



Gentle Spirit Horses Rescue & Sanctuary Foster Agreement

This Foster Agreement (this "Agreement") is entered into this _____ day of _____, 2014, by and between GENTLE SPIRIT HORSES RESCUE & SANCTUARY, a South Dakota non-profit corporation located at 25573 475th Avenue, Renner, SD 57055 ("GSH") and _____ individually, having an address of _____, _____, _____ individually (the "Foster.") For and in consideration of the rights, obligations and duties set forth herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Fostered Animal. Foster agrees, pursuant to and in accordance with the terms and conditions of this Agreement, to foster and provide care for that equine known as "(GSH# and name of horse)" (the "Fostered Animal"), approximate age _____, sex _____, breed _____, color _____, markings _____, approximate height (taped) _____, approximate weight _____ pounds, which Fostered Animal is currently owned by GSH. See website printout attached hereto as Exhibit 1 for a visual illustration of the Fostered Animal and its markings and or tattoos.

Transfer of Possession of Fostered Animal.

A. Continuing Conditions. GSH agrees to transfer possession of the Fostered Animal to Foster, subject to the continuing conditions set forth in this Agreement. THIS AGREEMENT IS NOT AN AGREEMENT OF SALE BUT IS AN AGREEMENT OF POSSESSION. THIS AGREEMENT DOES NOT TRANSFER TITLE TO OR OWNERSHIP INTEREST IN THE FOSTERED ANIMAL. AT ALL TIMES, GSH RETAINS OWNERSHIP RIGHTS IN AND TITLE TO THE FOSTERED ANIMAL. Foster shall not abandon, sell, giveaway, lend, lease, sell for slaughter, remove from Foster's personal supervision or control or move the Fostered Animal from the approved Shelter Facility (defined below) except for emergencies, shows, trail rides or other temporary situations.

B. Prohibited Uses. FOSTER AGREES THAT UNDER NO CIRCUMSTANCES SHALL THE FOSTERED ANIMAL BE USED FOR BREEDING PURPOSES. _____ Foster's Initials

C. Reporting/Inspections. Foster shall provide a written "Status Report" to GSH every April and October for the life of the equine. The Foster must provide this report by the end of each

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respective month or within seven (7) days of a written request by GSH. Failure to provide the Status Report shall be considered a material breach of this Agreement.

The "Status Report" shall contain the following:

- a. Current photographs of the Fostered Animal from the front, back, and both sides, including the hooves;
- b. Narrative of the Fostered Animal's progress and condition;
- c. Current location of the horse, including contact, facility name (if boarded), address, phone and email

D. General Fostered Animal Care Requirements. Foster will, at Foster's sole risk, cost and expense, care for and maintain the Foster Animal in a humane and responsible manner and to provide it with adequate food, water, shelter, medical care, and farrier care. This includes maintaining the horse's weight, giving the appropriate vaccinations in the spring, de-worming every 2-3 months (or as recommended by a veterinarian), regular farrier work every 6-8 weeks (or as recommended by a farrier), shelter from inclement weather, quality forage and also grain and supplements if it is needed and recommended.

Foster shall provide GSH copies of any veterinary records, farrier records, receipts or reports of care to the Fostered Animal within seven (7) days of GSH's email or written request. Failure to provide GSH with such documentation shall be considered a material breach of this Agreement.

E. Care Requirements Specific to the Fostered Animal. Foster specifically understands that the Fostered Animal may have health limitations due to previous instances of abuse or neglect. Foster warrants that Foster has inspected the Fostered Animal and agrees to accept possession in the Fostered Animal's present "as is" condition. Foster specifically acknowledges that GSH makes no representation or warranty to Foster about the health or temperament of the Fostered Animal or its suitability or safety for the purposes now or hereafter intended by Foster. GSH makes the following disclosures as a courtesy to the Foster, which disclosures are merely opinions:

1. Health History and Problems of Fostered Animal: *Summary of specific horse.*
2. Required Medications and Supplements: *Any medications or supplements for specific horse.*

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3. Limitations as to Riding Fostered Animal. Foster understands that there may be limitations as to the type of riding appropriate for the Fostered Animal. Foster shall ride the Fostered Animal only in accordance with the following limitations: *Any limitations of specific horse.*

Location and Inspection of Fostered Animal

Location of Fostered Animal. Foster agrees to keep GSH informed as the current location of the Fostered Animal at all times except for emergencies, shows, trail rides or other temporary situations. Foster agrees to notify GSH at least fourteen (14) days in advance of any proposed relocation of the Fostered Animal except in the case of an emergency relocation. If unable to provide advance notice, notification of relocation must be provided within fourteen (14) days of moving the Fostered Animal.

