

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

<b>CHURCHILL DOWNS INCORPORATED</b>	)	
	)	
<b>PLAINTIFF</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>JOCKEYS' GUILD, INC.</b>	)	<b>CIVIL ACTION NO. _____</b>
<i>serve:</i>	)	
Jockeys' Guild, Inc., c/o	)	
CT Corp. System	)	
Kentucky Home Life Bldg.	)	
Room 1102	)	
Louisville, KY 40202	)	
	)	
<b>DEFENDANT</b>	)	
	)	

**VERIFIED COMPLAINT**

Plaintiff, Churchill Downs Incorporated ("Churchill"), states as follows for its Complaint against Defendant, the Jockeys' Guild, Inc. (the "Guild").

**PARTIES**

1. Plaintiff Churchill is a corporation organized and existing under the laws of Kentucky with its principal place of business in Louisville, Kentucky. Churchill operates seven racetracks, including "Churchill Downs" at 700 Central Avenue, Louisville, Kentucky, where its corporate headquarters are located. The current race days for Churchill's tracks occur during the following periods:

<b>Arlington Park</b> (Arlington Heights, IL)	May 13 – September 18, 2005 (Total 94 days)
<b>Calder Race Course</b> (Ft. Lauderdale, FL)	Calder Meet: April 25 – October 16, 2005 (122 days) Tropical Meet: October 17, 2005 – January 2, 2006 (59 days) (Total 181 days)
<b>Churchill Downs</b> (Louisville, KY)	Spring Meet: April 30 – July 10, 2005 (52 days) Fall Meet: October 30 – November 26, 2005 (21 days) (Total 73 days)
<b>Ellis Park</b> (Henderson, KY)	July 13 – September 5, 2005 (Total 41 days)
<b>Fair Grounds Race Course</b> (New Orleans, LA)	January 1 – March 27, 2005 (61 days) November 24 – December 31, 2005 (22 days) (Total 83 days)
<b>Hollywood Park</b> (Inglewood, CA)	Spring Meet: April 22 – July 17, 2005 (64 days) Fall Meet: November 9 – December 19, 2005 (31 days) (Total 95 days)
<b>Hoosier Park</b> (Anderson, IN)	Standardbred: April 2 – June 25, 2005 (61 days) Thoroughbred: September 3 – November 25, 2005 (60 days) (Total 121 days)

2. Because racing days are established and controlled by state regulators, a racetrack cannot make up losses by, for example, establishing another comparable race day after races are cancelled.

3. The Defendant Guild is a trade association for jockeys, existing as a corporation under the laws of Nevada with its principal place of business in Monrovia, California. According to its current member enrollment information, to be a member of the Guild, a jockey must hold a valid license, be in good standing in all racing jurisdictions, and have ridden one mount in the previous twelve months for thoroughbred and/or quarterhorse racing. While the Guild states publicly that it has 1,246 members, not all professional jockeys are members of

the Guild. For example, Pat Day and Jerry Bailey resigned from the Guild and are no longer members.

4. Jockeys are independent contractors. Churchill does not control a jockey's work in any manner. Churchill does not hire or fire jockeys. Churchill has no input in whether a jockey rides a particular horse and cannot require a jockey to ride any horse. Jockeys are free to move from racetrack to racetrack, depending upon where they choose to race. Whether a jockey rides a particular horse in a particular race depends solely on whether an owner and/or trainer selects him or her **and**, if selected, whether the jockey wants to ride that particular horse in that particular race.

5. A jockey is free to choose the racetrack at which to seek mounts, and, if asked, free to accept or decline an offered mount to ride a particular horse in a particular race. Owners, not racetracks, pay the mount and other fees of jockeys, pursuant to Kentucky Administrative Regulations 811 KAR 2:050, Section 7. Jockeys are free to negotiate with the owners for their compensation. Jockeys are not employees of Churchill or any other racetrack, nor are they employees of owners or trainers.

### **JURISDICTION**

6. This Court has jurisdiction over this action under 28 U.S.C. §1331 because it is an action to redress violations of federal law, including violations of §1 of the Sherman Act, 15 U.S.C. §1.

7. This Court also has jurisdiction pursuant to 15 U.S.C. §26, which grants jurisdiction over actions for injunctive relief against violations of 15 U.S.C. §1.

8. This Court also entertains jurisdiction under 28 U.S.C. §1332 because this action lies between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs.

9. Venue properly lies in this Court under 28 U.S.C. §1391 because a substantial part of the events giving rise to the claims herein occurred in this District and a substantial part of the property that is the subject of this action is situated in this District, where Churchill's corporate headquarters are located. In addition, for purposes of venue under 28 U.S.C. §1391, the Guild resides in this District because it is subject to personal jurisdiction. The Guild, through its officers and members, regularly conducts business in this District. Venue is also proper in this district pursuant to the terms of 15 U.S.C. § 22.

#### **FACTUAL ALLEGATIONS**

10. As independent contractors, jockeys are engaged by horse owners to participate in races at various tracks throughout the United States, including the racetracks owned and operated by Churchill. Except to the extent that competition has been restrained as alleged herein, the members of the Guild have been and are now in competition among themselves and with other professional jockeys for opportunities to ride horses at racing events.

11. The Guild's activities at issue in this Complaint occur in interstate commerce and affect interstate commerce.

12. The Guild and certain of its directors, officers, members, and agents, have entered into an agreement among themselves and with other professional jockeys to restrain trade by refusing to compete for or accept mounts for horses entered in races to be run at Churchill's racetracks, and by threatening to boycott, unless and until Churchill agrees to provide additional accident insurance for on-track injuries to all jockeys participating in races at tracks owned and operated by Churchill. This restraint of trade is itself unlawful and also part of a larger concerted action by the Guild, through its officers and members, to coerce Churchill into entering into a so-called "Labor-Management Agreement" that the Guild has proposed between it and racetracks, including those owned by Churchill. The "Labor Management Agreement" is attached as Exhibit A to this Verified Complaint.

### **The Guild Fails to Provide Insurance to Its Members**

13. Like all independent businesspersons, jockeys are responsible for obtaining their own insurance protection. While not required by law to do so, the racetracks have voluntarily provided on-track accident insurance up to \$100,000 to each jockey for each injury. Without including the racetracks owned by Magna Entertainment Corp., which provides the same coverage through a separate carrier, Churchill and the other racetracks spent \$5,180,157 on premiums for on-track insurance in 2004.

14. In addition to what the racetracks provide, the Guild has historically maintained health and other insurance for jockeys, including accident insurance for on-track injuries. Unbeknown to most of its members, the Guild allowed this on-track medical coverage to lapse in April 2002. The Guild therefore no longer provides accidental and catastrophic coverage to its members, though it continues to accept their annual dues. Churchill sees no justification for the coverage lapse because racetracks pay a starter and per race fee directly to the Guild, which totals an estimated cumulative amount of \$2.2 million annually. Churchill and the other racetracks have paid these fees the past three years since the Guild declined to renew its on-track accident coverage for members. No strings are attached on how the Guild will use this money. Presumably, the Guild concluded that on-track accident insurance for its members is not a sufficiently high priority for use of the \$2.2 million.

