

# "THE 2012 HOME & GARDEN EXPO OF OKLAHOMA" - TULSA, OKLAHOMA

## TERMS AND CONDITIONS

**1. Defined Terms:** "Event" means the 2012 "Home & Garden Expo of Oklahoma", currently scheduled to be held on **July 27-29, 2012** ("Event Date") at The QuikTrip Center at Expo Square (Upper Level only) ("Exhibit Facility"). Event is owned, produced and managed by Cox Radio, Inc. ("Cox"). "Organizer" means, collectively, Cox Radio, Inc., its officers, directors, shareholders, agents, affiliates, representatives, employees and assigns, unless the context requires otherwise. "Exhibitor" means, collectively, (i) the company or person that applied for exhibit space rental and agreed to enter into this Agreement upon acceptance by Cox in the manner stated below and (ii) each of its officers, directors, shareholders, employees, contractors, agents, representatives and/or invitees, as applicable. "Order Form" means the order form attached to these terms and conditions. "Agreement" means these terms and conditions, together with the attached Order Form. "Effective Date" means the date of latest signature of this Agreement.

**2. Contract Acceptance:** This Agreement shall become binding and effective only when it has been signed on the facing page by Exhibitor and counter-signed on the facing page by a duly authorized representative of Cox.

**3. Assumption of Risks; Releases:** Exhibitor expressly assumes all risks associated with, resulting from or arising in connection with Exhibitor's participation or presence at the Event, including, without limitation, all risks of theft, loss, harm, damage or injury to or of any person (including death), property, business or profits of Exhibitor, whether caused by negligence, intentional act, accident, act of God or otherwise. Exhibitor has sole responsibility for its property or any theft, damage or other loss to such property (whether or not stored in any courtesy storage area), including any subrogation claims by its insurer. Neither Organizer nor the Exhibit Facility accepts responsibility, nor is a bailment created, for property delivered by or to Exhibitor. Neither Organizer nor the Exhibit Facility shall be liable for, and Exhibitor hereby releases all of them from, and covenants not to sue any of them with respect to, any and all risks, losses, damages and liabilities whether described in this paragraph or not.

**4. Indemnification:** Exhibitor shall indemnify, defend (with legal counsel satisfactory to Cox), and hold Organizer and the Exhibit Facility harmless from and against any and all claims, demands, suits, liabilities, damages, losses, costs, fees (including attorneys' fees) and expenses which result from or arise out of or in connection with: (a) Exhibitor's participation or presence at the Event, (b) any breach by Exhibitor of any agreements, covenants, promises or other obligations under this Agreement or any other contract, arrangement or agreement; (c) any matter for which Exhibitor is otherwise responsible under the terms of this Agreement or any other contract, arrangement or agreement; (d) any violation or infringement (or claim of violation or infringement) of any law or ordinance or the rights of any party under any patent, copyright, trademark, trade secret or other proprietary right; (e) any libel, slander, defamation or similar claims resulting from the actions of Exhibitor; (f) harm or personal injury (including death) caused by the fault or negligence of Exhibitor; and (g) loss of or damage to property or the business or profits of Organizer, whether caused by negligence, intentional act (or failure to act), accident, theft, or otherwise.

**5. Limitation of Liability:** UNDER NO CIRCUMSTANCES SHALL ORGANIZER OR THE EXHIBIT FACILITY BE LIABLE FOR ANY LOST PROFITS OR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER FOR ANY OF THEIR ACTS OR OMISSIONS, WHETHER OR NOT APPRISED OF THE POSSIBILITY OF ANY SUCH LOST PROFITS OR DAMAGES. IN NO EVENT SHALL ORGANIZER'S MAXIMUM LIABILITY UNDER ANY CIRCUMSTANCE EXCEED THE AMOUNT ACTUALLY PAID TO COX BY EXHIBITOR FOR EXHIBIT SPACE RENTAL PURSUANT TO THIS AGREEMENT. ORGANIZER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE NUMBER OF PERSONS WHO WILL ATTEND THE EVENT OR REGARDING ANY OTHER MATTERS. NEITHER ORGANIZER, NOR THE OWNERS OR LESSORS OF THE EVENT FACILITY, SHALL ASSUME ANY RESPONSIBILITY FOR EXHIBITOR'S PERSONAL OR OTHER PROPERTY.

