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SAMPLE “PET TRUST” by Timothy S. Midura (TMidura@theBrooksInstitute.org)

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Note: Statutory references are for Illinois.

**Article \_\_**

**Animal Trust**

**Statement of Intention and Material Purpose**

Any references to “Animal Trust” under this Trust Agreement shall refer to the provisions of this Article. The Animal Trust is created pursuant to the authority of 760 ILCS 3/408. The Animal Trust shall be held as a separate trust and the administrative provisions of this Trust Agreement are hereby incorporated by reference, except to the extent they are inconsistent with the provisions of the Animal Trust. Any conflicts or inconsistencies between the provisions of this Trust Agreement and the Animal Trust shall be construed in favor of the provisions of the Animal Trust and the Animal Trust provisions shall be controlling.

Any legal interests (such as legal or equitable title or ownership) in a companion or pet animal (along with his or her tangible personal property – inclusive of collars, harnesses, leashes, toys, beds, blankets, clothing, medicine and medical supplies, cages, grooming supplies, food supplies, food and water bowls, etc.) subject to this Trust Agreement, whether during my lifetime or upon my death, shall immediately be transferred to the Animal Trust Trustee (“AT Trustee”). This Trust Agreement and the Animal Trust shall be construed to have the immediate effect of such transfer or assignment of such legal interests upon such animal (along with his or her tangible personal property) becoming subject to this Trust Agreement, without the need of having a written assignment by the Trustee to the AT Trustee. Any animal or animals subject to the Animal Trust are herein referred to as “animal beneficiaries.” The custody and care of the subject animal of the Animal Trust is hereafter provided.

For purposes of this instrument, construction for the care of my companion animals or pets shall recognize that they are more than mere property or chattel; and their individualized personhood and their individual capacities of sentience, emotion, cognition, and agency.

A. **Identification of Subject Animals as Beneficiaries of the Animal Trust**.

For purposes of this instrument with respect to a companion animal or pet, “owned” by me includes such an animal with intention owned, possessed, leased (during the term of such lease), kept or held by me on a permanent basis. An owned female animal shall include her offspring who at the time of becoming subject to this Animal Trust is pregnant or thereafter becomes pregnant.

[**NOTE: “COMPANION ANIMAL” IS MORE LIMITED THAN “PET” AND THE APPLIED STANDARD OF CARE IS “WELL-BEING” BEING BROADER.**]

[**NOTE: MORE SPECIFIC IDENTIFICATION OF A SPECIFIED ANIMAL IS IMPORTANT TO PROPERLY TRACT THE BENEFICIARY ANIMAL – SUCH AS THE LIFETIME OF THE INTENDED ANIMAL**. **CONSIDER POTENTIALLY USING DETAILED PHYSICAL DESCRIPTION (INCLUDING BLOTCHES OF COLORED FUR, SCARS AND INJURIES), PHOTOS, AGE/BIRTH DATE, MEDICAL AND DENTAL RECORDS, DNA (SAMPLING BEFORE ANIMAL IS DELIVERED TO THE CARETAKE OR SOON THEREAFTER), MICRO CHIP, ETC.**]

[**NOTE: INCLUDING A CLASS OF ANIMAL BENEFICIARY FACILITATES COVERAGE OF LATER ACQUIRED ANIMALS**.]

For purposes of this instrument, reference to “companion animal” (singular or plural) means [NAME AND ANIMAL CLASSIFICATION OF PET] (as further identified in Exhibit A, attached hereto), a feline (cat), canine (dog), equine (horse), or other domesticated animals [**EXAMPLE, BIRD, PIG**] maintained by me in or near my household that are owned by me, and any of any female’s offspring in gestation. Companion animal shall include a service animal that attends to me (subject to any servicing agreement). For purposes of companion animal, “domesticated” means a tamed animal living in my household and dependent on me. The term companion animal shall exclude animals owned primarily for commercial purposes (such as farming and breeding).

[**NOTE: “PET” IS BROADER THAN “COMPANION ANIMAL” AND THE APPLIED STANDARD OF CARE IS MORE LIMITED**.]

[**NOTE: CONSIDER SPECIFIC IDENTIFICATION OF A SPECIFIC ANIMAL**.]

For purposes of this instrument, reference to “pet” (singular or plural) means a companion animal of mine or other specifically identifiable animal demonstrably and deliberately maintained by me in or near my household for noncommercial purposes (for example, other than farming, breeding or other commercial activities).

