

2018 Carbon County Oktoberfest at Blue Mountain Resort

- WHEN:** Saturday, September 29th and Sunday, September 30th, 2018 from 11am-5pm
- APPLICATION INFORMATION** Due no later than Friday, September 1st, paid in full.
- *Vendors will be determined at the discretion of Blue Mountain. Vendors will be chosen on product, number of similar applicants, and event history.
 - *Vendors who fail to submit complete application, payment or liability insurance will not be reviewed or accepted.**
 - *Vendors' spaces will sell out in advance.
 - *Submitting an application does NOT guarantee your spot. You will be contacted if you are accepted. Checks will NOT be deposited unless you are accepted.
- LOCATION:** Blue Mountain Resort's Valley
1660 Blue Mountain Drive, Palmerton, PA 18071
- CANCELLATION POLICY:** The event is outdoors and will be held **Rain or Shine**. No refunds issued.
- SET-UP:** Friday, September 28th from 10:00am-4:00pm *Encouraged
Saturday, September 29th & Sunday, September 30th from 7:00am-10:30am
*Vehicles must be removed from loading areas by 10:30am both days.
*Security will be provided Friday & Saturday evening for vendors who would like to leave their set-up overnight. Blue Mountain is not responsible for lost or stolen items.
- TEAR DOWN:** Sunday, September 30th from 5:00pm-7:00pm
- BOOTH:** Vendors will be given a 10x10 space. Vendor must keep things contained to their designated space. **Vendor is responsible for bringing their own tent, tables, chairs, extension cords, etc.**
- ELECTRICITY:** Electricity is available for an additional cost, and is limited on a first come, first serve basis. Last minute electricity needs will not be accepted. Vendor is responsible for bringing their own extension cords, surge protectors, splitters, etc.
- CHECK LIST:** Please return all items no later than Friday, September 8th:
- Vendor Application Form (3 pages)
 - Copy of Liability Insurance listing Tuthill Corporation & Blue Mountain Resort as additionally insured
 - Payment (Credit card, or check made out to Blue Mountain Resort)
- CONTACT:** Nicole Wescoe – Special Events Coordinator
Phone: 610-826-7700 x 1206
Email: NWescoe@skibluemt.com

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Information

Name of Business: _____

Contact Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____ Website: _____

Items being sold: _____

* Blue Mountain has the right to deny the sale of specific products. Additionally, Blue Mountain has the right to deny the sale of products that are not clarified before the event.

Booth

Booth location will be determined at the discretion of Blue Mountain. Due to the location of this year's festival, vendors may be set up on grass or concrete. Blue Mountain will notify each vendor of where they'll be placed so they can prepare in advance.

- Vendors are responsible for bringing their own tent, tables, chairs, extension cords, etc.
- The event is rain or shine and the mountain can be WINDY. Please be prepared for inclement weather.
- **As stated, the mountain is windy, and small tent stakes/5 pound weights provided with pop up tents are NOT adequate for a tent. Please be prepared with proper stakes or weights. Blue Mountain will provide tent stakes or weights for an additional cost.**
- Vendors sites must be staffed and open for business for the entire duration of the Festival.
- All areas must be kept neat, orderly and free of debris. All garbage must be deposited in dumpsters throughout the day.

Payment

Fee includes a 10x10 space at event. Fee does NOT include any food or beverages.

_____ **10'x10' space** **\$50** = \$ _____

Optional:

_____ **Tent Stakes** (Large stakes, safe for mountain. You keep) **\$20** = \$ _____

_____ **Electricity** **\$10** = \$ _____

Choose one: 110v or 220v Amps needed _____

Total Payment Enclosed = \$ _____

Payment (circle one): Cash Check Visa Master Card Amex Discover

Name on card: _____

Credit Card #: _____

Exp. Date: _____ Security Code: _____

Signature: _____

* Please make checks payable to Blue Mountain Resort

Mail to: Blue Mountain Resort

ATTN: Nicole Wescoe

1660 Blue Mountain Drive

Palmerton, PA 18071

2018 Carbon County Oktoberfest - Terms & Conditions

This Agreement is made as of _____, 20____, by and between The Tuthill Corporation dba Blue Mountain Resort ("Blue Mountain") and _____ ("Vendor").

WHEREAS, the Vendor would like to utilize Blue Mountain's spaces and facilities ("Premises") for the purpose of Carbon County Oktoberfest 2018 and related activities (hereinafter "Activities"), and whereas Blue Mountain would like to permit such use of its Premises provided that it does not create additional liabilities for Blue Mountain, and whereas Vendor has all applicable licenses and permits to conduct its operations, and whereas Vendor has liability insurance covering its activities, and whereas the parties would like to confirm the use thereof by Vendor and other terms and conditions with respect to such use by the Vendor;

