

License Agent Contractual Agreement, 2023 Edition

This license agent agreement ("this Agreement") is entered into and effective as of the date of the last authorizing signature, by and between the Commonwealth of Kentucky, Department of Fish and Wildlife Resources, having an address at #1 Sportsman's Lane, Frankfort, Kentucky, 40601, ("KDFWR"), and:

("the Agent") having an address at:

In consideration of the mutual covenants, terms and conditions of this Agreement, the parties agree as follows:

1. SALE OF LICENSES

A) Agents agree to sell all licenses, permits, KDFWR products, and other KDFWR services available through the Agent Portal pursuant to any applicable law, including KRS 150.195 and 301 KAR 5:020;

B) Agents shall not coerce or require the purchase of any other in-store items before an individual is allowed to purchase a KDFWR offered product;

C) Agents shall not charge additional fees over the face value of the licenses, permits, services, and/or KDFWR products as they are listed in the Agent Portal except any fees established pursuant to 301 KAR 5:020;

D) Agents shall not discriminate on the basis of race, national origin, gender, age, disability, or any other protected class in the sale of licenses, permits, services, or any other KDFWR product;

E) Any payment method accepted by the Agent for other purchases must also be accepted as a payment method for KDFWR offered products.

F) Agents shall not encourage one payment method over another.

G) Licenses, permits, services, or other KDFWR products are to be sold only at the location specified on the agent application except a change of address may be effectuated pursuant to paragraph 8(A) of this Agreement.

H) Agents shall follow the procedures outlined by KDFWR, and shall train their employees in proper use of the Agent Portal before allowing their employees to make sales;

I) Agents shall not knowingly make a false entry or use false information on any transaction;

J) Agents shall not release any information obtained from the sale of a license, permit, service, or KDFWR product to anyone other than authorized KDFWR staff; and

K) Agents shall collect any printed licenses or permits voided by the Agent and destroy them.

2. COLLECTION, DEPOSIT, AND TRANSFER OF FEES

A) All fees generated from the sale of licenses, permits, services, and other KDFWR products are state funds and shall be held in trust for KDFWR by the Agent;

B) The Agent shall establish and/or maintain a bank account which shall be accessible for electronic funds transfer and shall furnish the KDFWR with the information necessary to facilitate an electronic fund transfer. The bank account can be a separate bank account from the Agent's existing account. Regardless, the Agent shall be responsible for all banking fees associated with the maintenance of said account;

C) All net proceeds generated from the sale of licenses, permits, services, or other KDFWR products, less the Agent's commission, if applicable (see part 3 below), shall be deposited promptly so that they are available for transfer;

D) The KDFWR shall notify the Agent through the Agent Portal of the amount of transfer and the date on which the transfer will occur, 48 hours prior to transfer;

E) Upon receiving notice of the intent to transfer, Agents shall notify the KDFWR within 24 hours if there are discrepancies in their accounts; and

F) The Agent shall be responsible for the balance of any and all discrepancies, and shall have 24 hours from notification by the KDFWR to correct the discrepancy.

3. COMMISSION OR OTHER COMMERCIAL CONSIDERATION

Agents shall select one option:

_____ to receive Issuance Fees under 301 KAR 5:020 for each license, permit, or other KDFWR goods sold; or

_____ to print, on any license or permit issued, a coupon or advertisement pursuant to a KDFWR sponsorship under KRS 45A.097 or other applicable law. The KDFWR reserves the

right to reject any coupon or advertisement that through branding, image, mission, or otherwise is in conflict with the KDFWR's goals or mission. If you select this option, KDFWR will provide you with additional instructions upon approval of your application.

4. AUDITS AND INSPECTIONS

The Agent shall make all records, premises, and/or equipment used for the Agent Portal available to authorized personnel from the KDFWR or from the State Auditor's office for audit and inspection during regular business hours. Any audit or inspection may be made without prior notice to the Agent. The Agent agrees that the KDFWR, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, that are directly pertinent to this Agreement for the purpose of financial audit or program review. The Agent also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of a bid process shall not be deemed as directly pertinent to the Agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

5. SUSPENSION OR REVOCATION OF AGENT STATUS

In the event Agents fail to comply with this Agreement's terms or any other provision of KRS 150.195 and the administrative regulations developed under its authority, then their agent status may be suspended or revoked. Agents may appeal the suspension or revocation of status to the KDFWR's Commission pursuant to KRS 150.195, 301 KAR 5:020, and KRS Chapter 13B. If the suspension or revocation decision is upheld, the Agent may then appeal the decision to the Franklin Circuit Court in accordance with KRS Chapter 13B and KRS 150.195.