[**ALTERNATIVE FOR INCLUSION OF REGULARLY CARED FOR FERAL NEIGHBORHOOD CAT OR DOG**.]

The term “pet” shall also be inclusive of a cat or dog that does not reside in my home yet for whom I have demonstrated a regular pattern of personal care (such as a neighborhood feral cat or feral dog that is not evidently owned by anyone and who can be the subject of domestication). This definition expressly excludes wild animals, any commercially owned animals, animals owned by others or are regularly cared for by others. This Paragraph shall only apply during my lifetime and only so long as there are direct animal beneficiaries (other companion animals or pets) of the Animal Trust and such direct animal beneficiaries and I are living together in my home. It is not my intention to maintain the Animal Trust solely for feral animals about the place I reside.

The AT Trustee, Enforcer or Trust Protector may from time-to-time inspect the animal beneficiaries and their home life for confirmation of the animal beneficiary’s identity and the quality of life and well-being (inclusive of physical and psychological condition). Non-cooperation by the Caretaker shall be grounds for the Caretaker’s removal. Inspection may be made by a representative, such as a veterinarian, and may include: use of photos, examination of medical and dental records and/or contact with the animal beneficiary’s veterinarian, DNA testing, micro-chip installation or verification, tattoo, scars, injuries, or such other examination so as to verify the identity of the animal beneficiary and his or her well-being.

B. **Standard of Proper Care**.

[**NOTE: THE STANDARD OF CARE FOR A “COMPANION ANIMAL” IS “WELL-BEING”**.]

The standard of proper care for my companion animals shall be their well-being.

[**NOTE: THE STANDARD OF CARE FOR A “PET” IS “MAINTENANCE AND HEALTH”.** **THE STANDARD OF CARE FOR A “COMPANION ANIMAL” IS “WELL-BEING”, AS WELL AS “MAINTENANCE AND HEALTH”**.]

The standard of proper care for my pets shall include: maintenance and health, in conditions similar to those I have provided for them. These standards of maintenance and health further include: Quality food (including special needs foods for allergies) and fresh water, maintenance of healthy weight, housing, regular veterinary and dental (mouth) care as appropriate to the lifespan of the animal beneficiary (i.e., “dog years”), hospitalization, medication, neutering/spaying, toys, appropriate exercise routines, grooming (including hair and nails), compensation for individual involved in care (such as walkers or sitting), travel, boarding and transportation, micro-chip installation and keeping it current, insurances (such as health, property, and casualty), routine expenses, and extraordinary expenses (such as surgeries, procedures, treatments, burial, cremation).

For purposes of this instrument with respect to a companion animal or pet, reference to “well-being” includes considerations for:

[**ANY OF THE FOLLOWING MAY BE CONSIDERED AND MODIFIED OR ELIMINATED**.]

• Diverse interconnected dimensions of physical, mental, and social well-being that extend beyond health.

• Physical vitality, mental alacrity, social satisfaction, a sense of accomplishment, personal fulfillment.

• Positive and least stressful conditions.

• Positive reinforcement training and handling (free-from-fear and not negative correction).

• Assisting the animal in developing and maintaining self-control.

• An animal’s genetic drives and individual personality traits.

• Providing a safe, stable, and secure environment.

• Attending to daily needs, including: physical care (i.e., grooming, quality food, fresh water, appropriate shelter, and exercise) and meaningful interactions.

• Facilitating interactive socialization with their humans of significance and other non-humans.

• Maintaining stable, consistent relationships.

• Meeting the psychological needs of the animal.

• Liberal construction of the above well-being considerations.

I well understand the costs of proper care of my animals may be or become significant. I place very significant intrinsic value on the proper care of my animals. Therefore, I grant broad discretion to the Caretaker to commit financial resources to maintain and enhance the animal beneficiaries’ proper care, at the same standard of proper care as I have provided or would provide should circumstances change (such as the animal beneficiaries’ age, health, and socialization). The Caretaker may consider the Caretaker’s perception of the happiness and contentment of the animal beneficiaries. I well understand that such costs and discretion may be considered excessive by some persons and especially those who have financial interests in my estate. However, any review of the AT Trustee’s and Caretaker’s actions must consider the intrinsic value of animal beneficiaries in relationship to me and their very real sentience, cognition, and agency.

The AT Trustee and Caretaker shall undertake best efforts for the Animal Beneficiaries to adjust and transition due to my absence, whether by my incapacity or death - for example, the Caretaker facilitating visitation with me during my incapacity or viewing my body upon death.

