

WARNING: Under Colorado Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to Section 13-21-119, Colorado Revised Statutes.

6/07

FACILITY USE AGREEMENT

This agreement is made and entered into this ____ day of _____, 20____ by and between KEN-CARYL RANCH MASTER ASSOCIATION, a Colorado non-profit corporation at 7676 S. Continental Divide Road, Littleton, Colorado 80127 (hereinafter "Ken-Caryl") and

NAME:

ADDRESS:

HOME PHONE:

CELL:

EMAIL:

(hereinafter "Facility User")

RELEASE AND AGREEMENT NOT TO SUE THIS IS A RELEASE OF LIABILITY AND AGREEMENT NOT TO SUE. PLEASE READ CAREFULLY BEFORE SIGNING THIS AGREEMENT. In consideration of access to and use of property owned by Ken-Caryl, Facility User acknowledges that use of any property of Ken-Caryl, including but not limited to the Equestrian Center facilities, is done at the Facility User's own risk. Horse related events are potentially hazardous activities, possibly resulting in serious bodily injury or death. Facility User further acknowledges that the use, handling and riding of horses involves a risk of physical injury to any individual undertaking such activities; that irrespective of its training and usual past behavior and characteristics, a horse may act or react unpredictably at times based upon instinct or fright which, likewise, is an inherent risk assumed by the Facility User. Additional risks include but are not limited to, acts of God, forces of nature, negligent or reckless acts or omissions of others or of Ken-Caryl, its agents, employees or independent instructors. Acknowledging the risks, whether described above or not, whether currently known or unknown, Facility User **RELEASES, DISCHARGES AND AGREES NOT TO SUE OR MAKE ANY CLAIM AGAINST, KEN-CARYL, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUBCONTRACTORS, AND MEMBERS, ARISING OUT OF OR FROM ANY AND ALL FORESEEN AND UNFORESEEN INJURIES, DEATHS, LOSSES, ACTIONS, CLAIMS, JUDGEMENTS, OR DAMAGES OF ANY KIND AND NATURE, INCLUDING ATTORNEY FEES AND COURT COSTS INCURRED BY KEN-CARYL IN DEFENDING AGAINST THE SAME, THAT MAY ARISE OUT OF FACILITY USER'S PARTICIPATION (INCLUDING AS A SPECTATOR) IN EQUINE ACTIVITIES OCCURRING AT THE KEN-CARYL EQUESTRIAN CENTER, OR ON OTHER PROPERTIES**

OWNED, OPERATED, LEASED, LICENSED, MAINTAINED OR CONTROLLED BY KEN-CARYL.

THIS RELEASE AND AGREEMENT NOT TO SUE SHALL BE EFFECTIVE EVEN IF THE LOSS, INJURY OR DEATH RESULTS FROM THE NEGLIGENCE OF KEN-CARYL OR ITS AGENTS, EMPLOYEES, MEMBERS, OFFICERS, OR DIRECTORS. Negligence as used herein shall include but not be limited to; knowledge that equipment or tack which caused any injury was faulty; failure to make reasonable and prudent efforts to safely determine ability to engage in equine activities or ability to safely manage the particular equine; or knowledge of a dangerous latent condition concerning the Equestrian Center or other properties owned, operated, leased, licensed, maintained or controlled by Ken-Caryl, and for which warning signs have not been conspicuously posted.

GENERAL TERMS

1.01 LICENSE TO USE FACILITIES

Subject to the remaining terms and conditions, Ken-Caryl hereby grants to Facility User a non-exclusive, revocable license to use of the Equestrian Center facilities located on the Ken-Caryl Ranch (as defined by the Master Declaration of Covenants, Conditions and Restrictions of Ken-Caryl Ranch recorded in the office of the Clerk and Recorder of Jefferson County, Colorado). Facility User agrees that Ken-Caryl may condition use on such additional restrictions as Ken-Caryl deems prudent or reasonable from time to time. Facility User understands that the use of said facilities shall require the prior written approval of the Ken-Caryl Ranch Equestrian Center Manager or such person as the Board of Directors of Ken-Caryl shall designate. Approval may be conditioned on, but not be limited to, scheduling and obtaining release forms used for instruction, and training purposes. Facility User acknowledges that Facility User will not have exclusive use of the facilities, and that the facilities may be used by other users at the same time.

