the Pavilion. TDA may establish a waiting list for select dates and times and has sole discretion in selecting Participants from that list.
- C. All programs must take place within the assigned Stage area. Stage participants are responsible for the operation of their equipment. Any program changes or special requests, including areas for costume changes, storage of equipment or similar requirements, must be submitted to TDA in writing at least one week prior to the start of the Fair. Promotional displays, performers, sound equipment and instruments must fit within the assigned space. Participants must leave stage in the condition in which they found it.

Section 8. Product Sampling

To be eligible to provide product samples to Pavilion visitors, Participant must be participating in the Store.

- A. All Participants must provide TDA a copy of their current Product Liability Insurance. Participants offering food samples in the Pavilion or food products for sale in the Store must comply with Texas Health and Safety Code, Chapter 431, Good Manufacturing Practice Regulations, CFR Part 110, and Texas Administrative Code, Title 25, Part 1, Chapter 229, Subchapter L, Section 229.183, and provide a manufacturer license number to TDA, if applicable. Applications that do not include a copy of current product liability insurance and a food manufacturer's license (if applicable) will not be approved.
- B. TDA will provide sampling kiosks or other demonstration areas during approved sampling times. Cancellations or no-shows made less than 48 hours in advance of sampling times will incur a \$100 per occurrence cancellation fee to be deducted from final sales and may impact eligibility for future participation.

- C. Participants must provide their own supplies including napkins, paper or plastic soufflé cups, gloves, toothpicks, paper towels, cleaning supplies, etc.
- D. Participants providing food samples must wear clean, disposable gloves at all times.
- E. All samples provided for consumption must be placed on a napkin, on a toothpick or in a soufflé cup and may not exceed one ounce.
- F. Samplings and demonstrations may not in any way interfere with other operations or movement within the Pavilion and must be conducted at kiosk during designated times only.
- G. All demonstrations must meet health, safety and security standards as set forth in local ordinances and in Fair regulations.

Section 9. Participant Conduct

Failure to observe appropriate standards of conduct will result in immediate dismissal of Participant(s) from the Pavilion. TDA has the sole authority to determine if the actions of a Participant are within the requirements of this section. Participants are responsible for the actions of their employees, representatives, guests and agents in complying with this section.

- A. Participants shall refrain from any action that will distract Fair attendees or detract from overall Pavilion operations.
- B. Participants shall conduct themselves in a professional manner that is not offensive to standards of decency or good taste.
- C. All individuals shall dress appropriately when in the Pavilion or immediately adjacent to it. TDA reserves the right to require Participants to dress accordingly and Participants may not be allowed to return to the Pavilion if they fail to comply. Failure to observe standards of conduct may result in immediate dismissal of involved persons from the Pavilion. No refund will be made of any fees paid.
- D. Participants are strictly prohibited from soliciting, collecting or accepting any donations, including tips, regardless of the beneficiary, during the Fair or anywhere else within Fair Park.
- E. Exhibits, displays or programs that are dangerous, offensive to the public, create a nuisance, or are inconsistent with or harmful or detrimental to the purposes of the Pavilion will not be approved by TDA.
- F. Participants may not discriminate against any person, customer or the general public based on race, sex, color, age, disability, religion, citizenship, veteran status and national or ethnic origin. As applicable, Participants agree to comply with all applicable provisions of the Americans with Disabilities Act and the United States Civil Rights Act.
- G. Distribution of pamphlets, brochures, tickets, coupons or any advertising must be confined to the Participant's assigned space and approved in advance. Distributing balloons, stickers or other materials with adhesive surfaces of any kind is expressly forbidden.
- H. Cocktail parties or related social gatherings of any kind are prohibited in the Pavilion.
- I. Prior written consent of TDA is required for the employment or use of any live model (human or animal) or live plants.
- J. The use of alcohol, tobacco products or electronic cigarettes of any kind within the Pavilion is expressly forbidden.
- K. Actions by Participants, which may be perceived as threatening, inflammatory, intimidating or encouraging of violence are strictly prohibited and will not be tolerated. TDA will immediately disallow participation for violations of this subsection, and TDA reserves the right to take further actions as appropriate.
- L. No form of political advertising or protest is permitted in the Pavilion.