Because my primary intent is for the proper care of the animal beneficiaries, the AT Trustee does not need to consider the interests of the remainder beneficiaries when making distributions. The AT Trustee, in the AT Trustee’s discretion, may use all of the Animal Trust property for the benefit of the animal beneficiaries, even if the result is that nothing will ultimately pass to the remainder beneficiaries.

Any accrued and undistributed income shall be added to principal.

C. **Insurance(s)**. The AT Trustee [**shall**] [**may**] use Animal Trust property to purchase appropriate insurances to protect the Animal Trust, the AT Trustee and Caregiver from damage or excessive costs. Appropriate insurances include (but are not limited to) health, property and casualty. Considerations for health insurance may include: exams, lab, x-rays (MRIs, CAT scans, ultrasounds), prescriptions, emergencies, surgeries and hospitalization, specialists, accidents and injuries, diseases, illnesses, allergies, infections, chronic conditions, hereditary conditions, congenital conditions, wellness, flea/heartworm prevention, deworming, vaccinations, birthing (caesarean section), prosthetics and orthopedics, dental, behavioral issues, holistic and alternative therapies, specialized end-of-life care, euthanasia, burial, and more in the discretion of the Caretaker or AT Trustee.

D. **Funding of the Animal Trust During Settlor’s Lifetime**. During my lifetime, the AT Trustee may request from the Trustee and the Trustee shall pay to the AT Trustee reasonable amounts for the proper care of animal beneficiaries. “Reasonable amounts” are such amounts required to fulfill my intentions as further provided under this Article.

[**DISTRIBUTION OF ANIMAL OUTRIGHT - ALTERATIVE TO BELOW.]**

[**DISTRIBUTION ‘IN FEE SIMPLE’ OF THE ANIMAL TO A SPECIFIC PERSON OR ORGANIZATION**.]

[**THIS OPERATES TO TERMINATE THE ANIMAL TRUST IN FAVOR OF A NEW OWNER OF THE SUBJECT ANIMALS**.]

E. **Distribution of Animal Beneficiaries Upon Settlor’s Death**. Upon my death, the AT Trustee and the Caretaker shall cooperate in maintaining interim proper care of the animal beneficiaries and promptly distribute outright (not in further trust) the animal beneficiaries to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [**PROVIDE THE IDENTIFICATION OF THE PERSON OR ORGANIZATION**] (the “Terminating Animal Beneficiary”). [**OPTIONAL**] Further, the AT Trustee shall distribute to the Terminating Animal Beneficiary the sum of $\_\_,000 (to assist in the lifetime proper care of the animal beneficiaries) that shall be considered an outright gift-distribution to the Terminating Animal Beneficiary for any purpose, used in the sole and absolute discretion of the Terminating Animal Beneficiary, and not a constructive trust. Such distributions shall effect termination the Animal Trust, subject to payment for outstanding expenses (such as veterinary, AT Trustee and Caretaker compensation and expense reimbursements, and transportation expenses of the animal beneficiaries and their personal effects to the Terminating Animal Beneficiary) and wind-up procedures (such as filing of final income tax returns). If the Animal Trust does not have sufficient funds to satisfy the distributions in this Paragraph, then the Trustee of this trust agreement shall provide funds necessary to satisfy these distributions.

Should the Terminating Animal Beneficiary become income taxable on distributions from the Animal Trust, then the AT Trustee shall ‘gross up’ or make such adjustments to those distributions so as to offset any income taxes to be payable by the Terminating Animal Beneficiary at the Terminating Animal Beneficiary’s then marginal income tax rate.

Should for any reason the Terminating Animal Beneficiary is unable or unwilling to receive the permanent custody and care of the animal beneficiaries, then the financial gift shall lapse and the animal beneficiaries shall be further managed as follows: I direct the Caretaker to place the animal beneficiaries with another individual or family (that is, in a private, non-institutionalized setting) where the animal beneficiaries will be cared for in a manner that any responsible, devoted pet owner would afford to his or her pets. The Caretaker should provide any needed, reasonable veterinary care that the animal beneficiaries may need at that time to restore the animal beneficiaries to general good health and to alleviate suffering, if possible. Any animal beneficiaries who are suffering and whose care is beyond the capabilities of veterinary medicine reasonably employed to restore to general good health or to alleviate suffering shall be euthanized, cremated, and the ashes disposed of at the discretion of the Caretaker.

