



CONTRACTS

What is a contract?

A contract is a legally binding agreement involving two or more people or businesses (called parties) that sets forth what the parties will or will not do.

Types of contracts

- Release and Hold Harmless Agreements
- Boarding Contracts
- Purchase and Sale Agreements
- Breeding Contracts
- Horse Lease Agreements
- Mare Use Agreements
- Stallion Service Agreements
- Foal Sharing Agreements
- Syndication Agreements
- Co-Ownership Agreements
- Shipping Agreements
- Sponsorship Agreements

Common contract questions

Q: What if I have a “verbal,” “handshake” or “gentleman’s” agreement? Is that a contract?

A: Yes. But if the agreement is not in writing, misunderstandings more frequently occur.

Q: What if I was given a contract such as a Release and Hold Harmless Agreement or Boarding Contract? Can I negotiate or change its terms?

A: Yes, but both parties need to agree to changes. Read the contract and understand it before you sign it. If you can afford it, talk to an attorney that specializes in equine law.

Q: What if I sold my horse?

A: You need a written Bill of Sale to transfer ownership. Consider working with the seller to transfer ownership with any organizations that the horse is currently registered with, either for breeding or showing purposes. A written Purchase and Sale Agreement covers more of the terms of the sale.

Q: I have a boarding facility and one of the boarders has not paid board. What can I do?

A: It is possible to put a lien against the horse for the payment of the board. There is a time limit in which to do this and certain rules that must be followed.

Q: I want to lease my horse. What items do I need to cover in a lease agreement?

A: Many types of lease agreements can be made. You can either lease the horse for only certain days or completely. The horse can either stay with you or the lessee (person leasing the horse) who may move the horse wherever he or she chooses. You need to determine whether you still want to have access to the horse and how much control you want to have in the decisions about the horse’s day-to-day care. It is also very important to clearly delineate who is responsible for providing health care for the horse and paying for veterinary expenses.

WORKING WITH A LAWYER

When should I contact a lawyer?

1. When you have claim against someone (litigation)

Types of claims:

- Horse Sales
- Personal Injury
- Liability Releases
- Injury to Horse
- Mistreatment or Abuse of Horses
- Worker's Compensation (an important issue to understand if you have employees)
- Anti-Trust (trademarks, patents, etc.)
- Taxation
- Personal Injury to Children
- Equine Activity Laws
- Land Use
- Racing
- Veterinarians
- Insurance

2. When someone has a claim against you

If you are a defendant in an action, you will need to put together any evidence (contracts, photographs, letters, etc.) you have that relates to the case. You may also want to review any insurance policy you have and contact your insurance agent to see if your insurance company may cover the claim against you.

Where do I file my case?

The case must be filed either where the defendant (other party) is located or where the cause of action (injury) arose (happened). If your claim is for less than \$7,500, you may bring your case in small claims (conciliation) court. The case still needs to be filed either where the defendant is located or where the cause of action arose. Generally, conciliation court does not allow attorneys to represent parties. It is important to remember that if you bring a claim in conciliation court, your damages (amount of your claim) will be limited to \$7,500 and you cannot bring the claim for the same injury in district court once the conciliation case has been decided.

How do I contact a lawyer?

- Check with local horse associations to see if there is anyone they have worked with.
- Look in horse publications for advertisements.
- Try online directories or web searches.

What is an equine lawyer?

An equine lawyer is someone who focuses on equine law. It is helpful to have an equine lawyer because they are already familiar with the issues you may be facing, understand horse terminology and have contacts in the horse industry.

What if I can't afford a lawyer?

You can represent yourself, but it is very difficult for non-lawyers to maneuver through laws and the court system.

ABOUT EQUINE LAW

What areas of law apply to equine law?

Law pertaining to horses is part of many standard areas of law, combined with a specific equine element. For example, you may be faced with a claim of negligence when someone gets hurt from one of your horses.

Many states have adopted livestock or equine liability laws. Minnesota's statute states that "a nonprofit corporation, association, or organization, or a person or other entity donating services, livestock, facilities, or equipment for the use of a nonprofit corporation, association, or organization, is not liable for the death of or an injury to a participant resulting from the inherent risks of livestock activities." (Minn. Stat. § 604A.12)

Inherent risks of livestock activities include the unpredictability of horses and that all horses are capable of sudden, unexpected and potentially dangerous movements such as bolting, bucking and kicking. It is important to note that Minnesota's statute does not provide immunity for people or organizations that provide livestock activities for a profit. Further, there are exceptions to the immunity for nonprofit organizations, such as if the equipment provided by the organization was faulty.

How can I protect myself?

- Read contracts before you sign them.
- A contract is a "meeting of the minds." Be sure to negotiate the contract for terms that you are comfortable with, and ensure that the written contract accurately reflects the entire agreement. Keep your copy of the contract in a safe, easily remembered place.
- Contact an attorney to understand what you are signing. Do not agree to a contract if you do not understand all of its terms.
- Contact an insurance agent to determine the extent of protection under various insurance policies including care, custody and control; and major medical.

How can I protect my equine business?

- The way your business is organized will affect your potential liability. The type of entity needed will vary depending on the specific type of business. A business may be formed as a sole proprietorship, corporation, limited liability company or partnership.
- Once you have created a name for your business, you will want to protect that name so others cannot use it. This may be done by registering with the Secretary of State or filing for a trademark.
- Proper insurance coverage is critical. The type of insurance needed will vary depending on the specific situation. Types of insurance include commercial liability; care, custody and control; major medical; loss of use; and mortality.

- Use written contracts whenever possible. Written contracts can help deter the party from breaking the terms of the contract (called a “breach”). If a breach does occur, a written contract shows documentation of the parties’ agreement.

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