6. AGENT PORTAL ACCESS

Once the Agent's status has been suspended or revoked, or the Agreement terminated, the KDFWR has the authority to shut down the Agent Portal.

7. TERMINATION

- A) This Agreement may be terminated by either party at any time for cause or without cause on 30 days' written notice.

B) If the Agreement is terminated, the Agent shall be responsible for the transfer of all monies generated from the sale of licenses, permits, services, or other KDFWR for the final transactions.

8. CHANGES IN BUSINESS OPERATIONS

A) As specified on the agent application, the agent status is granted to a specific sole proprietorship, partnership, or corporation doing business under a specific name. The Agent's location may change with full retention of agent status provided the ownership of the business does not change. The Agent shall notify the KDFWR of a change in operational status or change of address within 24 hours.

B) If the business is sold, agent status cannot be transferred to anyone else by the Agent. A change of ownership shall be reported to the KDFWR within 24 hours of the final sale of the business. The new owners do not purchase the agent status. The new owners shall apply for agent status through the standard process to become an agent.

C) The Agent shall report closing of the business to KDFWR 10 days prior to the event. This 10 days' notice applies to either temporary, seasonal, or permanent closings. However, in the case of emergency closing, due to either fire, weather, or other act of God, the Agent shall notify the KDFWR within 24 hours after the event.

D) If a business closes either temporarily or permanently, all supplies and all revenues generated from the sale of licenses, fees, services, or other KDFWR products shall be returned to the KDFWR within 24 hours of final closure.

E) The Agent shall notify the KDFWR within 48 hours of a change in the business's operating hours.

9. TERM

This Agreement shall remain in full force and effect until it is terminated by either party pursuant to Paragraph 7 of this Agreement.

10. REMEDIES

If the Agent defaults on any of its obligations under this Agreement, the KDFWR shall be entitled to exercise its legal rights and may seek any remedies available to it at law or in equity.

11. INDEMNIFICATION

The Agent agrees to indemnify, defend, and hold harmless the KDFWR and all of its officers, agents, and employees from all suits, actions, or claims of any character because of any injuries or damages received by any person, persons, or property resulting from this Agreement, to the extent allowed by Kentucky law.

12. COMPLETE AGREEMENT & AMENDMENT

This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof, supersedes all existing agreements among them concerning the subject matter hereof, and may be modified only by a written instrument duly executed by each of the parties hereto. All notices or communications whatsoever shall be in writing and sent by First Class Mail, unless another method is specifically prescribed by law, to the parties as identified below:

KDFWR:

KDFWR Licensing Section Supervisor 1 Sportsman's Lane
Frankfort, KY 40601

License Agency (Agent):

13. CHOICE OF LAW AND FORUM

All questions as to the execution, validity, interpretation, construction, and performance of this Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this Agreement shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky. Notwithstanding any other provision of this Agreement, any and all liability claims against KDFWR shall be brought in accordance with KRS Chapter 49.

14. SOVEREIGN IMMUNITY

No clause or part of this Agreement shall constitute, either directly or indirectly, a waiver of sovereign immunity granted under the Kentucky Constitution, Sections 230 and 231, and the United States Constitution, Eleventh Amendment.

15. EFFECT OF DEFICIENCY

If a provision of this Agreement or the application thereof to any person or circumstance shall be declared to be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

16. RIGHT TO SIGN

The parties certify, by the signatures of duly authorized representatives hereinafter affixed, that they are legally entitled to enter into this Agreement, and that they will not be violating, either directly or indirectly, any conflicts of interest statute of the Commonwealth of Kentucky by performance of this Agreement. Further, the parties covenant that they presently have no conflict of interest, in any manner or degree, with the performance of duties pursuant to this Agreement.

17. APPROVALS

This agreement is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this agreement and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

License Agent (Agent)

Signature: _____

Printed Name: _____

Authorized Signature Date: _____

Title: _____

Business / Organization Name: _____

Commonwealth of Kentucky- Kentucky Department of Fish & Wildlife Resources

Signature: _____

Printed Name: _____

Authorized Signature Date: _____

Title: _____