

## TERMS OF SERVICE

**INTRODUCTION** – Welcome to sbfd2.com’s User Agreement (hereinafter “Agreement” or “Terms and Conditions.”) The provisions of this Agreement will govern Your use of Our Site(s) and the Services contained therein. You should therefore take some time to read the Agreement carefully.

### 1. PRELIMINARY PROVISIONS

**1.1. Party Definitions** - The operative parties referred to in this Agreement are defined as follows:

**1.1.1.** South Brunswick Township Fire District #2 is the operator of this website. Hereinafter, South Brunswick Township Fire District #2 shall be referred to as “District.” When first-person pronouns are used in this Agreement, (Us, We, Our, Ours, etc.) these provisions are referring to District and/or to any other site that We may choose to operate in the future. Additionally, when the terms “the Site” or “Site” are used, these terms refer to this website, any predecessor or successor domain or URL of this website, along with any website published by Us, unless a site is specifically exempt from this Agreement. Our Site(s), and the services the Site provides (“Services”), may contain images and content, including but not limited to text, software, images, graphics, data, messages, or any other information, and any other website content owned, operated, licensed, or controlled by the District (collectively, “Materials”).

**1.1.2. You, the User** - As the User of this Site and/or Services, this Agreement will refer to the User as “You” or through any second-person pronouns, such as “Yours,” etc. Hereinafter, the User of the Site and/or Services shall be referred to in applicable second-person pronouns.

**1.1.3. Users** – This Agreement applies to all Users. You become a User by accessing this Site or the Services in any way.

**1.2. What this Agreement is** - This Agreement is a legal contract between You and the District. You should treat it as any other legal contract by reading its provisions carefully, as they will affect Your legal rights. By accessing the Site in any manner, You are affirmatively agreeing to be bound by all of the terms contained in this Agreement. You may not pick and choose which terms apply to You. If You do not agree with all of the terms in this Agreement, You must cease all access and use of the Site and any other services provided by the District. Nothing in this Agreement is intended to create any enforcement rights by third parties.

**1.3. Consideration** - Consideration for Your acquiescence to all of the provisions in this Agreement has been provided to You in the form of allowing You to use Our Site and Our Services. You agree that such consideration is both adequate, and that it is received upon Your viewing or using any portion of any of Our Site(s) and/or Services.

**1.4. Revisions to this Agreement:**

**1.4.1.** From time to time, We may revise this Agreement. We reserve the right to do so, and You agree that We have this unilateral right. You agree that all modifications or changes to this Agreement are in force and enforceable immediately upon posting. Any updated or edited version supersedes any prior versions immediately upon posting, and the prior version is of no continuing legal effect unless the revised version specifically refers to the prior version and keeps the prior version or portions thereof in effect. To the extent any amendment of this Agreement is deemed ineffective or invalid by any court, the parties intend that the prior, effective version of this Agreement be considered valid and enforceable to the fullest extent.

**1.4.2.** A link to the Agreement is provided at the bottom of the home page of the Site. You agree to periodically re-visit this web page, and to use the “refresh” button on Your browser when doing so in order to determine if something in the Agreement has been changed, and that You need to re-review it in order to determine how Your rights and responsibilities may have been affected by the revisions.

**1.4.3.** If You fail to periodically review this Agreement to determine if any of the terms have changed, You assume all responsibility for Your failure to do so and You agree that such failure amounts to Your affirmative waiver of Your right to review the amended terms. We are not responsible for Your neglect of Your legal rights.