1.02 TERM

The term of this agreement shall commence on _____ and terminate on December 31, _____ unless sooner terminated by either party.

1.03 TERMINATION

This agreement may be terminated by either party, with or without cause, without any liability for termination, by deliverance of written notice to the other party at least ten (10) days prior to termination.

1.04 FEES

Facility User shall pay to Ken-Caryl a facility usage fee for all arena use equal to 5 percent of gross revenue earned by Facility User for teaching lessons and doing training rides each month at Ken-Caryl Equestrian Center. Facility User shall turn in to Equestrian Center management a written

report of the total number of arena hours used and gross revenue earned by Facility User in the previous month along with the fee by the 15th of the month following the usage.

1.05 SCHEDULING AND ARENA USAGE

Facility User must be in good standing (i.e., be current on all amounts owed, and in compliance with the Equestrian Center Rules and this Agreement) in order to reserve usage of the facilities. Facility use is not permitted unless the arena has been scheduled for that purpose. Indoor Arena time for lessons may be reserved up to thirty days in advance of the month in which the lessons are to be scheduled. Facility Users must use the Independent Schedule board in the Indoor Arena to schedule their lessons. When boarders are using the Indoor Arena, Facility Users must use only one-half the arena for the lesson. Facility Users may not teach in the Indoor Arena on weekdays between 4:00 and 6:00 pm unless there are no boarders riding or they can teach without interfering with the boarders.

Scheduling of the facilities is done at the sole discretion of the Equestrian Center Manager. The Equestrian Center Manager will make good faith efforts to accommodate schedule requests, considering the number of facility users, the times and dates requested, conflicting requests, and any other matters deemed important to the Equestrian Center Manager in making such decisions.

2.01 LIABILITY AND INDEMNIFICATION

Facility User agrees that Ken-Caryl Ranch Master Association, Ken-Caryl Ranch Metropolitan District, Ken-Caryl Ranch Corporation, and entities now or hereafter owning an interest in real property located within the Ken-Caryl Ranch, their officers, directors, employees, agents and shareholders shall not be liable for and Facility User agrees to indemnify the same for all damages, obligations, indebtedness or other liability incurred by any one or more of them, their employees, agents and representatives, as a result of or arising out of entry upon or use of any property located within Ken-Caryl Ranch and improvements and all other property thereon or any other act or failure to act in connection with the use of facilities at the Equestrian Center, the performance of this Agreement or conditions created thereby of and by Facility User, his guests, invitees, agents or representatives, in any manner whatsoever, including but not limited to all actions, suits, proceedings, judgment costs, attorney's fees and expenses incident thereto that are not a direct result of willful action or misconduct of Ken-Caryl employees.

2.02 INDEPENDENT CONTRACTOR'S STATUS AND LIABILITY INSURANCE

Facility User is an independent contractor and not an employee of Ken-Caryl for any purpose. Facility User is engaged in an independent business and/or service and is free from control and direction in performance of their business and/or service. Facility User shall use their best skill and care, and be responsible for all of their methods, techniques and procedures. Facility User shall provide and pay for all materials, equipment, tools, transportation, etc., necessary for the Facility User. Facility User shall **not subcontract his/her services at the facilities, nor assign or transfer his/her rights under this Agreement without obtaining the prior written consent of Ken-Caryl,**

which consent may be withheld in Ken-Caryl's sole absolute and unrestricted discretion. Any such subcontract, assignment or transfer without such approval shall be void, and such subcontractor, assignee or transferee shall be prohibited from using the facilities until consent is obtained. Facility User shall comply with all laws and ordinances.

Facility User shall be responsible for obtaining and maintaining throughout the term of this Agreement, liability insurance and workers compensation insurance relating to services provided at the facilities, in such amounts as are determined by Ken-Caryl from time to time. All workers compensation insurance shall comply with Colorado law. Facility User shall provide satisfactory Certificates of Insurance to Ken-Caryl, naming Ken-Caryl as an additional insured, prior to making use of the facilities under this Agreement.