The AT Trustee is authorized to expend a reasonable sum from the Animal Trust to ensure that the animal beneficiaries will be well provided for during their natural lives. This amount shall be for the food, supplies, veterinary care, and general upkeep and well-being of the animal beneficiaries for the remainder of their anticipated lifetimes, and the recipient need not account to the AT Trustee. The gift of the animal beneficiaries and the appropriate sum of money shall be made as soon as possible following my death and prior to distribution of any other assets from my estate.

Any expenses incurred for the proper care (including the costs of veterinary services), placement, or transportation of my animals, or to otherwise effect the purposes of this Article up to the time of placement, shall be charged against the residuary estate.

Notwithstanding the forgoing to the contrary, the amount so expended or distributed shall not exceed the above sum provided above to the Terminating Animal Beneficiary.

The tangible personal property of the animal beneficiary (as determine first by the Caretaker or second by the AT Trustee) shall be distributed along with the animal beneficiary.

[**RETENTION OF ANIMAL IN TRUST - ALTERATIVE TO ABOVE.]**

[**DRAFTING NOTE: LIMIT THE FUNDING POTENTIAL SO AS NOT TO DEFEAT ANY MARITAL DEDUCTION OR CHARITABLE DEDUCTION OR OTHERWISE FRUSTRATE THE REMAINDER BENEFICIARIES BY AMBIGUITY. ALSO NOTE THAT A COURT MAY REDUCE THE FUNDING AMOUNT THAT SUBSTANTIALLY EXCEEDS THE AMOUNT REQUIRED FOR THE INTENDED USE – 760 ILCS 3/408(b)(5).**]

E. **Funding of the Animal Trust Upon Settlor’s Death**. Upon my death, $\_\_\_\_\_\_.00 shall be distributed by the Trustee to the AT Trustee for the proper care of animal beneficiaries during the term of the Animal Trust. Notwithstanding anything to the contrary within this Trust Agreement and with the exception of other tangible personal property subject to this Trust Agreement, this pecuniary funding distribution shall take priority (last to abate) over all other specific, general or remainder beneficiary distributions. Further, there shall be no apportionment or charging of any death taxes or expenses of the death settlement administration of my estate or this Trust Agreement to the Animal Trust.

[**OPTION IN THE EVENT THE SETTLOR DESIRES TO DISINCENTIVIZE ANOTHER TRUST BENEFICIARY TO OBJECT TO THE ANIMAL TRUST FUNDING AS EXCESSIVE**.]

Should a court determine that the funding of the Animal Trust is excessive, then such excess shall be distributed to the person I have named and is willing to act as the Caretaker. Such distribution shall be considered a gift by me to the Caretaker and the Caretaker may use such gift for any purposes the Caretaker desires (the “Caretaker Gift”). The remaining principal and income of the Animal Trust shall continue pursuant to the terms of the Animal Trust. The AT Trustee shall not consider the Caretaker Gift in providing for the animal beneficiaries (such as a form of animal care advancement or constructive trust for the animal beneficiaries).

[**ANOTHER OBJECTION DISINCENTIVIZING OPTION IS TO MAKE THE EXCESSIVE FUNDS PAID TO AN ANIMAL CHARITY**.]

Should a court determine that the funding of the Animal Trust is excessive, then such excess shall be distributed to [**NAME OF CHARITY/SHELTER**].

[**ALTERNAVITE PROVISION FOR EXCESSIVE FUNDS – PAYMENT TO REMAINDER BENEFICIARIES**.]

Should a court determine that the funding of the Animal Trust is excessive, then such excess shall be distributed to the Animal Trust remainder beneficiary as if the Animal Trust was terminated.

F. **Disposition of Animal Beneficiaries During Their Lifetime**. The Caretaker may consider the well-being, best interests, happiness, and behavioral or physical needs of the animal beneficiary (or her offspring) in finding a permanent adoptive home for the animal beneficiary and cause such a permanent adoption. A permanent adoption of the subject animal shall terminate his or her status as an animal beneficiary. I encourage that animal beneficiaries’ (when more than one) be considered and maintain together as may be appropriate to their socialization and mental and relational health. It shall not be considered a conflict of interest for the Caretaker to adopt an animal beneficiary (or her offspring). The AT Trustee (who is not the adopting family, nor related to the adopting family), in its discretion when considering my intentions for the animal beneficiaries, may make a lump sum distribution from the principal and income of the Animal Trust to the adopting family for some of the future care of the adopted animal beneficiary. The determination of such distribution shall not consider the interests of the remainder beneficiaries and shall consider only the well-being of the animal beneficiaries.

