

The logo for PetSmart Charities Adoption Partner Agreement. It features the PetSmart logo in blue and red at the top, with the word "Charities" in a large, bold, red font below it. Underneath "Charities" is the text "Adoption Partner Agreement" in a smaller, black, sans-serif font.

PETSMART
Charities
Adoption Partner Agreement

This Adoption Partner Agreement (this “Agreement”) is entered into as of the last date signed below between PetSmart Charities Inc., an Arizona nonprofit corporation and tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code (“Code”), whose address is 19601 N. 27th Avenue, Phoenix, AZ 85027 (“Charities”), and the City of Fort Pierce, a Florida municipal corporation, whose address is 100 North U.S. Highway 1, Fort Pierce, FL 34950 (“Adoption Partner”).

Section 1 – PetSmart Charities Adoption Program

- A. Adoption Program. Subject to the terms of this Agreement, Charities agrees to permit Adoption Partner to participate in the Charities’ adoption program (“Adoption Program”) located at one or more PetSmart Charities Adoption Centers or other space at PetSmart retail stores, or in the case of special events, locations specified by Charities (“Adoption Center”). The Adoption Program’s sole purpose is to help facilitate and provide a location to facilitate adoptions of dogs, cats, or other certain pets (“Pets”). Adoption Partner acknowledges that in addition to its organization, other adoption agencies may also be permitted by Charities to hold adoptions at the same time and location as the Adoption Partner.
- B. Adoption Policies. In addition to the terms and conditions contained in this Agreement, Adoption Partner acknowledges that it has received, and agrees that it and its employees and volunteers will comply with, any policies, procedures and/or manuals (collectively the “Policies”) as provided to Adoption Partner by Charities and/or PetSmart LLC (“PetSmart”), including any future changes to those policies, procedures and/or manuals provided by Charities and/or PetSmart to the Adoption Partner (e.g., email notice, etc.). Charities reserves the right to amend such adoption policies in its sole and absolute discretion and will update Adoption Partner of any changes.
- C. Adoption Process. Subject to this Agreement and applicable law, Adoption Partner will use its own adoption policies and procedures when offering Pets for adoption, and will make the final decision in the adoption of a Pet. Adoption Partner shall retain ownership of each Pet until the adoption process for such Pet is complete. Adoption Partner will require an adoption release form or other similar document specified by Charities to be signed by the adopting party.
- D. Adoption Assistance. If mutually agreed upon by Adoption Partner, Charities, and PetSmart, Charities may, through its relationship with PetSmart, facilitate use of PetSmart employees to support the Adoption Center, which may include conducting adoptions, providing care for Pets, and maintaining the facilities. In such event, Adoption Partner hereby authorizes Charities and/or PetSmart to carry out those activities agreed upon and to provide all reasonably necessary training on Adoption Partner’s practices, policies, and procedures.
- E. Adoption Center. Adoption Partner shall have the use of the Adoption Center free of rent or costs. The parties will mutually agree upon one or more Adoption Center locations and the date Adoption Partner will begin use of each Adoption Center. Additional locations may be added from time to time as deemed necessary by both parties. Additional locations and/or change of locations can be accomplished upon written request by Adoption Partner and written approval of such request by Charities in its sole and absolute discretion.
- F. Damage to Adoption Center. Adoption Partner will be responsible for any damage to the Adoption Center or related equipment caused by Adoption Partner, its staff, volunteers, Pets, or any other person or animal acting on or under Adoption Partner’s direction or control. Adoption Partner will, at its sole expense, maintain the Adoption Center in a clean, sanitary and orderly fashion and take preventative action to minimize the spread of communicable diseases among Pets. Adoption Partner is responsible for ensuring that the area is clean, fully sanitized and disinfected prior to departure. Nothing herein is intended to or shall be construed to be a waiver of Adoption Partner’s sovereign immunity under Section 768.28, Florida Statutes, nor to increase any limits therein.
- G. Adoption Rewards. Charities may elect to provide certain monetary grants in conjunction with the Adoption Program (“Rewards”). Charities, in its sole and absolute discretion may determine the election, amount, modification, or termination of Rewards. Adoption Partner agrees to use such Rewards in the furtherance of its charitable purpose,

specifically its Pet adoption program, or if permitted by Charities, other charitable purposes advancing animal welfare. Adoption Partner may not use Rewards for lobbying or political activities, or any purpose not permitted by the Code.