Section 10. Indemnity and Limitation of Liability

- A. Participant agrees to indemnify, defend and hold harmless TDA, their employees and agents from and against any and all claims, losses, demands, obligations, causes of action and lawsuits and all damages (including punitive and exemplary damages), liabilities (including strict liability), fines, judgments, costs (including settlement costs) and expenses, including the payment or reasonable attorney fees, arising out of or relating to participation in the Fair, which are collectively referred to as "Damages". Claims may arise for a variety of reasons, including the matters described on the following list, which is not exhaustive: (1) the failure of Participant to comply with the terms and conditions of the Participant Agreement; (2) the services performed, promotions offered, or actions taken by Participant in connection with their participation in the Pavilion; (3) the distribution of any of samples, products or materials by Participant; (4) defects in the Participant's booth, fixtures or equipment provided by Participant; (5) Participant's unauthorized use, misuse, infringement or dilution of trademarks, intellectual property or copyrights belonging to the Fair, TDA or a third party; (6) the failure of Participant to comply with any applicable federal, state or local law that may affect the obligations hereunder; (7) the negligent acts or omissions of Participant; or (8) defects in the design, assembly or manufacture of any product provided by Participants. TDA does not waive any right to bring legal action against Participant or other parties as authorized or required by law.
- B. Participant agrees to indemnify, defend and hold harmless TDA, its employees or agents for lost profits or other financial loss of any type or description, including but not limited to any special, indirect, reliance, incidental or consequential damages, which may be caused directly or indirectly from: (i) participation in the Pavilion; (ii) termination of the Participant Agreement for any reason; (iii) operational delays by Fair or TDA; or, (iv) service inadequacies within the Pavilion, including the Store. TDA does not guarantee sales or profit from participation in the Store, Porch or other designated sales areas. Participant agrees it will continue to pay all charges and other sums due to Fair and TDA hereunder irrespective of any such claim, loss, damage or expense as required by the Participant Agreement.
- C. Participants agree to pay TDA for any damages resulting from any act or negligence of Participants. Such sum may include costs necessary to restore the premises to their original condition.

Section 11. Safety and Security

- A. Participants shall not pack merchandise in paper, straw, excelsior or any other readily flammable material. All Participants' cartons and containers stored in the Pavilion shall be emptied of contents.
- B. Participants may not use flammable decorations or covering for display fixtures. All fabrics or other materials used for decoration or covering must be flameproof, as required by local ordinances.
- D. All wiring devices and sockets shall be in good condition and meet the requirements of local law. Equipment with engines/motors or gas tanks shall be emptied, gas caps taped, keys removed and battery connections disconnected during display.
- E. All stage events, samplers, exhibit and display areas are subject to Dallas Fire Department and Dallas Health Department inspection, must pass inspection and carry an authorized inspection sticker for the duration of the Fair. Exhibits and displays that fail to receive and maintain inspection are subject to immediate removal from the premises and are not eligible for payment refunds.
- F. TDA shall provide security to patrol the Pavilion during hours of operation. Additional security may be provided within the GO TEXAN Store by the Store Contractor, at its discretion.

- G. Absolutely no weapons, real, toy or replicas are allowed in the Pavilion at any time. The only exception is on-duty peace officers and trained security personnel commissioned by Fair, TDA or the Store Contractor.

Section 12. Use of the GO TEXAN Mark and Advertising

- A. Any materials that incorporate TDA's name, seal or the GO TEXAN Certification Mark must be submitted to TDA for approval at least 10 business days prior to use/release.
- B. GO TEXAN member companies are solely responsible for compliance with GO TEXAN requirements and all copyright, labeling and patent laws applicable to their operations. Inclusion of products not previously submitted for approval to TDA may be reason for removal if it is determined the products do not meet GO TEXAN eligibility requirements. Products violating GO TEXAN requirements may be removed from the GO TEXAN General Store until such time as the issue is resolved. No refunds shall be made. TDA reserves the right to reallocate shelf space accordingly.

Section 13. Laws and Dispute Resolution

- A. Applicable Law. Participants shall abide by and comply with all rules, orders and regulations that TDA or the Fair may prescribe, and with all federal, state and municipal laws and codes.
- B. Venue. Exclusive venue and jurisdiction of any legal action or suit concerning TDA under this Contract is, and that any such legal action or suit shall be brought, in the District Courts in Travis County, Texas.
- C. Dispute Resolution. Chapter 2260 of the Texas Government Code prescribes dispute resolution processes for certain breaches of contract claims applicable to certain contracts for goods and services and shall apply to Participant Agreements.
- D. Store Contractor. Disputes regarding GO TEXAN Store operations, inventory and employees must be referred to the Store Contractor. All disputes should be handled in accordance with Store policies and procedures. TDA may facilitate communications in the event that the Store Contractor and Participant cannot reach a resolution, however, TDA will not make any final determinations regarding GO TEXAN Store issues within the purview of the Store Contractor.

Section 14. Termination of Agreement

- A. Termination by Either Party. TDA or Participant may terminate this Agreement at any time before the start of the Fair. All fees are non-refundable, with the exception of fees paid by an applicant that is not approved by State Fair of Texas. All late fees are non-refundable, without exception.
- B. Termination for Cause. TDA may terminate an executed Participant Agreement at any time without prior notice if, in its sole discretion, TDA determines a Participant is in violation of any of the terms.
- C. Force Majeure. TDA may be excused from performance under the Participant Agreement for any period that TDA is prevented from performing its obligations in whole or in part as a result of the Fair's failure to provide Pavilion access, any act of God, war, civil disturbance, epidemic, court order or other event outside the control of TDA, and which, by reasonable diligence, TDA is unable to prevent.