

BOARDING AGREEMENT

THIS AGREEMENT, for good and valuable consideration receipt of which is hereby acknowledged, date the ____ day of April 2020, made by and between the Commonwealth of Kentucky, Department of Parks, 500 Mero Street, Frankfort, Kentucky 40601 (hereinafter the "Department") and Barren County, Kentucky (Owner's name), a subdivision of the Commonwealth of Kentucky located at _____ (address) (hereinafter, "Owner"). These parties warrant that they have the right to enter into this AGREEMENT.

1. Purpose. The purpose of this agreement is to allow the Owner to board one or more horses at Barren River State Resort Park during the Term defined below. This Agreement is unique to Owner and may not be assigned to any other party without the written consent of the Department.
2. Term. The term of this agreement shall be _____ (dates).
3. Conditions, Alteration, or Damage to Premises,
 - 3.1 Owner accepts the premises in an "as is" condition. The Department has no obligation to alter or change any of its physical facilities as a condition of, or consideration for this Agreement.
 - 3.2 Owner shall be responsible for providing all necessary bedding, feed, and water.
 - 3.3 Owner shall be responsible for providing the necessary enclosures to prevent the escape of stock and to prevent the intrusion of persons into the stock enclosures.
 - 3.4 Owner shall restore the premises to a like condition as it existed prior to the use.
 - 3.5 If, during the term of this Agreement, the Rented Premises, or any portion thereof, shall be damaged by an act, default, or negligence of the Owner, its agents, employees, or officers, Owner will pay the Department upon demand such sum as shall be necessary to restore said premises to its original condition prior to the Owner occupying the premises. Such negligence may include, without limitation, the failure of the Owner to provide adequate security staffing as required by Sections 10 and 14 of this Agreement and may include the Owner, its agents, employees, or officers permitting the negligent, reckless, wanton, or intentional waste or destruction of Department property by a patron, guest, or any other person admitted to the premises by the Owner.
4. Force Majeure.
 - 4.1 If the Rented Premises shall become untenable because of fire, strikes, lockouts, failure of power, riots, war, unavoidable casualty, outbreak of human or animal disease, mandatory quarantine, acts of God or other reasons of a like nature, not the fault of either party, this Agreement shall terminate.

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4.2 In the event such termination occurs on or after the first date of the Term, the Owner shall pay the Department the actual rent incurred up to and including the date of termination, or, in the event the rent is not scheduled on a daily basis, a prorata portion of the rent up to and including the date of termination, together with any expenses incurred by the Department in conjunction with this Agreement.

4.3 In the event of any such termination, the Parties each waive any and all claims of any kind or nature against the other for damages or compensation which might arise out of such termination not set forth in Paragraph 5.2.

5. Compliance with Law, Rules, and Regulations.

5.1 The Owner shall abide by all rules, regulations, and policies established by the Department or its authorized representatives. The Owner shall obtain and provide to the Department copies of any licenses and permits required to comply with federal, state, county and city statutes, regulations and ordinances.

5.2 Owner shall assume full responsibility for the application for and securing of any licenses, permits or other enabling documents which may be necessary in connection with use of the premises.

5.3 The Owner shall be responsible for, if applicable, abiding by the temporary structure regulations adopted by the Department of Housing, Building and Construction, including chapter 4, section 430 of the Kentucky Building Code, including but not limited to inspection of applicable tents, temporary stages, outdoor rigging, and platforms by the state Fire Marshall or his legal representative prior to the event. Failure to comply may result in cancellation of the Agreement and/or removal of any parties involved.

5.4 The Owner agrees to comply with all applicable federal, state, and local laws, statutes, executive orders, rules, regulations, and ordinances in maintaining the premises and conducting its business, including without limitation the safe handling and disposal of animal waste.

5.5 All horses entering the premises must have valid proof of negative Coggins test (within 12 months). A 30 day-certificate of veterinary inspection is required for all horses arriving from outside the state of Kentucky. All horses considered Kentucky based must have a certificate of veterinary inspection dated within 12 months. Horses who fail to arrive with appropriate paperwork will not be allowed to unload on park grounds.

5.6 The Department requires all horses/ponies/mules to be treated in a humane manner in accordance with various state and local humane society guidelines. Owner is expected to enforce fair and humane treatment for all horses participating in an event at the park.

6. Liens. The Party shall not incur, cause, or in any manner create any indebtedness, liens, mortgages, or other obligations for labor materials or otherwise for which the Park

may have liability. The Party recognizes the Park's rights under Kentucky Revised Statute 247.260 to place a lien upon the Party's property to secure existing or future indebtedness.

7. Required Insurance, Indemnification, and Release.

7.1 Owner agrees to provide public liability insurance issued by a reputable company licensed to issue insurance in the Commonwealth of Kentucky, covering exhibitors, competitors, and spectators with minimum policy limits coverage of one million dollars (\$1 per occurrence for bodily injury and/or death and one hundred thousand dollars (\$100,000) per occurrence for property damage. The Department and the Commonwealth of Kentucky shall be additional named insureds on the policy. Owner shall deliver to the Department a certificate of insurance reflecting the coverage at least thirty (30) days prior to the Term. Failure to do so may result in cancellation of the Agreement. All policies shall contain a noncancellation clause notifying the Department at least thirty (30) days in advance of any proposed cancellation. Should Owner fail to present said certificate within thirty (30) days, pursuant to Agreement, Owner hereby agrees to pay the premium for any such insurance obtained by the Department for Owner.

