

## LARKRISE COMMUNITY FARM COMMERCIAL TERMS AND CONDITIONS (“CONDITIONS”)

### 1. Definitions and Interpretations:

1.1 In these Conditions the following definitions apply:

<b>Client</b>	means the individual identified in the Registration Form as benefitting from and receiving the Services;
<b>Contract</b>	means the agreement between LCF and the Customer for the supply and purchase of Services incorporating these Conditions and the Order;
<b>Customer</b>	means the person who purchases the Services from LCF and whose details are set out in the Registration Form;
<b>Duration</b>	means the term of the Order as set out in the Registration Form;
<b>Farm Rules</b>	means the rules that Clients are required to follow whilst in attendance at LCF;
<b>Force Majeure</b>	means an event or sequence of events beyond any party’s reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake, or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; or material required for performance of the Contract; strike, lockout or boycott or other industrial action involving LCF’s workforce, but excluding the Customer’s inability to pay or circumstances resulting in the Customer’s inability to pay;
<b>LCF</b>	means Larkrise Community Farm whose registered address is West Ashton Road, Trowbridge, Wiltshire, BA14 6DQ;
<b>Order</b>	means the Customer’s order for the Services from LCF as contained in the Registration Form;
<b>Payor</b>	means either the Customer or third party identified in the Registration Form as responsible for making payment;
<b>Price</b>	means the price payable for the Services as set out in clause 3;
<b>Programme</b>	means a series of Sessions as set out in the Registration Form;
<b>Registration Form</b>	means the form attached to these Conditions;
<b>Services</b>	means the services to be provided by LCF to the Client for the Customer as set out in the Registration Form;
<b>Session</b>	means the provision of the Services in blocks of time as described in the Registration Form;
<b>VAT</b>	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Services.

- 1.2 In these Conditions, unless the context requires otherwise:
- 1.2.1 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
  - 1.2.2 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
  - 1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
  - 1.2.4 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
  - 1.2.5 a reference to a gender includes each other gender;
  - 1.2.6 words in the singular include the plural and vice versa;
  - 1.2.7 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
  - 1.2.8 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;
  - 1.2.9 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time; and
  - 1.2.10 a reference to legislation includes all subordinate legislation made from time to time under that legislation.

## **2. The Contract**

- 2.1 These Conditions apply to and form part of the Contract between LCF and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that LCF otherwise agrees in writing.
- 2.3 No variation of these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of LCF.
- 2.4 Each Order by the Customer to LCF shall be an offer to purchase Services subject to these Conditions.
- 2.5 An Order may be withdrawn or amended by the Customer at any time before acceptance by LCF. If LCF is unable to accept an Order, it shall notify the Customer as soon as reasonably practicable.
- 2.6 LCF may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Services shall arise, until the earlier of:
  - 2.6.1 LCF's written acceptance of the Order; or
  - 2.6.2 LCF performing the Services or notifying the Customer that they are ready to be performed (as the case may be).
- 2.7 Rejection by LCF of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.

## **3. Price and payment**

- 3.1 The Price of the Session(s) will be that shown in the Registration Form.
- 3.2 LCF may change its price(s) at any time by giving the Customer not less than 30 days' notice in writing. Any change in price will not apply to Orders which have already been accepted by LCF for the Duration of those Orders.
- 3.3 All prices exclude VAT. The Payor shall pay any applicable VAT to LCF on receipt of a valid VAT invoice.

- 3.4 LCF will accept payment by CHAPS, fast payment, BACS, cash or cheque.
- 3.5 LCF shall invoice the Payor for the Services on a monthly basis. The Payor shall pay all invoices:
  - 3.5.1 in full without deduction or set-off, in cleared funds within 30 days of the date of each invoice or as otherwise stated in the Registration Form; and
  - 3.5.2 to the bank account nominated by LCF.
- 3.6 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date LCF may:
  - 3.6.1 without limiting its other rights, charge interest on such sums at 8% a year above the base rate of CAF Bank from time to time in force. Interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment; and/or
  - 3.6.2 suspend all Services provided to the Customer until the Customer and/or Payor has paid all outstanding sums due.

