

NEW YORK LIBRARY ASSOCIATION TRADE SHOW EXHIBITOR AGREEMENT

This Exhibitor Agreement ("Agreement") is entered into by and between **NEW YORK LIBRARY ASSOCIATION (NYLA)** and Exhibitor.

The 2017 NYLA Annual Conference will be held in Saratoga Springs, NY, from November 8 - 11, 2017. The Trade Show will take place November 9 - 10, 2017, with set up on November 8, 2017 between 1:00-5:00 pm.

NYLA will support the exhibitors' efforts through a continuing program of publicity, advertising and attendance promotion. In the spring of 2017, approximately 5,000 conference brochures will be mailed to NYLA members and others interested in libraries and library services. This provides an immeasurable opportunity for advertising due to its extensive distribution. Exhibit "fast passes" will be available for those not registering for the conference but wishing to view the exhibits. Approximately 1,300 people are expected to attend the conference. Exhibitors will be welcoming professional librarians, library clerks, trustees, students, library business staff and friends.

LOCATION OF EXHIBITS

All exhibits will be located under one roof at the Saratoga Springs City Center, Saratoga Springs, NY.

1. DEFINE TERMS

- A. "Agreement" shall mean the herein Exhibitor Agreement.
- B. "Event" shall mean the specific **NYLA ANNUAL TRADE SHOW** event encompassed by this agreement.
- C. "Facility" shall mean the **SARATOGA SPRINGS CITY CENTER**.
- D. "Booth", "Space", or "Exhibit", shall mean the area leased to Exhibitor by **NYLA**, pursuant to this Agreement.

2. EFFECT DATE AGREEMENT

This Agreement shall become legally binding and effective only when Exhibitor has signed the registration form and a payment in full in U.S. Currency has been received by **NYLA**.

3. ASSUMPTION OF RISK

Exhibitor expressly assumes all risks associated with, resulting from or arising in connection with the Exhibitor's participation in or presence at Event, including, but not limited to theft, loss, or damage of property, damage or injury to person or persons, (including death), or loss of income or future income, whether caused by negligent, intentional, or accidental acts, acts of God or otherwise. Neither **NYLA** nor Facility accepts any responsibility for theft, loss or damage of property, damage or injury to person or persons, (including death), or loss of income, whether caused by negligent, intentional, or accidental acts, acts of God, or otherwise, including items stored in any courtesy storage areas.

4. GENERAL RELEASE

Exhibitor hereby agrees to release **NYLA** and Facility, their officers, agents, directors, stockholders, owners, attorneys, insurers, lawyers, assigns, and affiliated and subsidiary corporations, and employees, and each of them, from all actions, suits, liens, losses, debts, damages, claims, causes of actions, personal injuries or property damage, including subrogation claims, specifically including, but not limited to, those claims and causes of actions which may arise out of the participation of **NYLA**, exhibitor, and/or Facility, in the Event and/or any acts which occur between the date of the Signing of this Agreement and the Event.

5. INDEMNIFICATION

Exhibitor agrees to forever indemnify, hold harmless, and otherwise defend and/or vouch for (which includes but is not limited to hiring attorneys licensed in New York State and approved by) **NYLA** and Facility against any and all claims, demands, suits, causes of action, arbitration demands and arbitrations, liens and mechanics liens, which result from Exhibitor's participation or presence at the Event, including but not limited to:

- A. Any breach by Exhibitor of this or any Agreement, covenant, promise or other obligation under this Agreement.
- B. Any violation by Exhibitor of any City, County, Municipal or State Ordinance.
- C. Any infringement by Exhibitor of patent, copyright, trademark, trade secret, or other proprietary rights.
- D. Any libel, slander, defamation or similar actions by Exhibitor.
- E. Claims involving personal injury, wrongful death, property damage, emotional distress, loss of income or future income, misrepresentation, and fraud.
- F. Any other claims involving negligence, breach of contract, or intentional torts.

6. LIMITATION OF LIABILITY

A. Neither NYLA nor Facility shall be liable for any lost profits, incidental, special, general, consequential or punitive damages, direct or indirect, whether or not Exhibitor is informed of the possibility of such damages. In no event shall **NYLA** or Facility's actual damages exceed the amount actually paid to **NYLA** by Exhibitor pursuant to this Agreement.