7.2 Owner agrees to defend, and hold the Commonwealth of Kentucky, the Department, and/or its agents, commissioner, directors, staff, volunteers, and employees, harmless from any and all liability for compensatory, and to the extent permitted by applicable law, punitive damages or any related claims, suits or expenses, including attorney fees, in connection with bodily injury, loss of life and/or property at any time resulting therefrom or in connection with any negligent act or omission of Owner.

7.3 In the event said injury or loss arises from the negligence of the Department or its employees, the Department shall, at its own expense, assume the defense of any such claims or actions from damages arising out of such injuries or losses which may be brought against Owner by any employee, volunteer, staff, or agent of Owner or patron, and shall pay any such judgments that may be rendered in such action. Owner shall not be liable for any damage to the property of the Department sustained while in the use and control of the Department.

7.4 Notwithstanding any other provision of this Agreement, any and all liability claims against the Department shall be brought in accordance with KRS Chapter 49, No clause or part of this Agreement shall constitute, either directly or indirectly, a waiver of sovereign immunity granted under Kentucky Constitution, Section 23 1 and the United States Constitution, Eleventh Amendment.

8. Kentucky Farm Animal Activity Liability Act.

WARNING

Under Kentucky law, a farm animal activity sponsor, farm animal professional, or other person does not have the duty to eliminate all risks of injury of participation in farm animal

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activities. There are inherent risks of injury that you voluntarily accept if you participate in farm animal activities.

Owner is familiar with the Kentucky Farm Animal Activity Liability Act, KRS 247.401 — 247.4029, Owner is aware of the warning produced above. Owner agrees that all written contracts it enters into related to the Agreement will contain the above warning, verbatim, for the protection of both the Owner and the Department.

9. Staffing.

9.1 Owner, at its own expense, shall provide all personnel needed to on the premises including, but not limited to security for stabling areas, special police, hands, grooms, or any other such personnel necessary. If the Department must provide staff, Owner shall be charged at the actual rate for staff.

9.2 Security staff. Owner agrees to have in place, at all times and for the duration of the Term, sufficient security staff to maintain order and protect persons and property from any and all injuries. The Department has the exclusive discretion to determine the level of security Owner must maintain. If Owner fails to have sufficient security staff, the Department may provide security staff at Owner's expense. A security plan must be presented at the pre-event meeting. Owner must provide a 24-hour emergency contact to State Park Rangers and to the park manager.

10. Entire Agreement and Contract Modifications.

10.1 This Agreement is intended by the Parties as a final expression of their understanding of the terms and is an exclusive statement of those terms. This Agreement supersedes any and all prior written or oral Agreements or understandings regarding this matter.

10.2 No modifications or change to any provisions of this Agreement shall be made, nor construed to have been made, unless such modification is mutually agreed to in writing by and the Department and is incorporated as a written addendum to this Agreement.

11. Contract Interpretation. This contract shall be construed in accordance with the laws of the Commonwealth of Kentucky. Any legal proceedings against the Commonwealth of Kentucky or the Department regarding this contract or any resultant contract shall be brought in a Commonwealth of Kentucky administrative or judicial forum. Venue shall be in Franklin County of the Commonwealth of Kentucky. The failure of the Park to enforce any provision of this agreement shall not operate as a waiver of its right to enforce the unenforced provision or any other right it may have under this agreement. This Agreement shall be governed by the Kentucky Model Procurement Code, KRS chapter 45A, which shall control over any conflicting provision contained herein.

12. Understanding of Agreement.


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12.1 I, the signatory below, have read completely and understand this Agreement. I agree to inform all necessary personnel, volunteers, agents, subcontractors, and employees of the terms of this Agreement and of any and all policies and procedures of the Department and will ensure compliance with same.

12.2 This contract is subject to the terms and conditions as stated. By affixing signatures below, the Parties agree that electronic approvals may serve as electronic signatures and that this agreement may be executed in duplicate. In addition, the signatories verify that they are authorized to bind this agreement between the Parties and that they accept the terms of the agreement.

IN WITNESS WHEREOF, for the mutual promises herein, the Parties hereto have executed this Agreement as of the day and year indicated below.


UNDERSTOOD AND AGREED TO BY:



Title
Address

April 30, 2020
Date

UNDERSTOOD AND AGREED TO BY:



Commissioner or Deputy Commissioner
Kentucky Department of Parks
500 Mero Street, 5th Floor
Frankfort, Kentucky 40601

May 1, 2020

Date

Reviewed for form and legality by:

William H. Adams II Digitally signed by William H.
Adams II
Date: 2020.05.01 16:17:01 -04'00'

Legal Counsel
Tourism, Arts, & Heritage Cabinet