**6. Qualifications of Exhibitor:** Organizer, in its sole discretion, determines whether a prospective exhibitor is eligible to participate in the Event. Eligibility is generally limited to persons or firms that supply products and services to the home & garden industry. Applicants may be required to submit a description of the nature of their business and the items to be exhibited. Exhibitor shall not exhibit or permit to be exhibited in the space allocated to it any merchandise other than that specified in its application. Organizer reserves the right to restrict or remove any exhibit, or any portion thereof, that Cox, in its sole discretion, believes is objectionable or inappropriate.

**7. Assignment of Space:** Exhibit space shall be assigned by Organizer in its sole discretion for the Event and for the Event Dates only. That assignment does not imply that similar space will be assigned for future Events. Organizer reserves the right to change the floor plan or to move an Exhibitor to another booth location prior to or during the Event for any or no reason.

**8. Booth Placements:** Organizer will attempt to honor all booth placements based on exhibitor's request if application and payment are made within the time frame described in Section 9, below. However, Organizer reserves the right to make alternative placement if situations warrant.

**9. Payment; Cancellation by Exhibitor:** Exhibitor agrees to pay the exhibition fee listed on the attached order form ("Exhibition Fee"), per the stipulated payment terms on the order form. Exhibitor may cancel this Agreement but understands that all monies/deposits paid will be forfeited to the Organizer. Organizer reserves the right to treat Exhibitor's downsizing of booth space as cancellation of this Agreement and an offer to enter into a new agreement to purchase new booth space. Exhibitor may be required to move to a new location if it requests a downsizing of space.

**10. Cancellation by Organizer:** If Exhibitor fails to make a payment required by this Agreement by the date specified in Section 9, above, Organizer may terminate this Agreement (and Exhibitor's participation in the Event) upon notice to Exhibitor and without obligation to refund any monies previously paid. Organizer reserves the right to refuse Exhibitor permission to move in and set up an exhibit if Exhibitor is in arrears of any payment due to Organizer. Organizer is expressly authorized (but has no obligation) to occupy or dispose of any space vacated or made available because of action taken under this paragraph in any manner it desires, and without releasing Exhibitor from any liability hereunder. Organizer may also terminate this Agreement upon written notice of termination if Exhibitor breaches any of its obligations under this Agreement or any other contract or arrangement with Organizer, without any obligation on Organizer's part to refund any payments previously made and without releasing Exhibitor from any liability arising as result of or in connection with such breach. If Organizer removes or restricts an exhibit (or any portion thereof) that Organizer considers to be objectionable or inappropriate, no refund (or partial refund) will be due to Exhibitor.

**11. Cancellation of the Event:** If Organizer cancels the Event due to circumstances beyond the reasonable control of Organizer (such as acts of God, acts of war, governmental emergency, labor strike or unavailability of the Exhibit Facility), Organizer shall refund to Exhibitor its Exhibition Fee previously paid, minus a share of costs and expenses incurred by Organizer, in full satisfaction of all liabilities of Organizer to Exhibitor. Organizer reserves the right to cancel, rename or relocate the Event or change the Event Dates. If Organizer changes the name of the Event, relocates the Event to another event facility within the same city, or changes the Event Dates to dates that are not more than 30 days earlier or 30 days later, no refund will be due to Exhibitor, but Organizer shall assign to Exhibitor, in lieu of the original space, other space as Organizer deems appropriate and Exhibitor agrees to use that space under the terms of this Agreement. If Organizer elects to cancel the Event other than for a reason previously described in this paragraph, Organizer shall refund to Exhibitor its entire exhibit space rental payment previously paid, in full satisfaction of all liabilities of Organizer to Exhibitor.

**12. Exhibit Space Occupancy:** Organizer shall specify the hours and dates for installing, occupying and dismantling exhibits. If Exhibitor fails to install its display in its assigned space by **9:00am on July 27, 2012**, or leaves its space unattended at any time during the Event, Organizer shall have the right to take possession of the space and terminate this Agreement, in which case no refund will be due to Exhibitor. All exhibits must be open for business at all times during the Event.

**13. Trade Show Set-Up and Show Hours:** Information on set-up and Event hours will be contained in the Exhibitor Service Manual (as defined below). Without limiting the foregoing, Exhibitor agrees to comply with the following:

(a) Only Exhibitor, its employees and contractors will be permitted in its booth 45 minutes prior to published "Show Open Times."

(b) Exhibitor must leave its booth no later than 30 minutes after official closing time.