The tangible personal property of the animal beneficiary (as determine first by the Caretaker or second by the AT Trustee) shall be distributed along with the animal beneficiary.

In making a determination to adopt-out an animal beneficiary, the Caretaker may consider a variety of factors. Some of these factors might include: the presence of other animals in the adoptive home and their health (including vaccination status) and temperament, human health and temperament (including alcohol or drug usage, domestic abuse), stability of home environment, history of animal ownership (such as surrendering of animals, neglect or abuse of animals, losing animals, euthanizing animals for reasons other than illness/injury or aggression), home and zoning that allows pets, adopting family intends to keep the animal beneficiary and not gift or sell, use as a companion versus guard, housing being inside versus outside kennel, outside access without harness, etc.

G. **Neuter/Spay**. I encourage the Caretaker, yet in the sole discretion of the Caretaker, to neuter or spay animal beneficiaries as my primary intention is for the proper care of the original animal beneficiaries. There are many other animals in need of adoption (such as shelter animals) and I do not want to add to the burdens of society or extend the term or costs of the Animal Trust through the propagation of animal offspring.

It is not my intention to make the Animal Trust a multi-generational trust. Therefore, I encourage the Caretaker and AT Trustee to facilitate the adoption out and/or neutering or spaying of animal beneficiaries and their offspring. The primary purpose of the Animal Trust is for the first generation of animal beneficiaries.

H. **End-of-Life Decision**. The Caretaker may consider the age, treatable health conditions, comfort, and quality of lifetime of an animal beneficiary in making a decision to euthanize such animal. Euthanizing an animal beneficiary is expressly authorized, in the discretion of the Caretaker. The costs of professional evaluation, specialized end-of-life care, euthanizing, necropsy and toxicology study in case of unexpected death, burial, cremation or other disposition of remains shall be an expense of the Animal Trust. I encourage the Caretaker to consider recommendations of a veterinarian, other significant persons familiar with the animal beneficiary, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [**NAME OF A PERSON AND ANY SUCCESSOR**.]. Quality of life is of paramount concern.

I. **Term and Termination of Animal Trust**. The Animal Trust shall terminate when there are no animal beneficiaries subject to the care of the Animal Trust (such as death or adoption out – the “Termination Date”) and after payment of all final Animal Trust expenses (such as outstanding expenses for fees, expense reimbursements, veterinary, disposition of remains (such as burial or cremation), etc.).

If a sole animal beneficiary is ‘lost’, the Animal Trust may terminate after reasonable due diligence of locating the animal beneficiary. Evidence of due diligence may include police reports, ads in newspapers and social media postings seeking the animal’s return, copies of posters placed in the community, and memorialized inquiries with micro-chip companies, local shelters, local animal hospitals, and pet-finder websites.

Upon termination of the Animal Trust and after such time as is necessary to settle the administration of the Animal Trust (such as filing final income tax returns, payment of outstanding and final Animal Trust expenses, and disposition of animal remains and tangible personal property), the remaining principal (inclusive of any accrued and undistributed income) shall be distributed [**as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**] [**to one or more charitable organizations whose mission is the care of nonhuman animals and such organization is described in Internal Revenue Code Sections 170(c) and 2055(a), as determined by the trustee [protector] in its sole discretion**] [**to the remainder beneficiaries under this Trust Agreement**].

Unless the Animal Trust remainder beneficiary objects within 30 days of the Termination Date and takes immediate custody of the remaining tangible personal property of the animal beneficiaries, the remaining tangible personal property of the animal beneficiaries may be donated to an animal shelter or otherwise disposed in the discretion of the AT Trustee.

[**DRAFTING NOTE WITH RESPECT TO FIDUCIARIES: CONSIDERATIONS OF WHETHER THE FIDUCIARY HAS SUCH RELATIONSHIP OR POWER TO CAUSE THE TRUST TO BECOME A GRANTOR TRUST (IRC 678) OR HAVE A GENERAL POWER OF APPOINTMENT (IRC 2514/2041) IS IGNORED FOR THIS SAMPLE TRUST DESIGN**.]

J. **AT Trustee**. I appoint following person as trustee of the Animal Trust (the “AT Trustee), to act in the order so named:

1. Myself (the settlor).

2. \_\_\_\_\_\_\_\_\_\_.

3. \_\_\_\_\_\_\_\_\_\_.