- H. Adoption Center Supplies. Charities may elect to provide products or pet food (collectively “Product”) for use by Adoption Partner solely for the operation of the Adoption Center. Charities, in its sole and absolute discretion may determine the election, modification, or termination of Product. Adoption Partner understands and agrees that Product is provided in “as-is” condition and that Charities and PetSmart make NO WARRANTY, COVENANT OR REPRESENTATION, EXPRESSED OR IMPLIED, REGARDING THE PRODUCT, INCLUDING WITHOUT LIMITATION, THEIR DESIGN OR MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE (EXCEPT CHARITIES WARRANTS IT HAS GOOD TITLE TO THE PRODUCT AND CAN TRANSFER GOOD TITLE TO ADOPTION PARTNER), NEITHER CHARITIES NOR PETSMAK SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR LOSSES SUFFERED OR INCURRED BY ADOPTION PARTNER OR A THIRD PARTY AS A RESULT OF THE USE, OR CONSUMPTION OF THE PRODUCT. Adoption Partner waives any and all claims against and releases Charities and/or PetSmart from all liability associated with the use or consumption of the Product. Adoption Partner further understands and agrees that the U.S. Food and Drug Administration (“FDA”) regulations specify that protein derived from mammalian tissues is not to be used in ruminant feed and that the feeding of any pet food included with any Product to cattle or other ruminant animals is expressly prohibited by federal regulations.
- I. Reporting. Adoption Partner is required to submit the impact report(s) related to the Adoption Program specified by Charities along with any other information reasonably requested by Charities.
- J. Pet Eligibility. Except as specified in the Policies, all Pets must be spayed or neutered, and evaluated and deemed to be healthy, safe for interaction, adoptable, and in compliance with any applicable laws and regulations prior to placement in the Adoption Program. Pets showing or previously having shown any signs of aggression are strictly prohibited from the Adoption Program. Adoption Partner will isolate Pets at the first sign of illness or aggression and remove such Pets immediately from the Adoption Center and PetSmart premises.
- K. Request for Removal of Pet. Charities or its designee may require Adoption Partner to immediately remove any Pet from the Adoption Center or PetSmart premises as may be reasonably necessary to comply with Charities’ Adoption Policies, operate the Adoption Program, ensure the safety or well-being of any Pet or person, or comply with any applicable law or regulation, in Charities’ sole discretion.
- L. Employees and/or Volunteers. Adoption Partner agrees that Adoption Partner’s employees who are working or facilitating adoptions in the Adoption Program must be at least 18 years old. Adoption Partner’s volunteers must be at least 16 years old and properly supervised by the Adoption Partner. Volunteers under the age of 18 must always be accompanied and supervised by an adult. Adoption Partner and its employees and volunteers must always maintain a clean, neat and professional appearance, and conduct themselves in a professional and courteous manner. Adoption Partner shall only permit its employees and volunteers to participate in the Adoption Program.
- M. Agreement. Adoption Partner agrees to require all employees and volunteers working on behalf of Adoption Partner in conjunction with the Adoption Program to sign an agreement with Adoption Partner acknowledging that they are aware of and agree to comply with all policies, procedures and manuals, including this Agreement.
- N. Potential Removal. In the event Charities or PetSmart has any objection to any Adoption Partner employee or volunteer, Charities or PetSmart shall have the right to require Adoption Partner to commence appropriate procedures to remedy the basis of any such objection. Upon reasonable request, PetSmart or Charities, in its sole discretion, may require the removal of the employee or volunteer from the Adoption Center or any other designated areas.
- O. Prohibited Conduct. Adoption Partner, its employees, volunteers or agents, may not, directly or indirectly, during the term of this Agreement:
1. Sell, gift or generally compete with any of the products and/or services sold by PetSmart (such as grooming, pet training and veterinary services) while in the Adoption Center or on PetSmart premises.
 2. Conduct fundraising activities while in the Adoption Center or on PetSmart premises, including directly soliciting donations; except Adoption Partner is welcome to collect donations through use of a donation collection canister located where adoptions are being performed.

3. Interfere in any way with the conduct of the business of PetSmart, Charities or any customer, tenant or occupant of the PetSmart store or shopping center while in the Adoption Center or on PetSmart premises participating in the Adoption Program.
4. Allow any person or other organization to use its Adoption Group Number as assigned by Charities, its tax identification number, or participate in the Adoption Program using its name or identity.

In addition, during the term of this Agreement, Adoption Partner and its employees, volunteers, or agents will not make, directly or indirectly, any negative statements, whether written or oral (including in any digital electronic format) or disparage Charities and PetSmart. In the event a negative statement is made, upon notice from Charities (email to suffice), Adoption Partner will use commercially reasonable efforts consistent with Chapter 119, Florida Statutes, and Florida's Public Records laws, to have the negative statement taken down or removed from any platform, and Charities may immediately terminate this Agreement for cause. Violation of this paragraph shall not give to any cause of action, including but not limited to, any cause of action for breach of contract, slander, or libel.