15. The total amount expended by racetracks on insurance and fees to the Guild has exceeded \$7.5 million annually. Upon information and belief, some prominent members have resigned Guild membership out of concern and disagreement with Guild management. Other Guild members reportedly have demanded an audit of Guild books and records to account for earnings and expenditures, which the Guild has refused to allow. Recently, by divided vote of the Board, the Guild ousted a director, who is a jockey and former treasurer of the Guild, after he went public with concerns about the unaccounted removal of \$1 million from the Disabled Jockeys' Fund.

16. Although the Guild receives fees from the racetracks, it demands that racetracks, like Churchill, shoulder the cost of additional on-track accident insurance coverage, even though jockeys are independent contractors over whom racetracks have no control. Churchill rejected the Guild's demands, but out of regard for the jockeys, it began to identify insurers that would be willing to provide insurance coverage for track injuries at affordable rates, so that jockeys could increase their coverage if they so desired and were willing to pay for it. As a result, Anthem Insurance has offered to provide health benefits at rates between \$75 and \$220 monthly, with up to five million in coverage, depending on the age of the insured. The Guild insists, however, that Churchill should bear all the cost of additional on-track accident coverage on top of the \$5,180,157 annually that the racetracks are already spending.

**The Guild Demands Insurance Benefits  
for Its Members and Amenities for Itself**

17. In October 2004, Churchill received the proposed "Labor-Management Agreement" between the Guild and each racetrack, which demands certain terms and conditions, a number of which directly benefit the Guild. See Exhibit A, hereto. One perk, for example, is the provision that "[t]he Guild would be entitled to 20 premium and 10 reserved seats for each major racing event," plus "10 VIP (everywhere) Unlimited Access Credentials," which means the Guild would enjoy 30 seats at the Oaks and the Derby plus 10 VIP passes.

18. For its jockey members, the Guild's "Labor-Management Agreement" proposes that Churchill and the other racetracks provide either

worker's compensation or "JIMI" insurance. "JIMI" is an acronym defined in the "Labor-Management Agreement" as "comprehensive insurance that provides JOCKEY disability INCOME and on-track MEDICAL INSURANCE in lieu of Workers' Comp" ["Labor-Management Agreement," p. 12, App. A, hereto].

- A. Section C of the "Labor-Management Agreement" states: "If a JIMI plan is adopted, the medical care shall be not less than the Workers' Comp benefits that are generally provided to the employees of other industries in the respective state where the track resides. In no case may the maximum benefit be less than \$1,000,000 per jockey per occurrence."
  - B. Section D mandates "disability income" from a JIMI plan be "two-thirds of the jockey's average weekly income for the previous 16 weeks, with a maximum payment of \$700 per week."
  - C. Section E requires a racetrack to "provide a life insurance benefit for all Guild members that perform as jockeys at the track. In the case of death resulting from an injury at the track, the death benefit may not be less than \$1,000,000."
- Id.*

19. The Guild's "Labor-Management Agreement" also contemplates other mandatory advantages for jockeys:

- A. Racetracks will provide civics classes to jockeys;
- B. Jockeys would have the right, entirely within their own discretion, not to ride at particular tracks because of undefined “track conditions”;
- C. Jockeys would receive an unprecedented, fixed riding fee of 1% of the arithmetic mean average purse paid during the previous year’s meeting, in no case less than \$50 for each race, plus a “performance award” or 10% of the owner’s share of the gross purse, and a “exercise fee” of \$20 per mount; and
- D. Jockeys would no longer have to tip their own valets.

20. Accordingly, as the Guild’s “Labor-Management Agreement” demonstrates, the Guild proposes an agreement among professional jockeys to raise, fix or maintain the consideration received by professional jockeys for their riding of horses in thoroughbred races.

### **The Boycott**

21. Churchill reviewed the “Labor-Management Agreement” and declined to negotiate the agreement with the Guild. Thereafter, on November 6, 2004, trainers began advising Churchill that agents representing jockeys were not taking calls for mounts and that agents were also calling trainers to cancel

commitments to ride horses that were to be entered the next morning, Sunday, November 7, for the next racing day, Wednesday, November 10, 2004.

22. Early Sunday morning, on November 7, 2004, in the jockeys' room at Churchill Downs, Guild Senator Mark Guidry strongly urged the jockeys not to ride unless Churchill agreed to provide additional on-track accident insurance, which the Guild no longer provided.

23. The same message was delivered to the jockeys by Wayne Gertmenian, the Guild's president. With Gertmenian's knowledge and consent, the Guild's attorneys helped prepare jockey Shane Sellers to lead a boycott at Churchill Downs. In Gertmenian's own words, "[h]ours and hours were spent with lawyers getting Shane prepared." Gertmenian has admitted coaching other jockeys to participate in the boycott; he has advised all jockey to follow his lead: "If you're going to get involved, then don't come into it half cocked. Make sure you spend the time, like Brian did, like Robby Albarado did, like Jeff Johnston did, like Mike Guidry did. The spent the time with me and with the lawyers and with Albert [Fiss, Guild Vice President] so that everybody understands. Maybe you don't understand why we're telling you to do something, but you understand exactly what we're telling you to do, and then, you go do it." Gertmenian has told jockeys that they are engaged in a "war" with racetracks that will spread beyond Churchill Downs and reach virtually every state: "We're going to have 38 states enrolled in this war starting next year [2005]."

24. At the end of the November 7<sup>th</sup> race day, Churchill Down's President met with three separate groups of jockeys to ask them to commit to ride on Wednesday, November 10, the next racing day. By that time, horse entries for November 10 had already been drawn. In response to the Guild's insistence on a boycott, more than half of the jockeys present refused to ride on Wednesday. Churchill Downs was able to go forward with the scheduled races on Wednesday only because owners and/or trainers had the intervening two days to line up substitute jockeys.

25. The Guild employed different tactics on November 12, 2004, at Churchill's Indiana track, Hoosier Park. At 6:00 p.m., ten minutes before the first post time, Hoosier Park President Rick Moore was called to the jockeys' room. He observed Guild Vice President Albert Fiss, from the Guild's California headquarters, and regional Guild representative Darrell Haire in the jockeys' room inciting the jockeys to refuse to ride and to boycott the races that evening. Guild Senators Rodney Prescott and Sidney LeJeune also were present to convince the jockeys not to ride. Thus prompted by the Guild, all but four of the jockeys scheduled to ride decided, instead, to boycott. At that time, racing fans and patrons were already in the stands, anticipating that the first race would begin at 6:10 p.m.

26. The initial, trumped up reason for the boycott was the safety of the inner rail at the Hoosier Park track. This purported basis for the jockeys' refusal could be nothing but a pretext. Both the Indiana Racing Commission and the Guild itself approved the inner rail when it was installed. The inner rail had been

in place for approximately ten years. It is the same type of rail approved by the Indiana Horse Racing Commission for use at Indiana Downs, a recently constructed racetrack. Churchill is unaware of any jockey expressing concern about the safety rail during all the years that it has been in place. The jockeys had ridden on the 52 race days preceding November 12 without any complaint about the inner rail. Churchill can recall no injury to any jockey caused by the inner rail at Hoosier Park.

27. The inner rail at Hoosier Park is safe and sufficient, and the jockeys had no basis to contend otherwise. Based on statements made before, during, and after the boycott at Hoosier Park, the true motive for the boycott was the Guild's strategy to coerce Churchill to provide additional on-track coverage by restraining trade. The presence of Guild Vice-President Fiss at Hoosier Park with the three other Guild representatives was unprecedented and clearly signaled the Guild's lead role in promoting a boycott.