The then acting AT Trustee may at any time during its tenure by written instrument, delivered to the successor appointed AT trustee, appoint a successor AT Trustee even to the extent modifying by amendment this Paragraph and effectively substituting a successor AT Trustee named by me. Such appointment may set term limits and other conditions and provide for successive AT trustees. Such appointment may be revoked or amended by the appointing AT Trustee at any time prior to the appointed AT trustee accepting office.

In the discretion of the named Successor AT Trustee, the Successor AT Trustee may immediately succeed me as the original AT Trustee at any time the Successor AT Trustee believes that I, as AT Trustee, am unable to give immediate attention to management of the Animal Trust and the proper care of the animal beneficiaries.

The AT Trustee shall use the Animal Trust property for all reasonable expenses incurred in the proper care of the animal beneficiaries. The AT Trustee shall work with the Caretaker to ensure that the financial needs of the animal beneficiaries are met. The AT Trustee may make monthly distributions to the Caretaker, to reimburse the Caretaker for out-of-pocket expenses related to the proper care of the animal beneficiaries, as compensation for taking care of the animal beneficiaries, and/or directly to third parties who provide products or services for the animal beneficiaries. An AT Trustee who also acts as the Caretaker may pay Animal Trust funds to himself or herself as Caretaker for these purposes.

At such time as I am not acting as the AT Trustee, the AT Trustee shall provide no less than annually an accounting for the Animal Trust to the Enforcer and Trust Protector and more often such other information reasonably requested by the Enforcer and Trust Protector so that the Enforcer and Trust Protector reasonably understand the administration of the Animal Trust.

Because my primary intent is for the proper care of the animal beneficiaries, the AT Trustee does not need to consider the interests of the remainder beneficiaries when making distributions. The AT Trustee, in the AT Trustee’s discretion, may use all of the Animal Trust property for the benefit of the animal beneficiaries, even if the result is that nothing will pass to the remainder beneficiaries.

The AT Trustee shall be acting in a fiduciary capacity.

K. **Animal Caretaker**. I appoint following person as Caretaker, to act in the order so named:

1. Myself (the settlor).

2. \_\_\_\_\_\_\_\_\_\_.

3. \_\_\_\_\_\_\_\_\_\_.

4. The AT Trustee.

The then acting Caretaker may at any time during its tenure by written instrument, delivered to the AT Trustee, appoint a successor caretaker even to the extent modifying by amendment this Paragraph and effectively substituting a successor Caretaker named by me. Such appointment may set term limits and other conditions and provide for successive caretakers. Such appointment may be revoked or amended by the appointing Caretaker at any time prior to the appointed caretaker accepting office.

In the discretion of the named Successor Caretaker, the Successor Caretaker may immediately succeed me as the original Caretaker at any time the Successor Caretaker believes that I, as Caretaker, am unable to give immediate attention to the proper care of the animal beneficiaries.

The Caretaker is responsible for the provide a proper home and loving and proper care for the animal beneficiaries and working with the AT Trustee to ensure that the financial needs of the animal beneficiaries are met.

The Caretaker shall provide quarterly written status reports of the animal beneficiaries’ status within the articulated standard of proper care for the animal beneficiary. Such reports shall be sent to each of the then acting AT Trustee, Enforcer and Trust Protector. Such reports shall contain such detail so as to provide sufficient information to assess the status of the animal beneficiary within the articulated standard of proper care. At a minimum such reports shall include: most recent medical and dental reports, current weight, current food and water intake (including preferences and apparent allergies), current photos, and current video. The Caretaker shall promptly respond to queries by the then acting AT Trustee, Enforcer and Trust Protector.

The Caretaker shall cooperate with the AT Trustee, Enforcer and Trust Protector for periodic inspections of the animal beneficiaries and their home life for confirmation of the animal beneficiary’s identity and the quality of life and well-being (inclusive of physical and psychological condition). Inspection visits may be unannounced at the discretion of the AT Trustee, Enforcer or Trust Protector. Inspection may be made by a representative, such as a veterinarian, and may include: use of photos, examination of medical records and/or contact with the animal beneficiary’s veterinarian, DNA testing, blood testing, micro-chip installation, maintenance or verification, tattoo, or such other examination so as to verify the identity of the animal beneficiary and his or her well-being.

Non-cooperation by the Caretaker with the AT Trustee, Enforcer or Trust Protector shall be grounds for the Caretaker’s removal.

The Caretaker’s taking possession of the animal beneficiaries shall be subject to these provisions and the Caretaker’s agreement to these provisions shall be presumed.

In appointing a Caretaker, considerations might include:

• How and why the animal was originally acquired by me.

