

PETSMART
Charities
Adoption Partner Agreement

This Adoption Partner Agreement ("Agreement") is entered into between PetSmart Charities Inc., an Arizona nonprofit corporation and tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code ("Code"), whose address is 19601 N. 27th Avenue, Phoenix, AZ 85027 ("Charities"), and Baldwin County whose address is 322 Courthouse Square, Bay Minette AL 36507-4809 ("Adoption Partner").

Section 1 – PetSmart Charities Adoption Program

- A. **Adoption Program.** Charities agrees to permit Adoption Partner to participate in the Charities' adoption program ("Adoption Program") located at one or more PetSmart Charities Adoption Centers or other space at PetSmart retail stores, or in the case of special events, locations specified by Charities ("Adoption Center"). The Adoption Program's sole purpose is to help facilitate and provide a location to facilitate adoptions of dogs, cats, or other pets ("Pets"). Adoption Partner acknowledges that in addition to its organization, other adoption agencies may also be permitted by Charities to hold adoptions at the same time and location as the Adoption Partner.
- B. **Adoption Policies.** In addition to the terms and conditions contained in this Agreement, Adoption Partner acknowledges that it has received, and agrees that it and its employees and volunteers will comply with, any additional policies, procedures and/or manuals (collectively the "Policies") as provided to Adoption Partner by Charities and/or PetSmart, Inc. ("PetSmart"), including any future changes to those policies, procedures and/or manuals. Charities reserves the right to amend such adoption policies in its sole and absolute discretion and will take reasonable steps to notify Adoption Partner of any changes.
- C. **Adoption Process.** Subject to this Agreement and applicable law, Adoption Partner will use its own adoption policies and procedures when offering Pets for adoption, and will make the final decision in the adoption of a Pet. Adoption Partner shall retain ownership of each Pet until the adoption process for such Pet is complete. Adoption Partner will require an adoption release form or other similar document specified by Charities to be signed by the adopting party.
- D. **Adoption Assistance.** If mutually agreed upon by Adoption Partner, Charities, and PetSmart, Charities may, through its relationship with PetSmart, facilitate use of PetSmart employees to support the Adoption Center, which may include conducting adoptions, providing care for Pets, and maintaining the facilities. In such event, Adoption Partner hereby authorizes Charities and/or PetSmart to carry out those activities agreed upon and to provide all reasonably necessary training on Adoption Partner's practices, policies, and procedures.
- E. **Adoption Center.** Adoption Partner shall have the use of the Adoption Center free of rent or costs. The Parties will mutually agree upon one or more Adoption Center locations and the date Adoption Partner will begin use of each Adoption Center. Additional locations may be added from time to time as deemed necessary by both Parties. Additional locations and/or change of locations can be accomplished upon written request by Adoption Partner and written approval of such request by Charities in its sole and absolute discretion.
- F. **Damage to Adoption Center.** Adoption Partner will be responsible for any damage to the Adoption Center or related equipment caused by Adoption Partner, its staff, volunteers, Pets, or any other person or animal acting on or under Adoption Partner's direction or control. Adoption Partner will, at its sole expense, maintain the Adoption Center in a clean, sanitary and orderly fashion and take preventative action to minimize the spread of communicable diseases among Pets. Adoption Partner is responsible for ensuring that the area is clean, fully sanitized and disinfected prior to departure.
- G. **Adoption Rewards.** Charities may elect to provide certain monetary grants in conjunction with the Adoption Program ("Rewards"). Charities, in its sole and absolute discretion may determine the election, amount, modification, or termination of Rewards. Adoption Partner agrees to use such Rewards in the furtherance of its charitable purpose, specifically its Pet adoption program, or if permitted by Charities, other charitable purposes advancing animal welfare. Adoption Partner may not use Rewards for lobbying or political activities, or any purpose not permitted by the Code.
- H. **Adoption Center Supplies.** Charities may elect to provide products or pet food (collectively "Product") for use by Adoption Partner solely for the operation of the Adoption Center. Charities, in its sole and absolute discretion may determine the

election, modification, or termination of Product. Adoption Partner understands and agrees that Product is provided in "as-is" condition and that Charities and PetSmart make NO WARRANTY, COVENANT OR REPRESENTATION, EXPRESSED OR IMPLIED, REGARDING THE PRODUCT, INCLUDING WITHOUT LIMITATION, THEIR DESIGN OR MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE (EXCEPT CHARITIES WARRANTS IT HAS GOOD TITLE TO THE PRODUCT AND CAN TRANSFER GOOD TITLE TO ADOPTION PARTNER). CHARITIES SHALL NOT BE LIABLE FOR ANY DIRECT OR CONSEQUENTIAL DAMAGES OR LOSSES SUFFERED OR INCURRED BY ADOPTION PARTNER OR A THIRD PARTY AS A RESULT OF THE USE, OR CONSUMPTION OF THE PRODUCT. Adoption Partner waives any and all claims against and releases Charities or PetSmart from all liability associated with the use or consumption of the Product. Adoption Partner further understands and agrees that the U.S. Food and Drug Administration ("FDA") regulations specify that protein derived from mammalian tissues is not to be used in ruminant feed and that the feeding of any pet food included with any Product to cattle or other ruminant animals is expressly prohibited by federal regulations.