28. As a result of the Guild's activities, Hoosier Park was forced to cancel all the races on November 12th and to go dark, the precise consequence that the Guild intended by demanding a full boycott immediately before the first post time. This deliberate, strategic timing did not provide Hoosier Park sufficient notice for owners and/or trainers to find alternate jockeys to ride.

29. Because the boycott caused the complete cancellation of the race card on November 12, 2004, Hoosier Park incurred substantial losses. For example, it had to refund all admission charges and payments for other items like

programs and racing forms. To try and mitigate the damaging impact of the cancellation on its patrons' good will, Hoosier Park gave a 50% discount on the dining room bill for all patrons in attendance. Hoosier Park also lost the portion of the handle that it would have earned both at the track and on wagers from interstate simulcast broadcasting.

30. Because the boycott was disruptive and damaging to Hoosier Park, and because they had no right to be on the premises, Churchill required Mr. Fiss and the boycotting jockeys to leave. Based on statements made before, during and after the boycott, the plain motivation for the boycott was to try and coerce additional on-track coverage and other advantages from Churchill; it had nothing to do with the inner rail. The Guild has made clear its intent to continue to target Churchill's racetracks for future boycotts, with the ultimate goal of attempting to extort the "Labor-Management Agreement."

31. In addition to the foregoing activities, one or more Guild members have threatened jockeys who continue to ride and have refused to boycott. Churchill Downs also has observed Guild Senator Guidry, Board member Robby Albarado and other Guild members picketing near its premises encouraging patrons to boycott the racetrack.

32. By engaging in the acts and practices described above, the Guild has acted in combination and conspiracy with at least some of its members, or in combination or conspiracy with some of them or others, to raise, fix or maintain

the consideration received by professional jockeys who voluntarily decide to accept offers to ride horses in races at Churchill's tracks.

### **The Injury**

33. The actions of the Guild and its members have caused Churchill monetary loss and injury from the cancellation of races, lost wagering opportunities, and the disruption of its business.

34. In addition to monetary damages, the actions of the Guild have caused Churchill irreparable harm, which is less capable of monetary measurement, and will continue to do so in the following manner if not restrained:

- A. The loyalty and confidence of patrons is disrupted and adversely affected when they make plans and attend racing at the track, only to find that races have been abruptly cancelled, as a result of the Guild boycott.
- B. Churchill may lose patrons who decrease or stop their trips to the racetrack because they cannot rely on whether racing will, in fact, occur or because they confront Guild members' picketing near the track to incite a boycott.
- C. In addition to the loss of good will and income from wagering at the racetrack, the Guild's actions have caused similar damage to Churchill's good will and wagering income among

patrons who attend simulcast facilities where Churchill's races are seen throughout the United States.

- D. Churchill cannot make up for the loss of a race day or a decrease in the number of races on a race card because state regulators establish race days and control the number of race days.
- E. The Guild is inciting popular or prominent jockeys to boycott – jockeys the public wants to observe at a race – which could adversely affect attendance at Churchill's racetracks, even if races do not have to be entirely cancelled.
- F. Even when fewer than all jockeys boycott, it reduces the number of jockeys available at the track to ride, in which event, Churchill may be forced to reduce the number of races on the card. For example, at Hoosier Park the number of races was been reduced from fourteen races per day to eleven. Fewer races means less wagering and reduced attendance.
- G. If horse owners want to retain the services of particular jockeys who are boycotting Churchill's racetracks, those owners may move their business to another track where the boycott is not occurring and the desired jockey is available.

- H. Competition for mounts on horses running in thoroughbred races among the members of the Guild, and between the members of the Guild and other professional jockeys, has been and will continue to be unreasonably restrained.
- I. The administration of thoroughbred racing conducted by Churchill has been disrupted, resulting in increased costs. For example, Hoosier Park has been forced to increase the number of its security personnel.
- J. The Guild's actions are causing irreparable harm to Churchill's operations and to its relationship with patrons, owners and trainers.

35. If the relief sought herein is not granted, the unlawful practices of the Guild and its membership will continue toward the goal of unlawfully increasing the consideration received by professional jockeys for the riding of horses in thoroughbred races at the expense of Churchill and other participants in the thoroughbred racing industry.

**COUNT ONE**  
**SHERMAN ACT – BOYCOTT**

36. The preceding paragraphs of this Complaint are incorporated by reference.

37. The foregoing acts and practices of the Guild and its membership constituted a contract, combination, or conspiracy to conduct a horizontal boycott in per se violation of §1 of the Sherman Act, 15 U.S.C. §1.

38. In any event, the acts and practices described above of the Guild and its membership have unreasonably restrained trade in the market for professional jockey services and such restraint constitutes a violation of §1 of the Sherman Act, 15 U.S.C. §1, under a Rule of Reason analysis.

39. Churchill has suffered, suffers, and is threatened with continuing to suffer, immediate and irreparable injury unless the Court issues preliminary and permanent injunctive relief prohibiting the Guild, its officers, directors, agents, employees, members, and all persons acting in concert with them, from continuing to violate 15 U.S.C. §1. The violations are continuing and will continue in the absence of the relief requested.

40. The injunctive relief requested is fully authorized under the terms and provisions of 15 U.S.C. §26.

**COUNT TWO**  
**SHERMAN ACT – PRICE FIXING**

41. The preceding paragraphs of this Complaint are incorporated by reference.

42. The foregoing acts and practices of the Guild and its membership constitute a contract, combination, or conspiracy to raise, fix or maintain the

consideration received by professional jockeys for riding horses in thoroughbred races in per se violation of §1 of the Sherman Act, 15 U.S.C. §1.

43. In any event, the acts and practices described above of the Guild and its membership have unreasonably restrained trade in the market for professional jockey services and such restraint constitutes a violation of §1 of the Sherman Act, 15 U.S.C. §1, under a Rule of Reason analysis.

44. Churchill has suffered, suffers, and is threatened with continuing to suffer, immediate and irreparable injury unless the Court issues preliminary and permanent injunctive relief prohibiting the Guild, its officers, agents, employees, members, and all persons acting in concert with them, from continuing to violate 15 U.S.C. §1. The violations are continuing and will continue in the absence of the relief requested.

45. The injunctive relief requested is fully authorized under the terms and provisions of 15 U.S.C. §26.

**COUNT THREE**  
**KRS 367.175(1)- BOYCOTT- PRICE FIXING**

46. The preceding paragraphs of this Complaint are incorporated by reference.

47. The acts and practices of the Guild and its members alleged in Counts One and Two are in per se violation of KRS 367.175 (1).

48. In any event, the acts and practices of the Guild and its members alleged in Counts One and Two are violations of KRS 367.175(1) under a Rule of Reason analysis.

49. Churchill has suffered, suffers, and is threatened with continuing to suffer, immediate and irreparable injury unless the Court issues preliminary and permanent injunctive relief prohibiting the Guild, its officers, agents, employees, members, and all persons acting in concert with them, from continuing to violate KRS 367.175(1). The violations are continuing and will continue in the absence of the relief requested.

