

Estate Planning for Non-Human Animals by Human Animals

Timothy S. Midura, C.P.A., J.D., LL.M.

Estate Planning Attorney – Huck Bouma PC

Executive Director and General Counsel – Brooks Institute for Animal Rights Law and Policy, Inc.
Wheaton, Illinois

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Introductory Scope Note to the Reader: This article is specific to domestic companion animals (for example: dogs, cats, and other nonhuman animals kept within or about the home for purposes of human companionship or relationship). Horses on property or boarded may also be considered. However, nonhuman animals considered as inventory or other commercial property (for example: farmed animals, retail, laboratory, etc.) are not within the scope of this article. For simplicity, the term “pet” will be used for the domestic companion animals covered by this entry.

Introduction to the Context of Estate Planning: A minority of people formally and legally plan for their personal disability and death. This is often referred to as “estate planning.” Even fewer persons maintain an up-to-date estate plan that addresses their developed circumstances following the initial estate planning. Parents of young children are often motivated to implement estate planning for the benefit of such children in the event of the death of one or both parents. A minor child has a legal incapacity. There are many family circumstances in which a family member has a physical, mental or emotional disability that renders them legally incapacitated and these situations often require unique planning for the special needs of that family member. The majority of humans have within their family units one or more pets. These pets are often considered family members. In a very real sense, there are many inter-species family units. The nonhuman family members are also without legal capacity. Therefore, it can be anticipated that there are many humans who, if offered the opportunity, would incorporate into their estate planning their nonhuman family members and provide for the nonhuman family member’s special needs. Let’s start to think about “estate planning for animals” and “special needs planning” for nonhuman family members.

Paradox of Person or Property: A paradox is that animals are most often not considered an individual “person” and are legally considered chattels or tangible personal property – while still being a living-being. The animal does not have legal capacity or legal personhood. Most laws consider the animal “things,” much like a kitchen toaster, while they (as living-beings) have the capacity to suffer in a variety of ways, feel, think, and make choices. Domesticated companion animals are quickly perishable if not attended. The nonhuman animal can become anxious and suffer by the mere absence of their human owner and familiar circumstances. Even when a human has an estate plan in place, that estate plan usually does not expressly address the needs of the nonhuman family member nor the intentions of the human owner.

Animals are Perishable Estate Interests: Time is of the essence for proper care of perishable animals and this requires prompt and effective administration enablement. Animals have the unique nature of a living being, whether considered a sentient being or (non-human) person or family member. Domestic companion animals have been bred to be dependent on their humans and the dependency on humans for basic health and life also extends to other animals in confinement. Animals also have the potential of traumatic transition upon the loss of their human

family member. There are moral or ethical responsibilities in the sense that merely having intrinsic value (separate from the value the animal brings to the human) and animals' capacity for suffering calls for prompt and effective care considerations.

Public Policy Considerations Towards Animals is Not New, Yet Ever Developing: Animal welfare, protection, and anti-cruelty laws have been around for quite some time. Even domestic relations laws are developing to expressly take into account the interests of animals. We humans consider our animals in our everyday life. Should we not actively consider our animals in our time of incapacity and death?

Professional Advisor Opportunity: The reason why most owners of pets do not include their pets into their estate plan is that they are not given the opportunity to do so. The professional financial or estate planner better serves their human client by raising the opportunity to plan for the nonhuman family member. At the very least, the standard estate planning documents should contemplate that most families have nonhuman family members (even if considered property) by including general management or standard administrative language (or "boilerplate") specific to these living-beings. Going further, the estate planning documentation can go beyond the general management boilerplate provisions and specifically, uniquely and more extensively provide for the nonhuman family member.

Typical Estate Planning Documents: The typical estate planning documents consist of a will (or last will and testament), some form of trust to benefit human beneficiaries, financial power of attorney, and healthcare power of attorney. The first three of these documents manage the "property" of the human and these inherently and clumsily cover the nonhuman animal property of the human. So it makes sense that each of these three documents at the very least contain some standard administrative provisions expressly drafted to manage the nonhuman living-beings.

Will: A "will" (or last will and testament) is the document that directs the disposition of the human's probate property at death. It can also name guardians of human minor or otherwise incapacitated children. The property controlled by the will is referred to as the "probate estate." The probate estate are assets that do not otherwise automatically pass upon the death of the owner. So the probate estate is comprised of all the deceased owner's assets minus: assets with beneficiary designations or payable upon death designations, joint tenancy property with rights of survivorship, assets already governed by a trust, and certain assets that vest by operation of law (for example, homestead property interests, employer retirement benefits). Countries may have widely different customs and procedures for a decedent's estate that may have automatic vesting of a decedent person's property.

Trust: A "trust" is the arrangement of continued management of property beyond the administration of the probate estate. A trust can manage property at and after the death of the human (referred to as a testamentary trust) and also during the human's own incapacity while still living (referred to as an *inter vivos* or living trust). Some countries do not legally recognize trusts and therefore the concept of a pet trust may not be relevant in certain countries.

Financial Power of Attorney: A “financial power of attorney” (often also referred to as a “power of attorney for property”) can manage the human’s property during a time of unavailability (such as a vacation) or incapacity (such as a surgery or illness).

Animal or Pet Trust: A particularly powerful tool that can be used for the care of pets is a trust that is commonly referred to as either an “animal trust” or a “pet trust” (with “pet trust” being used for this article). A pet trust is a trust expressly focused on the pet. It is quite important that a pet trust is expressly authorized by legislation of the governing jurisdiction. Without “pet trust” legislation, a pet cannot be the purpose or beneficiary of the trust as the pet is not a legal person. A valid trust without an identifiable legal beneficiary is often referred to as either an “honorary trust” or a “purpose trust.” A pet trust is a form of an honorary or purpose trust that needs the applicable jurisdiction to expressly enable it. In the United States, every state, including the District of Columbia, has enacted and authorized a version of honorary or purpose trusts that cover animals.

The following 13 states limit pet trusts for the benefit of domestic or pet animals: Alaska, Arizona, California, Colorado, Hawaii, Illinois, Michigan, Montana, New Jersey, New York, North Carolina, Oklahoma, and Utah. The other states (and District of Columbia) do not limit “animals” to “domestic or pet animals.” Washington state defines animal to mean one with vertebrae. Iowa’s enabling statute’s caption is “trusts for pets,” however the statutory text does not expressly limit “animal” to domestic or pet. Idaho does not have a specific animal trust, however a general “purpose trust” is recognized. Although this article references “pet trusts,” perhaps the better term for trusts that expressly benefit animals is “animal trust.”

Pet Trust Structure: Like all trusts, pet trusts can be simpler in design or more sophisticated. Typically, a pet trust will have an identified animal to hold or benefit, a named trustee to manage financial or tangible assets (i.e., toys, beds, collars, etc.) for the benefit of the animal, and a caretaker of the animal. The trustee and caretaker can be one in the same person. There should also be a third person separately named to enforce the purpose of the trust (an “enforcer”) in order to provide an assurance (some checks-and-balances) that the purpose of the trust and the care of the animal are carried out. If a pet trust does not name an enforcer, a court may appoint an enforcer by its own motion or a person or organization showing interest in the pet may petition the court to be appointed as an enforcer.