B. The exhibitor will assume the entire responsibility and liability for losses, damages and claims arising out of injury or damage to exhibitors' displays, equipment, and other property brought upon the premises of the exhibition facility, and will indemnify and hold harmless NYLA, Facility and any authorized representative, agent or employee of the foregoing of any and all losses, damages and claims.

7. DISCLAIMER

NYLA makes no representation, guarantees or promises expressed or implied, regarding the number of people who will attend the Event, the amount of revenue Exhibitor can expect to generate from the Event, the number of visitors to visit your booth regardless of location, or any other matters regarding the Event. Any such statements, prior to or after the execution of this Agreement, are mere opinion and unless expressly included in this Agreement, are hereby disavowed.

8. INSURANCE

A. If requested, Exhibitor will provide proof of additional insured endorsements, primary coverage endorsements, and complete copies of policies within sixty (60) days before the first scheduled day of Event.

9. EXHIBITOR'S RESPONSIBILITY TO INSURE PROPERTY

NYLA assumes no responsibility to project, insure, or indemnify **NYLA** against damage to Exhibitor's property. Exhibitor is required to insure its property against damage, loss, or theft.

10. QUALIFICATIONS/ELIGIBILITY OF EXHIBITOR

NYLA in its sole discretion, determines whether a prospective exhibitor is eligible to participate in the Event. **NYLA** reserves the right to restrict or remove any Exhibit that **NYLA**, in its sole discretion, determines to be objectionable or inappropriate.

11. ASSIGNMENT OF SPACE/BOOTH LOCATION

Booths are 8' x 10' and vary in location. Please see floor plan for details. Booths will be provided with an 8' high drapery background and 3' high blue or white side dividers. **NYLA** will provide a 6' x 2' draped table, 7" x 44" sign, chair(s), and a wastepaper basket, if requested. Additional furnishings and equipment may be ordered directly from our decorator, who will provide order forms. Hours and dates for installing, showing and dismantling exhibits shall be those specified by management in setup instructions to be issued to each exhibitor.

NYLA maintains sole discretion to assign space at the Event and determine the dates of assignment. Any such assignment does not guarantee or imply that a similar space will be assigned for future Events. **NYLA** reserves the right to change the floor plan, assignment, or Exhibitor location prior to or during the Event, if **NYLA** determines that to do so in the best interest of the Event.

A. **NYLA** may honor booth placements from previous shows if Exhibitor renews within a fixed period to be agreed upon at a later time and in a separate written agreement. **NYLA** makes no guarantee that said location will be available or offered, if not agreed to by **NYLA** and Exhibitor in a separate written agreement. **NYLA** retains sole discretion to place Exhibitor in an alternate location without explanation.

B. Statements as to booth location, in the absence of a written agreement, are not binding upon **NYLA**. **NYLA** retains sole discretion to determine where to place Exhibitor.

12. CANCELLATION OF AGREEMENT BY EXHIBITOR

A. Cancellation of this Agreement will only be deemed valid if such cancellation is in writing and sent to NYLA by August 1, 2017. Any Exhibitors making cancellations in writing by August 1, 2017 will receive a refund, minus a \$200 administrative fee.

B. **NYLA** reserves the right to treat Exhibitor's downsizing of booth space as a material deviation of this Agreement and relinquishing the requested booth space, entitling **NYLA** to relocate Exhibitor to another booth space at **NYLA'S** discretion and choosing.

C. The terms delineated in subsections are agreed-upon liquidated damages, as compensation for damages **NYLA** will suffer due to Exhibitor's cancellation. These damages may include, but not limited to, monies expended by **NYLA** to prepare for the Event, or the inability to lease the space to other Exhibitors who would have leased the space. Due to the inability to determine the exact amount of damages in the event of cancellation, the terms delineated in subsections are agreed-upon liquidated damages and not a penalty.