50. The injunctive relief requested is fully authorized under Kentucky law.

**COUNT FOUR**  
**TORTIOUS INTERFERENCE**

51. The preceding paragraphs of this Complaint are incorporated by reference.

52. The acts and practices of the Guild and its members described above have tortiously interfered with the business expectancies of Churchill.

53. The acts and practices of the Guild and its members described above constitute unlawful means and there is no privilege available to the Guild and its members for utilizing such unlawful means.

54. Churchill has suffered, suffers, and is threatened with continuing to suffer immediate and irreparable injury unless the Court issues preliminary and permanent injunctive relief prohibiting the Guild, its officers, directors, agents, employees, members, and all persons acting in concert with them, from continuing to violate 15 U.S.C. §1 and KRS 367.175(1). The violations are continuing and will continue in the absence of the relief requested.

55. The injunctive relief requested is fully authorized under federal law.

56. In addition to injunctive relief, the Court should award punitive damages against the Guild in an amount to be determined at trial.

#### **DEMAND FOR RELIEF**

WHEREFORE, Plaintiff, Churchill Downs Incorporated, demands

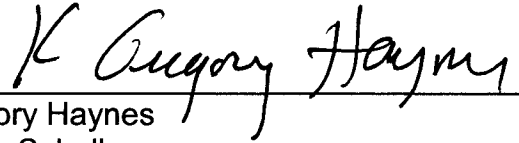
A. Preliminary and permanent injunctions restraining and prohibiting the Jockeys' Guild, Inc., its officers, directors, agents, employees, members, and all other persons acting in concert or participation with them from, directly or indirectly through any device, entering into, continuing, cooperating in, or carrying out any agreement, understanding, plan, or common course of action, either explicit or implied to:

- (i) Refuse to provide jockey services at thoroughbred races;

- (ii) Interfere with the operation of Churchill Downs Incorporated and its subsidiaries in connection with any effort to fix, increase, stabilize, or otherwise affect the level of consideration for jockey services in thoroughbred races, including but not limited to, the level of insurance coverage for jockeys;
- (iii) Coerce any person not to provide or discourage any person from providing jockeys' services in connection with any effort to fix, increase, stabilize or otherwise affect the level of consideration for jockey services in thoroughbred races, including but not limited to the level of insurance coverage for jockeys;
- (iv) Continue to seek Churchill Downs Incorporated's and its subsidiaries' execution of the Labor-Management Agreement attached as Exhibit A.
- (v) Encourage, suggest, advise, or induce the Jockeys' Guild, Inc., any member of the Guild or any other person to engage in any action prohibited by such an injunction;

B. For an award of its reasonable attorneys' fees pursuant to the provisions of 15 U.S.C. §26; and

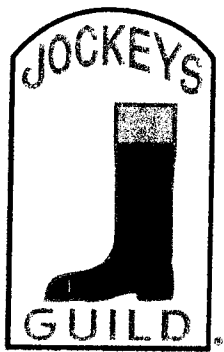
- C. For an award of punitive damages in an amount to be determined at trial; and
- D. For such other and further relief to which Churchill Downs Incorporated may appear to be entitled.



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**LABOR-MANAGEMENT  
AGREEMENT**

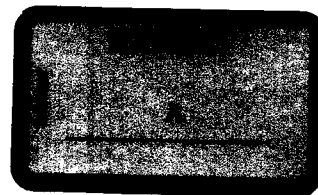
**between**

**THE JOCKEYS' GUILD**

**and**

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**(Racetrack Name)**



This **AGREEMENT** is made and entered into  
this \_\_\_\_ day of \_\_\_\_\_, 2004, by and between  
the Jockey's Guild, Inc. (hereinafter referred to as the "**Guild**") and  
\_\_\_\_\_ (hereinafter referred to as the "**Track**").

## **ARTICLES**

- I General Provisions**
- II Guild Security**
- III Guild Agents**
- IV Jockeys' Quarters**
- V Bulletin Board**
- VI Educational Services**
- VII Scale of Weights**
- VIII Safety Compliance**
- IX Medical Services**
- X Safety Equipment**
- XI Track Surface**
- XII Wages, Purses, and Fees**
- XIII Gratuities**
- XIV Injury Insurance**
- XV Media Rights**
- XVI Retirement Benefits**
- XVII Strikes and Lockouts**
- XVIII Professional Courtesy**
- XIX Marketing Cooperation**
- XX Discipline and Resolution**
- XXI Arbitration**
- XXII Successors and Assigns**
- XXIII Duration of Agreement**

## ARTICLE I

## GENERAL PROVISIONS

**Section A SPIRIT OF COOPERATION.** In the spirit of cooperative relations, and in recognition that improving the competitive position of horse racing within the entertainment industry will be mutually beneficial, the Guild and the Track do hereby acknowledge and pledge a bond of common interest based on fundamental principles of achieving a more efficient operation.

**Section B PARTICIPANT JOCKEYS.** This Agreement shall apply to all professional jockeys participating in horse racing at the Track to include thoroughbred, quarter, pinto, mule, Appaloosa, and Arabian horse races.

**Section C GUILD-TRA CONTRACT.** In the event a contract is in force between the Guild and the TRA, all provisions of said contract shall apply to this Guild-Track Agreement unless explicitly exempted by either document.

**Section D LAWS and REGULATIONS.** It is the intent of the parties hereto to abide by all applicable federal and state laws, statutes, and regulations covering the subject matter of this Agreement. Should any provision of this Agreement be determined to be contrary to any such federal or state law, statute, or regulation, all other provisions of this Agreement shall remain in full force and effect, and substitutions for the invalidated provision shall be immediately negotiated.

**Section E INTERIM PROPOSALS.** The parties recognize that, from time to time, issues will arise locally or at other venues that may require an amendment to this agreement. Therefore, during the term of this agreement, either party may propose such changes if they concern *safety, animal rights, or due process* as it affects the jockey.

## ARTICLE II

## GUILD SECURITY

**Section A RECOGNITION.** The Track recognizes the Guild as the exclusive labor representative of all jockeys employed at its facility, as defined in Article I above, for the purpose of collective bargaining with respect to rates of pay, hours, and other conditions of employment.

**Section B AUTHORIZATION.** All jockeys are covered by the provisions of this agreement that address wages, purses, and fees. If not a Guild member, a jockey is required to pay *fair-share representation fees* as determined by the Guild, not to exceed the dues and fees of a Guild active member.

**Section C CHECK-OFF.** The Guild agrees to provide the Track with a current list of its members, and, in addition, a statement identifying those jockeys who owe money to the Guild. The Track agrees to *check-off*; i.e., it will pay directly to the Guild all current or delinquent dues, fees, or insurance premiums from their earnings. If the Track fails to forward these monies within **14 days** after being earned, an interest charge of **8%** per annum, payable to the Guild, shall begin to accrue immediately. The provisions of this Section shall be effective in accordance and consistent with applicable provisions of federal and state laws.

**Section D OVERPAYMENTS.** Any overpayments to the Guild resulting from excessive deductions shall be remedied either by refund from the Guild to the affected jockey or by a credit against future payments by the affected jockey.

**Section E TRACK INFORMATION.** The Track shall furnish any information needed by the Guild to fulfill the provisions of this Article, and shall direct *Equibase* to provide free to the Guild, all entry information and race results. Said information shall be transmitted by an Internet website account.