**1.5. Incorporations by Reference.** Although this Agreement represents the primary terms and conditions of service for Our Site, additional guidelines and rules are hereby incorporated by reference. The document(s) which can be found on Our Site, and which are specifically incorporated by reference, and are therefore part and parcel of this Agreement are the following:

Our Privacy Policy

**2. NO RELATIONSHIP THROUGH SITE ACCESS**

**2.1. Access and Liability**

**2.1.1.** By accessing the Site, You certify that:

**2.1.1.1.** You will not copy or distribute any part of the Site for unauthorized purposes;

**2.1.1.2.** You will fully comply with these Terms and Conditions as well as Our Privacy Policy.

**2.2. Service Interruption:** From time to time due to technological factors, scheduled updates, and other factors beyond Our control, service may be temporarily interrupted. From time to time, certain features of the Site may not be available for use due to technological and other factors. You agree to hold Us harmless against any such interruption of service.

### **3. RESTRICTIONS AND REGULATIONS GOVERNING USE OF OUR SITE AND SERVICES:**

**3.1.** You agree that You will only use the Site and Services for purposes expressly permitted and contemplated by this Agreement.

**3.2.** Without Our express prior written authorization, You may not:

**3.2.1.** Interfere with or disrupt the Site, or servers or networks connected to the Site, or disobey any requirements, procedures, policies or regulations of networks or third-party providers connected to, or providing the Site;

**3.2.2.** Intentionally or unintentionally violate any applicable local, state, federal or international law, and any regulations having the force of law;

**3.2.3.** Remove any copyright or other proprietary notices from Our Site or any of the Materials contained therein;

**3.2.4.** Frame or utilize any framing techniques in connection with Our Site or any of the Materials contained therein;

**3.2.5.** Use any meta-tags or any other “hidden text” using Our Site’s name or marks, and You hereby stipulate that any use of the Site’s name or marks, or any other marks owned by Us is an infringement upon Our trademark rights, and You stipulate to liquidated damages of five thousand dollars (\$5,000) per such infringement, plus You agree to pay any and all fees incurred in the recovery of this amount, including attorney’s fees and all associated costs;

**3.2.6.** Circumvent any encryption or other security tools used anywhere on the Site or in conjunction with the Services;

- 3.2.7. Sell, rent, lease, license, sublicense, transfer, distribute, re-transmit, time-share, use as a service bureau or otherwise assign to any third-party the Materials or Services or any of Your rights to access and use the Materials or Services as granted specifically by this Agreement;
  - 3.2.8. Use Our Services for any commercial purpose unless expressly agreed to by Us in writing and at Our sole discretion. Without such consent by Us, Your use of the Site and Services is strictly for personal use;
  - 3.2.9. Use any material or information, including images or photographs, which are made available through the Services in any manner that infringes any copyright, trademark, patent, trade secret, or other proprietary right of any party;
  - 3.2.10. Restrict or inhibit any other user from using and enjoying the Services;
  - 3.2.11. Violate any applicable laws, policies, or regulations.
- 3.3. You agree to cooperate with Us in causing any unauthorized use to cease immediately. Nothing contained in this Agreement shall obligate Us to monitor or investigate any use of Our Services by Our Users or other third parties, other than as required by applicable law.
- 3.4. **Interference.** Except where expressly permitted by law, You may not translate, retranslate, reverse-engineer, decompile, disassemble, or make derivative works from any of Our Materials or any other materials from Our Site. User hereby agrees not to use any automatic device or manual process to monitor or reproduce the Site or Materials, and will not use any device, software, computer code, or virus to interfere or attempt to disrupt or damage the Site or any communications on it. If You do not adhere to this provision of this Agreement, You hereby stipulate to and agree to pay liquidated damages of five thousand dollars (\$5,000) plus any and all fees associated with recovery of these damages, including attorney's fees and costs.

#### 4. LINKS AND LINKING:

- 4.1. Websites which are linked to the Site are owned and operated by third parties. Because We have no control over such websites and resources, You acknowledge and agree that We are not responsible for or liable for the availability of such external websites or resources, do not screen or endorse them, and are not responsible for or liable for any content, services, products, or other materials on or available from such websites or resources.
- 4.2. You further acknowledge and agree that We shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in

connection with use of or reliance on any such third-party content, goods or services available on or through any such website or resource. If You decide to access any such third-party website, You do so entirely at Your own risk and subject to any terms and conditions and privacy policies posted therein, and not by this Agreement or Our Privacy Policy, which is incorporated into this Agreement by reference.

