

## **EQUINE AGILITY LICENSE AGREEMENT:**

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between Equine Agility, LLC, a Texas Limited Liability Company corporation with offices at 1791 Bell Springs Rd., Dripping Springs, TX 78620 ("LICENSOR"), and \_\_\_\_\_, a \_\_\_\_\_ corporation with offices at \_\_\_\_\_ ("LICENSEE").

WHEREAS, LICENSOR is the sole and exclusive owner of various trademarks ("EA Trademarks") products, documentation, and processes ("EA Products") more fully identified in Exhibit A attached hereto that it licenses to third parties for the limited purposes of staging a horse agility training event to take place on date(s) expressly permitted by LICENSOR (each referred to as an "Event"); and

WHEREAS, LICENSOR has the power and authority to grant to LICENSEE the right, privilege and license to use the EA Products and EA Trademarks solely for the Event; and

WHEREAS, LICENSEE represents that it has the ability and has obtained, or will obtain prior to the Event, to put on the Event; and

WHEREAS, LICENSEE desires to obtain from LICENSOR a license to use the EA Product and EA Trademarks for the Event; and

WHEREAS, both LICENSEE and LICENSOR are in agreement with respect to the terms and conditions upon which LICENSEE may use the EA Trademarks and EA Products in connection with the Event;

NOW, THEREFORE, in consideration of the promises and agreements set forth herein, the parties, each intending to be legally bound hereby, do promise and agree as follows.

### **1. LICENSE GRANT**

A. LICENSOR hereby grants to LICENSEE, for the Term of this Agreement, the non-exclusive right and license to use the EA Products and EA Trademarks for the limited purpose for putting on the Event. It is understood and agreed that this license shall pertain only to the EA Products and EA Trademarks and does not extend to any other product or service. All rights not expressly granted hereunder are hereby reserved to LICENSOR.

B. Without limiting the foregoing, LICENSOR hereby grants to LICENSEE for the Term of this Agreement a non-exclusive license to use the EA Trademarks in connection with the Event and as well as on packaging, promotional and advertising material associated therewith.

C. LICENSEE may not grant any sublicenses to any third party without the prior express written consent of the LICENSOR which may be withheld for any reason.

D. LICENSEE shall not hold any event or otherwise use the EA Products or EA Trademarks or other EA property of any sort without the express permission of LICENSOR.

E. LICENSEE may not use, sell, or otherwise transfer in whole or in part the EA Trademarks or EA Products except as expressly permitted in connection with the Event herein.

## **2. TERM OF THE AGREEMENT**

This Agreement and the provisions hereof, except as otherwise provided, shall be in full force and effect commencing on the date of execution by both parties and shall extend for a period of \_\_\_\_\_ (the "Term").

## **3. COMPENSATION**

A. In consideration for the licenses granted hereunder, LICENSEE agrees to pay to LICENSOR during the Term of this Agreement, a royalty in the amount of \_\_\_\_\_.

B. All payments due hereunder shall be made in United States currency drawn on a United States bank, unless otherwise specified between the parties.

C. Late payments shall incur interest at the rate of ONE PERCENT (1%) per month from the date such payments were originally due.

## **4. EVENT AGREEMENT**

A. LICENSEE shall use and have every attendee at the Event sign the event agreement attached to this Agreement as Exhibit B ("Event Agreement"). LICENSEE shall not use any other agreement for attendees, nor shall LICENSEE allow any revisions to be made to the Event Agreement, except for changes and revisions necessary to provide details about the Event, such as date, time, location, and attendance fees.

## **5. WARRANTIES AND OBLIGATIONS**

A. LICENSOR represents and warrants that it has the right and power to grant the licenses granted herein and that there are no other agreements with any other party in conflict herewith.

B. LICENSOR further represents and warrants that, to the best of its knowledge, the EA Trademarks do not infringe any valid right of any third party.