## ARTICLE III

## GUILD AGENTS

**Section A IDENTIFICATION.** A Guild agent is any employee, counselor, or representative of the Guild. All said agents shall be identified by the wearing of a lapel pin bearing the Guild emblem.

**Section B ACCESS.** All Guild agents shall have access to any part of the Track accessible to the jockeys, without interference or limitation.

## ARTICLE IV

## JOCKEYS' QUARTERS

**Section A FACILITIES.** The jockeys' quarters include the dressing rooms, toilet and shower facilities, sleeping rooms, weight-reducing facilities, and common areas to include recreational and eating facilities.

**Section B SPACE REQUIREMENTS.** The *jockey count* shall be no less than the average number of jockeys who rode on the ten most active riding days of the prior racing year. The dressing room shall have a minimum of 100 square feet per jockey count. Each individual dressing cubicle shall have a minimum of 25 square feet. The minimum number of dressing cubicles shall be no fewer than 1.5 times the jockey count.

**Section C HEALTH and SAFETY.** The jockeys' quarters shall be constructed and maintained in accordance with all of the applicable laws and regulations of OSHA and all state and local departments of fire and health. The eating facility shall meet all health department requirements. No smoking shall be permitted in the jockeys' quarters.

**Section D NON-DISCRIMINATORY QUARTERS.** The Track shall provide facilities for female jockeys in equal quality and proportion to those provided male jockeys. Weighing areas and the location of the clerk of the scales shall be in a common area. All common areas of the jockeys' quarters that are used by both genders shall have access that does not pass through or have direct sight into the opposite gender's dressing room or other gender restricted facilities.

**Section E AMENITIES.** The Track shall provide immediate replay of each race. All dressing rooms shall have a sufficient number of replay monitors providing each jockey with a clear, unobstructed view. The sleeping rooms shall include a number of beds not fewer than one-fourth the jockey count. The food and drink served in the eating facility shall be wholesome and nutritional and provided at no cost to the jockeys.

## ARTICLE V

## BULLETIN BOARD

**Section A DESCRIPTION.** The Track shall provide a dedicated, visible bulletin board in the jockeys' quarters in a place with reasonable access to the jockeys covered by this Agreement. The board shall be not less than ten (10) square feet, and shall have a glass cover secured by a lock.

**Section B CUSTODIAN of the KEY.** The clerk of scales shall maintain custody of the board key and will make it available on request by the colony delegate, alternate, or representative of the Guild.

**Section C INFORMATION.** The Guild is authorized to post the Jockeys' Bill of Rights in both English and Spanish. Posting of the Jockeys' Bill of Rights does not necessarily imply the Track's endorsement of any or all of these rights, but does recognize each jockey's right to free speech as guaranteed by the U.S. Constitution. Postings are to include, but are not limited to, the administration of this Agreement, notices of Guild meetings, and other matters of interest to the jockey community.

## ARTICLE VI

## EDUCATIONAL SERVICES

**Section A COURSE INSTRUCTION.** Educational opportunities shall be provided on the Track premises and be available in a confidential forum specific to the needs of the participating jockeys. These services shall be fully paid for by the Track and shall be staffed by professional, accredited educators in the fields to be covered. They shall be conducted in English and/or Spanish as requested.

**Section B SUBJECTS.** The available courses shall include: Diet and Nutrition; Physical Fitness Training; Literacy; English as a Second Language; Civics; and Computational Skills.

**Section C CONFIDENTIALITY.** At all times, these services shall be private and confidential, with due respect afforded to the jockeys, being ever mindful of individual needs and sensitivities.

## ARTICLE VII

## SCALE of WEIGHTS

**Section A RIDING GEAR.** Every horse shall carry 10 pounds of *“riding gear”* from withers to rump. *“Riding gear”* means any or all of the items listed below. It shall not include equipment worn on the horse’s head, tail, or legs; nor a channel, breastplate, or running martingale; nor any foul-weather gear, which is any additional riding apparel that a jockey chooses to wear due to inclement weather.

Anti-Slip Pad	Metal Stirrups	Safety Vest
Arm Number	Number Cloth	Silks
Boots	Over-Girth	Socks
Eye Protection	Pants	Stock Tie
Foam Pad	Pommel Pad	T-Shirt
Gloves	Rubber Bands	Turtleneck
Goggles (4 pair)	Saddle	Under-Girth
Helmet Cover	Saddle Pad	Underwear
Leggings	Safety Helmet	Whip

**Section B PUBLIC NOTICE.** The *“Official Program”* shall include the following notice:

**“In addition to the listed jockey weight,  
all horses carry 10 pounds of riding gear from withers to rump.”**

**Section C JOCKEY WEIGHT.** *“Jockey weight”* means the weight of the jockey, nude, absent any riding gear, or clothing, as recorded by the Clerk of Scales when the jockey is weighed. If a jockey uses a robe to be weighed, its weight shall be deducted to arrive at the nude weight.

**Section D MINIMUM WEIGHTS.** The minimum jockey weight for a jockey riding an Arabian or Thoroughbred horse is **118** pounds. The minimum jockey weight for a jockey riding an Appaloosa, Paint, Quarter Horse, or Mule is **123** pounds.

**Section E ALLOWANCES.** Nothing in this rule on the Scale of Weights shall affect or alter apprentice allowances.

**Section F BODY FAT.** A jockey’s body fat content shall be measured and recorded by the Clerk of Scales once each day of racing. A jockey shall maintain a minimum body fat content of not less than **5%**. A jockey whose body fat measures below **5%** shall be placed on warning, and shall be suspended from riding if this minimum standard is not met within three calendar days of the date of the warning. A jockey whose body fat content measures below **4%** of total body mass shall be disqualified from riding in any race.

**Section G EXEMPTION.** Compliance with Section F of this rule is optional for any jockey licensed in the United States before December 31, 2003.

**Section H EDUCATION.** The Track agrees to provide a program of education and training to enhance healthy weight management.

## ARTICLE VIII SAFETY COMPLIANCE

**Section A IMPLEMENTATION.** The Track shall comply with all Sections of this Article, as well as the Articles on *Medical Services*, *Safety Equipment*, and *Track Surface* by 1 January 2005.

**Section B SAFETY COMMITTEE.** The Track recognizes that the Guild and the TRA have established a Safety Committee to study problems and solutions as they affect jockeys. This committee shall report their findings intermittently, promulgate current minimum safety standards for all member tracks, and identify approved products and manufacturers. Recommendations made by this committee shall be adopted by the Track within a period of six months after the publishing of each Safety Committee Report.

**Section C RIGHTS AND REMEDIES.** Nothing in this Article shall prohibit an individual rider or the Guild from asserting a jockey's rights under the Occupational Safety and Health Act, or pursue a remedy under the Grievance Procedure of the Agreement.

## ARTICLE IX MEDICAL SERVICES

**Section A FIRST-AID.** The Track shall staff, supply, and maintain an on-premises, first-aid facility, which may be either permanent or mobile. This facility shall include X-ray equipment, a masseuse, and a board certified physician on duty during all live racing.

**Section B POSTED PROCEDURES.** The jockeys' quarters shall have clearly posted medical procedures in both English and Spanish. This notice shall include all relevant contact information for insurance providers and area hospitals.