• Contribution to and past participation in the “sharing” or caring of the animal (e.g., who took the animal to the vet, who regularly walked, fed, groomed, and otherwise cared for the animals).

• Past cooperation (or lack thereof), both as to the animal and to any other matters.

• Distance.

• Willingness to continue the animal’s relationship with the other significant persons.

• Other factors unique to the circumstances, including relevant attributes of the animal that are at issue.

• Identification and prioritization of the animal’s needs ahead of a caretaker.

• Caretaking that empathizes with and meets the animal’s needs.

• Caretaker’s ability to regulate their own impulses and emotions.

• Caretaker’s appropriate judgment regarding the animal’s welfare and well-being.

Further considerations in appointing a Caretaker might include: the presence of other animals in the Caretaker’s home and their health (including vaccination status) and temperament, human health and temperament (including alcohol or drug usage, domestic abuse), stability of home environment, history of animal ownership (such as surrendering of animals, neglect or abuse of animals, losing animals, euthanizing animals for reasons other than illness/injury or aggression), home and zoning that allows pets, adopting family intends to keep the animal beneficiary and not gift or sell, use as a companion versus guard, housing being inside versus outside kennel, outside access without harness, etc.

The Caretaker shall be acting in a fiduciary capacity.

The Caretaker shall be entitled to seek separate advice and counsel to carry out the Caretaker’s duties and such costs shall be paid or reimbursed by the Animal Trust.

L. **Enforcer for the Animal Trust**. I appoint following person as Enforcer, to act in the order so named:

1. Myself (the settlor).

2. \_\_\_\_\_\_\_\_\_\_.

3. \_\_\_\_\_\_\_\_\_\_.

The then acting Enforcer may at any time during its tenure by written instrument, delivered to the AT Trustee, appoint a successor enforcer even to the extent modifying by amendment this Paragraph and effectively substituting a successor Enforcer named by me. Such appointment may set term limits and other conditions and provide for successive enforcers. Such appointment may be revoked or amended by the appointing Enforcer at any time prior to the appointed enforcer accepting office. The Animal Trust is not required to have an Enforcer.

The Enforcer shall enforce the intended use of the principal or income of the Animal Trust and the proper care of the animal beneficiaries. The Enforcer shall have broad authority to review the Animal Trust records and the Caretaker’s proper care of the animal beneficiaries.

The Enforcer may recommend to the Caretaker and the AT Trustee proper care for the animal beneficiaries. The Enforcer may further direct the Caretaker and AT Trustee proper care for the animal beneficiaries.

The Enforcer may remove and replace the Caretaker and the AT Trustee or their successors. Such appointment may set term limits and other conditions and provide for successors.

The Enforcer shall not be acting in a fiduciary capacity.

The Enforcer shall be entitled to seek separate advice and counsel to carry out the Enforcer’s duties and such costs shall be paid or reimbursed by the Animal Trust.

M. **Trust Protector for the Animal Trust**. I appoint following person as Trust Protector, to act in the order so named:

1. Myself (the settlor).

2. \_\_\_\_\_\_\_\_\_\_.

3. \_\_\_\_\_\_\_\_\_\_.

The then acting Trust Protector may at any time during its tenure by written instrument, delivered to the AT Trustee, appoint a successor trust protector even to the extent modifying by amendment this Paragraph and effectively substituting a successor Trust Protector named by me. Such appointment may set term limits and other conditions and provide for successive trust protectors. Such appointment may be revoked or amended by the appointing Trust Protector at any time prior to the appointed trust protector accepting office. The Animal Trust is not required to have a Trust Protector.

The Trust Protector, at any time or times in writing delivered to the AT Trustee, may amend the Animal Trust or terminate it and direct distribution (inclusive of decanting pursuant to 760 ILCS 3/1223) of the Animal Trust estate in such manner as the Trust Protector deems advisable, except that no distributee or beneficiary of the Animal Trust as amended shall be a person other than a beneficiary under the Animal Trust as originally executed, and except further that the Trust Protector (other than me) shall not exercise the powers to amend and terminate to benefit Trust Protector or the Trust Protector’s spouse or descendants. Further, the above Trust Protector power (except as may be exercised by me) shall not be exercised in any way to benefit of the Trust Protector, the Trust Protector’s estate, the Trust Protector’s creditors or the creditors of the Trust Protector’s estate or any dependent of the Trust Protector or in a manner deemed to discharge the Trust Protector’s legal obligation of support. These powers (except as may be exercised by me) shall not be exercisable in any way that might cause them to be or to create a general power of appointment to the Trust Protector within the meaning of Internal Revenue Code §§ 2041 or 2514.