#### **4. Provision of services**

- 4.1 LCF will provide the Services with reasonable skill and care.
- 4.2 LCF will provide the Services on the date confirmed in the Registration Form and will continue to provide the Services in accordance with the dates outlined in the Registration Form.
- 4.3 LCF will make every effort to complete the Services on time. LCF cannot, however, be held responsible for any delays as a result of an act of Force Majeure.
- 4.4 LCF will not provide the Services to the Client until the Customer has completed the Registration Form and the Registration Form has been submitted and accepted by LCF.
- 4.5 If the completion of the Registration Form by the Customer is delayed, incomplete or otherwise incorrect, LCF will not be responsible for any delay caused as a result.
- 4.6 Allocation of Sessions is subject to regular review and Clients may be asked to change sessions or “take a break” from Sessions if LCF feels this would be appropriate.
- 4.7 A Session may include mounted or other activities. Sessions may take place anywhere on LCF’s premises as deemed appropriate by LCF.
- 4.8 LCF’s selected coaches and helpers are volunteers for our RDA activities and other farm-related equine activities, except for our staff members. A Client may occasionally be unable to ride if insufficient coaches, helpers or staff members are available. In these circumstances LCF may ask that carers/teachers assist with side walking, which requires an RDA green card assessment: this may be done on the day. Therefore, all carers/teachers should come prepared with suitable clothing/sturdy shoes.
- 4.9 LCF reserves the right to refuse a Client or immediately terminate a Session without notice if LCF feels they are unsafe or making our coaches, helpers or staff work in an unsafe way.

#### **5. Customer obligations**

- 5.1 Customers must ensure that the Client (for whom they have purchased these Services) is aware of and complies with the following:
  - 5.1.1 observes the Farm Rules;
  - 5.1.2 that Clients who are taking horse riding lessons or mounted activities must wear a riding hat which meets current safety standards and fits correctly. LCF may check a rider’s own hat. Hats may be borrowed from LCF. For those clients who cannot wear a regular riding hat due to special needs, we will fill out an Alternative Hat form via the RDA. Body protectors may be worn but are not provided or fitted by LCF;
  - 5.1.3 that Clients must wear long trousers and enclosed footwear. If there is any doubt please contact LCF to discuss this;
  - 5.1.4 that if a Client arrives late for a Session they may not be able to join the group Session;

- 5.1.5 that LCF must be informed immediately of any change to their condition, medication, contact details, wellbeing on that day, other important information relating to the client and emergency contact information. Such information should be provided by the Client, the Customer, the Payor or the Client's parent/carer. LCF will not accept any responsibility for accidents or incidents arising from not being informed of any of these changes as per this clause and cannot be held liable under this contract.
- 5.2 The Customer acknowledges and accepts that in the event the Client fails to comply with any of the matters contained in clause 5.1 above, that this may lead to a Client being unable to join a Session and either a cancellation of a Session or a delay in the provision of the Session. LCF will not be liable for any loss caused as a result of such delay or cancellation. Where possible LCF will attempt to re-arrange the Session.
- 5.3 The Customer acknowledges and accepts that any hostile, abusive or intimidating behaviour towards the staff or volunteers at LCF by a Customer, a Client, a Payor or a Client's carer may result in the immediate termination of the current Session and/or future Sessions without notice.
- 5.4 The Customer acknowledges and accepts that horse riding, horse activities, farming activities and/or carriage driving carries a risk and that Clients must voluntarily accept the risks involved. Further that Clients and (where applicable their carers) must take all reasonable precautions.

## **6. LCF's liability**

- 6.1 LCF's liability under or in connection with the use of the Services (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 6.
- 6.2 LCF shall not be liable for any of the following (whether direct or indirect): loss of profit, loss of data, loss of use, loss of contract, loss of opportunity, loss of savings, discount or rebate (whether actual or anticipated); loss of goodwill or harm to reputation.
- 6.3 LCF shall not be liable for consequential, indirect or special losses.
- 6.4 In the event LCF is found to be liable to the Customer directly or indirectly in relation to the Services that liability shall be limited to the Price.
- 6.5 Nothing in these terms shall limit liability of the parties for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, or any other losses which cannot be excluded or limited by applicable law.