13. CANCELLATION OF AGREEMENT BY NYLA

NYLA reserves the right to cancel this Agreement, upon immediate written or verbal notice, in the event of any material deviation of the Agreement by Exhibitor, including but not limited to the following:

A. If Exhibitor fails to make any payment required by this Agreement.

B. Substantial deviation in booth size or merchandise displayed.

C. If **NYLA** determines Exhibitor is displaying or attempting to display objectionable or inappropriate material.

D. Exhibitor's failure to adhere to booth assembly, occupation, and/or dismantling.

E. If **NYLA** does not receive payment in full by October 1, 2017.

F. Any other material deviation as determined within **NYLA** sole discretion.

14. EFFECT OF CANCELLATION OF AGREEMENT

In the event of cancellation by Exhibitor or **NYLA** pursuant to Paragraph 12 and/or 13 of this Agreement, **NYLA** reserves the right to take any or all of the following steps:

- A.** Refuse Exhibitor permission to move in and set up booth at Facility.
- B.** Refuse Exhibitor access to Facility, except, to remove Exhibitor's property that is already in Facility at the time of cancellation.
- C.** Enter into another Agreement with another vendor for the booth space **NYLA** set aside for Exhibitor, which space becomes available due to this cancellation. (**NYLA** is not obligated to re-rent the booth space in an effort to mitigate damages.)
- D.** Refuse to refund any monies advanced by Exhibitor pursuant to this Agreement.

15. CANCELLATION OF EVENT

- A.** **NYLA** reserves the right to cancel Event due to circumstances beyond **NYLA's** control or not reasonably anticipated by **NYLA**, including but not limited, to acts of God, acts of war, governmental emergency, imposition of martial law, labor strike or unrest, or inability of Facility to host Event.
- B.** If Event is cancelled pursuant to subsection (A), **NYLA** shall refund to Exhibitor all rental payments advanced for booth space, minus a share of costs and expenses incurred by **NYLA** prior to cancellation. Such refund shall release **NYLA** and Facility from any and all liabilities due to cancellation.

16. RESCHEDULING/RELOCATION/RENAMING OF EVENT

- A.** **NYLA** reserves the right to rename the Event, relocate the Event to another Facility within the same city as the original Facility, or reschedule the Event to a date between fifteen (15) days before and fifteen (15) following the Event was originally scheduled to begin.
- B.** **NYLA** renames, relocates, or reschedules the Event pursuant to subsection (A), Exhibitor will not be entitled to any refund of monies advanced. However, **NYLA** will make a space available for Exhibitor, within **NYLA'S** discretion, at the new location or on a new date.

17. ACCESS TO SPACE BY EXHIBITOR

- A.** **NYLA** reserves the right to determine dates and times when Exhibitor may assemble, occupy, and dismantle booths and exhibits. **NYLA** and Exhibitor agree that these times are determined by **NYLA** to be in the best interest of the Event and must be strictly adhered to by Exhibitor.
- B.** Exhibitor and authorized employees of Exhibitor's are permitted in Exhibitor areas.
- C.** Exhibitor's allowance of unauthorized personnel in Exhibitor areas will constitute a breach of the Agreement, entitling **NYLA** to take appropriate remedies pursuant to the Agreement, including but not limited to, immediately taking possession of the booth.
- D.** Staff of participating Facility has no authority regarding Exhibit booths or Exhibit areas, other than other individuals **NYLA** may designate in its discretion.
- E.** No refund will be given to Exhibitor if **NYLA** takes possession of the booth pursuant to subsection above.

18. EVENT HOURS AND EXHIBITOR RESPONSIBILITIES

NYLA will distribute separate information regarding Event hours. However, Exhibitor agrees to abide by the following:

- A.** Exhibitors will be granted access to their respective booths no earlier than thirty (30) minutes prior to the published time Event is scheduled to open.
- B.** Exhibitor booths must remain open in accordance with the hours described in the program distributed in advance of Event, or as amended by **NYLA**.

19. ADVERTISING AND PROMOTIONAL MATERIALS

- A.** Exhibitor grants to **NYLA** a fully paid perpetual merchandising license to use, display and reproduce Exhibitor's name, trade name, or product name in every advertising medium utilized for the Event.
- B.** **NYLA** shall not be liable for any errors in any listing, advertising or promotional materials, or for omitting any Exhibitor from the directory or other lists, advertising, or other promotional materials.
- C.** Exhibitor grants **NYLA** the right to take photographs of Exhibitor's booth space, exhibits, or merchandise, before, during, or after the Event's scheduled times, and further grants **NYLA** the right to use such photographs for promotional purposes. Exhibitor agrees not to interfere with **NYLA's** attempts to take such photographs for promotional purposes.

20. DAMAGE TO FACILITY

Exhibitor shall promptly pay for any and all damages to Facility, associated facility, booth equipment, or property of **NYLA** or other Exhibitors which damage is caused by Exhibitor.