C. LICENSEE represents and warrants that it will use its best efforts to promote, market, and sell the Event.

E. LICENSEE shall be solely responsible for the all costs associated with the Event, including, but not limited to, facility costs, insurance costs and marketing costs.

F. LICENSEE agrees that during the term, and for a period of 7 years following its termination or expiration, to protect, maintain as confidential, not disclose to any third party, and use only in connection with the Event and LICENSEE's performance under this Agreement all non-public information (regardless of the form of the information or method of disclosure) provided by LICENSOR to LICENSEE, that is disclosed to LICENSEE by LICENSOR or third parties or that otherwise comes into the possession of LICENSEE regarding EA, or its business methods, purposes, processes, financial information, forecasts, customer lists, prospect lists, future plans, future products, know-how, operational information, tactics, strategies, intellectual property (patents, trade secrets, trademarks, and copyrights) ("EA Confidential Information"). EA Confidential Information shall also include any discussions, summaries, analyses, studies, compilations or other documents or memorializations of, or relating to the EA Confidential Information. LICENSOR shall be entitled to an injunction restraining LICENSEE from disclosing or using the EA Confidential Information or from rendering any service or putting on any events to any entity to which the EA Confidential Information has been, or is threatened to be, disclosed. The right to secure an injunction is not exclusive, and LICENSEE may pursue any other remedies it has against LICENSEE for a breach or threatened breach of this condition, including the recovery of damages from LICENSEE.

## **6. EVENT MARKETING**

A. LICENSEE shall provide, and be responsible for the cost of, all promotional, advertising, and packaging material (the "Promotional Material") to be used in connection with the Event, subject to the guidelines set forth herein, and shall submit such Promotional Material to LICENSOR for approval before distribution.

## **7. NOTICES, QUALITY CONTROL AND SAMPLES**

A. The licenses granted hereunder are conditioned upon LICENSEE's full and complete compliance with the marking provisions of the patent, trademark and copyright laws of the United States.

B. LICENSEE's use of the EA Products used in connection with the Event, as well as all Promotional Materials and other promotional, packaging and advertising material relative thereto, shall include all appropriate legal notices as required by LICENSOR.

C. Any products used by LICENSEE at the Event incorporating EA Products or EA Trademarks shall be of a high quality and in conformity with a standard sample approved by LICENSOR.

D. The LICENSEE agrees to permit LICENSOR or its representative to inspect the facilities where the Event is to be held and to inspect any products incorporating or using EA Products or EA Trademarks.

## **8. NOTICE AND PAYMENT**

A. Any notice required to be given pursuant to this Agreement shall be in writing and delivered personally to the other designated party at the above stated address or mailed by certified or

registered mail, return receipt requested or delivered by a recognized national overnight courier service.

B. Either party may change the address to which notice or payment is to be sent by written notice to the other in accordance with the provisions of this paragraph.

## **9. PATENTS, TRADEMARKS AND COPYRIGHTS**

A. LICENSOR shall seek, obtain and, during the Term of this Agreement, maintain in its own name and at its own expense, appropriate patent, trademark or copyright protection for the EA Products and EA Trademarks.

B. In the event that LICENSEE requests that LICENSOR obtain patent, trademark or copyright protection for a particular item for which LICENSOR had not, heretofore, obtained such protection, LICENSOR agrees to take reasonable steps to obtain such protection, provided, however, that LICENSEE shall be obligated to reimburse LICENSOR for the cost of filing, prosecuting and maintaining same.

C. It is understood and agreed that LICENSOR shall retain all right, title and interest in the original EA Products and EA Trademarks as well as in any modifications or improvements made to the Designs by LICENSEE.

D. The parties agree to execute any documents reasonably requested by the other party to effect any of the above provisions.

E. LICENSEE acknowledges LICENSOR's exclusive rights in the EA Products and EA Trademarks and, further, acknowledges that the EA Products and EA Trademarks are unique and original to LICENSOR and that LICENSOR is the owner thereof. LICENSEE shall not, at any time during or after the Term of the Agreement, dispute or contest, directly or indirectly, LICENSOR's exclusive right and title to the EA Products and/or EA Trademarks or the validity thereof. LICENSOR, however, makes no representation or warranty with respect to the validity of any patent, trademark or copyright which may issue or be granted therefrom.