GSH Inspection of Fostered Animal. Representatives of GSH may make unannounced visits at any reasonable time to confirm that the Foster is providing the care and maintenance required under the terms of this agreement.

Death of the Fostered Animal. Should a life threatening situation arise, GSH must be notified prior to any decision concerning euthanasia, unless prior notice is not possible. In emergency cases such as these, a professional veterinarian's advice is to be sought. Under no circumstances may Foster authorize euthanasia for a non-emergent or non-life threatening condition. Foster shall notify GSH within seven (7) days of the death of the Fostered Animal, and provide a statement from the attending veterinarian as to the cause of death.

Boarding Facility. If the approved facility is one other than the principal residence of the Foster and/or is owned by a third party (the "Boarding Facility") Foster shall present the owner of such Boarding Facility with a copy of this Agreement prior to and as a condition of sheltering the Fostered Animal at such Boarding Facility. Foster, not GSH, shall be liable for all boarding fees, costs, damaged or other claims under any written or verbal contract between the Foster and Boarding Facility.

UNDER NO CIRCUMSTANCES SHALL GENTLE SPIRIT HORSES RESCUE & SANCTUARY BE LIABLE FOR PAYMENTS OR ANY OTHER COSTS, DAMAGES, OR EXPENSES INCURRED UNDER ANY BOARDING AGREEMENT OR FOR OTHER COSTS NOT SPECIFICALLY APPROVED IN WRITING BY GSH WITH THE OWNER OF SUCH BOARDING FACILITY, INCLUDING BUT NOT LIMITED TO DELINQUENT OR UNPAID BOARD PAYMENTS.

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Any lien against the Fostered Animal to which the Boarding Facility may be entitled under the terms of a boarding agreement with the Foster or by statute shall at all times be subject and subordinate to the terms of this Agreement. GSH's ownership rights in and to the Fostered Animal are prior and paramount to any right of title asserted by any Boarding Facility. Foster shall indemnify and hold harmless GSH from and against any and all claims or damages by boarding facility resulting directly or indirectly from the breach of Foster of any contract, written or verbal, between the Boarding Facility and Foster, or under the terms of the Agreement.

Adoption Eligibility. The Fostered Animal subject to this Agreement _____ **(is/is not)** _____ eligible for adoption to the public under GSH's Adoption Policy, which may be found at <http://www.gentlespirithorses.com>. Foster Caregiver agrees to allow potential adopters of the Foster Animal reasonable access to the Foster Animal for purposes of reviewing and/or riding. In the case of the Foster Animal being placed in an adoptive home, GSH agrees to give notice to Foster Caregiver. Transportation from the foster home will be at the expense of GSH or Adopter. Any adoption fee received from the Fostered Animal's adoption is the property of GSH.

If eligible for adoption, the foster home may choose to adopt the equine at any time, unless there is a submitted application for adoption for the equine. If the equine has been in the foster home's care for more than 90 days, the foster home will receive a 50% discount on the adoption fee. If the equine has been in the foster home's care for more than one year, the equine will be placed with a waived adoption fee. If they decide to adopt, the date on the adoption contract will be the date the equine arrived at the foster home and any follow-up inspections completed or photos submitted while fostering will count towards the follow-ups required of adopters.

Length of Fostering

GSH cannot guarantee how long an equine will be in foster unless specific arrangements are made at the time of foster. A fostered horse will remain in foster until the horse is adopted or a spot opens up in one of the main GSH locations. A horse may remain in foster for a few weeks or several months to years.

At any time that a spot at one of the GSH locations opens up, any equine in foster will be offered entry into that spot. If a spot is offered and the foster wishes to keep the equine, the foster will need to complete an adoption application at that point.

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Termination of Agreement and Remedies for Breach

Termination of Agreement by Foster. If, for any reason, the Foster is unwilling or unable to care for the Fostered Animal as set forth in this Agreement, Foster will notify GSH immediately, and arrange for transportation of the Fostered Animal back to GSH at the Foster's expense. GSH will not be liable for any other extraneous charges or costs by the Foster before repossession by GSH. Should the Fostered Animal be returned to GSH, no monies will be reimbursed to Foster. Under no circumstance should the Animal be sold or transferred for slaughter.

Remedies upon Breach.