**Section C HOSPITALIZATION.** At the outset of every race meeting, the Track shall provide all area hospitals with verifiable accident insurance information to facilitate emergency admissions. In the event of an injury requiring hospitalization, a Track-provided ambulance shall immediately transport the jockey to the nearest trauma hospital. The ambulance must be licensed to drive on public roads and be able to use its siren and emergency red lights. The ambulance must be staffed with at least two certified EMTs.

**Section D INJURY REPORTS.** The Track shall investigate and make a preliminary report ( *First Report of Accident* ) on every accident involving a jockey. Such reports shall, at a minimum, identify the accident, the likely causes, and the extent of any injuries. The report shall be completed no later than noon of the next day following the accident and sent via facsimile to the Guild office.

## ARTICLE X

## SAFETY EQUIPMENT

**Section A STARTING GATES.** All starting gates shall be of adequate size and configuration, free of overhead crossbars, and shall be equipped with proper padding for the protection of jockeys, assistant starters, and horses. Such padding shall include rump pads ( 24" x 24" x 6" ). Each horse shall be assigned a dedicated assistant starter. Additional assistants shall be provided to support the assistant starters with all duties, general and specific, including, but not limited to, the closure of all stalls. Comprehensive videotaping shall commence at the end of each post parade. Said videotaping shall include the loading of every horse, and conclude after every horse leaves the gate.

**Section B SAFETY REINS.** The Track shall require all horses ridden on their premises be equipped with safety reins. Safety reins are the leather or nylon reins reinforced with a wire or cable running through the core of the reins and attached to the bit. The device must enable the jockey to maintain control should a rubber or leather portion of the reins break. No non-safety reins shall be used or stored anywhere on Track premises. All trainers and horse owners shall be required to comply with this regulation at all times of the day.

**Section C TRACK WARNING SYSTEM.** A warning system shall be used during an emergency on the track; e.g., a loose horse or an equipment failure. This system shall include lights and sirens on every black and white sixteenth pole. During workouts, *both* lights and sirens shall be used *simultaneously*. During a race, *lights* and *sirens* shall be used *independently*. Only the *lights* shall be used to warn jockeys of a loose or injured horse, or other situation where the race shall continue, but caution must be exercised. If the race is aborted, *sirens* shall also be used and the horses stopped.

**Section D SAFETY RAIL.** A "*safety rail*" is a complete rail system that protects a jockey from collision with the "*goose neck*" portion of the rail. The Track shall install and maintain a safety rail on the dirt racing surface. In addition, the Track shall pad all inside rail posts of both the dirt and turf tracks. All Track rails shall be inspected daily for alignment, missing bolts, sharp edges, or any hazardous condition, and make repairs immediately.

**Section E SAFETY BOOM.** Races that are to be run out of a shoot onto the oval track, shall use a "*safety boom*" to prevent horses from taking a left turn. The boom shall be telescoped in 60ft. lengths and extend from the starting gate out at the nose of the shoot.

## ARTICLE XI

## TRACK SURFACE

**Section A MAINTENANCE.** The track surface shall be maintained to meet all current safety standards, as well as those agreed to in the future by the Guild and the TRA. The Track is encouraged to seek the continual assistance of OSHA's safety consultants.

**Section B INSPECTIONS.** Prior to each race, the Track maintenance crew shall examine the entire race track surface to locate and remove all foreign objects, and inspect for potential danger from water or ice. If a foreign object hits a horse or rider during a race, the entire track surface shall be inspected and approved by the Track Superintendent and a Guild Delegate or Alternate prior to the next day's racing. If such an incident occurs twice in 30 calendar days, the track surface shall be electronically swept prior to the start of each day's racing for the next 10 days of racing.

**Section C METAL DEBRIS.** All plows, harrows, and other implements used to grade the track surface shall be equipped with magnetic bars covering the entire width of each implement. These bars must be capable of attracting and holding all foreign metal objects; e.g., harrow teeth, horseshoes, and nails.

**Section D NO MEANS NO.** When a majority of jockeys vote to not participate in a race, or a day of racing, because of track conditions, the race or races *must be cancelled*. To avoid the "color of coercion", such a vote must be held by the jockeys in private with no Track official in attendance, and a revote may not be taken. *"No" means "No"!!!*

**Section E COERCION.** If a representative of the Track, a trainer, or a horse owner is found to have coerced or intimidated a jockey who deems a track to be unsafe and chooses not to ride, the Track shall donate \$1000 per incident to the *Disabled Jockeys' Endowment*.

**Section F UNSAFE CONDITIONS.** The ultimate decision on a jockey's safety shall be the jockey's. A jockey who deems a track to be unsafe may choose not to ride, but shall not receive a riding fee. The jockey shall be held harmless, and not subject to any penalty or retribution. If the jockey is fined, the Track agrees to pay the fine.

## ARTICLE XII            WAGES, PURSES, and FEES

**Section A    FEES and AWARDS.** The "*riding fee*" is herein defined as the mandatory compensation earned by a jockey for committing to ride a horse in any given race at the Track, regardless of the outcome of the race. The "*performance award*" is herein defined as the reward earned by a jockey based on the share of the gross purse paid to the horse owner, and shall not obviate, in part or in whole, the riding fee.

**Section B    RIDING FEE.** A riding fee shall be considered earned when a jockey crosses the scale to be weighed prior to each race. The riding fee shall be 1% of the arithmetic mean average purse paid during the previous year's meeting. The riding fee paid to each jockey for each race shall in no case be less than \$50. This riding fee shall be mandatory and may not be obviated or reduced by any other fees earned or awarded.

**Section C    PERFORMANCE AWARD.** The "*gross purse*" is the total compensation paid to the owners of all horses that compete in a race. It includes the published purse, plus nomination fees, state breeder awards, owner awards, multi-race bonuses, and appearance fees. The jockey's performance award shall, in all cases, be 10% of the owner's share of the gross purse, regardless of the order of the finish.

**Section D    EXERCISE FEE.** All trainers using the Track's facilities must pay a minimum *exercise fee* of \$20 per mount to each licensed jockey exercising a horse. This fee shall be paid irrespective of any riding fee or performance award paid or promised.

**Section E    SUBSTITUTION.** When a jockey is removed from a mount, the removed jockey and the substituted jockey shall both be paid in full; i.e., duplicate riding fees, and if the horse earns a share of the purse, duplicate performance awards.

**Section F    GUILD DUES.** All Guild members shall designate 5% of their riding fees as dues payable to the Guild (with a \$3 minimum per mount).

**Section G    ADMINISTRATION.** The Track shall enforce and guarantee the payment of all fees, awards, and Guild dues within two weeks after they are earned. Deductions may not be made from these payments except those expressly provided for by this contract, or agreed to in writing by the Guild, or required by federal or state laws. Once a jockey is paid, the Track shall indemnify and save harmless the jockey against any claim on the respective fee and/or award.

**Section H    FINES and ASSESSMENTS.** Any fine or assessment paid by a jockey shall be donated to the **Disabled Jockeys' Endowment**. In those states that insist upon keeping these funds, the Track agrees to donate a matching amount to the Endowment. Once a fee or award is paid, said funds shall be non-refundable and shall not be subject to a job related fine or assessment. All such *ex post* levies shall be paid by the Track.