Trust laws and pet trust laws usually allow a court to remedy any issues of the pet trust. One common issue is whether the financial amount going into the pet trust is excessive and should be reduced. For trust corpus excess issues, it is important to have articulated in the pet trust the kinds and standards of care for the pet that will give the court better information to make any decision on trust corpus excessiveness. Why is it important to articulate these types and standards of care? Because otherwise the remainder beneficiaries of the pet trust can be motivated by personal gain to argue that the pet trust corpus is excessive and that the remainder beneficiaries should receive such excess. A notable example of a court addressing a pet trust with an excessive amount is the Leona Hemsley estate. Leona Helmsley's estate put in trust \$12 million for her 9-year-old Maltese named Trouble, however the New York court reduced that to a \$2 million.

Another issue is the term of the pet trust or how long will the pet trust be in existence? Is the pet trust for the life of a specific designated animal? What if the animal is in gestation and what about offspring? Generally, enabling pet trust laws only consider the pet or pets alive at the time of the owner's death and such pet trusts terminate upon the death(s) of the pet(s). Offspring of pets are usually not covered. Having the pet trust encourage neutering or spaying of the pet is a drafting consideration. The applicable rule against perpetuities might also limit the pet trust duration to twenty-one years or some other specific term. The rule against perpetuities is a state's public policy of how long any trust can stay in existence.

The history, legal elements and administration of pet trust can be complex and jurisdiction specific; and so for brevity's sake will not be further addressed. In considering a pet trust, the applicable jurisdiction's law must be consulted and any trust instrument carefully reviewed.

General Practical Pet Provisions for Estate Planning Documents: General administrative estate planning documentation provisions (sometimes called "boilerplate") might expressly cover:

- Specific statement for the pet's care.
- Authorization to board.
- Authorization to hire a caretaker.
- Authorization to acquire or maintain appropriate insurances.
- Authorization to adopt-out the pet to a new forever home.
- Authorization to euthanize the pet in strict circumstances.
- Authorization to create and fund a pet trust.
- Authorization of costs and expenses for the above and charging to the estate.

Specific Pet Trust Coverage: In addition to formal and legal documentation, the pet owner might also consider the following to better manage the pet's interests if the owner is unavailable:

- Express establishment of a pet trust with statement of intention and purpose.
- Identification of the covered animal(s).
- Standards of proper care.
 - Note: Articulating the breadth and depth of the standards of care can justify to third-parties the reason for the financial funding for the benefit of the pet.
- Insurances covering the pet(s).
- Financial funding.
- Caretaking distribution of the pet during the human owner's lifetime in the event of the owner's incapacity.
- Caretaking distribution of the pet upon the human owner's death.
- Adoption of the pet to a new forever home, along with any financial benefits to the adopter.
- Neuter/spay.
- End-of-life (euthanize) decisions.
- Term and termination of the pet trust.
- Distribution of remainder of pet trust assets upon termination.
- Appointment of trustee and successors.
- Appointment or hiring of caretaker(s) [and/or advisor] and successors.

- Appointment of enforcer and successors.
- Compensation for the involved parties.

When a Pet Trust is Not a Viable Option: Sometimes creating a pet trust is simply too complex for the situation or the cost of creation is unacceptable. A simple option is to leave by one's will an outright gift of the pet and an accompanying financial amount to a designated successor owner of the pet (or adopter). This is the person who might have otherwise been designated as a caregiver if a pet trust could have been an option. The financial amount might be sufficient to cover the intended lifecare of the pet or at least sufficient to ease the financial costs of caring for the pet. The acceptance of pet ownership (or adopting) and the lifecare of the pet should be a condition of receiving the financial amount. The financial gift should be expressly made to the adopter of the animal as an outright gift to the adopter so there is no argument that it is an implied form of trust or taxable compensation. It also is prudent to have spoken with the designated adopter to assure the future acceptance. It is prudent to name a contingent adopter should the first adopter be unwilling or unable to act. When an individual person cannot be found to adopt the pet(s), there very well may be available animal-friendly humane organizations that will serve to provide adoption services and/or act as custodian of a financial amount to care for the pet as finally adopted into a forever home.

Euthanasia: Should the will or trust direct the euthanasia of the pet? This question creates both practical and moral considerations. There's a huge difference in considering the difference between a 3-year old cat and one being 18-years old. Considerations include: current and prospective health issues; adoption prospect issues; and any regulating public policy. It is offered that the estate planning documents should reluctantly give discretion to euthanize in carefully considered last resort circumstances.

Other Advisory Information: In addition to formal and legal documentation, the following may be advised to be used during the pet owner's lifetime (for example, emergency hospitalization):

- A pet-alert card in one's purse or wallet informing first responders or health care workers that there is a pet at home, along with emergency caretaker contact information. This can also be a tag on a commonly carried keyring.
- A notice on one's home front door or window that there is a pet inside (name, kind, etc.).
- A list or worksheet of information specific to the pet. This list can be placed-and-found on the refrigerator or given to short-term boarders or sitters. This list might cover:
 - Human owner's contact and emergency information.

For the pet:

 - Identification information.
 - Emergency contacts: Veterinarian and other medical or personal care.
 - Medical and vaccination records.
 - Health and dietary needs.
 - Insurance(s).
 - Information on guardian or emergency caregiving.
 - Financial and legal arrangements.
 - Care instructions.
 - Personality and behavior information.
 - End-of-life (euthanasia) criteria.

Conclusion: The majority of families are inter-species families. Many humans will appreciate if their financial or legal advisors raise nonhuman family member planning. The financial or legal professional can raise inter-species family planning by adding a short and simple query on the estate planning questionnaire (“Do you have an animal at home that you consider to be a family member?”) and then present planning opportunities for the benefit of the nonhuman family member. At the very least, wills, financial powers of attorney, and complementary trusts should contain general management provisions specific to the nonhuman, living-being family member.

There are global issues to be considered and practiced, starting with the basic human moral responsibility to not cause by neglect the suffering of the living-beings we call “pets.” Then there are the fiduciary issues of proper care of the estate’s property, the diligence towards the grantor’s intentions, and the recognition of the perishability of estate interests.