Section 2 – General Provisions

A. Representations. Adoption Partner represents to Charities, as of the date of this Agreement and at all times during the term, that:

1. Adoption Partner is either: (i) an organization exempt from federal income tax under Section 501(c)(3) of the Code, (ii) a governmental entity under Section 170(c)(1) of the Code that will use any Rewards exclusively for public purposes, or (iii) an "Indian tribal government," under Section 7701(a)(40) of the Code, that is treated as a State that will use any Rewards exclusively for public purposes.
2. Adoption Partner holds and will maintain any and all licenses, permits and registrations necessary or appropriate to operate and fulfill Adoption Partner's mission.
3. Adoption Partner is in compliance (and will comply) with all applicable federal, state, local and tribal laws, regulations and other requirements.
4. Adoption Partner is not on any federal terrorism "watch list" and any Rewards will be used in compliance with all applicable anti-terrorist financing and asset control laws, statutes and executive orders.
5. Adoption Partner agrees that all representations or statements made by Adoption Partner in any application or any related communications from or on behalf of Adoption Partner are true and accurate in all material respects. Adoption Partner will notify Charities promptly in writing of any changes in such representations or statements.

B. Audit. Adoption Partner agrees to maintain adequate books, records and other documents showing compliance with this Agreement. During the term of the Agreement and for two (2) years afterwards, Charities or its designee may audit or review Adoption Partner's books, records, and operations to confirm Adoption Partner's compliance with the terms of the Agreement. Any such request will be made with at least ten (10) business days' prior notice and during normal business hours; provided however, that in the event Charities has a bonafide reason to believe, in its sole discretion, that there may be issues related to the welfare of any people or animals associated with Adoption Partner, Adoption Partner shall permit such audit with no notice. Adoption Partner will provide Charities with the requested records and will fully cooperate with Charities. Adoption Partner acknowledges and agrees that any such audit may include, without limitation, (i) an on-site or in person inspection, (ii) observation of Adoption Partner's facilities and operations, and (iii) personnel interviews, including without limitation, employees and volunteers. During any such audit or review, Charities may, in its sole discretion, suspend participation in the Adoption Program and withhold any unpaid Rewards pending the outcome of the audit or review. Adoption Partner expressly grants permission to Charities or its designees to discuss with, or request documentation from, third parties about Adoption Partner related to performance under this Agreement. Adoption Partner agrees to cooperate with Charities in supplying additional information required for Charities to comply with governmental requests related to this Agreement. In addition, Adoption Partner agrees to retain and make available all records for Pet licensing and registration, adoptions and adopter information, adoption policies and procedures, as well as any other records required by law related to any Pet or operation of the Adoption Center.

C. Independent Entities. Nothing in this Agreement is intended or will be construed to create any type of partnership, joint venture, employment, franchise or other similar relationship between the parties. The parties agree that Adoption Partner is an independent entity solely responsible for itself, its employees, volunteers, agents, and its Pets. Each party shall be solely responsible for the acts and omissions of its respective officers, agents, servants, employees, representatives and subcontractors during and after the term of this Agreement.