The Trust Protector shall not be acting in a fiduciary capacity.

The Trust Protector shall be entitled to seek separate advice and counsel to carry out the Trust Protector’s duties and such costs shall be paid or reimbursed by the Animal Trust.

N. **Compensation and Expenses of AT Trustee, Caretaker, Enforcer, and Trust Protector**. Each of the AT Trustee, Caretaker, Enforcer, and Trust Protector shall be entitled to reasonable compensation for services rendered and reimbursement of direct expenses in performance of their respective duties. If an individual is acting in more than one such role, the combined roles should be considered together in determining the reasonableness of compensation. Compensation and reimbursement of expenses may be waived by such person. Waiver of compensation shall be presumed unless there is a demonstrable expressed agreement otherwise.

Expenses shall be promptly reimbursed upon submission of adequate receipts for reasonable expenditures. Whenever possible and foreseeable, expenses should be communicated in advance of incurrence to the AT Trustee. Routine expenses should be communicated by establishment of a budget.

O. **Animal Trust as a Directed Trust**. The Animal Trust shall be construed as a directed trust pursuant to 760 ILCS 3/808. Each of the Caretaker, Enforcer, and Trust Protector (and their successors) shall be considered directing parties. Any acting Trust Protector (or in lieu thereof any acting Enforcer, or in lieu thereof any acting Caretaker – the Enforcer or Caretaker taking on the role of a protector for purposes of any decanting consent) may consent to a decanting of the Animal Trust pursuant to 760 ILCS 3/1223(b).

P. **Bond**. No bond or other surety shall be required of the AT Trustee, Caretaker, Enforcer or Trust Protector.

Q. **Income Tax Matters**. During my lifetime due to my power to amend and revoke the Animal Trust, I intend for the Animal Trust to be regarded as a grantor trust for income tax purposes pursuant to Internal Revenue Code Sections 671-676. Therefore, during my lifetime and as a grantor trust for income tax purposes, the tax attributes of the Animal Trust shall be my personal responsibility.

It is my intention that only the animal beneficiaries will be deemed a current beneficiary of the Animal Trust. Therefore, upon my death, it is my intention that the Animal Trust be treated for income tax purposes as a complex trust with no individual persons (other than the animal beneficiaries) being treated as beneficiaries for income tax purposes (no distributable net income passing out). I intend for the Animal Trust to pay any and all taxes for its taxable income and capital gains. Should the Caretaker (other than me during my lifetime) become taxable on distributions from the Animal Trust (other than for any compensation), then the AT Trustee shall ‘gross up’ or make such adjustments to those distributions so as to offset any taxes payable by the Caretaker (again, other than for compensation) at the Caretaker’s then marginal income tax rate.

R. **Enforcement of Animal Trust Provisions**. Any person with an interest in the well-being of the animal beneficiaries may petition for a court order appointing or removing a person designated or appointed to enforce the Animal Trust.

S. **Rule Against Perpetuities Application**. Pursuant to 760 ILCS 3/408(b)(7), the Animal Trust is exempt from the operation of the common law rule against perpetuities and I otherwise waive such rule against perpetuities intending the Animal Trust to be deemed a qualifying perpetual trust.

T. **Amendment or Revocation of the Animal Trust**. I reserve the right to amend or revoke the Animal Trust by written instrument delivered to the then acting AT Trustee and the Trustee of this Trust Agreement.

[**OPTIONAL CONSIDERATION**]

U. **In Terrorem or No Contest Clause**. [IF THE DRAFTPERSON BELIEVES WARRANTED, THE ANIMAL TRUST MIGHT CONTAIN AN IN TERROREM OR NO CONTEST CLAUSE THAT “DISINHERITS” A CONTESTING OR OBJECTING REMAINDER BENEFICIARY. THE REMAINDER BENEFICIARY ALWAYS BEING A CHARITABLE ORGANIZATION WITH AN ANIMAL-FRIENDLY MISSION IS A GOOD WAY OF AVOIDING CONFLICTS.]

[**OPTIONAL CONSIDERATION**]

V. **Alternative Dispute Resolution**. [HAVING A PROVISION FOR ALTERNATIVE DISPUTE RESOLUTION MAY BE A CONSIDERATION.]

*END OF ANIMAL TRUST*

**EXHIBIT A**

**OF THE ANIMAL TRUST**

**Identification of Specific Animal Beneficiaries**

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