(c) No staff of the Event Facility has any authority in regard to exhibits, or in exhibit area other than authorized Event security personnel.

(d) **NO BREAKDOWN or DISMANTLING OF EXHIBITS will be permitted before the Event officially closes down at 5:00pm on Sunday, July 29, 2012.**

(e) All solid opaque structures will be confined to within 4 feet of the back line of Exhibitor's booth space. No merchandise displays may block viewing of any other exhibits.

**14. Listings and Promotional Materials:** By exhibiting at the Event, Exhibitor grants to Organizer a royalty-free, worldwide, perpetual nonexclusive license to use, display and reproduce the names, logos, trademarks, trade names, and product names (collectively, "Exhibitor Marks") of Exhibitor in any directory (print, electronic or other media) listing the companies exhibiting at the Event and to use such names in Organizer promotional materials. Organizer shall not be liable for any errors in any listing or descriptions or for omitting Exhibitor or any other exhibitor from any directory or other lists or materials. Organizer may also take video and/or photographs of Exhibitor's booth space and exhibit (which such video and/or photographs may include incidental instances of Event guests and personnel) during, before or after the open hours of the Event and use such video and/or photographs for any promotional purpose. Organizer hereby grants to Exhibitor a limited non-exclusive license to use, display and reproduce the name of the Event (the "Event Mark") solely and directly in connection with exhibiting at the Event. Exhibitor may not use the Event Mark in any other way, including but not limited to, on party invitations, for special events or on marketing materials. This limited license expires at the conclusion of the Event. Organizer may terminate this license immediately at any time for any reason or no reason.

**15. Care of Exhibit Facility:** Exhibitor shall promptly pay for any and all damages to the Exhibit Facility or associated facilities, booth equipment or the property of others caused by Exhibitor, its employees or agents.

**16. Taxes and Licenses:** Exhibitor shall be solely responsible for obtaining any licenses, permits or approvals under federal, state or local laws applicable to its activities at the Event. Exhibitor shall be solely responsible for obtaining any necessary tax identification numbers and permits and for paying all taxes, license fees, use fees, royalties or other fees, charges, levies or penalties that become due to any governmental authority in connection with its activities at the Event. Exhibitor will not permit the delivery of merchandise at the Event Facility without the express permission of Organizer.

**Exhibitor Initials:** \_\_\_\_\_

**17. Insurance:** Exhibitor shall, at its own expense, secure and maintain through the term of this Agreement, including move-in and move-out days, the insurance listed below. The insurance shall be primary of any other valid and collectible insurance of Organizer for claims arising out of Exhibitor's operations and shall be written on an occurrence basis. Claims made policies are not acceptable and do not constitute compliance with Exhibitor's obligations under this paragraph.

(a) **Workers' Compensation & Employers liability insurance** in statutory amounts for workers compensation and at least \$500,000 per accident for employers liability covering all employees, agents or others hired by Exhibitor;

(b) **Comprehensive general liability insurance** with limits not less than \$1,000,000 per occurrence, \$3,000,000 in the aggregate, combined single limit for bodily injury and property damage, including coverage for personal injury, contractual liability, operation of mobile equipment, products liability and, if applicable, liquor liability;

(c) If applicable, **automobile liability insurance** with limits not less than \$500,000 per occurrence, combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired vehicles.

The above required general liability insurance policy shall name as additional insureds: **Cox Radio, Inc. (7136 S. Yale Ave, Ste 500, Tulsa OK 74136) and Tulsa Public Facilities Authority (4145 E. 21<sup>st</sup> St., Tulsa, OK 74112)**, and their subsidiaries, affiliates, officers, directors, employees, agents and representatives. Insurance policies shall also provide that the coverage may not be cancelled without 30 day's advance written notice to Organizer. All policies maintained by Exhibitor hereunder will be with insurers with an A.M. Best's rating of not less than A-, VII and licensed to do business in all applicable states. The requirements set forth above will not be construed as a limitation of any potential liability on behalf of Exhibitor, and Exhibitor will bear all costs of all deductibles and retentions and will remain solely and fully liable for the full amount of any claim, damage, liability, loss or expense for which it is otherwise liable hereunder regardless of any failure or deficiency of insurance coverage or compensation. Certificates of insurance satisfactory to Organizer, shall be furnished to Organizer prior to the commencement of Exhibitor's work under this Agreement