- I. Reporting. Adoption Partner is required to submit the impact report(s) related to the Adoption Program specified by Charities along with any other information reasonably requested by Charities.
- J. Pet Eligibility. Except as specified in the Policies, all Pets must be spayed or neutered, and evaluated and deemed to be healthy, safe for interaction, adoptable, and in compliance with any applicable laws and regulations prior to placement in the Adoption Program. Pets showing or previously having shown any signs of aggression are strictly prohibited from the Adoption Program. Adoption Partner will isolate Pets at the first sign of illness or aggression and remove such Pets immediately from the Adoption Center and PetSmart premises.
- K. Request for Removal of Pet. Charities or its designee may require Adoption Partner to immediately remove any Pet from the Adoption Center or PetSmart premises as may be reasonably necessary to comply with Charities' Adoption Policies, operate the Adoption Program, ensure the safety or well-being of any Pet or person, or comply with any applicable law or regulation, in Charities' sole discretion.
- L. Employees and/or Volunteers. Adoption Partner agrees that Adoption Partner's employees who are working or facilitating adoptions in the Adoption Program must be at least 18 years old. Adoption Partner's volunteers must be at least 14 years old and properly supervised by the Adoption Partner. Volunteers under the age of 18 must always be accompanied and supervised by an adult. Adoption Partner and its employees and volunteers must always maintain a clean, neat and professional appearance, and conduct themselves in a professional and courteous manner. Adoption Partner shall only permit its employees and volunteers to participate in the Adoption Program.
- M. Agreement. Adoption Partner agrees to require all employees and volunteers working on behalf of Adoption Partner in conjunction with the Adoption Program to sign an agreement with Adoption Partner acknowledging that they are aware of and agree to comply with all policies, procedures and manuals, including this Adoption Partner Agreement, and agreeing to waive all claims and liability against Charities and PetSmart resulting from participation in the Adoption Program.
- N. Potential Removal. In the event Charities or PetSmart has any objection to any Adoption Partner employee or volunteer, Charities or PetSmart shall have the right to require Adoption Partner to commence appropriate procedures to remedy the basis of any such objection. Upon reasonable request, PetSmart or Charities, in its sole discretion, may require the removal of the employee or volunteer from the Adoption Center or any other designated areas.
- O. Prohibited Conduct. Adoption Partner, its employees, volunteers or agents, may not, directly or indirectly during or after the term of this Agreement:
 1. Sell, gift or generally compete with any of the products and/or services sold by PetSmart (such as grooming, pet training and veterinary services) while in the Adoption Center or on PetSmart premises.
 2. Conduct fundraising activities while in the Adoption Center or on PetSmart premises, including directly soliciting donations; except Adoption Partner is welcome to collect donations through use of a donation collection canister located where adoptions are being performed.
 3. Interfere in any way with the conduct of the business of PetSmart, Charities or any customer, tenant or occupant of the PetSmart store or shopping center at any time.
 4. Allow any person or other organization to use its Adoption Group Number as assigned by Charities, its tax identification number, or participate in the Adoption Program using its name or identity.

