****

**Anatomy of an Animal Adoption Agreement (Contract)**

OVERVIEW

An adoption agreement can be used to establish the adopter’s and adoption agency’s rights and responsibilities. Additionally, an adoption agreement (or contract) provides evidence of a transfer of ownership from the agency to the adopter. Most important, the agreement can be used to protect the agency from liability.

Most animal welfare organizations refer to the transfer of the animals in their care in terms of adoption. However, it is important to bear in mind that the U.S. legal system does not recognize animal adoption in the same way it does human adoption. Animals are treated as property in the U.S. legal system, and the agreement transferring ownership of an animal from an animal welfare organization to a new family is, therefore, an agreement for the sale of goods.

To be enforceable, an agreement must include an offer and acceptance and must be supported by consideration (in this scenario, typically an adoption fee). The law may require that an agreement be in writing to be enforceable. And even if not legally required, a written (print or electronic) agreement creates a clear record of the parties’ agreement.

Agreements must be written in clear, specific terms. The use of technical legal terminology is not necessary or beneficial. If an attorney drafts an agreement for your agency, you should ask him or her to use plain English.

It is critically important to have any agreement your agency uses drafted – or at least reviewed – by an attorney with experience in animal welfare and familiarity with the relevant local, state, and federal laws that may impact your animal adoptions. Having said that, the samples available in the industry can provide an excellent first step in the drafting process. The following outline identifies the various provisions to consider including in your agency’s adoption agreement along with sample language. These examples are intended only to be illustrative, and do not constitute legal advice. The specific language that is subsequently used in an agency’s contract will need to be customized to capture that agency’s individual needs, policies, and jurisdictional requirements.

 If you are placing cats within a working situation, we recommend a separate agreement than your adoption agreement with care standards, laws, legalities, etc. that apply to their placement.

AGREEMENT

***Preliminary Provisions***

* The adopter and organization must be named and full contact information must be provided. Objective factors for the animal must be identified including name, ID number, species, and a physical description including factors such as gender, color, and weight. The age or approximate age of the animal should also be noted. Identifying the breed of an animal can be very subjective; an organization may choose to identify a breed or predominant breed at their discretion.

This is probably most easily accomplished with fill-in-the-blank fields (or generated electronically) for the information for the agency, adopter, and animal.

**EXAMPLE:** This adoption agreement is between [agency name, address, phone number, web address] and [adopter name, address, phone number, email address] for the adoption of [animal name, id number, species, approximate age, and physical description – gender, color, weight].

* Indicate that the adopter is legally eligible to enter into the agreement; this could include such factors as the adopter’s age (with the age of 18 being typically required to legally enter into an agreement; may also be a rule that the agency observes).

**EXAMPLE:** I am 18 years of age or older.

* Provide context and background information; referred to by attorneys as “Recitals,” these are short, factual statements that explain why the parties have entered into the agreement; while not necessarily part of the binding terms of the agreement, these recitals can be used by a court or arbitrator when interpreting the agreement and the parties’ intentions; the recitals also serve to ensure that both parties to the agreement understand its purpose.

**EXAMPLES:**

1. We are here to promote a healthy relationship between you and your pet.
2. We encourage you to call us with any questions and concerns and ask that you respond to our follow-up requests by phone or email.
3. Congratulations on adopting a homeless animal. Your commitment to the health and wellbeing of your new family member can assure s/he has a healthy life. We believe that every animal has intrinsic needs that we as their pet guardians need to fulfill.
4. Whereas, [agency] is a non-profit animal welfare agency specializing in placing neglected, abused, unwanted and/or abandoned domestic animals, mainly dogs and cats, in permanent homes. These animals come into the possession of [agency] through various means including but not limited to surrender, and transferring animals from other animal agencies;

Whereas, these animals are the legal property of [agency];

Whereas, Adopter is desirous of adopting one of [agency’s] animals to provide the animal with a home and,

Whereas, [agency] is relying on Adopter’s representations that Adopter will provide a home in entering into this Agreement.

***The Body of the Agreement – The Operative Provisions***

* The agreement should include a transition from the preliminary items to the agreement’s operative terms.