END

EXHIBITS FOLLOW

Exhibit A

Contrasted Estate Planning

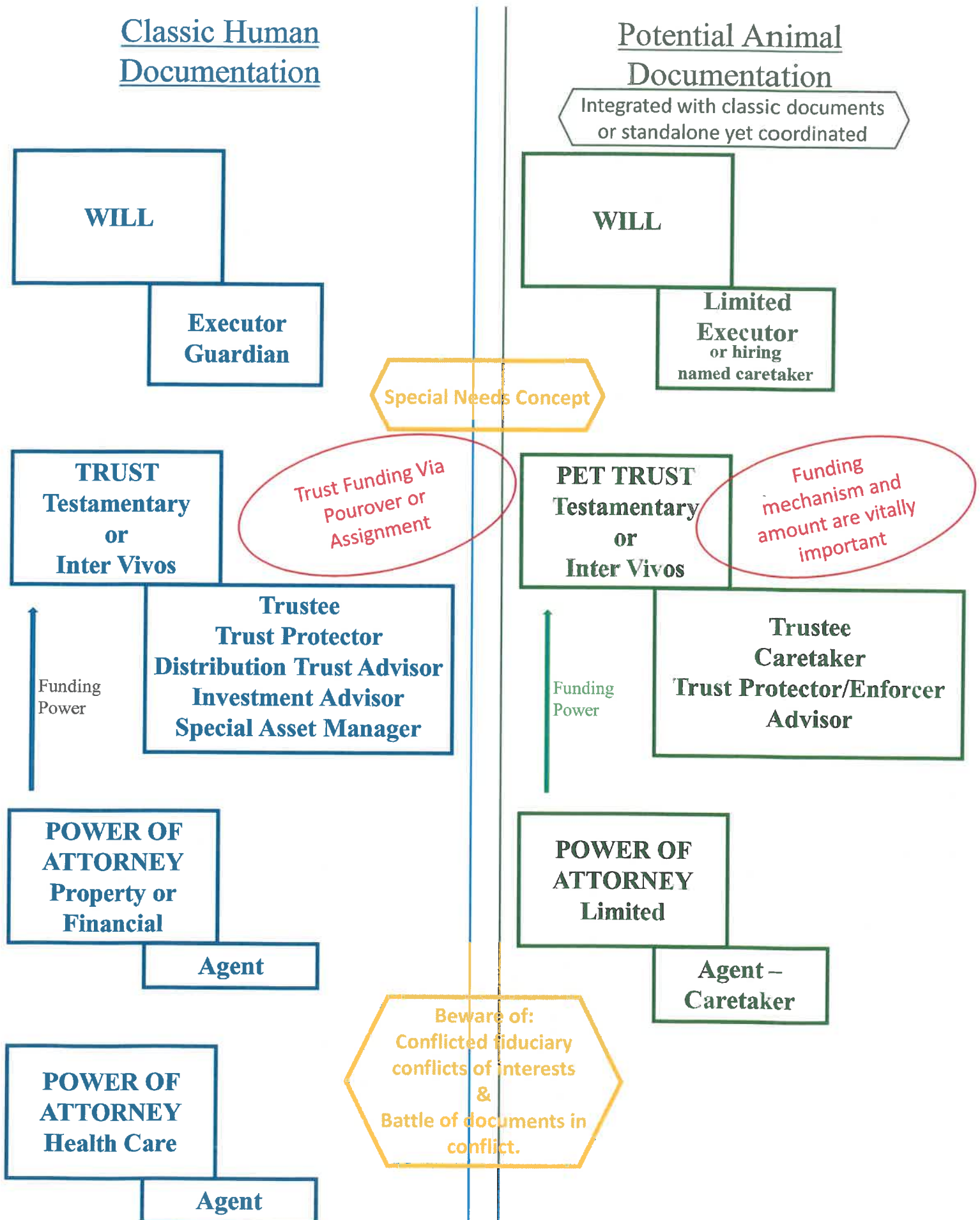


Exhibit B
760 ILCS 3/408
Illinois Trusts for Domestic or Pet Animals

(a) A trust for the care of one or more designated domestic or pet animals is valid. The trust terminates when no living animal is covered by the trust. A trust instrument shall be liberally construed to bring the transfer within this Section, to presume against a merely precatory or honorary nature of its disposition, and to carry out the general intent of the transferor. Extrinsic evidence is admissible in determining the transferor's intent.

(b) A trust for the care of one or more designated domestic or pet animals is subject to the following provisions:

(1) Except as expressly provided otherwise in the instrument creating the trust, no portion of the principal or income of the trust may be converted to the use of the trustee or to a use other than for the trust's purposes or for the benefit of a covered animal.

(2) Upon termination, the trustee shall transfer the unexpended trust property in the following order:

(A) as directed in the trust instrument;

(B) to the settlor, if then living;

(C) if there is no direction in the trust instrument and if the trust was created in a non-residuary clause in the transferor's will, then under the residuary clause in the transferor's will;

(D) to the transferor's heirs under Section 2-1 of the Probate Act of 1975.

(3) The intended use of the principal or income may be enforced by an individual designated for that purpose in the trust instrument or, if none, by an individual appointed by a court having jurisdiction of the matter and parties, upon petition to it by an individual.

(4) Except as ordered by the court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or fee is required by reason of the existence of the fiduciary relationship of the trustee.

(5) The court may reduce the amount of the property transferred if it determines that the amount substantially exceeds the amount required for the intended use. The amount of the reduction, if any, passes as unexpended trust property under paragraph (2).

(6) If a trustee is not designated or no designated trustee is willing and able to serve, the court shall name a trustee. The court may order the transfer of the property to another trustee if the transfer is necessary to ensure that the intended use is carried out, and if a successor trustee is not designated in the trust instrument or if no designated successor trustee agrees to serve and is able to serve. The court may also make other orders and determinations as are advisable to carry out the intent of the transferor and the purpose of this Section.

(7) The trust is exempt from the operation of the common law rule against perpetuities.

MIDURA NOTE: It's important to name an "Enforcer" so there is a "Protector" able to act in the event of the need for a decanting. See 760 ILCS 3/1223.

760 ILCS 3/1223
Domestic Animal/Pet Trust Decanting

Trust for care of animal.

(a) In this Section:

(1) “Animal trust” means a trust or an interest in a trust created to provide for the care of one or more designated domestic or pet animals.

(2) “Protector” means a person described in paragraph (3) of subsection (b) of Section 408.

(b) The decanting power may be exercised over an animal trust that has a protector to the extent the trust could be decanted under this Article as if each animal that benefits from the trust were an individual, if the protector consents in a signed record to the exercise of the decanting power.

(c) A protector for an animal has the rights under this Article of a qualified beneficiary.

(d) Notwithstanding any other provision of this Article, if a first trust is an animal trust, in an exercise of the decanting power, the second trust must provide that trust property may be applied only to its intended purpose for the period the first trust benefited the animal.

MIDURA NOTE: It’s important to name a Pet Trust “Enforcer” pursuant to 760 ILCS 3/408(b)(3) so there is a “Protector” able to act in the event of the need for a decanting.

Exhibit C

Illinois Dissolution of Marriage

750 ILCS 5/452 – Petition. The parties to a dissolution proceeding may file a joint petition for simplified dissolution if they certify that all of the following conditions exist when the proceeding is commenced:

(k) The parties have executed a written agreement allocating ownership of and responsibility for any companion animals owned by the parties. As used in this Section, “companion animal” does not include a service animal as defined in Section 2.01c of the Humane Care for Animals Act.