Repossession of Fostered Animal. In the event that GSH determines that the Foster is in breach of any term of this Agreement, or becomes aware of the Foster's involvement with any humane society or animal control agency, which involvement results in a warning or citation for the inhumane treatment of any animal or the Fostered Animal, this Agreement shall be automatically considered null and void. Upon such breach, in addition to other remedies and damages available to GSH under this Agreement or otherwise, Foster hereby authorizes a representative of GSH, without cause or warrant, to enter the property where the Fostered Animal is sheltered and take immediate physical possession of the Fostered Animal without recourse from Foster or other third parties.

Liquidated Damages. In the event that Foster breaches any term of this Agreement and renders this Agreement null and void, and in addition to the repossession rights set forth in the immediately preceding paragraph, the Foster agrees to pay GSH the sum of One Thousand and No/100ths Dollars (\$1,000.00) as liquidates damages and not as penalty. GSH and Foster expressly agree and acknowledge that GSH's actual damages in the event of a default by Foster would be extremely difficult or impracticable to ascertain and that the amount of the liquidated damages represents their reasonable estimate of such actual damages.

Attorney's Fees and Court Costs. Foster agrees to pay all reasonable attorney's fees and all court costs incurred on behalf of GSH in the event any matter arising under this Agreement is forwarded to any attorney for enforcement.

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Miscellaneous Provisions

Liability and Risk of Loss. Upon Foster taking possession of the Fostered Animal, the Foster shall assume the risk of loss and liability of the Fostered Animal and agrees to indemnify and release GSH from any and all liability or claims associated with Foster's possession of the Fostered Animal.

Assumption of Risk of Equine Activity. The Foster acknowledges that the Foster has been notified and hereby assumes all of the risks inherent in equine activity, including but not limited to, any of the following: a) the propensity of an equine to behave in ways that may result in injury, death, or loss to persons on or around the equine; b) the unpredictability of an equine's reaction to sounds, sudden movement, unfamiliar objects, persons or other animals; c) Hazards, including, but not limited to, surface or subsurface conditions; d) a collision with another equine, another animal, a person, or an object; e) the potential of an equine activity participant to act in a negligent manner that may contribute to injury, death, or loss to the person of the participant or to other persons, including but not limited to, failing to maintain control over an equine or failing to act within the ability of the participant.

Choice of Law. This Agreement and the rights and obligations of the parties hereto shall be subject to and shall be construed and interpreted under the laws of the State of South Dakota. The parties hereto shall consent to jurisdiction of the courts of South Dakota for all purposes and for any disputes arising hereunder.

Modifications. This agreement shall not be modified or amended except by a writing signed unanimously by all of the parties hereto.

Severability/Rules of Construction. If any provision of this Agreement shall be held invalid, the other provisions hereof shall not be affected thereby and shall remain in full force and effect. Each party has fully considered, negotiated, and participated in the drafting of this Agreement. Accordingly, if any ambiguity or question of intent or interpretation arises after the execution of this Agreement, then no presumption or burden of proof shall arise either favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

Assignment. Foster may not assign this agreement and Foster's rights as Foster hereunder without the prior written consent of GSH, which may be withheld, in GSH's absolute

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discretion. Such assignment shall not relieve Foster of Foster's obligations under this Agreement in the absence of express written release from GSH.

Section Headings. The various section headings are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any Section hereof.

Entire Agreement; Modifications. This Agreement and all Exhibits, attachments, or Addenda represents the entire agreement of the parties relating to the adoption of the Fostered Animal and can only be amended by a writing executed by both parties hereto. All prior negotiations between the parties are merged into this Agreement and there are no other understandings or agreements regarding the fostering of the herein referenced animal other than those incorporated herein.

Binding Effect. The terms and conditions of the Agreement shall be binding upon and shall insure to the benefit of GSH and Foster, its and their heirs, executors, administrators, successors and permitted assigns.

Notices. All notices required or permitted hereunder will be deemed to have been delivered when posted with the US Postal Service, Federal Express, United Parcel Service, or sent by facsimile or other such electronic device. The parties shall promptly notify the other in writing of a change of notice address.

Certification

I certify that all statements made by me on this foster agreement are true and correct. I agree that GSH has the right to confiscate the Fostered Animal in the event that any statements made by me are found to be untrue and/or my check for the Adoption Fee is returned for any reason. In either case, any payments made will be forfeited.

SIGNATURE BLOCK REMOVED FOR SAMPLE CONTRACT

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