## ARTICLE XIII

## GRATUITIES

**Section A VALET TIPS.** The valet is an employee of the Track and is provided wages and benefits by the Track. As a past practice, jockeys have tipped these Track employees for services rendered to them. Henceforth, the full responsibility for compensating valets shall be borne by the Track. The custom of requiring, coercing, or allowing jockeys to tip valets shall not be permitted.

**Section B COMPENSATION COMMITTEE.** A committee including Track management, the Guild, and the valet's representative shall convene to determine the compensation (tips) historically provided by the jockeys. This committee shall then ensure a smooth transition to the new policy and avoid a severe loss of income to the valets or any animosity between these two employee groups.

**Section C OTHER TRACK PERSONNEL.** The act of tipping the assistant starters and the clerk of the scales is illegal, and the prosecution of individuals offering, soliciting, paying, or accepting said tips is subject to penalties provided by law. This practice shall be prohibited by the Track and shall cease. The Track shall actively support this prohibition and will work with state and federal authorities to strictly enforce this law.

## ARTICLE XIV

## INJURY INSURANCE

**Section A DEFINITIONS.** “Workers’ Comp” is defined as compensation insurance that is mandated by state law to cover on-the-job injuries. The acronym “JIMI” is defined as comprehensive insurance that provides **JOCKEY disability INCOME** and on-track **MEDICAL INSURANCE** in lieu of Workers’ Comp.

**Section B COVERAGE.** The Track shall provide either Workers’ Comp or a JIMI for all Guild members that perform as jockeys at the Track. Said insurance shall cover all injuries sustained at the Track, with a specified schedule of awards for medical care and disability income depending on the extent of the injury and disability.

**Section C JIMI.** If a JIMI plan is adopted, the medical care shall be not less than the Workers’ Comp benefits that are generally provided to the employees of other industries in the respective state where the Track resides. In no case may the maximum benefit be less than **\$1,000,000** per jockey per occurrence.

**Section D DISABILITY.** If a JIMI plan is adopted, *disability income* shall be two-thirds of the injured jockey’s average weekly income for the previous 16 weeks, with a maximum payment of **\$700** per week. If, during any part of the said 16 weeks, the jockey received disability payments, those payments shall be used in lieu of earned income in the computation of said benefit.

**Section E ACCIDENTAL DEATH.** The Track shall provide a life insurance benefit for all Guild members that perform as jockeys at the Track. In the case of death resulting from an injury at the Track, the death benefit may not be less than **\$1,000,000**.

**Section D PROOF OF INSURANCE.** All insurance policies shall be issued by AAA carriers and shall name as covered both the Track owner and all jockeys riding at the Track. The Track shall cause its insurer(s) to issue a *Certificate of Insurance* and send a copy to the Guild.

## ARTICLE XV

## MEDIA RIGHTS

**Section A GUILD'S MEDIA RIGHTS.** The Guild has the exclusive right to the use of a jockey's name, image, portrait, and/or picture in all broadcasts for on-site and off-track presentations of a race in which a jockey rides (or rode). Any use of this exclusive right without an Agreement with the Guild shall be illegal and improper.

**Section B TRA PAYMENTS.** Both parties acknowledge the on-going relationship between the Guild and TRA, whereby the TRA shall pay for these Media Rights. Consideration is currently being proposed at \$2,000,000 per month.

**Section C TRACK PAYMENTS.** If the Track is not a TRA member, **OR**, if the TRA is not making media rights payments to the Guild on behalf of its member tracks, the Track shall pay the Guild directly for the media rights. These payments to the Guild by the Track shall be based on the *Media Rights Formula*; i.e., a per race fee of 2.5% of the average purse size of the Track's previous year's race meeting.

**Section D SIGNAL COMPENSATION.** The racing "*signal*" is the transmission of live audio-visual and data information by any electronic means, including, but not limited to, broadcast, cable, Internet, and satellite transmissions. Use of the racing signal for wagering purposes by all off-track betting facilities ( **OTBs** ), including other tracks, requires the consent of, and payment to the Guild on behalf of the jockeys.

**Section E PROHIBITION.** The Track shall not exchange any signal with any track that does not have an Agreement with the Guild. By "*exchange of signal*" is meant any television or radio broadcast, whether sent or received, live or reproduced, whether transmitted by film, tape, or computer media, through space, cable, satellite, Internet, or closed-circuit facilities.

**Section F OTB COMPENSATION.** Each OTB shall pay \$500 per day to the Guild for each live race signal it receives from a U.S. track. The Track agrees to withhold the exchange of signal to those OTBs that fail to comply. Payments by such OTBs shall be guaranteed by the Track.

**Section G ENFORCEMENT.** Payments required by this Article are due by the 10<sup>th</sup> of each month. If such a payment is not received by the 15<sup>th</sup> of the month, the Guild shall have the right to injunctive relief. The Guild may also put the recipients of the signal on notice of the wrongful use of the negotiated Media Rights and of the recipients' joint liability. It is recognized by the Track, that without the assignment of, and compensation for, these negotiated Media Rights, the jockeys may withhold their services.

## ARTICLE XVI RETIREMENT BENEFITS

**Section A TRA AGREEMENT.** If the Track is not a TRA member, **OR**, if the TRA is not making media rights payments to the Guild on behalf of its member tracks, the Track shall pay the Guild for the media rights. These monies shall be allocated by the Guild to its member jockeys' *individual retirement plans*.

**Section B ADMINISTRATION FEE.** These benefit payments shall be subject to an additional administration fee not to exceed 20% of the Track's contribution and shall be paid by the Track to the Guild to cover Guild costs.

**Section C ELIGIBILITY.** The Guild shall distribute the benefit payments to the *individual retirement plans* of all eligible members on a matching-funds basis. Eligibility to participate in this program and the formula for distributing the matching funds shall be determined by the Senate of the Guild. These contributions shall conform to all IRS and ERISA rules and regulations.

## ARTICLE XVII STRIKES and LOCKOUTS

**Section A JOB ACTION.** During the life of this Agreement, the Guild shall not cause, authorize, participate in, sanction, or encourage any strike or work stoppage for any reason *except safety*; and the Track shall not lock out any jockey in connection with any labor dispute.

**Section B DAMAGES.** The Guild shall not be liable for damages in the event of a strike, slow-down, or work stoppage if the Guild has used its best efforts to prevent and terminate the said job action.

**Section C DISCIPLINE.** If, during the life of this Agreement, any jockey causes, authorizes, participates in, sanctions, or encourages any strike, slow-down, or work stoppage for any reason *except safety*; the jockey shall be subject to discipline or removal from the Track. However, if a jockey refuses to cross the picket line of another union or guild, said job action shall not be a violation of this Article.

**Section D ARBITRATION.** In the event a *question of fact* exists as to whether or not a jockey has been guilty of a violation of this Article, such question of fact may be resolved through the grievance and arbitration procedure of this Agreement.

## ARTICLE XVIII PROFESSIONAL COURTESY

**Section A JOCKEY AMENITIES.** No fewer than two days prior to a major event, each jockey with at least one mount on the day in question, shall be provided without charge: secured parking as close to the jockeys' quarters as possible; expedited entry onto the Track premises; four premium seats with an option to purchase four additional seats; and a racing program.