21. COMPLIANCE WITH LAWS

- A.** Prior to the scheduled date of the Event, Exhibitor shall be solely responsible for obtaining licenses, permits or credentials required by Federal, State, or local law applicable to Exhibitor's activities at Event.
- B.** Exhibitor shall be solely responsible for obtaining any necessary tax identification number and paying for all taxes, use fees, or other government fees, levies, or penalties which become due in connection with Exhibitor's activities at Event.

C. Exhibitor shall comply with all the rules and regulations of the Facility, including those pertaining to Union Labor. Exhibitor shall not permit the delivery of merchandise at Facility without express permission of **NYLA**.

22. USE OF COPYRIGHTED MATERIALS

Exhibitor shall not play, or permit the playing, performance, or distribution of, copyrighted materials at the Event, unless it has obtained all necessary rights, permissions, and/or licenses, and paid all required royalties, fees, or other payments. Permission for copyrighted music is required from ASCAP, BMI, and/or SESAC when music is used at conventions or used for commercial or business presentations.

23. ATTENDANCE

NYLA retains sole right to control attendance, in conjunctions with State and local laws.

24. CONDUCT OF EXHIBITOR

A. Exhibitor at all times shall conduct itself in accordance with normal standards of decorum and good taste.

B. **NYLA** in sole judgment may refuse to consider any Exhibitor for participation in future events for failure to abide by the Agreement.

C. **NYLA** reserves the right to close a booth, terminate a contract, or withdraw acceptance of a contract due to Exhibitor's failure to abide by this provision.

D. **NYLA** reserves the right to regulate the sound, whether it be music, voice, special or artificial effects to the extent that the same interferes with other lessees within the facilities or is determined to be offensive or otherwise violates the terms or the rules and regulations of the lease agreement.

25. NON-ASSIGNMENT OF AGREEMENT

This Agreement may not be assigned, nor may any right thereto, to any individual or entity. Any attempt to do so is expressly null and void.

26. INCORPORATION OF ENTIRE AGREEMENT

A. This Agreement constitutes the entire express understanding of **NYLA'S** and Exhibitor's rights, obligations, and liabilities, and may not be altered by Exhibitor without the express written permission of **NYLA**. Parol Evidence may not be used to contradict any provision of the Agreement.

B. Notwithstanding, Subsection (A), above, **NYLA** may adopt additional rules or regulation, upon reasonable written notice to Exhibitor, if **NYLA** determines they are necessary and in the best interest of the Event. Exhibitor agrees to observe and abide by such additional rules and regulations as if set forth in this Agreement.

27. GOVERNING LAWS

A. This Agreement and any dispute arising here of, shall be governed and interpreted by the laws of the City, County, Municipal and/or State where the Event is held.

B. If any action should be instituted to resolve a dispute arising out of any matter relating to this Agreement, the parties expressly agree that said dispute shall be resolved within the Courts of the state where the Event is held.

C. Exhibitor agrees to waive any right to contest personal or subject matter jurisdiction in the event is instituted as described in Subsection (B), above.

28. EXHIBITOR MANUAL AND MATERIALS HANDLING

Approximately three (3) months prior to the Event, **NYLA** will provide Exhibitor with an Exhibitor Manual from Drayage Company, which will contain information integral to Exhibitor's participation in the Event, including information regarding freight. The Exhibitor Manual may also contain special updates regarding additional rules and regulations, including but not limited to, registration, shipping and receiving, utilities and building services, exhibitor display rules, and move-in/assembly and move out /dismantling of booths. Exhibitor agrees to exhibit only products that it manufactures, represents, or distributes.

A. **NYLA** and Facility shall not accept or store display materials or empty crates, and Exhibitor shall make his or her own arrangements for shipment, delivery, receipt and storage of such materials and empty crates. Such arrangements must be made through the Official Drayer, and Exhibitor shall provide the Official Drayer with copies of all bills of lading. All shipments and deliveries to the Event shall be prepaid.

29. OUTSIDE CONTRACTORS

A. In the interest of providing the best qualified craftsmen in numbers sufficient to handle all of the services necessary to ensure the smooth operation, **NYLA** reserves the right to retain outside contractors to provide certain services, which services are to be determined by **NYLA**.

B. No outside contractors other than those hired by **NYLA** will be allowed to perform the services described in Subsection (A), above.

C. Non-exclusive services may be performed by Exhibitor-Appointed contractors (EAC) within guidelines specified by **NYLA**.

