

Trademark License Agreement

This Trademark License Agreement (the "Agreement"), is entered into as of July 29, 2021 (the "Effective Date") between Lexington Convention and Visitors Bureau ("LCVB"), and Lexington-Fayette Urban County Government ("LFUCG"), in connection with the Kentucky service mark "Horse Capital of the World" and the federal trademark "Lexington KY Horse Capital of the World" (collectively "the Marks").

1. License.

(a) LCVB hereby grants to LFUCG and LFUCG hereby accepts for the Term defined on Schedule A attached hereto and incorporated herein by reference, subject to the provisions and conditions hereinafter set forth, a limited, non-transferable, non-exclusive license (the "License") to use the trademark and service marks set forth on Schedule A (collectively, the "Marks") solely in connection with the activities described on Schedule A and incorporated herein by reference (the "Licensed Activities").

(b) The ownership of all property and other rights in the Marks of whatever nature (including, without limitation, intellectual property rights) shall at all times remain with, and be owned by, LCVB. LFUCG recognizes the great value of the publicity and goodwill associated with the Marks and acknowledges that such goodwill associated with the Marks belongs exclusively to LCVB and that the Marks have acquired a secondary meaning in the mind of the public. LFUCG shall not at any time attack the title to or any rights of LCVB in and to the Marks or attack the validity of this Agreement. LFUCG will not at any time do or cause to be done any act or thing which in any way impairs or threatens to impair LCVB's right, title or interest in or to the Marks. The parties agree that apart from the rights expressly granted hereunder, nothing in this Agreement or any course of dealing between the parties will be deemed to grant to LFUCG any license or ownership interest whatsoever (be it express, implied, by estoppel or otherwise) in or to the Marks or other LCVB property of whatever nature. In connection with the use of the Marks, LFUCG will not in any manner represent that it has any ownership interest in the Marks or any registration thereof. All uses of the Marks by LFUCG will inure to the benefit of LCVB. Notwithstanding the above, LCVB recognizes that LFUCG is undertaking a significant effort at a substantial cost to utilize the Marks in a manner which will be of general benefit to LCVB. Therefore, LCVB agrees to not use or allow to be used the Marks in a manner that would reduce the value or benefit of the Marks to the LCVB or LFUCG as a "brand" symbolizing Lexington, Kentucky. As an example, LCVB will not allow the Mark to be used by any other governmental agency or nonprofit organization not affiliated with LFUCG except as LCVB may deem necessary or advisable to further the mission of LCVB. LCVB further agrees not to enter into any agreement that would result in such use of the Marks, and agrees to undertake reasonable efforts to prohibit any third party from using the Marks in this manner.

(c) LCVB agrees that in the event LCVB ceases use of the Marks while this Agreement remains in effect, the Marks and all goodwill associated therewith will be assigned to LFUCG, at no charge to LFUCG. LCVB shall notify LFUCG in writing of its decision to cease use of the Marks and within 30 days thereafter, execute an assignment of the Marks in substantially the form attached hereto as Schedule B.

(d) Notwithstanding Section 1(c) of this Agreement, LCVB also agrees to provide notice to LFUCG no later than one (1) year prior to the expiration of a Mark, indicating whether it intends to renew the expiring Mark. LCVB agrees that in the event LCVB decides not to seek renewal of a Mark while this Agreement remains in effect, LCVB shall assign the expiring Mark and all goodwill associated therewith to LFUCG, at no charge to LFUCG, within thirty (30) days of the notice provided in this subsection.

(e) LCVB agrees to provide LFUCG with the right of first refusal to acquire all rights, title, and interest in the Marks and associated goodwill, through assignment at no cost to LFUCG, before assigning, selling, transferring, or setting over, LCVB's entire right, title, and interest in the Marks and associated goodwill to a third party. If LFUCG agrees to acquire the Marks and associated goodwill, LCVB shall execute an assignment of the Marks in substantially the form attached hereto as Schedule B.

(f) LFUCG shall have a limited right to sublicense the Marks to other governmental agencies and groups affiliated with LFUCG (collectively, "Permitted Sublicensees"), for the sole purpose of allowing Permitted Sublicensees to provide and participate in the Licensed Activities. LFUCG shall execute and shall cause each Permitted Sublicensee to execute a Sublicense Agreement in the form attached hereto as Schedule C before any Permitted Sublicensee begins to use the Marks, and LFUCG shall provide a copy of each Sublicense Agreement to LCVB within 30 days of its execution. LFUCG shall cause each Permitted Sublicensee to comply with LFUCG's obligations under this Agreement with respect to use of the Marks, and LFUCG shall be responsible for all breaches by any Permitted Sublicensee.