F. LICENSEE acknowledges that the EA Trademarks have acquired secondary meaning.

G. LICENSEE agrees that its use of the EA Products and EA Trademarks inures to the benefit of LICENSOR and that the LICENSEE shall not acquire any rights in the EA Products or EA Trademarks.

H. All artwork, films, screens, molds, prototypes and production samples shall be the property of LICENSOR. All original artwork as well as all Prototypes and Production Samples shall be turned over to LICENSOR upon termination of this Agreement. All artwork and designs that are developed in connection with this Agreement, including that developed by LICENSEE, shall be the property of LICENSOR. If not created by LICENSOR, such artwork and designs shall be deemed "works for hire" within the meaning of U.S. Copyright Law. If such artwork and

designs do not qualify as works made for hire, LICENSEE shall acquire and assign to LICENSOR all right, title and interest in and to the works.

## **10. TERMINATION**

The following termination rights are in addition to the termination rights provided elsewhere in this Agreement:

A. *Immediate Right of Termination.* LICENSOR shall have the right to immediately terminate this Agreement by giving written notice to LICENSEE in the event that LICENSEE does any of the following:

(1) fails to hold the Event at the date set forth herein without written notice to LICENSOR, approval of LICENSOR and payment of applicable fees; or

(2) fails to pay any sums due under this Agreement; or

(3) fails to obtain or maintain insurance in the amount and of the type provided for herein; or

(4) files a petition in bankruptcy or is adjudicated a bankrupt or insolvent, or makes an assignment for the benefit of creditors, or an arrangement pursuant to any bankruptcy law, or if the LICENSEE discontinues its business or a receiver is appointed for the LICENSEE or for the LICENSEE's business and such receiver is not discharged within thirty (30) days; or

(5) breaches any of the provisions of this Agreement relating to the unauthorized assertion of rights in the EA Products or EA Trademarks; or

(6) fails, after receipt of written notice from LICENSOR, to immediately discontinue the use of EA Products or the use of any packaging or promotional material which does not contain the requisite legal legends; or

B. *Right to Terminate on Notice.* This Agreement may be terminated by either party upon thirty (30) days written notice to the other party in the event of a breach of a material provision of this Agreement by the other party, provided that, during the thirty (30) day period, the breaching party fails to cure such breach.

C. *Licensee Right To Terminate Without Cause.* LICENSEE shall have the right to terminate this Agreement at any time on sixty (60) days written notice to LICENSOR. In such event, all moneys paid to LICENSOR shall be deemed non-refundable and LICENSEE's obligation to pay any additional sums not yet paid, shall be accelerated and any yet unpaid guaranteed moneys shall become immediately due and payable.

## **11. POST TERMINATION RIGHTS**

A. Not less than thirty (30) days prior to the expiration of this Agreement or immediately upon termination thereof, LICENSEE shall provide LICENSOR with a complete schedule of all inventory of EA Products or products on which or in which EA Trademarks are present or used (the "Inventory") and upon the effective date of such termination return said Inventory to Licensee.

B. Upon the expiration or termination of this Agreement, all of the rights of LICENSEE under this Agreement shall forthwith terminate and immediately revert to LICENSOR and LICENSEE shall immediately discontinue all use of the EA Products and EA Trademarks.

C. Upon termination of this Agreement for any reasons whatsoever, LICENSEE agrees to immediately return to LICENSOR all material relating to the EA Products, EA Trademarks, and Promotional Materials including, but not limited to, all artwork, color separations, Prototypes and the like, as well as any market studies or other tests or studies conducted by LICENSEE with respect to the Designs and the Trademarks, at no cost whatsoever to LICENSOR.