## **7. Force Majeure**

- 7.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:
- 7.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and
- 7.1.2 uses best endeavours to minimise the effects of that event.
- 7.2 If, due to Force Majeure, a party:
- 7.2.1 is or shall be unable to perform a material obligation; or
- 7.2.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days or a total of more than 30 days in any consecutive period of 60 days;
- the other party may, within 30 days, terminate the Contract on immediate notice.

## **8. Cancellation**

- 8.1 If the Customer or the Client cancel a Session, the Customer will be liable to pay the full Price for that Session unless at least 14 days' notice has been provided to LCF.

- 8.2 If the Customer or the Client has cancelled a Session and wish to continue with the Session at a later date, where possible LCF will provide alternative dates. In the event alternative dates are not available and the Customer has provided LCF with sufficient notice to cancel the Session, LCF will not charge for the cancelled Session. Where the Session has been paid for in advance, LCF will refund the Price of the Session to the Customer as soon as is reasonably practical.
- 8.3 The Customer may cancel the entire Programme at any time prior to the commencement of the first Session provided at least 14 days' notice has been provided. If 14 days' notice is not provided the first Session will still be chargeable at the full Price but the balance will be duly cancelled and any monies paid reimbursed.
- 8.4 The Customer may cancel a Programme part way through the Programme. To do so at least 30 days' notice prior to the next Session in the Programme must be provided to LCF. A failure to do so will lead to that next Session being charged at full Price. The remaining Sessions in the Programme will be duly cancelled and any monies paid reimbursed.
- 8.5 If LCF has provided Services that the Customer has not yet paid for, the sums due will be deducted from any refund due to the Customer, or if no refund is due, LCF will invoice the Customer for those sums and the Customer will be required to make payment in accordance with Clause 3.
- 8.6 LCF may cancel a Session or Programme at any time before LCF begins to provide the Services due to the unavailability of required personnel or materials, or due to an event of Force Majeure. If such cancellation is necessary, LCF will inform the Customer as soon as is reasonably possible and any monies paid will be reimbursed. Cancellations will be confirmed in writing.

## **9. Termination**

- 9.1 Either party may, without prejudice to its other rights and remedies, by notice in writing to the other party, immediately terminate this Contract if the other:
  - 9.1.1 is in material or persistent breach of any of its obligations under this Agreement and if that breach is capable of remedy and the other has failed to remedy that breach within 14 days after receiving written notice requiring it to remedy that breach; or
  - 9.1.2 is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution of the other (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any substantial part of the assets of the other or the other enters into or proposes any composition or arrangement with its creditors generally or any analogous event occurs in any applicable jurisdiction.
- 9.2 LCF may without prejudice to its other rights and remedies, by notice in writing to the Customer, immediately terminate this Agreement if:
  - 9.2.1 the Customer fails to pay any sum due under the terms of this Agreement and such sum remains unpaid for 14 days after written notice from LCF that such sum has not been paid;
  - 9.2.2 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 9.3 In the event of termination of this Agreement for any reason:
  - 9.3.1 the Customer will immediately pay all monies then outstanding;
  - 9.3.2 the Customer will immediately cease use of the Services;
  - 9.3.3 the accrued rights and liabilities of the parties will not be affected; and

9.3.4 clauses which expressly or by implication are to survive termination will do so.

## **10 Other important terms**

- 10.1 LCF reserves the right to assign or transfer all or any of its rights and obligations under these terms and conditions to any third party. In the event of assignment or transfer to any third party, notification will be given to the Customer in writing.
- 10.2 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without LCF's prior written consent.
- 10.3 The Contract is between the Customer and LCF. It is not intended to benefit any other person or third party (other than the Client where applicable) in any way and no such person or party will be entitled to enforce any provision of these Conditions.
- 10.4 If any of the provisions of these Conditions are found to be unlawful, invalid or otherwise unenforceable by any court or other authority, that / those provision(s) the remainder of these Conditions shall be valid and enforceable.
- 10.5 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 10.6 No failure or delay by LCF in exercising any of LCF's rights under these Conditions means that LCF has waived that right, and no waiver by LCF of a breach of any provision of these Conditions means that LCF will waive any subsequent breach of the same or any other provision.
- 10.7 The Customer shall pay all sums that it owes to LCF under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.
- 10.8 These Conditions are governed by and will be interpreted in accordance with English law. The English courts shall have exclusive jurisdiction to settle any claim or dispute which may arise out of or in connection with these Conditions.