- D. Indemnification. To the extent permitted under the law, Adoption Partner shall defend, indemnify and hold harmless Charities and PetSmart, including their respective affiliates, directors, officers, managers, employees, representatives, agents, assigns and successors, from and against all costs, claims, losses, liabilities, property damage, bodily injury or death, or intellectual property infringement (including reasonable attorneys' fees and expenses), incident to or arising out of Adoption Partner's: breach of this Agreement; willful misconduct or negligent act(s) or omission(s); receipt or use of the Rewards; participation in the Adoption Program, including injury or damage caused by or involving Adoption Partner's Pets; possession, storage, use, consumption and disposal of any Product; employment and/or worker compensation claims; or violation of applicable law. Notwithstanding the foregoing, this provision shall not be applicable if Adoption Partner is a governmental entity and as such, is prohibited by law from indemnifying Charities or PetSmart. Further, nothing herein is intended to or shall be construed to be a waiver of sovereign immunity or to increase any limits thereto under section 768.28, Florida Statutes.
- E. Equal Opportunity. Adoption Partner agrees that it will not discriminate by reason of race, color, creed, religion, national original, age, sexual orientation, disability, veteran status, gender, marital status or any other legally protected status.
- F. Publicity. Adoption Partner agrees that it will acknowledge Charities' support in any promotional materials related to its participation in the Adoption Program, including websites and social media platforms. Adoption Partner must obtain prior written approval by Charities and will provide Charities at least ten (10) business days to review, for quality control purposes, the proposed use of Charities' name and/or logo. If Charities permits Adoption Partner use of its logo, such use is a limited, non-exclusive, revocable right to use. Adoption Partner may not use Charities' logo for any purpose other than the use permitted by Charities, and Charities may immediately terminate use if it is determined by Charities to be unacceptable. Adoption Partner will not use either Charities' name or logo in a negative light or critical manner. Any right given to Adoption Partner for the use of Charities name or logo may not be transferred, assigned or sublicensed. Charities has the limited, non-exclusive, revocable right to publish, print, transmit, display or otherwise use Adoption Partner's name and logo. Such use may be in electronic or digital format (including e-mail, social media platforms or websites) or in printed form. Charities will not use Adoption Partner's name or logo in a negative light or critical manner. Charities' use of Adoption Partner's name or logo will be used only to support or further Charities' mission.
- G. Governing Law; Venue. Adoption Partner also agrees and understands that this Agreement may be enforced by legal action, including but not limited to injunctive or other equitable relief. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida in the United States without regard to conflict of law provisions or international treaties or conventions, unless prohibited by law. Venue for any action arising out of this Agreement shall be St. Lucie County, Florida.
- H. Term and Termination. This Agreement shall remain in effect until terminated by either party as set forth herein. Either party may terminate this Agreement at any time, with or without cause, upon at least thirty (30) days written notice of such termination to the other party. Charities may immediately terminate this Agreement upon written notice to Adoption Partner if Charities determines, in its sole discretion, that Adoption Partner: has breached any term of this Agreement; is the subject of any legal, regulatory or media investigation or is engaged in any action or course that appears to be unprofessional, uncharitable, disreputable, or otherwise inappropriate; ceases to operate or materially and adversely changes its method of operation, is insolvent, or files for or is the subject of any type of receivership, bankruptcy or similar proceeding; or has not complied with the requirements of any other agreement with Charities. If Charities terminates this Agreement for cause, it may, in its sole and absolute discretion: withhold any pending or future Rewards; or revoke any Rewards not used in accordance with this Agreement and require that all previously provided Rewards be returned. All representations, warranties and obligations of Adoption Partner shall survive after the termination date of this Agreement.
- I. Miscellaneous. This Agreement constitutes the entire agreement and understanding between the parties and supersedes all other prior and contemporaneous communications, discussions, understandings, negotiations, arrangements and agreements, whether written or oral, relating to the subject matter of this Agreement. Adoption Partner will not assign or sublicense, in whole or in part, any of its rights or obligations under this Agreement without the prior written consent of Charities. Waivers must be in writing, signed by the party against whom enforcement is sought. The parties shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control. If one or more provisions of this Agreement are held to be unenforceable under applicable laws by a court of competent jurisdiction, those provisions must be limited or eliminated to the minimum extent necessary and only in the applicable jurisdiction such that the balance of this Agreement remains enforceable and in full force and effect. This Agreement shall not be construed for or against any party based on which party drafted this Agreement, and each party had the opportunity to review this Agreement with their respective legal counsel to the party's satisfaction. PetSmart shall be a third party

beneficiary under this Agreement. Charities and Adoption Partner each represent that the individuals signing are duly authorized to execute this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an enforceable original, but all of which together shall constitute one and the same instrument. Facsimile and other electronic signatures shall be as effective and binding as original signatures.

- J. Notices: All notices, requests and demands to be given hereunder shall be in writing, sent by (a) certified mail, return receipt requested, postage pre-paid; or (b) recognized overnight courier service guaranteeing next day delivery to the parties at the addresses set forth below or such other address as such party may designate by written notice given in advance.

As to Charities:
19601 North 27th Avenue
Phoenix, Arizona 85027
Attn: General Counsel

As to Adoption Partner:
City Manager
City of Fort Pierce
100 North U.S. Hwy 1
Fort Pierce, FL 34950

With a Copy to:
City Attorney
100 North U.S. Hwy 1
Fort Pierce, FL 34950

With a Copy to:
Director of Community Response
100 North U.S. Hwy 1
Fort Pierce, FL 34950

TO EVIDENCE THEIR AGREEMENT, the parties have executed and delivered this Agreement, all effective as of the date first written above.

“CHARITIES”

PetSmart Charities, Inc.

Signature: _____

Name: _____

Title: _____

Date: _____

“ADOPTION PARTNER”

City of Fort Pierce

By: _____
Linda Hudson, Mayor

Date: _____

ATTEST:

By: _____
Linda Cox, City Clerk

APPROVED AS TO FORM AND CORRECTNESS

By: _____
Sara Hedges, City Attorney