750 ILCS 5/501 – Temporary relief. In all proceedings under this Act, temporary relief shall be as follows:

(f) Companion animals. Either party may petition or move for the temporary allocation of sole or joint possession of and responsibility for a companion animal jointly owned by the parties. In issuing an order under this subsection, the court shall take into consideration the well-being of the companion animal. As used in this Section, “companion animal” does not include a service animal as defined in Section 2.01c of the Humane Care for Animals Act.

750 ILCS 5/502 – Agreement.

(a) To promote amicable settlement of disputes between parties to a marriage attendant upon the dissolution of their marriage, the parties may enter into an agreement containing provisions for disposition of any property owned by either of them, maintenance of either of them, support, parental responsibility allocation of their children, and support of their children as provided in Sections 513 and 513.5 after the children attain majority. The parties may also enter into an agreement allocating the sole or joint ownership of or responsibility for a companion animal. As used in this Section, “companion animal” does not include a service animal as defined in Section 2.01c of the Humane Care for Animals Act. Any agreement pursuant to this Section must be in writing, except for good cause shown with the approval of the court, before proceeding to an oral prove up.

(n) If the court finds that a companion animal of the parties is a marital asset, it shall allocate the sole or joint ownership of and responsibility for a companion animal of the parties. In issuing an order under this subsection, the court shall take into consideration the well-being of the companion animal. As used in this Section, “companion animal” does not include a service animal as defined in Section 2.01c of the Humane Care for Animals Act.

750 ILCS 5/503 – Disposition of property and debts.

(n) If the court finds that a companion animal of the parties is a marital asset, it shall allocate the sole or joint ownership of and responsibility for a companion animal of the parties. In issuing an order under this subsection, the court shall take into consideration the well-being of the companion animal. As used in this Section, “companion animal” does not include a service animal as defined in Section 2.01c of the Humane Care for Animals Act.

Exhibit D
Drafting Checklist for Animal Trust

1. The default name of the animal (or ‘pet’) trust is “Animal Trust”. Should there be a different name? If yes, then provide: _____

2. What are the names, species, breeds, sex, and identifiers of the animals contemplated being beneficiaries of the Animal Trust?

Indicate whether such animal is considered by you as a “**pet**” or has the more advance standing as a “**domestic companion**.” A “pet’s” standard of care will generally be for his or her “**maintenance and health**.” A “domestic companion’s” standard of care will additionally include the broader standard of “**well-being**.”

Important: Articulating standards of care is important. It’s important for the persons caring for your pet/companion animal to understanding with specificity how you want your pet/companion animal treated in your absence. It is also important because third parties (a judge or remainder beneficiary) may not understand the importance and inherent costs of proper animal care and therefore may frustrate your intentions by reducing the care or even reduce the Animal Trust finances.

3. For the standard of care for “**maintenance and health**,” strike or provide additional criteria:

- Good nutrition and quality food (including special needs foods for allergies) and fresh water.
- Maintenance of healthy weight.
- Appropriate housing.
- Daily human contact and interaction.
- Regular and as-needed veterinary and dental (mouth) care as appropriate to the lifespan of the animal beneficiary (i.e., “dog years”), hospitalization, medication
- Neutering/spaying, appropriate exercise routines, regular grooming (including bathing, hair, and nails/hooves).
- Toys.
- Compensation for individual involved in care (such as walkers or sitting).
- Travel.
- Boarding and transportation.
- Micro-chip installation and keeping it current.
- Insurances (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, and burial.

- Other:

4. For the standard of care for “**well-being**,” strike or provide additional criteria:

- Diverse interconnected dimensions of physical, mental, and social well-being that extend beyond maintenance and 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.
- Other:

5. **Upon your death**, what is the dollar amount to fund the Animal Trust? \$ _____

Note: This must be a set amount and not in the discretion of your trustee, otherwise there are adverse tax implications, remainder beneficiary complaint, and heightened review by the court. Any remaining amount will be distributed to your other remainder beneficiaries (human or charity).

6. Should a court find the amount funding the Animal Trust to be excessive, do you prefer the excess amount be distributed to:

- The then Caretaker of your animals?
- An animal charity? If so, to whom? _____
(i.e., “local animal shelter”)
- Your remainder beneficiaries?

[Alternative to below]

7A. **Upon your death**, do you want your pet/companion animal distributed (**adopted out**) to a particular person? If so, to whom? What if that person is not available or will to adopt your pet/companion animal?

[Alternative to above]

7B. **Upon your death**, do you prefer your pet/companion animal to be **maintained in trust** for his or her lifetime?

If yes, then the following questions will become more important.

The following are the possible persons to officially act on behalf of your pet/companion animal for purposes of the Animal Trust: Trustee for the Animal Trust (separate from the trustee of your estate planning trust), Caretaker, Enforcer, and Trust Protector.

You will automatically be the first person to act in each of these roles should you be able.

Animal Trust Trustee: The Animal Trust Trustee is generally in charge of the whole operation of the Animal Trust.

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

Enforcer: The Enforcer enforces the intended use of the principal or income of the Animal Trust and the proper care of the animal beneficiaries. The Enforcer will have broad authority to review the Animal Trust records and the Caretaker's proper care of the animal beneficiaries. The Enforcer may recommend to, and if necessary direct, the Caretaker and the Animal Trust Trustee proper care for the animal beneficiaries. The Enforcer may remove and replace the Caretaker and the Animal Trust Trustee or their successors.

Trust Protector: In the event of unforeseen circumstances, the Trust Protector may amend the Animal Trust or terminate it and direct distribution of the Animal Trust estate in such manner as the Trust Protector deems advisable.

For each of these roles, who is the person and that person's successor should you be unable to so act?

Note: You will need to name these persons even if your pet/companion animal is immediately adopted by someone.

Note: A single person can fulfill one or more roles.

Note: It's important to name the Trustee and Caretake. The Enforcer and Trust Protector are options, but not necessary.

Note: Each named person can name a successor, so you need not provide more than 1 or 2.

8A. **Animal Trust Trustee** (name and any relationship to you)?

- (1) _____
- (2) _____
- (3) _____

8B. **Caretaker** (name and any relationship to you)?

- (1) _____
- (2) _____
- (3) _____

8C. **Enforcer** (name and any relationship to you)?

- (1) _____
- (2) _____
- (3) _____

8D. **Trust Protector** (name and any relationship to you)?

- (1) _____
- (2) _____
- (3) _____

9. With respect to any needed **end-of-life decisions**, is the following satisfactory to you? If not, please provide your direction.