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Premises. Blue Mountain hereby permits Vendor to use the Premises, subject to and with the benefit of the terms, covenants, conditions and provisions of this Agreement.
2. Condition of Premises. The Vendor agrees and warrants that it will inspect the Premises prior to each use and accepts the Premises in its then existing condition. The Vendor agrees and acknowledges that Blue Mountain has made no representations or warranties about the condition of the Premises. Without Blue Mountain's prior written consent, the Vendor shall not alter, improve or change the Premises, or add or attach anything to the Premises.
3. General Liability Insurance. Prior to conducting any Activities on the Premises, the Vendor shall obtain and maintain Commercial General Liability Insurance, issued by an A-rated insurance company, on a per occurrence basis, with a minimum limit of One Million Dollars (\$1,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate. The limits may be provided through a combination of primary and umbrella/excess liability policies. Said insurance shall not have any exclusions applicable to Vendor's activities, it shall name "The Tuthill Corporation dba Blue Mountain Resort" as an additional insured by endorsement to the policy, and it shall be primary and non-contributory to any other insurance available to Blue Mountain. Vendor shall provide Blue Mountain with a certificate of insurance evidencing such insurance coverage at the time this agreement is executed. The insurance company issuing said insurance policy shall provide Blue Mountain with 30 days prior notice of cancellation of said insurance.
4. Workers Compensation and Employer Liability Insurance. Vendor shall carry statutory Worker's Compensation (including occupational disease) and Employer's Liability (with minimum limit of \$1,000,000 per occurrence).
5. Auto Insurance. Vendor shall carry Automobile Liability and Property Damage Insurance covering all owned, leased, hired and non-owned vehicles used in connection with Vendor's activities with a combined single limit for bodily injury and property damage of at least One Million Dollars (\$1,000,000) per occurrence. Said auto insurance shall name "The Tuthill Corporation dba Blue Mountain Resort" as an additional insured and shall be primary and non-contributory to any other auto insurance available to Blue Mountain. Vendor shall provide Blue Mountain with a certificate evidencing such insurance coverage at the time this agreement is executed.
6. Indemnification (a) The Vendor agrees to indemnify, defend and hold harmless Blue Mountain, its partners, affiliates, parents, subsidiaries and its members, directors, officers, shareholders, employees, and staff (collectively referred to herein as the "Blue Mountain Indemnified Parties"), from and against all claims, losses, liabilities, damages, injuries, recoveries, suits, judgments, penalties and expenses (including but not limited to attorneys' fees) arising out of or resulting from or occurring in connection with the Vendor's use of the Premises, provided that such claims, losses, liabilities, damages, injuries, recoveries, suits, judgments, penalties and expenses are caused by (i) the sole or partial negligence, misconduct or other fault of Vendor, anyone employed by or an agent of the Vendor, or anyone for whose acts the Vendor may be liable, including the Blue Mountain Indemnified Parties, (ii) the negligence, misconduct or other fault of Vendor, (iii) the breach by the Vendor or its employees of Vendor's obligations under this Agreement, or (iv) third party claims against Vendor or Blue Mountain for the negligence or willful act or omission by Vendor or its employees, agents or those for whom it may be liable in the performance of Vendor's obligations under this Agreement, including the Blue Mountain Indemnified Parties. The Vendor's obligations under this paragraph shall survive the termination of the Agreement. Notwithstanding anything to the contrary in this paragraph, Vendor shall not be obligated to indemnify, defend and hold harmless Blue Mountain from and against claims, damages, losses, fines, penalties and expenses which are based on Blue Mountain's sole negligence. (b) With respect to any claim resulting

from injury or loss to an employee of Vendor or any subcontractor or any lower tier subcontractor, the Vendor agrees to indemnify and hold harmless Blue Mountain from the entire amount of such claim, including liability for injury or loss caused by the negligent acts or omissions of Blue Mountain which result in harm to such employee (unless Blue Mountain was solely negligent), and the indemnification under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Vendor under workers' compensation acts, disability benefit acts or other employee benefit acts. The Vendor hereby expressly waives any provision of the applicable workers' compensation acts, disability benefit acts or other employee benefit acts, including the applicable Workers' Compensation Act, which would otherwise provide immunity to the Vendor from such indemnity.

7. Term. This Agreement shall remain in effect unless terminated by one of the parties.

8. Bind and Inure. The obligations of this Agreement shall run with the land and this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

9. No Waiver, etc. The failure of either party to assert any of its rights hereunder shall not constitute a waiver of such rights. No consent or waiver, express or implied, by Blue Mountain or Vendor, to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.

10. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between Blue Mountain and Vendor regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. This Agreement may be amended, and the provisions hereof may be waived or modified, only by instruments in writing executed by authorized representatives of Blue Mountain and Vendor.

11. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Pennsylvania, exclusive of the conflicts of law provisions thereof. The exclusive jurisdiction and venue for any claim arising out of or relating to this agreement shall be the Carbon County Court of Common Pleas or the United States District Court for the State of Pennsylvania nearest to Carbon County.

12. Severability. If any clause or provision of this Agreement shall be held invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.

13. Independent Contractor. In carrying out its obligations and activities under this Agreement, it is understood and agreed that Vendor is acting as an independent entity and not as an agent, partner, joint venture or employee of Blue Mountain.

14. Blue Mountain shall not be responsible for and does not give any guarantee as to attendance at the Festival, and shall have sole control over the terms of attendance including the admission fees to be charged.

15. Vendors are responsible for all legal, health and tax related issues. Vendors should expect an inspection by the county health inspector and be prepared at all times. The safety of our guests is of the utmost concern.

16. Alcohol vendors understand that they will be responsible for independently submitting their PLCB application to the bureau of licensing either online at: www.lcb.state.pa.us or by calling: (717) 783-8250 and send a copy of submitted PLCB permit, this winery application and full payment for their vending space, postmarked before Friday, May 11th, 2018 to Blue Mountain Resort, Attn: Nicole Wescoe, P.O. Box 216, Palmerton PA 18071.

17. The vendor understands that their vendor fee is non-refundable unless their application is rejected. No check will be cashed, or credit card charged until their application has been accepted by the Festival organizers. In turn, a deposited check or credit card charge means their application has been accepted and they are committed to the Festival. This Festival is held rain or shine, no refunds will be issued.

18. Vendors who clean up early, or drop out of festival will NOT be invited back to any Blue Mountain festivals. NO EXCEPTIONS.

EXECUTED as a sealed instrument on the day and year first above written.

Vendor Sign Here -- _____

Authorized Representative of Vendor

The Tuthill Corporation -- _____

Authorized Representative of The Tuthill Corporation