**EXAMPLES:**

1. The parties agree as follows:
2. I hereby acknowledge receipt of the above described animal(s) and therefore promise and agree to:
3. In exchange for being permitted to adopt [animal] (the “Animal”) from the [adopting agency], I agree to the following:
4. In consideration for [adopting agency] agreeing to transfer possession and ownership of the above-referenced animal to the adoptive owner, the parties agree that the adopter/owner shall abide by the following conditions:
* The operative terms of the agreement should appear next. While not required, space for the adopter’s initials can be provided next to each item to acknowledge that s/he read and agreed to each one. These provisions can cover the animal’s care, the terms under which the animal can be returned, sterilization compliance, medical waivers, behavior waivers, licensure, available support from the adopting agency, agency’s refund policy, and so forth.
* It is important to be realistic about what can be accomplished with an adoption contract. There are some commonly used provisions that would be very unlikely to be enforced in the event of a breach (e.g., the requirement that the animal be seen by a veterinarian within 48 hours). However, even provisions that are not likely to be enforced by a court can still be included as a way of communicating the parties’ expectations and preferences. Again, it is very important to work with an attorney in drafting or reviewing your organization’s adoption contract so that you will have a complete understanding of what provisions are enforceable and which may not be but are still valuable to include.

**EXAMPLES:**

1. **Kind treatment and care.** I will provide kind treatment and all proper and necessary care for the Animal, including, but not limited to, agency, food, water, veterinary care, and human companionship.
2. **Re-homing the Animal.** If I ever need to find a different home for the Animal, I will use my best efforts to ensure that Animal will receive kind treatment and all proper and necessary care in the new home. I understand that [the adopting agency] can assist me in re-homing the Animal, including accepting the Animal back at any time for any reason.
3. **Notify [adopting agency] of pre-adoption illness.** If the Animal shows signs that s/he contracted illness before adoption, I will use my best efforts to notify [adopting agency] so that any needed steps can be taken to protect other animals.
4. I agree to:
* Provide adequate food, water, and shelter at all times along with routine medical care.
* Procure professional medical care at once and at my own expense should the animal(s) become sick or injured.
* Refrain from physical abuse of the animal(s), from confining the animal(s) for excessive periods of time without exercise and from otherwise treating the animal(s) in an inhumane manner.
* Not have any type of cosmetic surgery performed on this/these animal(s) such as ear cropping or tail docking.
* Not permit or cause this/these animal(s) to be used for purposes of experimentation, research, exploitation, or for food.
* Not allow this/these animal(s) to run loose or to violate any state or municipal anticruelty or licensing laws and notify the [adopting agency] and other appropriate agencies if the animal(s) is/are lost or believed to be stolen.
* Adopt the animal(s) solely as a household pet and companion and allow the animal(s) to live and sleep in the house.
1. Adopter acknowledgements:

● We may not have a complete medical and behavioral history of the animal, but the [adopting agency] has disclosed everything that is known.