“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. However, the Caretaker shall advise the AT Trustee and the Enforcer in advance of any euthanizing prospects and decision and when and where euthanizing will taking place. 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. Quality of life of the animal beneficiary is of paramount concern. Incurable health issues that make continuing life only sufferable and the advice of the animal beneficiary’s veterinarian are significant factors. I encourage the Caretaker to consider recommendations other significant persons familiar with the animal beneficiary, and in particular _____ **[NAME OF A PERSON AND ANY SUCCESSOR].”**

OR

10. If the animal beneficiary is **adopted-out**, should the Animal Trust terminate (with the option to distribute financial resources to the adopting person) or continue for the benefit of the adopted-out animal beneficiary?

11. When the Animal Trust **no longer has any animal beneficiaries**, should any remaining Animal Trust funds be distributed to:

- An animal charity? If so, to whom? _____
(i.e., “local no-kill animal shelter”) Give discretion to the trustee (or trust protector) to distribute to an animal charity?
- Your remainder beneficiaries?

END OF ANIMAL TRUST CHECKLIST

Exhibit E
Sample Animal Trust Article
For Use in a Settlor's Revocable Living Trust

Draft ver. 230129

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

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Note: Statutory references are for Illinois and should be revised for the adopting State.

[GENERAL USAGE NOTES:

- **This trust is designed to be incorporated into a grantor's revocable living trust as a separate article. In this fashion, the trust estate's financial resources are available for the animal trust funding and the general administration provisions of the revocable living trust are inherently adopted. Some planners may prefer to have a standalone animal trust that then needs to be alternatively funded and integrated into the overall estate plan. If a standalone animal trust is adopted, the substantive provisions of this animal trust may be integrated into the standalone animal trust.**
- **If this animal trust is adopted into the revocable living trust, then any animal trust boilerplate provisions should be deleted to avoid any conflict of provisions.**
- **It is likely that the legal ownership and placement of the animal is problematic. Is the animal "in" the trust or is the trust "for" the animal? For example, the general estate planning practice of a general assignment of tangible personal property inherently transfers the ownership of the animal from the individual assignor-owner to the trustee as the assignee-owner. Having the animal trust active within the revocable living trust (whether the trust grantor is alive with capacity, alive and incapacitated, or deceased) alleviates any problems of the animal inadvertently being legally assigned to the revocable living trust.**
- **The following is expressly designed to be a comprehensive animal trust. It attempts to cover as many issues as reasonably possible. Therefore, it should be considered in its detail to be opportunities for coverage and should be 'cut-back' as appropriate for application.**
- **The author is intentionally not providing a simplified animal trust as the author believes the separately provided boilerplate provisions might be a satisfactory starting point. Simplifying this comprehensive trust makes too many discretionary decisions that may otherwise be important to the ultimate grantor. There are a number of sample simpler standalone pet trusts generally available. The use of one of the alternative sample standalone pet trusts along with a considered review of the issues raised in this comprehensive animal trust may achieve an appropriate balance for the grantor.**
- **The primary fiduciaries within an animal trust are: trustee, caretaker, and enforcer. This animal trust also contains a "trust protector" for greater modification flexibility. The trust protector is optional.**
- **The animal trust trustee and caretaker may be one-in-the-same person – and the animal trust trustee has the ability to either assign a caretaker or delegate caretaking. It is strongly recommended that a separate individual be named as the enforcer for**

purposes of checks-and-balance. The trust grantor is the first named animal trust trustee, caretaker, and enforcer.]

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, furniture, exercise equipment, tote bags, 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 animal [MIGHT GIVE EXAMPLE, BIRD, PIG] maintained by me in or near my household that is owned by me, and any of such 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 domestic or tamed animal living in or near my household and dependent on me. The term companion animal shall exclude “pets” and 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 an untamed animal of mine (for example and without limitation: fish, birds, spiders, snakes, turtles) 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). “Pet” shall exclude any “companion animal” of mine.

[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 is not owned by me and 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 their 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 regularly 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 “MAINTENANCE, HEALTH, AND WELL-BEING”.]

The **standard of proper care for my companion animals** shall be their maintenance and health (as provided below) and, in addition, 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, in the Caretaker’s discretion: **maintenance and health**, in conditions similar to those I have provided for them. “Health” includes physical, mental, and behavioral health. These standards of maintenance and health further include, in the Caretaker’s discretion: Good nutrition and quality food (including special needs foods for allergies) and fresh water, maintenance of healthy weight, appropriate housing, daily human contact and interaction, regular and as-needed veterinary and dental (mouth) care as appropriate to the lifespan of the animal beneficiary (i.e., “dog years”), hospitalization, medication, neutering/spaying, appropriate exercise routines, regular grooming (including bathing, hair, and nails/hoves), toys, 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, 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 maintenance and 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, excessive costs, or other risks. 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 - ALTERNATIVE 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 or resulting trust nor compensation. 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 and payment of any income taxes). 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 may 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, constructive or resulting trust for the animal beneficiaries, or compensation to the Caretaker).

[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].

[ALTERNATIVE OPTIONAL 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. Subject to contrary provisions in Paragraph I., 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 ("Care Amount"). The determination of such distribution shall not consider the interests of the remainder beneficiaries and shall consider only the best interests and well-being of the animal beneficiaries. The Care Amount shall not exceed the lesser of (1) the then corpus of the Animal Trust, or (2) \$ _____. The Care Amount shall not be deemed compensation to the adopting family.

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.

Adoption-out may include a sale for monetary consideration of the animal beneficiary. If a sale, the proceeds shall be added to the principal of the AT Trust. My highest consideration is for 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. It is inconsequential to create monetary proceeds by a sale of the animal beneficiary.

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, if any. 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. However, the Caretaker shall advise the AT Trustee and the Enforcer in advance of any euthanizing prospects and decision and when and where euthanizing will taking place. 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. Quality of life of the animal beneficiary is of paramount concern. Incurable health issues that make continuing life only sufferable and the advice of the animal beneficiary's veterinarian are significant factors. I encourage the Caretaker to consider recommendations other significant persons familiar with the animal beneficiary, and in particular _____ [NAME OF A PERSON AND ANY SUCCESSOR.].

[ALTERNATIVE TO BELOW: TRUST TERMINATES ON DEATH OR ADOPTION-OUT. NOTE PROVISIONS OF PARAGRAPH F.]

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), income taxes, etc.). Notwithstanding the foregoing to the contrary, the AT Trustee may, in the AT Trustee's sole and absolute discretion, make a distribution to the adopting person to be used in the adopting person's sole discretion for the continued care of the animal beneficiary (and no constructive or resulting trust shall apply to such distribution and the distribution shall be considered the assets of the adopting person; nor shall such distribution be considered compensation). In making a distribution to the adopting

person, the AT Trustee need not consider the interests of the remainder beneficiaries of the Animal Trust and in doing so may distribute some or all of the Animal Trust principal and income to the adopting person.

[ALTERNATIVE TO ABOVE: TRUST TERMINATES ON DEATH, BUT WITH OPTION TO CONTINUE THE ANIMAL TRUST EVEN IF THE ANIMAL BENEFICIARY IS ADOPTED-OUT. NOTE PROVISIONS OF PARAGRAPH F.]