**Section B GUILD AMENITIES.** No fewer than two weeks prior to a major event, the Guild shall be provided, without charge: four preferred parking passes as close as possible to the jockeys' quarters; expedited entry onto the Track premises; 20 premium seats and 10 reserved seats; and 10 VIP (*Everywhere*) unlimited access credentials.

**Section C EXPENSE REIMBURSEMENT.** If the Track invites a jockey to participate in a race or promotional event, the Track shall reimburse reasonable travel expenses. Such expenses shall include either one first class, or two economy class, roundtrip airfares, and the price of a standard hotel room. This reimbursement shall not replace or reduce any compensation agreement between the Track and the guest jockey.

**Section D JOCKEY PHOTOS.** The Track photographer shall provide the Guild portrait, paddock, and live-race photos of each jockey riding at the Track. These three photos shall be sent free to the Guild within 10 days of the beginning of each race meeting, and on a continual basis as additional jockeys join the colony for one or more races. Said photos shall be the exclusive property of the Guild.

## ARTICLE XIX MARKETING COOPERATION

**Section A PROMOTIONS.** The Guild's approval is required prior to any and all promotions and marketing activities that include the participation of any Guild member, personal items worn or carried by a member, or use of a member's name, portrait, picture, image, or likeness. Twenty percent of the gross revenue resulting from such a promotion or marketing event shall be donated to the Disabled Jockeys' Endowment.

**Section B EVENTS.** The Track shall implement each of the following commercially sponsored events: autograph signing; jockey-fan photo ops; jockey milestone events; and one or more jockey challenges.

**Section C ON-TRACK ADVERTISING.** The Guild's approval is required before the Track may allow any jockey to ride in a race while wearing pants displaying any message, including, but not limited to, commercial names, logos, trademarks, or product endorsements, religious symbols, or a jockey's name.

## ARTICLE XX      **DISCIPLINE and RESOLUTION**

**Section A      CODIFICATION.** The Track shall negotiate with State regulators to adopt the Guild's Model Rules for *Discipline Codification, Hearings, and Arbitration*. If these rules are not adopted in a form acceptable to the Guild within six months of the execution of this Agreement, the Track shall donate \$25,000 to the *Disabled Jockeys' Endowment*.

**Section B      GRIEVANCE.** Any disagreement between the Track or a representative of the Track and the Guild, a Guild member, or the jockey colony regarding the discipline of a jockey, or the meaning or interpretation of any part of this Agreement, shall constitute a *grievance*.

**Section C      DEFERRED DISCIPLINE.** Notwithstanding the right of the Track to deny a jockey access to Track property, the imposition of any such discipline of a Guild member shall be deferred for no fewer than ten days, to give the jockey or the Guild an opportunity to file a grievance as provided herein. Once said grievance is filed, the disciplinary action may not be imposed until final resolution of the dispute.

**Section D      NOTICE.** In the event of a grievance by the Track, the matter must be presented to the Colony Delegate or Alternate, or a Guild Member Representative. An aggrieved jockey must present the matter to a Track Representative. In either case, the matter must be presented to the other party no later than 30 days from the occurrence of the facts giving rise to the grievance.

**Section E      INITIAL RESOLUTION.** Once presented, a grievance resolution must be promulgated by the Track within **48** hours of that presentation. If said resolution is not satisfactory to the aggrieved jockey, the Track must be notified in writing by the jockey or the Guild within **15** days.

**Section F      ARBITRATION.** Failing a settlement of the said grievance, the case may be referred to a an impartial arbitrator for settlement as provided for in this Agreement.

## ARTICLE XXI

## ARBITRATION

**Section A DUE PROCESS.** Any decision made by the Track or a racing official at the Track that penalizes a jockey's income without due process, is clearly a wrongful taking, absent collective bargaining. Arbitration is included in this Agreement to preclude the need to adjudicate these disputes in a federal or state court, a legal process that is not the desired first choice of either party.

**Section B DISPUTE RESOLUTION.** The arbitration process shall provide a mandatory, binding resolution of on-track disputes between a Guild member and the Track or racing official at the Track. The procedure shall be prompt, unbiased, non-discriminatory, and guarantee due process. This arbitration policy does not limit a jockey's statutory right to file a lawsuit, nor does it limit the right to file a worker's compensation claim.

**Section C PANEL SELECTION.** Annually, prior to the onset of a race meeting, a panel of ten arbitrators shall be appointed, five by the Track and five by the Colony Delegate or Alternate, or a Guild Member Representative. For each case, an arbitrator shall be randomly selected from the panel. Each party to the proceedings shall be permitted only one preemptory challenge, with the first unchallenged selectee hearing the appeal.

**Section D REMOVAL of an ARBITRATOR.** At the close of a meeting, the Guild *may* permanently exclude one member of that meeting's panel from serving on any Guild-Track arbitration panel in the future.

**Section E FILING of an APPEAL.** Any objection to a decision made by the Track or racing official at the Track giving rise to an appeal shall be submitted to the Track within 30 days of that decision. All appeals must be submitted in writing on forms provided by the Guild. The hearing shall be conducted within 30 days of the filing of the appeal unless otherwise agreed to by the parties.

**Section F FEDERAL GUIDELINES.** All hearings shall be held in accordance with the Federal Arbitration Act, unless otherwise provided for in this document. The arbitrator's decision shall be issued in writing within ten (10) days of the hearing. The opinion shall describe the basis for the decision, and shall be final and binding on the participants.

**Section G PROCEDURES.** The Track shall schedule all hearings at a time convenient to both parties. Attendance is limited to the parties involved, their representatives, and witnesses. A transcript of the proceedings shall not be required unless requested by either party.

**Section H FEES and EXPENSES.** All filing fees and expenses of the arbitration process shall be borne by the Track, except that each party shall bear the expense of presenting its own case.

**ARTICLE XXII      SUCCESSORS and ASSIGNS**

**Section A    TRANSFER of OWNERSHIP.** The Track shall give notice of this Agreement to any purchaser, transferee, lessee and/or assignee of the operations covered by this Agreement, or any part thereof. Such notice shall be in writing with a copy to the Guild, at the time the seller, transferor, or lessor executes a contract or transaction. The Guild shall also be advised of the exact nature of the transaction.

**Section B    NOTIFICATION.** Track shall notify any potential purchaser, assignee, or transferee of the foregoing provision.

**ARTICLE XXIII    DURATION of AGREEMENT**

**Section A    TERM.** This Agreement shall be in full force and effect when signed by both parties, and will expire on March 31<sup>st</sup>, 2006. After said expiration, this Agreement shall automatically be renewed from year to year thereafter for successive one year periods, unless the Guild or the Track give notice of a desire to change or negotiate alternate terms to this Agreement.

**Section B    NOTICE.** Any notice required under the terms of this Article must be given at least 60 days prior to any subsequent anniversary date. Such notice shall be effective when directed in writing to the Guild or to the Track, and deposited, postage prepaid and registered or certified, in the United States mail.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement as of the day first above written.

The Jockeys' Guild, Inc.

Racetrack Name

by: \_\_\_\_\_  
Dr. L.W. Gertmenian, President

by: \_\_\_\_\_  
Name, Title

by: \_\_\_\_\_  
Name, Guild Attorney

by: \_\_\_\_\_  
Name, Racetrack Attorney