* + I understand I will be responsible for the continued veterinary care for this animal. I understand the agency will not be able to provide further treatment or assistance with diagnosis and management of a health condition or any agency-related illness. I will accept financial responsibility for all future veterinary bills.
	+ I understand that I may take the animal to a participating veterinarian from the [city/state] Area Veterinary Medical Association for a free physical examination within 14 days from the date hereof, and that I must submit my receipt from the [adopting agency] at the time of the physical examination. I understand this free health examination does not include any vaccinations, medications recommended by the veterinarian or surgical procedures.
	+ I understand that I am required by State law and City Ordinance to ensure this animal is vaccinated against rabies and that it receives booster inoculations before the expiration date on the rabies tag. I also understand the metal rabies tag must be attached to this animal at all times.
	+ If I am a [city] resident, I understand I am required by City ordinance to obtain a license for this animal once it has been inoculated against rabies and that I must keep the license current by renewing it before the expiration date on the metal tag. I also understand the metal license tag must be attached to this animal at all times. Per City ordinance, proof of vaccination is required before a license can be issued. I can renew the license online at [web address].
	+ I understand that owning an animal carries with it certain inherent risks that cannot be eliminated regardless of the level of care taken. Animal behavior is unpredictable, and animals may injure people, other animals or property. I understand that past behavior is no indication of how this animal may act in the future or in different environments.
	+ I am accepting the animal in its present condition, based on my own examination and inspection.
	+ I have been informed of the following health conditions and/or behavioral concerns:
	+ I have been informed and understand I will not be reimbursed for any veterinary costs I incur.
1. I will take the Animal to a veterinarian for a general physical examination and any necessary vaccinations, deworming, medications or medical treatment as needed, at my own expense. This Animal is not considered fully vaccinated until its medical portfolio has been reviewed by my veterinarian post-adoption and its current and future risk of disease or illness has been considered. My veterinarian may recommend additional vaccinations or boosters for my pet's vaccinations to be considered fully up-to-date. The [adopting agency] has provided me with current medical records for my Animal. I will keep this Animal inoculated against rabies and abide by all local ordinances, regulations and statutes.  I understand that dogs and cats (four months of age and older) are required by law to be current on rabies vaccines at all times. The [adopting agency] has provided me with a copy of the Rabies Information Brochure.
2. I will provide a humane environment, regular exercise and companionship for this Animal.
3. I understand that I am adopting this Animal with the following diagnosed condition or fault, and I realize that this Animal may need further training or treatment at my expense.
4. We recognize some pet matches may not be successful through no fault of the person or the Animal. Your adoption fee will be refunded if you return your pet to [adopting agency] due to behavior concerns or medical issues that have made living with your pet unacceptable. Should you elect to rehome the Animal, we ask that you provide us with the new family's contact information so we may continue to provide support to that Animal or return the Animal.
5. (Name) hereinafter referred to as “Animal,” is being transferred to the adopting owner with the understanding that the adopter is taking possession of the Animal to treat and to be responsible for it as his/her own Animal.
* The adopter will pay the [adopting agency] a non-refundable adoption fee of $\_\_\_\_\_\_\_\_.
* If the animal is not yet spayed or neutered, the adopter will also pay the adopting agency a refundable deposit of $\_\_\_\_\_\_\_\_ that will be returned upon presentation of proof that the animal has been spayed/neutered.
* I understand that the adoption fee is non-refundable, regardless of how long I have the Animal in my possession, even if I am not able to keep the Animal or if I return the Animal to the [adopting agency] for any reason.
* The Animal will be treated as a family member with loving care and affection. I will do my best to ensure the Animal’s safety and well-being.
* I will provide the animal adequate nutrition and provide a fresh supply of water at all times.
* The Animal will live inside my home and will not be isolated from the family. I will walk my dog on a leash or exercise my Animal in a fenced area. I will never let my Animal run loose or roam, keep my Animal chained or tied up, keep it continuously in a yard, garage, patio, balcony, or pen, or leave my Animal outdoors, even in a fenced yard, when no one is at home.
* I will take the Animal to a licensed veterinarian no later than (date) for his/her yearly exam and to receive any needed vaccines.
* I will provide all required and/or needed veterinary care, including: current rabies vaccination and prompt treatment by a licensed veterinarian for any illness or injury.
* I understand that this dog or cat has tested negative for heart worm and has been on heart worm preventative. I also understand that it is recommended that I should continue a heartworm preventative program following adoption. I agree I will abide by my veterinarian’s recommendations about prescribing preventative and future testing for heartworm.
* I affirm that no member of my household has been convicted or charged with any animal welfare law violation such as neglect, cruelty, abandonment, etc. I affirm that no member of my household has been convicted or charged with any domestic battery or sex crime.
* I will ensure proper licensing of the Animal and will attach the appropriate license tags, rabies tag and personal identification tag to a non-choke collar to be worn at all times. I will ensure compliance with all applicable local ordinances and state statutes.
* I further agree that said pet shall reside inside my home and shall not be allowed to roam freely. I hereby agree that this pet shall wear a collar or harness with identification tags at all times.
* I hereby agree that the adoption fee of $ \_\_\_\_\_\_\_\_\_ helps to cover the [adopting agency’s] expense of caring for the animal and is not refundable after a trial period of 14 days.
1. From the date of this agreement, I agree to assume full responsibility for the veterinary care for this Animal, including an annual examination and routine vaccinations and tests.
* I will keep the Animal free of pests and parasites, including ticks and fleas. I understand that animals require heartworm prevention and agree to provide this medication for the life of the Animal.
* This dog will be kept on a leash at all times when outside of a securely fenced-in area.
* He/she shall not be kept chained or tethered. I will not leave the Animal in an electronic containment system unsupervised. I will not allow this Animal to live primarily outside, in a basement, garage, screened in porch, or any area other than the main living quarters.
* I will provide a collar for the Animal to wear at all times, and the collar must have the [adopting agency’s] tag, microchip tag, rabies tag, and a personal tag affixed to the collar at all times. I agree to not permit the Animal to ride in the back of a pickup truck unless secured in a carrier.
* I will always provide traceable identification of the adopted animal to insure it can be reunited with me should the animal become lost. This will include at minimum one ID tag and as well as any other legal identification requirements.
* I will keep the Animal’s microchip registration up to date and will notify the microchip company of any change of contact information.
* I agree not to abuse or neglect the Animal and under no circumstances will physically punish the Animal. Rather, I will consult with [adopting agency], my veterinarian or a trainer about the appropriate ways to deal with specific behavior problems.
* If for any reason this Animal is not spayed or neutered prior to the execution of this agreement, I agree to have the appropriate surgical procedure performed on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and to provide documentation that this has been performed.
* I understand that the adoption fee is non-refundable, except as noted in the organization information and responsibilities section.
1. I have received the offer of a 30-day trial of pet health insurance. If I have opted in, I understand that it is my responsibility to activate the offer upon receipt of an email from the insurance company or via phone call to the company. I am encouraged to activate the trial within 24 hours of adoption.