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 in the AT Trustee's discretion 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), income taxes, etc.). Notwithstanding the foregoing to the contrary, if an animal beneficiary is adopted-out, the AT Trustee may, in the AT Trustee's sole and absolute discretion, continue the Animal Trust for the benefit of the adopted-out animal beneficiary and may make a payments for the benefit of the adopted-out animal beneficiary or may make distributions to the adopting person to be used in the adopting person's discretion for the continued care of the adopted-out animal beneficiary. Further, at any time at or after the adoption-out of the animal beneficiary, the AT Trustee may declare the Animal Trust terminated and then the AT Trustee may, in the AT Trustee's sole and absolute discretion, make a distribution to the adopting person to be used in the adopting person's sole discretion for the continued care of the animal beneficiary (and no constructive or resulting trust shall apply to such distribution and the distribution shall be considered the assets of the adopting person; nor shall such distribution be considered compensation). In making a distribution to the adopting person, the AT Trustee need not consider the interests of the remainder beneficiaries of the Animal Trust and in doing so may distribute some or all of the Animal Trust principal and income to the adopting person. It is my express wish that the Animal Trust may be maintained for the benefit of the adopted-out animal beneficiary so long as the AT Trustee deems it in the best interests and well-being of the adopted-out animal beneficiary and the then overall circumstances of the Animal Trust, its purpose, and its beneficiaries.

[THE FOLLOWING IS MAINTAINED FOR EITHER ABOVE ALTERNATIVE PARAGRAPH I.]

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 and payment of any income taxes, 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 AT 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 any remaining tangible personal property of the animal

beneficiaries, any 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. _____.
4. The person provided as trustee or successor trustee under the Trust Agreement.

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 throughout their natural lifespan. 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 or lump sum 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 then acting 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.

If the AT Trustee is acting as Caretaker, the AT Trustee may delegate caretaking responsibilities to another person or organization.

The Caretaker is responsible to 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.

Proper home consideration include: An environment that is loving, caring, and pet friendly where the animal beneficiaries will be treated as a part of the family; and an environment without neglect, harm, or mistreatment.

AT Trust funds provided to the Caretaker shall be first deposited into a separate account from which the Caretaker shall expend funds by debit card, check, or cash withdrawal. Such separate account shall only be used for the purposes of the AT Trust animal beneficiaries and no other funds shall be commingled with the provided AT Trust funds.

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 also provide detailed financial accounts of disbursements and provide any receipts or other proof of payment. 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.
- 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 reasonable 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 named or otherwise appointed herein shall not be acting in a fiduciary capacity (unless otherwise so provided by an appointment).

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

If there is not an acting enforcer, an enforcer may be appointed by a court of competent jurisdiction. Such court appointed enforcer shall act in a fiduciary capacity.

[NOTE: IF A TRUST PROTECTOR IS NOT NAMED, THEN THERE SHOULD BE A SEARCH TO REMOVED REFERENCES TO TRUST PROTECTOR IN THIS INSTRUMENT.]

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 to better achieve the purposes of the AT Trust or adjust to changed or unforeseen circumstances. However, 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 reasonable 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 and during the term of the AT Trust, 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 or the remainder beneficiaries upon termination of the AT Trust) 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.

[ALTERNATIVE TO BELOW – SPECIFIC TO ILLINOIS.]

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.

[ALTERNATIVE TO ABOVE – ADAPT TO JURISDICTION.]

S. Rule Against Perpetuities Application. Notwithstanding any foregoing provisions to the contrary, the duration of the Animal Trust is limited by the applicable rule against perpetuities for this Animal Trust pursuant to **[REFERENCE THE APPLICABLE STATE'S ANIMAL TRUST STATUTE]**.

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**

XXX

Exhibit F
Sample Pet Will and Power of Attorney Provisions

Sample Will Provision #1:

Domestic Pets. My executor may make reasonable expenditures for the care, maintenance, support and general well-being of any domestic or pet animal (inclusive of maternal in gestation and after-born) (“my pet”) I may have owned individually at the time of my death. My executor may employ a caretaker for my pet. My executor may pay boarding fees and costs for my pet and also compensate a caretaker for my pet. My executor may acquire insurances for suitable coverage of my pet and my estate. My executor is authorized to make any and all reasonable payments for pet care provided by any person or entity, including my executor. My pet shall be given away and placed in a suitable forever-home. If a forever-home cannot be found for my pet, then my executor shall give my pet to a reputable high-quality shelter. Euthanasia may be considered only in the direst circumstances for my pet and only if that is in the apparent best interests of my pet (such as being a humane response to my pet’s pain and suffering). These payments shall be considered a priority pre-residuary administration expense of my estate. The physical, mental, and behavioral well-being of my pet, as determined in the sole and absolute discretion of my executor, shall be prioritized over the interests of the remainder legatees; provided, however, that such direct monetary costs shall not exceed \$10,000. **[OPTION: POWER TO ESTABLISH A ‘PET TRUST’]** In addition, my executor shall have the power to establish a separate trust for the benefit of my pet (pursuant to 760 ILCS 3/408, any successor provision, or the equivalent of another state’s enabling law – “pet trust”) along with the option to fund the separate pet trust with my pet and/or cash in any amount not to exceed \$10,000. **[ANY REASONABLE AMOUNT CONSIDERING A WIDE RANGE OF CARE ELEMENTS – HAVING A LIMIT IS ESSENTIAL TO PRESERVE OTHER COMPETING INTERESTS: REMAINDER BENEFICIARIES AND MARITAL/CHARITABLE DEDUCTIONS]** All associated costs (such as legal fees and other consultations – in addition to the foregoing \$20,000 limit) to properly evaluate and create such pet trust shall be considered additional reasonable administration expenditures by my executor.

Sample Will Provision #2:

I direct my Executor to place such pets with my children, _____ and _____, if they survive me. If none of the above-named individuals survive me or cannot serve for any reason, I direct my Executor to place any and all animals I may own at the time of my death with another individual or family (that is, in a private, non-institutionalized setting) where such animals will be cared for in a manner that any responsible, devoted pet owner would afford to his or her pets. Prior to initiating such efforts to place my animals, I direct my Executor to consult _____, D.V.M. (currently located at _____), or, in the event of Dr. _____’s unavailability, a veterinarian chosen by my Executor, to ensure that each animal is in generally good health and is not suffering physically. In addition, I direct my Executor to provide any needed, reasonable veterinary care that my animal(s) may need at that time to restore the animal(s) to generally good health and to alleviate suffering, if possible. Any animal(s) who are suffering and whose care is

beyond the capabilities of veterinary medicine reasonably employed to restore to generally good health or to alleviate suffering shall be euthanized, cremated, and the ashes disposed of at the discretion of my Executor.