**18. Intellectual Property:** Exhibitor represents and warrants that it owns (or has the right to use and/or license to Organizer the right to use) all content, including all Exhibitor Marks and copyrighted material provided to or otherwise used by the Organizer pursuant to this Agreement, and that such use by the Organizer will not violate the rights of any third party. Exhibitor shall not play or permit the playing or performance of, or distribution of any copyrighted material at the Event unless it has obtained all necessary rights and paid all required royalties, fees or other payments. Without limiting the generality of the foregoing, Exhibitor will not produce, perform or broadcast any music in connection with its exhibit without first obtaining rights from the appropriate music licensing organizations (e.g., ASCAP, BMI, and SESAC). Organizer may refuse to permit Exhibitor to exhibit or display any items that Organizer reasonably believes infringe the rights of other parties. If Exhibitor refuses to remove any of those items from display, in addition to any other remedies available, Organizer may terminate this Agreement immediately and evict Exhibitor from the Event without any liability to Exhibitor or any other party.

**19. Observance of Laws:** Exhibitor shall abide by and observe all federal, state and local laws, codes, ordinances, rules and regulations, and all rules and regulations of the Event Facility (including any union labor work rules). Without limiting the foregoing, Exhibitor shall construct its exhibits to comply with the Americans with Disabilities Act, and all state and local fire codes. All materials used for display of any kind must be fire-protected. This includes all materials used in specially constructed exhibits such as fabric or other materials. The use of crepe paper and any decorative paper of any type are prohibited and will not be permitted. Exhibitor's display must meet all applicable fire regulations. Displays that do not pass inspection will be ordered closed until such fire hazards are corrected against further danger of fire. Organizer reserves the right to close Exhibitor's exhibit, without liability, if Exhibitor fails to comply with this provision.

**20. Exhibitor Conduct:** Organizer has sole control over attendance policies. Exhibitor shall conduct itself at all times in accordance with professionalism and normal standards of decorum and good taste. The use of cameras and video cameras on the exhibit floor is strictly prohibited without the prior permission of Organizer.

**21. Exhibitor Service Manual:** Prior to the Event, Organizer will send a service manual (the "Exhibitor Service Manual") to the "Primary Contact" listed on the Order Form. The Exhibitor Service Manual will include information integral to participation at the Event, including but not limited to: additional exhibitor rules and regulations, official contractor order forms, registration, shipping and drayage, utilities and building services, exhibitor display rules, and move-in, move-out schedules.

**22. Incorporation of Rules and Regulations:** Any and all matters pertaining to the Event and not specifically covered by this Agreement shall be subject to determination by Organizer in its sole discretion. Organizer may adopt rules or regulations from time-to-time governing such matters and may amend or revoke them at any time, upon notice to Exhibitor. Any rules and regulations adopted by Organizer in connection with the Event (whether or not included in an Exhibitor Service Manual or similar document) are an integral part of this Agreement and are incorporated herein by reference. Exhibitor shall observe and abide by additional regulations made by Organizer as soon as such additional rules or regulations are communicated to Exhibitor.

**23. Outside Exhibits/Hospitality Suites:** Exhibitor is prohibited, without express advance written approval from Organizer, from displaying products/services and/or other advertising material in areas outside its booth space such as, but not limited to, parking lots, hotel lobbies, lounges, corridors, sleeping rooms, etc., as well as conducting unauthorized tours of the Exhibit Facility. Exhibitor shall not operate hospitality suites during hours in which the Event is open or when any Organizer-sponsored activities are being held. Exhibitor is prohibited from hosting hospitality functions during official Event hours.

**24. Contractor Services:** Organizer has contracted with, on an exclusive basis, official contractors to provide certain services for the Event ("Official Contractors"). Service companies other than the Official Contractors will not be allowed to perform any of these exclusive services. Non-exclusive services may be performed by exhibitor-appointed contractors (EAC) within certain guidelines.

**25. Character of Displays; Use of Aisles and Common Areas:** Distribution of samples, printed matter of any kind and any promotional material is restricted to the confines of the exhibit booth. Exhibitor shall only exhibit products that it manufactures, represents or legally distributes. All exhibits shall display products or services in a tasteful manner. The aisles, passageways and overhead spaces remain strictly under control of Organizer and no signs, decorations, banners, advertising material or special exhibits will be permitted in the aisles except by written permission of Organizer. Uniformed attendants, models and other employees of Exhibitor must remain within its booth. Any and all advertising distribution must be made from Exhibitor's booth space. Balloons and stickers are prohibited in the exhibit area. Handouts with gummed backing that adhere or cause adhesion are considered stickers. Equipment must be arranged so that show visitors do not stand in the aisle while examining equipment or watching demonstrations. Strolling entertainment or moving advertisements outside of an Exhibitor's exhibit space are prohibited.