6. Protection of Rights.

(a) LFUCG agrees to assist in the protection of the rights of the LCVB in and to the Marks and that any copyright or trademark procured with respect to each Licensed Activity shall be procured and used for LCVB's benefit.

(b) For each use of any Mark by LFUCG or by any group, entity, sponsorship or third party engaged by or affiliated with LFUCG, LFUCG agrees to provide trademark and/or copyright notice in a format specified by LCVB. Such notices shall state that the Mark is owned by LCVB and used under license, and that the Mark may not be used otherwise without the advance written consent of LCVB.

(c) LFUCG shall promptly notify LCVB in writing of any known, suspected or threatened infringements, counterfeiting, claims, or actions by others in derogation of the Marks (hereinafter "Infringements"), provided, however, that LCVB shall have the sole right to determine whether it shall take any action on account of such Infringements after considering the information provided by LFUCG.

(d) Notwithstanding any other provisions hereof, LCVB, without LFUCG's consent, may take any action it deems necessary and advisable to defend any suit in the name of LCVB, and LFUCG agrees to fully cooperate with LCVB. In the event LCVB initiates any legal proceedings on account of any Infringements, LFUCG agrees to cooperate with and assist LCVB to the extent reasonably necessary to protect the Marks, including, but not limited to, being joined as a necessary or desirable party to such proceedings and assisting in the compiling of evidence and other materials necessary to support an infringement action. Any damages or other recoveries from such proceedings shall be retained solely by LCVB.

(e) Upon the written request of LCVB without compensation to LFUCG, LFUCG shall promptly perform any and all such reasonable acts and execute, acknowledge and deliver any and all papers as may be necessary or desirable, to obtain, maintain, protect and/or vest in LCVB the entire right, title and interest in and to the Marks, including but not limited to rendering such assistance as LCVB may request in any arbitration, litigation, proceeding before the Patent and Trademark Office or similar government tribunal, or any other proceeding.

(f) LFUCG shall not use the Marks for any purpose other than as described in this Agreement.

(g) Upon termination of this Agreement in any manner provided herein, LFUCG will cease and desist from all additional use of the Marks. LCVB acknowledges that LFUCG enjoys a unique relationship to LCVB and understands that LFUCG intends to make widespread use of the Marks in a manner that will be beneficial to LCVB. Therefore, in the event of termination LFUCG will be allowed to continue use of the Marks on any existing property or materials but will in no way be authorized to replenish its supply of such materials or otherwise expand or add to its use of the Marks and will make reasonable efforts to replace and remove its existing use of the Marks over time. Furthermore, LFUCG will at no time during the Term or thereafter adopt or use, without LCVB's prior written consent, any word or mark which is likely to be confusing with any Mark.

7. Compliance with Law. It shall be the complete responsibility of LFUCG to insure that the Licensed Activities and any Packaging and marking comply with all applicable laws, rules and regulations.

8. Relationship Between Parties. The relationship between LCVB and LFUCG is that of independent contractors. This Agreement does not establish a joint venture, agency or partnership between the parties, nor does it create an employer-employee or franchisor-franchisee relationship. Subject to the terms and conditions of this Agreement, each party shall choose the means to be employed and the manner of carrying out its obligations. Each party shall have the sole responsibility for the supervision and payment of its personnel and, except as agreed to in writing, all other costs and expenses required to perform its obligations. Notwithstanding anything in this Agreement to the contrary, neither party shall have the authority or the ability to bind the other (whether contractually or otherwise).

9. Termination of Agreement. This Agreement may be terminated upon the occurrence of the earlier to occur of the following:

(a) the mutual agreement of LCVB and LFUCG;

(b) by either party hereto if any covenant or agreement set forth in this Agreement on the party of the other party shall not be kept or performed and such failure or breach shall not be remedied within thirty (30) days after the breaching party shall have received written notice thereof from the other party;

Title: _____

Exhibit A to Sublicense Agreement

Licensed Marks: "Lexington KY Horse Capital of the World" and/or "Horse Capital of the World"

Term:

Licensed Activities:

[Insert all other terms and conditions]

Signature: _____

Title: _____

Date: _____

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