My Executor is authorized to expend a reasonable sum from my estate to ensure that my pets 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 a pet for the remainder of its anticipated lifetime, and the recipient need not account to my Executor. The gift of the pet(s) 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 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 shall not exceed \$ _____. **[SET A LIMIT SO AS NOT TO FRUSTRATE ANY MARITAL OR CHARITABLE DEDUCTION OR FRUSTRATE THE REMAINDER BENEFICIARIES.]**

Decisions my Executor makes under this Article _____, for example, with respect to the veterinary care to be afforded to my animal(s) and the costs of such care, shall be final. My intention is that my Executor have the broadest possible discretion to carry out the purposes of this paragraph.

The gift of my pet(s) 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.

[FOLLOWING ALTERNATIVE WHEN THERE IS NO KNOWN PERSON FOR A CARETAKER]

I give all of my **[dogs, cats, and other animals]** to the **[name of a shelter or rescue organization – for example, a humane shelter, the rescue organization from which the animals were adopted, a breed specific rescue organization, or any other animal shelter or rescue organization that holds itself out for this purpose]**, presently located at **[address]**, with the following requests that the **[name of the shelter or rescue organization identified above]** take possession of and care for all my animals and search for good homes for them:

(a) Until homes are found for my animals, the animals should be placed in foster homes rather than in cages at the shelter;

(b) If it is necessary to keep some of the animals in cages while making arrangements to find permanent homes, in no event should any animal stay more than a total of two weeks in a cage;

(c) Each pet should receive appropriate veterinary care, as needed;

(d) After attempts have been made for three months to place an animal, my **[son]**, presently residing at **[address]**, should be contacted if it is not possible to place an animal so that **[he]** can assist with finding a home for the animal;

(e) The shelter should make every effort to assure that none of my animals are ever used for medical research, product testing or experimentation under any circumstances or subjected to discretionary procedures that are not medically necessary;

(f) After placement, shelter personnel should make follow-up visits to ensure that my animals are receiving proper care in their new homes.

If the [**name of the shelter or rescue organization identified above**] is in existence at the time of my death and is able to accept my animals, I give [\$] to the [**name of the shelter or rescue organization identified above**]. If the [**name of the shelter or rescue organization identified above**] is unable to accept my animals, I give my animals and [\$] to one or more similar charitable organizations as my Executor shall select, subject to the requests made above.

Sample Power of Attorney Provision #1:

[CONSIDER CREATING A SEPARATE, STANDALONE “PET” POWER OF ATTORNEY THAT NAMES A SUITABLE AGENT JUST FOR ANIMAL CARE AND INTERESTS. THE ‘GENERAL’ AGENT MAY NOT BE THE RIGHT PERSON FOR ANIMAL CARE.]

Domestic Pets. I authorize my agent to make reasonable expenditures for the care, maintenance, support and general well-being of any domestic or pet animal I may own (inclusive of maternal in gestation and after-born) (“my pet”). My agent may board my pet and also employ a caretaker for my pet and compensate such caretaker. My agent may acquire suitable insurance coverages for my pet and my estate. My agent is authorized to make any and all reasonable payments from my funds for pet care provided by any person or entity, including my agent. If in the longer term my agent and I am no longer capable of caring for or having a custodial relationship with my pet, then my agent may give my pet to persons willing to care for and maintain my pet or place my pet in a suitable forever-home. If a forever-home cannot be found, then my agent may give my pet to a reputable high-quality shelter. Euthanasia may be considered only in the direst circumstances for my pet and only if that is in the apparent best interests of my pet (such as being a humane response to my pet’s pain and suffering). **[OPTION: POWER TO ESTABLISH A ‘PET TRUST’]** In addition, my agent shall have the power to establish a trust for the benefit of my pet (pursuant to 760 ILCS 3/408, any successor provision, or the equivalent of another state’s enabling law – “pet trust”) along with the option to fund the pet trust with my pet and/or cash in any amount not to exceed \$10,000. **[ANY REASONABLE AMOUNT CONSIDERING A WIDE RANGE OF CARE ELEMENTS – HAVING A LIMIT IS ESSENTIAL TO PRESERVE OTHER COMPETING INTERESTS: REMAINDER BENEFICIARIES AND MARITAL/CHARITABLE DEDUCTIONS]** All associated costs (such as legal fees and other consultations – in addition to the foregoing \$10,000 limit) to properly evaluate and create such pet trust shall be considered additional reasonable expenditures by my agent. The care for the physical, mental, and behavioral well-being of my pet shall be determined in the sole and absolute discretion of my agent.

Sample Power of Attorney Provision #2:

Pets. If I am unable to care for the pets living in my home for any reason, and no one else who is living in my home is able to care for such animals, I direct my agent to arrange for the care of such companion animals by the first of the following who is willing and able to act in such capacity: _____ or _____. If neither of the named individuals is willing and able to care for my companion animals, I direct my agent to make such other arrangements for their care as my agent deems appropriate. I direct my agent to pay all expenses associated with the care of such companion animals, including (and not limited to) feeding, exercising, veterinary costs, kennel charges, and grooming.

[OPTIONAL]

If I am unable to remain in my own home

_____ my agent shall transfer the such animals into _____ Trust.

_____ my agent is authorized to use my agent's best judgement in either finding good homes for my pet(s) or allowing a licensed **[no kill]** animal shelter or veterinary hospital to place my pet(s). **[I realize that there is the possibility that my pet(s) may be euthanized if suitable homes cannot be found.]**

[OPTIONAL]

Additional Wishes. _____

Exhibit G

Sample “Boilerplate” Trust Provisions

[DURING LIFE PROVISION]

Domestic Pets. During my lifetime, the trustee may make reasonable expenditures for the care, maintenance, support and general well-being of any domestic or pet animal (inclusive of maternal in gestation and after-born) (“my pet”) I may own individually or which may become subject to this trust. The trustee may employ a caretaker for my pet. The trustee may pay boarding fees and costs for my pet and also compensate a caretaker for my pet. The trustee may acquire insurances for suitable coverage of my pet, my estate, and the trust estate. The trustee is authorized to make any and all reasonable payments for pet care provided by any person or entity, including the trustee. If in the longer term the trustee and I are no longer capable of caring for or having a custodial relationship with my pet, then my pet may be given away and placed in a suitable forever-home. If a forever-home cannot be found for my pet, then the trustee may give my pet to a reputable high-quality shelter. Euthanasia may be considered only in the direst circumstances for my pet and only if that is in the apparent best interests of my pet (such as being a humane response to my pet’s pain and suffering). The physical, mental, and behavioral well-being of my pet, as determined in the sole and absolute discretion of the trustee, shall be prioritized over the interests of the remainder beneficiaries. **[OPTION: POWER TO ESTABLISH A ‘PET TRUST’]** In addition, the trustee shall have the power to establish a separate trust for the benefit of my pet (pursuant to 760 ILCS 3/408, any successor provision, or the equivalent of another state’s enabling law – “pet trust”) along with the option to fund the separate pet trust with my pet and/or cash in any amount not to exceed \$10,000. **[ANY REASONABLE AMOUNT CONSIDERING A WIDE RANGE OF CARE ELEMENTS – HAVING A LIMIT IS ESSENTIAL TO PRESERVE OTHER COMPETING INTERESTS: REMAINDER BENEFICIARIES AND MARITAL/CHARITABLE DEDUCTIONS]** All associated costs (such as legal fees and other consultations – in addition to the foregoing \$10,000 limit) to properly evaluate and create such pet trust shall be considered additional reasonable administration expenditures by the trustee.