**26. Sound Devices:** Subject to the terms of this Agreement, including, without limitation, Section 18, the use of devices for mechanical reproduction of sound or music may be permitted, but must be controlled. Sound of any kind must not be projected outside of the exhibit booth. Exhibitor is specifically prohibited from employing any carnival-type attraction, animal or human, or from operating noise-creating devices such as bells, horns or megaphones.

**27. Sub-Letting:** No sub-letting or sharing of exhibit space will be permitted.

**28. Freight Shipment:** Separate information will be mailed to Exhibitor regarding freight shipments to and from the Event Facility. Exhibitor should use the shipping labels provided by Organizer for the Event to ensure proper shipment and identification. Shipments made in advance to the authorized Event shipping contractor, as per instructions, will be delivered to Exhibitor's booth. At close of Event, if Exhibitor desires to arrange shipment of its exhibit materials by its own carrier, it should call for pick-up and inform Event's authorized contractor of its arrangements. EXHIBITOR MUST WAIT IN PERSON FOR SUCH PICK-UP. If Exhibitor does not remain in booth/exhibit area for the pick-up or if the pickup does not occur within reasonable time, the authorized contractor may take the shipment to the contractor's warehouse at Exhibitor's own risk and expense. Exhibit merchandise and/or samples will not be permitted to be taken out of the exhibition area during the Event.

**29. Solicitations:** The following sales are strictly prohibited during the Event:

(a) Any retail sales including, but not limited to, any retail sale in violation of the retail sales tax regulations where the Event is being held.

(b) Any sale where display merchandise changes hands during the Event.

**30. No Show Policy:** If Exhibitor, through circumstances beyond control, is delayed in arrival or set-up, Exhibitor must notify the Event Director at the Event Facility. Non-notification will result in resale of space, and no refunds will be made.

**31. On-Air Advertisements.** In the event Exhibitor desires to purchase any on-air advertising opportunities from Cox Radio in connection with Exhibitor's participation in the event, the parties will enter into a separate written agreement regarding such advertising that will contain all applicable terms and conditions, including, without limitation, any applicable fees for such advertising.

**32. Miscellaneous:** This Agreement (including the Order Form, Exhibitor Service Manual, applicable Radio Broadcast Contract, any applicable feature add-ins, and any additional rules or regulations adopted by Organizer from time-to-time) represents the entire agreement between Organizer and Exhibitor relating to Exhibitor's participation in the Event and supersedes any prior written or oral understandings, agreements or representations by or between Organizer and Exhibitor relating to such participation in the Event. This Agreement is governed by the laws of the State of Oklahoma as applied to contracts entered into and entirely performed within that State by residents of that State. Exhibitor hereby submits to the exclusive jurisdiction of the courts located in Tulsa County in the State of Oklahoma, which shall constitute the exclusive forum for the resolution of any and all disputes arising out of, connected with or related to this Agreement or the breach of any provision of this Agreement. Exhibitor waives any right to assert lack of personal or subject matter jurisdiction and agrees that venue properly lies in Tulsa, Oklahoma. No waiver of any breach of any term or condition hereof will constitute a waiver of any subsequent breach. If any term will be held unenforceable, such term will be restated, in accordance with applicable law, to reflect as nearly as possible the original intentions of the parties, and this Agreement will remain in full force and effect. Written notices sent pursuant to this Agreement will be delivered by commercial overnight courier to the applicable signatory at the address set forth on the Order Form; copies of notices to Organizer shall also be sent to General Counsel, Cox Enterprises, Inc., 6205 Peachtree Dunwoody Road, Atlanta, GA 30328. Any amendment to this Agreement must be in writing and signed by an authorized representative of each party. Exhibitor may not assign this Agreement or any right or obligation hereunder. Exhibitor may not sublet or license all or any portion of its exhibit space. By entering into this Agreement, Exhibitor and its affiliates explicitly consent to receive fax, telephone and other communications from Organizer and its partners under 47 U.S.C. § 227 and any other applicable regulations.

**Exhibitor Initials:**