FACILITY USER SHALL NOT BE ENTITLED TO PARTICIPATE IN ANY EMPLOYEE BENEFITS PROVIDED BY KEN-CARYL, INCLUDING BUT NOT LIMITED TO, WORKERS COMPENSATION, INSURANCE, SOCIAL SECURITY CONTRIBUTION AND TAX WITHHOLDING, AND IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEY EARNED THROUGH FACILITY USE.

3.01 RESPONSIBILITIES OF FACILITY USER

Facility User shall be responsible for monitoring the safe use of the arena at all times during his/her use of the arena. Facility User shall take all reasonable efforts to assure the safety of students if an unsafe condition develops during Facility User's use of the facilities. If Facility User determines that assistance of the Equestrian Center Manager is required, Facility User will first secure the safety of any students and contact the Equestrian Center Manager for further instructions.

Facility User shall conduct himself/herself in a professional manner at all times, in accordance with the Equestrian Center Rules, and in a manner that will promote the best interests of the Equestrian Center it's staff, clients, programs and activities. Facility User will direct any concerns regarding the Equestrian Center only to the Equestrian Center Manager, Executive Director or Board of Directors of Ken-Caryl.

Facility User will conduct lessons and horse training or schooling sessions attired in proper safety equipment including, but not limited to, hard soled shoes with heels and hard hats if jumping.

Facility User will obtain from all students, before use of any of the facilities, an executed Contract and Release of Liability, signed by the student, or parent if student is a minor, and upon request of Ken-Caryl, will provide a copy to Ken-Caryl. The Contract and Release of Liability will release Ken-Caryl of and from any liability and the signor will agree not to sue Ken-Caryl to the same extent as Facility User has agreed above, and will indemnify Ken-Caryl to the same extent as set forth in Section 2.01 above.

4.01 KEN-CARYL RULES

Facility User shall be subject to and comply with all existing and future covenants, regulations and rules of Ken-Caryl, its subdivisions and committees, including Ken-Caryl Equestrian Center Facility Rules. Copies of these documents shall be available for inspection at the offices of Ken- Caryl.

The Equestrian Center Manager, or his staff, have the authority to take such other actions as they deem reasonable or necessary to protect the health or safety of persons or property of Ken-Caryl or the Equestrian Center.

5.01 BINDING EFFECT

Subject to the restrictions on transfer set forth in Section 2.02 above, this Agreement shall be binding upon and inure to the benefit of the parties and their heirs, personal representations, successors and assigns.

6.01 WAIVER

No waiver or breach of any one or more conditions or covenants of this agreement by Ken-Caryl shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder, and failure of Ken-Caryl to insist upon strict performance of the terms, covenants, agreements and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of Ken-Caryl's right to thereafter enforce any such term, covenant agreement or condition, but the same shall continue in full force and effect.

7.01 NOTICE

All notices shall be delivered in person or by mail to the above given addresses of the parties and shall be deemed completed upon the actual receipt thereof, or three days after mailing, whichever comes first.

8.01 INTERPRETATION AND VENUE

This agreement shall be interpreted in accord with the laws of the State of Colorado. Venue for any suits brought hereunder shall be Jefferson County, Colorado.

KEN-CARYL RANCH EQUESTRIAN CENTER
ACKNOWLEDGEMENT TO
FACILITY USE AGREEMENT

I ACKNOWLEDGE THAT I HAVE READ THE FACILITY USE AGREEMENT CAREFULLY AND I HAVE ASKED ANY QUESTIONS I MIGHT HAVE PRIOR TO SIGNING THIS AGREEMENT. I ACKNOWLEDGE THAT I FULLY UNDERSTAND THIS AGREEMENT, BELIEVE IT IS FAIR AND REASONABLE, AND AGREE TO ITS TERMS.

FACILITY USER ACKNOWLEDGES RECEIPT, REVIEW AND APPROVAL OF THIS AGREEMENT ON _____, 200__

FACILITY USER

KEN-CARYL RANCH MASTER ASSOCIATION

By: _____

Title

Date: _____