## **12. GOOD WILL**

LICENSEE recognizes the value of the good will associated with the EA Product and the EA Trademarks and acknowledges that the EA Product and EA Trademarks and all rights therein including the good will pertaining thereto, belong exclusively to LICENSOR.

## **13. INFRINGEMENTS**

A. LICENSOR shall have the sole and exclusive right, in its discretion, to institute and prosecute lawsuits against third persons for infringement of the rights licensed in this Agreement. All sums recovered in any such lawsuits, whether by judgment, settlement or otherwise, in excess of the amount of reasonable attorneys' fees and other out of pocket expenses of such suit, shall be retained solely by LICENSOR.

B. LICENSEE agrees to fully cooperate with LICENSOR in the prosecution of any such suit against a third party and shall execute all papers, testify on all matters, and otherwise cooperate in every way necessary and desirable for the prosecution of any such lawsuit. The LICENSOR shall reimburse the LICENSEE for any expenses incurred as a result of such cooperation.

## **14. INDEMNITY**

A. LICENSEE agrees to defend and indemnify LICENSOR, its officers, directors, agents, and employees, against all costs, expenses and losses (including reasonable attorneys' fees and costs) incurred through claims of third parties against LICENSEE OR LICENSOR based on LICENSEE's use of the EA Products, the EA Trademarks or the Event including, but not limited to, actions founded on product liability. Without limiting the foregoing, LICENSEE shall defend and indemnify LICENSOR, its officers, directors, agents, and employees, against all costs, expenses and losses (including reasonable attorneys' fees and costs) incurred through claims of third parties against LICENSEE OR LICENSOR in the event LICENSEE holds any event or uses any EA Trademarks or other EA property without the express permission.

B. LICENSOR agrees to defend and indemnify LICENSEE, its officers, directors, agents, and employees, against all costs, expenses and losses (including reasonable attorneys' fees and costs) incurred through claims of third parties against LICENSEE challenging the authenticity of the originally submitted EA Products provided, however, that such indemnity shall only be applicable in the event of a final decision by a court of competent jurisdiction from which no appeal of right exists and shall be limited up to the amount of the actual moneys received by LICENSOR under this Agreement. Further, this indemnity does not cover any modifications or changes made to the EA Products by LICENSEE.

## **15. INSURANCE**

LICENSEE shall, for each Event put on by LICENSEE during the Term of the Agreement, obtain and maintain at its own cost and expense from a qualified insurance company licensed to do business in the state where an Event is to take place, a comprehensive general liability policy naming LICENSOR as an additional named insured. Such policy shall provide protection against any and all claims, demands and causes of action arising out of any Event. LICENSEE agrees that it will not hold any Event without such a policy in place.

## **16. JURISDICTION AND DISPUTES**

A. This Agreement shall be governed in accordance with the laws of the State of Texas without regard to its conflict of law provisions.

B. All disputes under this Agreement shall be resolved by the state and federal courts located in Travis County, Texas, and the parties all consent to the jurisdiction of such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to it.

## **17. AGREEMENT BINDING ON SUCCESSORS**

LICENSEE shall not assign its rights or obligations (in whole or in part) under this Agreement. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, administrators, successors, and assigns.

## **18. WAIVER**

No waiver by either party of any default shall be deemed as a waiver of prior or subsequent default of the same or other provisions of this Agreement.

## **19. SEVERABILITY**

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 the Agreement.

**20. NO JOINT VENTURE**

Nothing contained herein shall constitute this arrangement to be employment, a joint venture or a partnership.

**21. ASSIGNABILITY**

The license, and the rights and obligations, granted hereunder is personal to LICENSEE and shall not be assigned (in whole or part) by any act of LICENSEE or by operation of law except with the written consent of LICENSOR.

**22. INTEGRATION**

This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties with respect to the subject matter set forth herein, including any option agreements which may have been entered into between the parties, and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents which may be in conflict with said Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have each caused to be affixed hereto its or his/her hand and seal the day indicated.

Equine Agility, LLC

[Name of Licensee]

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**EXHIBIT B**