D. A complete listing of exclusive services and EAC guidelines will be detailed in the Exhibitor Manual.

30. USE OF AISLES AND COMMON AREAS

- A. Distribution of samples and printed materials, including advertising, is restricted to the exhibit booth space.
- B. All exhibits shall display products or services in a tasteful and un-offensive manner.
- C. The use of aisles, passageways and overhead spaces remains exclusively under the control of **NYLA**. Any use of these areas by Exhibitor, including the displaying or hanging of signs, decorations, banners, advertising materials or special exhibits, is strictly prohibitive without the express written approval of **NYLA**.
- D. Exhibitor must arrange equipment to allow Event visitors access through the aisles and not force visitors to stand in the aisles while examining equipment or watching demonstrations.
- E. Exhibits may have an 8' high projection from the back of the booth but only for a distance of 4' from the rear of the booth. Individual units may be displayed anywhere in the booth providing they do not exceed eye level (5 feet). The height restrictions for booth construction, identification and company name will be strictly enforced.
- F. Each exhibit must have the number of the booth (or one number for a contiguous series of booths) prominently displayed on each aisle the booth faces.

31. SUBLETTING/ADDITIONAL EXHIBITORS

- A. No subletting or sharing of exhibit space will be permitted without the prior written consent of **NYLA**.
- B. If **NYLA** allows additional exhibitors, a fee will be assessed in the amount of \$500.00.
- C. Additional exhibitors will not be entitled to complimentary items set forth in the Exhibitor's offering with respect to the particular event. Only the Exhibitor who signed the original Agreement will be entitled to these items.

32. FIRE PREVENTION

- A. All materials used for display or any other purpose, including those used in special constructed exhibits, such as fabric, must be flame proof and meet all fire regulations.
- B. The use of crepe paper and any decorative paper of any type is prohibited.
- C. All displays must be inspected to confirm that they comply with fire regulations and this section. Displays that do not pass inspection will be ordered closed until such fire hazards are corrected against the danger of fire.
- D. All booth equipment, tables, chairs, displays, and any other Exhibit supplies must not protrude into aisles. Violation of this Subsection may result in **NYLA** or Fire Marshall closing down Exhibit.

33. EXHIBITOR DELAY IN ARRIVAL AT EVENT

If Exhibitor, through circumstances beyond its control, is delayed beyond the scheduled arrival time, Exhibitor must notify **NYLA** at the Event site. Non-notification will result in resale of Exhibit space and all monies advanced by Exhibitor will be immediately forfeited.

34. MONITORING OF EXHIBITS

All persons entering the exhibit hall must register. Persons attending the conference will be given registration badges to permit their admission to the exhibit area. Registration to the exhibits only (not for admission to meetings) will be available to anyone who obtains an exhibits FAST PASS.

Visitor's badges (fast passes) that allow guests to visit the exhibits (not valid for meetings) will be available at the conference registration desk for a nominal fee. Exhibitors and their representatives should inform their customers (librarians, educators, architects, etc.) that they may obtain the exhibit pass at the conference registration desk. **NYLA** welcomes all interested persons to the exhibits.

35. SEVERABILITY

If any court or arbitrator having competent jurisdiction finds any provision within this Agreement violates Federal, State, or local law, and therefore null and void, such a finding will not violate any other provision of this Agreement, or the Agreement itself.

A. NYLA reserves the right to exercise any and all appropriate responses (including, but not limited to, removal from the show floor and/or forfeiture of offending exhibitor's payment) in response to any action deemed inappropriate or objectionable by **NYLA**. If a booth is found not adhering to the above rules, your booth will be closed down immediately and absolutely no refunds given. **NYLA** employees cannot make any exceptions to this rule. Any exceptions or changes must be in writing and signed by Jeremy Johannesen, **NYLA** Executive Director.

This agreement will not be effective until an Exhibitor Registration Form is completed. By completing a registration form, Exhibitor's Agent(s) agrees that he/she is fully authorized to enter into this agreement and bind exhibitor to its terms. Furthermore, Exhibitor's Agent(s) acknowledges that he/she has fully reviewed and understood this agreement and consulted with legal counsel, or waived the right to consult with legal counsel. These terms are non-negotiable and any failure to comply with the terms listed above will be a violation of this agreement and grounds for immediate removal from the event and forfeiture of any payment received.