- 4.3. You hereby agree to hold Us harmless from any and all damages and liability that may result from the use of links that may appear on the Site or via the Services. We reserve the right to terminate any link at any time.

## 5. TRADEMARK INFORMATION:

- 5.1. All of the marks, logos, domains, and trademarks that You find on the Site and Services may not be used publicly except with express written permission from Us, and may not be used in any manner that is likely to cause confusion among consumers, or in any manner that disparages or discredits Us.

## 6. COPYRIGHT INFORMATION:

- 6.1. The Materials accessible from the Site, Services, and any other Site owned, operated, licensed, or controlled by Us are Our proprietary information and valuable intellectual property and We retain all right, title, and interest in the Materials.
- 6.2. Modification or use of the Materials except as expressly provided in this Agreement violates Our intellectual property rights.
- 6.3. Neither title nor intellectual property rights are transferred to You by access to the Site and Services.
- 6.4. All Materials included on the Site, such as text, graphics, photographs, video and audio clips, music, soundtracks, button icons, streaming data, animation, images, downloadable materials, data compilations and software are the property of District or its content suppliers and is protected by United States and international copyright laws. The compilation of all Materials on the Site is the exclusive property of District or its content suppliers and protected by United States and international copyright laws, as well as other laws and regulations.

## 7. JURISDICTION/DISPUTES:

- 7.1. **Governing Law.** This Agreement and all matters arising out of, or otherwise relating to, this Agreement shall be governed by the laws of New Jersey. The sum of this paragraph is that any and all litigation permitted under this Agreement must be, without exception, initiated in New Jersey.
- 7.2. All Parties to this Agreement agree that all litigation permitted under this Agreement shall be tried and/or litigated exclusively in the courts located in New Jersey.

- 7.3. The parties agree to exclusive jurisdiction in, and only in, New Jersey.
- 7.4. The parties agree to exclusive venue in, and only in, Middlesex County, New Jersey.
- 7.5. The parties additionally agree that this choice of venue and forum is mandatory and not permissive in nature, thereby precluding any possibility of litigation between the parties with respect to, or arising out of, this Agreement in a jurisdiction other than that specified in this paragraph.
- 7.6. All parties hereby waive any right to assert objections to venue with respect to any litigation permitted under this Agreement.
- 7.7. All parties stipulate that the courts located in New Jersey shall have personal jurisdiction over them for the purpose of any litigation permitted under this Agreement that is not otherwise subject to the arbitration provisions, *infra*.
- 7.8. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it, as contemplated by this paragraph by registered or certified mail, proof of delivery or return receipt requested, to the party's address for the giving of notices as set forth in this Agreement.
- 7.9. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law if such enforcement becomes necessary.
- 7.10. **Right to Injunctive Relief** - Both parties acknowledge that remedies at law may be inadequate to provide an aggrieved party with full compensation in the event of the other party's breach, and that in any litigation permitted under this Agreement, an aggrieved party shall therefore be entitled to seek injunctive relief, in addition to seeking all other remedies available at law or in equity.

## 8. ARBITRATION PROVISIONS:

- 8.1. If there is a dispute between the Parties arising out of or otherwise relating to this Agreement, the Parties shall negotiate in good faith to attempt to resolve the dispute. If the Parties are unable to resolve the dispute through direct negotiations, then, except as otherwise provided herein, either Party must submit the issue to binding arbitration in accordance with the then-existing Commercial Arbitration Rules of the American Arbitration Association. Arbitral Claims shall include, but are not limited to, contract and tort claims of all kinds, and all claims based on any federal, state or local law, statute, or regulation, excepting only claims by Us for intellectual property violations, actions for injunctions, attachment, garnishment, and other equitable relief. The arbitration shall be confidential. The arbitration shall be conducted in Middlesex County, New Jersey and conducted by a single Arbitrator, knowledgeable in Internet

and e-Commerce disputes. The Arbitrator shall be willing to execute an oath of neutrality.