***The “Boilerplate” – The Legal Provisions***

For the adopting agency’s protection from future liability, the agreement must include language disclaiming any guarantees or warranties, express or implied. While provisions regarding medical and behavior waivers may include some language regarding the adopting agency’s liability, that language is limited to that particular situation or issue. The sample language below disclaiming guarantees and/or warranties and providing for indemnification are broad and should be included.

**EXAMPLES:**

1. I understand the [adopting agency] makes no warranty as to the health or temperament of this animal.
2. I understand that [adopting agency] has provided me with information about this animal to the best of its ability based on its experience with this animal. I understand that [adopting agency] cannot guarantee the health, behavior, age, breed, or temperament of my adopted animal.
3. I understand and agree that the [adopting agency] makes no express or implied warranties, representations, or promises as to the age, health, breed, habits, disposition, or safety of the Animal. I hereby accept the Animal AS IS and assume all risks and responsibilities associated with the ownership of the Animal, including bites.
4. I understand and agree that [adopting agency] makes no express or implied warranty, representation or promise about the age, health, breed, habits, disposition, safety, or merchantability of the Animal.
5. While care has been taken to prevent disease transmission, there are factors beyond the control of the [adopting agency] that contribute to infectious disease and this animal's health cannot be guaranteed. It is possible this animal has been exposed to canine or feline disease but may not show symptoms for several weeks. It is also possible this animal is harboring parasites or disease that may be transmittable to people. I understand the [adopting agency] is not responsible for costs that may occur for any pre-existing or agency-related illness.

The adopting agency must also protect itself by including a provision that the adopter indemnifies the agency and will hold it harmless.

**EXAMPLES:**

1. I hereby fully and completely release, indemnify and hold harmless the [adopting agency], its directors, officers, volunteers, servants and employees from any claim, cause of action, damages, or liability of any sort or nature, whether known or unknown, directly or indirectly arising out of or in connection with the adoption, care or ownership, maintenance, temperament or condition of the Animal.
2. I fully and forever release and discharge [adopting agency] and its officers, directors, employees, insurers and agents (the “Released Parties”), from all actions, suits, claims, damages, costs, expenses, attorneys’ fees, and demands of any kind, whether compensatory or punitive in nature, including, but not limited to, any liability for injury or property damage caused by the Animal to another animal or person, illness to the Animal, or illness or parasite transmitted by the Animal to another animal or person. I also promise and agree to indemnify the Released Parties against any and all liability incurred by the Released Parties, including, but not limited to, all judgments, settlements, penalties, fines, costs, expenses and actual attorneys’ fees, that relate to the Animal, or that arise out of my adoption or ownership of the Animal.
3. I understand that once the agreement is signed and I have taken possession of the animal, I will be solely responsible for any actions of this animal and I agree to hold harmless [the adopting agency] and its representatives from any liabilities, injuries or loss caused by this animal or any causes of actions, claims, suits or demands that arise from such injury, damages or losses.

***Signatures***

* Space must be provided for an authorized representation of the adopting agency and the adopter to sign the agreement.

**EXAMPLES:**

1. I, the Adopter, have read the adoption rules and conditions set forth above and understand each of them and agree to abide by them.

On this day, I acknowledge receiving the animal listed above.

Adopter Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Staff Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. I acknowledge that I have read and fully understand the terms and conditions of the foregoing adoption agreement and that I will comply with the same.

Guardian/Owner Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_       Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[adopting agency] Employee Signature:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_       Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Adoption Fee: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_ + Tax-Deductible Donation: $\_\_\_\_\_\_\_\_\_\_\_\_ = Total: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. I understand that by voluntarily signing this agreement, I am entering into a legal and binding agreement with the [adopting agency].
Adopter Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Staff Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_