Section 2 – General Provisions

- A. Adoption Partner represents to Charities, as of the date of this Agreement and at all times during the term, that:
1. Adoption Partner is either: (i) an organization exempt from federal income tax under Section 501(c)(3) of the Code, (ii) a governmental entity under Section 170(c)(1) of the Code that will use any Rewards exclusively for public purposes, or (iii) an "Indian tribal government," under Section 7701(a)(40) of the Code, that is treated as a State that will use any Rewards exclusively for public purposes.
 2. Adoption Partner holds and will maintain any and all licenses, permits and registrations necessary or appropriate to operate and fulfill Adoption Partner's mission.
 3. Adoption Partner is in compliance (and will comply) with all applicable federal, state, local and tribal laws, regulations and other requirements.
 4. Adoption Partner is not on any federal terrorism "watch list" and any Rewards will be used in compliance with all applicable anti-terrorist financing and asset control laws, statutes and executive orders.
 5. Adoption Partner agrees that all representations or statements made by Adoption Partner in any application or any related communications from or on behalf of Adoption Partner are true and accurate in all material respects. Adoption Partner will notify Charities promptly in writing of any changes in such representations or statements.
- B. Adoption Partner agrees to maintain adequate books and records and other financial documents showing compliance with this Agreement. During the term of the Agreement and for two years afterwards, Charities may audit or review Adoption Partner's books and records solely with respect to this Agreement to confirm Adoption Partner's compliance with the terms of the Agreement. Any such request will be made with at least ten (10) business days' prior notice and during normal business hours. Following any such request, Adoption Partner will provide Charities with the requested records and will fully cooperate with Charities. During any such audit or review, Charities may, in its sole discretion, suspend participation in the Adoption Program and withhold any unpaid Rewards pending the outcome of the audit or review. Adoption Partner expressly grants permission to Charities or its designees to discuss with, or request documentation from, third parties about Adoption Partner related to performance under this Agreement. Adoption Partner agrees to cooperate with Charities in supplying additional information required for Charities to comply with governmental requests related to this Agreement. In addition, Adoption Partner agrees to retain and make available all records for Pet licensing and registration, adoptions and adopter information, adoption policies and procedures, as well as any other records required by law related to any Pet or operation of the Adoption Center.
- C. Nothing in this Agreement is intended or will be construed to create any type of partnership, joint venture, employment, franchise or other similar relationship between the parties. Charities and Adoption Partner are each independent entities, and each will be solely responsible for the acts and omissions of its respective officers, agents, employees, volunteers, and representatives and during and after the term of the Agreement. Adoption Partner shall defend, indemnify and hold harmless Charities including its respective affiliates, directors, officers, managers, employees, representatives, agents, assigns and successors, from and against all costs, claims, losses, liabilities, property damage, bodily injury or death, or intellectual property infringement (including reasonable attorneys' fees and expenses), incident to or arising out of Adoption Partner's: breach of this Agreement; willful misconduct or negligent act(s) or omission(s); receipt or use of the Rewards; participation in the Adoption Program, including injury or damage caused by or involving Adoption Partner's Pets; possession, storage, use, consumption and disposal of any Product; employment and/or worker compensation claims; or violation of applicable law. Notwithstanding the foregoing, this provision shall not be applicable if Adoption Partner is a governmental entity and as such, is prohibited by law from indemnifying Charities.
- D. In adoption activities pursuant to this Agreement, Adoption Partner agrees that it will not discriminate by reason of race, color, creed, religion, national origin, age, sexual orientation, disability, veteran status, gender, marital status or any other legally protected status.
- E. Adoption Partner will acknowledge Charities' support in any promotional materials, including websites and social media platforms, in connection with adoption activities pursuant to this Agreement. Except in the performance of governmental functions or in the enforcement of applicable laws, rules and regulations, Adoption Partner must obtain prior written approval by Charities and will provide Charities at least ten (10) business days to review, for quality control purposes, the proposed use. If Charities permits Adoption Partner use of its logo, such use is a limited, non-exclusive, revocable right to use. Adoption Partner may not use Charities' logo for any purpose other than the use permitted by Charities, and Charities may immediately terminate use if it is determined by Charities to be unacceptable.


Any right given to Adoption Partner for the use of Charities name or logo may not be transferred, assigned or sublicensed.

- F. Upon approval by the Adoption Partner, in its discretion, Charities shall have the limited, non-exclusive, revocable right to publish, print, transmit, display or otherwise use Adoption Partner's name and logo in accordance with the terms of the approval. If Adoption Partner permits Charities' use of its logo, such use is a limited, non-exclusive, revocable right to use. Such use may be in electronic or digital format (including e-mail, social media platforms or websites) or in printed form. Charities will not use Adoption Partner's name or logo in a negative light or critical manner. Charities' use of Adoption Partner's name or logo will be used only to support or further Charities' mission.
- G. If either party brings an action to enforce its rights under this Agreement, the prevailing party may recover its expenses (including reasonable attorneys' fees) incurred in connection with the action and any appeal from the losing party.
- H. This Agreement shall remain in full force and effect until terminated by either Party as set forth herein. Either party may terminate this Agreement at any time, with or without cause, upon at least thirty (30) days written notice of such termination to the other party. Charities may immediately terminate this Agreement upon written notice to Adoption Partner if Charities determines, in its sole discretion, that Adoption Partner: has breached any term of this Agreement; is the subject of any legal, regulatory or media investigation or is engaged in any action or course that appears to be unprofessional, uncharitable, disreputable, or otherwise inappropriate; ceases to operate or materially and adversely changes its method of operation, is insolvent, or files for or is the subject of any type of receivership, bankruptcy or similar proceeding; or has not complied with the requirements of any other agreement with Charities. If Charities terminates this Agreement for cause, it may, in its sole and absolute discretion: withhold any pending or future Rewards; or revoke any Rewards not used in accordance with this Agreement and require that all previously provided Rewards be returned.
- I. This Agreement constitutes the entire agreement and understanding between the parties and supersedes all other prior and contemporaneous communications, discussions, understandings, negotiations, arrangements and agreements, whether written or oral, relating to the subject matter of this Agreement. This Agreement shall not be construed for or against any party based on which party drafted this Agreement, and each party had the opportunity to review this Agreement with their respective legal counsel to the party's satisfaction. This Agreement will not be effective until all information requested by Charities is provided by Adoption Partner and is fully executed. Charities and Adoption Partner each represent that the individuals signing are duly authorized to execute this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an enforceable original, but all of which together shall constitute one and the same instrument. Facsimile and other electronic signatures shall be as effective and binding as original signatures.

TO EVIDENCE THEIR AGREEMENT, the parties have executed and delivered this Adoption Partner Agreement, all effective as of the last date written below.

"CHARITIES"

PetSmart Charities, Inc.

Signature: 

Name: Lindsay Del Chiaro

Title: Program Director

Date: 10-2-19

"ADOPTION PARTNER"

Baldwin County

Signature: 

Name: Charles F. Gruber

Title: Chairman

Date: 10/08/2019