- 8.2.** The Arbitrator shall have no authority to award any punitive or exemplary damages; certify a class action; add any parties; vary or ignore the provisions of this Agreement; and shall be bound by governing and applicable law. The Arbitrator shall render a written opinion setting forth all material facts and the basis of their decision within thirty (30) days of the conclusion of the arbitration proceeding. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRIAL BY JURY IN REGARD TO ARBITRAL CLAIMS.
- 8.3.** No waiver of right to arbitration -- There shall be no waiver of the right to arbitration unless such waiver is provided affirmatively and in writing by the waiving Party to the other Party. There shall be no implied waiver of this right to arbitration. No acts, including the filing of litigation, shall be construed as a waiver or a repudiation of the right to arbitrate.

## **9. MISCELLANEOUS PROVISIONS:**

- 9.1.** These Terms and Conditions, together with the Privacy Policy and any other legal notices published by Us on the Site, shall constitute the entire agreement between You and Us concerning the Site. If any provision of these Terms and Conditions is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms and Conditions, which shall remain in full force and effect. No waiver of any term of these Terms and Conditions shall be deemed a further or continuing waiver of such term or any other term, and the Site's failure to assert any right or provision under these Terms and Conditions shall not constitute a waiver of such right or provision. The Site reserves the right to amend these Terms and Conditions at any time and without notice, and it is Your responsibility to review these Terms and Conditions for any changes. Your use of the Site following any amendment of these Terms and Conditions will signify Your assent to and acceptance of its revised terms. YOU AND THE SITE AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.
- 9.2. Force Majeure.** We shall not be responsible for any failure to perform due to unforeseen circumstances or to causes beyond Our reasonable control, including but not limited to: acts of God, such as epidemics or pandemics; fire, flood, earthquakes, hurricanes, tropical storms or other natural disasters; war, riot, arson, embargoes, acts of civil or military authority, or terrorism; fiber cuts; strikes, or shortages in transportation, facilities, fuel, energy, labor or materials; failure of the telecommunications or information services infrastructure; hacking, data security breach, SPAM, or any failure of a computer, server or software, for so long as such event continues to delay the Site's or Services' performance.

- 9.3. Assignment.** The rights and liabilities of the parties hereto will bind and inure to the benefit of their respective assignees, successors, executors, and administrators, as the case may be.
- 9.4. Severability.** If for any reason a court of competent jurisdiction or an Arbitrator finds any provision of this Agreement, or any portion thereof, to be unenforceable, that provision will be enforced to the maximum extent permissible and the remainder of this Agreement will continue in full force and effect.
- 9.5. No Waiver.** No waiver or action made by Us shall be deemed a waiver of any subsequent default of the same provision of this Agreement. If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from this Agreement.
- 9.6. Headings.** All headings are solely for the convenience of reference and shall not affect the meaning, construction or effect of this Agreement.
- 9.7. Complete Agreement.** This Agreement constitutes the entire agreement between the parties with respect to Your access and use of the Site, Services and the Materials contained therein, and Your use of the Site and Services, and supersede and replace all prior understandings or agreements, written or oral, regarding such subject matter.
- 9.8. Other Jurisdictions/Foreign Law.** We make no representation that the Site, Services or any of the Materials contained therein are appropriate or available for use in other locations, and access to them from territories where their content may be illegal or is otherwise prohibited. Those who choose to access the Site and Services from such locations do so on their own initiative and are solely responsible for determining compliance with all applicable local laws. Nothing contained in this Agreement shall be interpreted as an admission that the Site or the District is subject to the laws of any nation besides the United States.

This document prepared by: Braslow Legal, [www.BraslowLegal.com](http://www.BraslowLegal.com). All Rights Reserved. © (2020).

*Nothing more follows.*