[UPON DEATH PROVISION]

Domestic Pets. **After my death and during the period of trust estate settlement,** the trustee may make reasonable expenditures for the care, maintenance, support and general well-being of any domestic or pet animal (inclusive of maternal in gestation and after-born) (“my pet”) I may have owned individually at the time of my death or which may become subject to this trust. The trustee may employ a caretaker for my pet. The trustee may pay boarding fees and costs for my pet and also compensate a caretaker for my pet. The trustee may acquire insurances for suitable coverage of my pet, my estate, and the trust estate. The trustee is authorized to make any and all reasonable payments for pet care provided by any person or entity, including the trustee. My pet shall be given away and placed in a suitable forever-home. If a forever-home cannot be found for my pet, then the trustee shall give my pet to a reputable high-quality shelter. Euthanasia may be considered only in the direst circumstances for my pet and only if that is in the apparent best interests of my pet (such as being a humane response to my pet’s pain and suffering). These payments shall be considered a priority pre-residuary administration expense of the trust estate.

The physical, mental, and behavioral well-being of my pet, as determined in the sole and absolute discretion of the trustee, shall be prioritized over the interests of the remainder beneficiaries; provided, however, that such direct monetary costs shall not exceed \$10,000.

[OPTION: POWER TO ESTABLISH A 'PET TRUST'] In addition, the trustee shall have the power to establish a separate trust for the benefit of my pet (pursuant to 760 ILCS 3/408, any successor provision, or the equivalent of another state's enabling law – “pet trust”) along with the option to fund the separate pet trust with my pet and/or cash in any amount not to exceed \$10,000. **[ANY REASONABLE AMOUNT CONSIDERING A WIDE RANGE OF CARE ELEMENTS – HAVING A LIMIT IS ESSENTIAL TO PRESERVE OTHER COMPETING INTERESTS: REMAINDER BENEFICIARIES AND MARITAL/CHARITABLE DEDUCTIONS]** All associated costs (such as legal fees and other consultations – in addition to the foregoing \$20,000 limit) to properly evaluate and create such pet trust shall be considered additional reasonable administration expenditures by the trustee.

Exhibit H

Sample Pet Information Resources

ASPCA Pet Safety Pack - <https://secure.aspca.org/take-action/order-your-pet-safety-pack>

PET EMERGENCY

My pet is home alone

If I am sick or injured please contact those listed on the back of this card to care for my pets



Thank you for caring

My name _____

Address _____

Pet(s) name _____

Carer details _____

Vets # _____

www.roundaboutpets.com




I have an animal at home!

If you're reading this then I'm either in the **HOSPITAL** or otherwise in trouble. **Please help my PET!**

My name: _____

I have _____ **# of animals at home.**



List Pets' Name, Breed, Age & Medical Condition:

Pet #1: _____

Pet #2: _____

Ventura County Animal Services
No-Kill Since 2014 www.vcas.us

Fold Here & keep in your wallet.

Pet #3: _____

Pet #4: _____

Pet #5: _____

Pet #6: _____

Pet #7: _____

Emergency Contact Information:

(Either person below can care for my animals)

Name 1: _____ **Ph:** _____

Name 2: _____ **Ph:** _____

Rescue Rover Says...

2 Pet Alert
Static Cling
Window Decals
Inside!

PROTECT YOUR PETS
IN CASE OF FIRE!

Alerts Firemen to Rescue your Pets in Case of Emergency!
DON'T LEAVE YOUR PETS HOME WITHOUT THEM!

PET ALERT





FIRE RESCUE

PLEASE SAVE OUR PET(S)

☐ DOG(S) ☐ CAT(S) ☐ BIRD(S)

OTHER: _____



Pet Worksheet

PET OWNER CONTACT INFORMATION:

PET OWNER EMERGENCY CONTACT:

PET IDENTIFICATION INFORMATION (Attach Photos – frontal and side)

Pet's Name(s) and Nick-Name(s):

Type of Pet:

General (color, gender, weight, sex, breed, neuter status):

Birthday:

Adoption Record Location:

Pet License (State/Location), Rabies Certificate:

Microchip Information:

PET EMERGENCY CONTACTS: VETERINARIAN & MEDICAL CARE

Vet's Name/Practice:

Medical Care Center:

24-Hour Emergency Number:

Location and Directions to After-Hours Emergency Care Center:

Medicine/Medical Treatment Required/Current or Anticipated Medical Conditions:

MEDICAL & VACCINATION RECORDS

Medical History/Allergies/Concerns:

Medical Records Location (attach as available):

Medications:

Vaccination Record Location:

Vaccinations:

Type:

Administered/Due:

Type:

Administered/Due:

Type:

Administered/Due:

Type:

Administered/Due:

HEALTH & DIETARY NEEDS

Standard Food (Brand/Preparation/Portion/Eating-Feeding Habits):

Favorite Food:

Food Allergies and Dietary Restrictions:

Favorite Treats:

Grooming (any preferred shampoo):

PET INSURANCE

Insurance Provider:

Account Number:

Website/Login Information:

How premiums are paid, how claims are submitted, cost of premiums, etc.:

Attach copy of policy.

PET GUARDIAN OR EMERGENCY CAREGIVING

Who would take care of your pets if you couldn't? Whether it's for a few days, weeks, or permanently, you need to name a guardian.

Pet Guardian/Caretaker:

Guardian/Caretaker's Contact Information:

Special Instructions (Include any specific directions the Guardian/Caretaker should follow; if no official Guardian has been named, you should include other relevant instructions in this area.):

Alternative Pet Guardian/Caretaker:

Pet Sitter or Temporary Boarding Facility Contact Information:

FINANCIAL & LEGAL ARRANGEMENTS

Pet Trust (Include the name of Trust, Trustees, specific stipulations, etc.):

Power of Attorney that includes instructions regarding pet care:

Will (Have you made provisions in your Will for your pet? Where is the Will located? If no provisions have been made, describe your wishes below.):

CARE INSTRUCTIONS

Location of Leashes and Supplies:

Location of Food and Water:

Is Pet Allowed to Go Outside?

For Cats (How often is litter changed, and what are litter preferences?):

For Dogs (Walk how often, how long and favorite routes?):

PERSONALITY & BEHAVIOR (favorite toys, form of play, exercise routines or limitations, affection, praise; fears, quirks; use of leashes, harnesses and muzzles)

EUTHANASIA CRITERIA

Additional information that would help someone care for your pet:

END