Agreement for Adoption

This Adoption Agreement (this "Agreement") is entered into this ___ day of _____, 20__, by and between HEART OF PHOENIX EQUINE RESCUE, INC., a West Virginia non-profit corporation located in Lesage, WV ("HOP") and_____, individually, of _____, (the "Adopter").

Now therefore, in consideration of the rights, obligations, and duties set forth herein, and in further consideration of the mutual covenants and obligations set forth herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties agree as follows:

Section 1. **Adopted Animal**.

Adopter agrees, pursuant to and in accordance with the terms and conditions of this Agreement, to adopt and provide care for the equine known as "_____" ("the Adopted Animal"), approximate age ____ years, sex _____, estimated breed _____, color _____, markings _____, scars _____, tattoo(s) _____, approximate height _____, body condition score of __, which Adopted Animal is currently owned by HOP.

Section 2. **Transfer of Possession of Adopted Animal.**

2.1. Continuing Conditions. HOP agrees to transfer possession of the Adopted Animal to Adopter, 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 Adopted Animal. At all times HOP retains ownership rights in and title to the Adopted Animal. The Adopted Animal may be transferred to Adopter pursuant to Section 10 below. Adopter shall not abandon, sell, give away, lend, lease, sell for slaughter, remove from Adopter's personal supervision or control or move the Adopted Animal from the approved Shelter Facility (defined below) except for emergencies, shows, trail rides, other temporary situations or unless HOP declines the first right of refusal to the adopted animal in writing.

2.2. Prohibited Uses. Adopter agrees that under no circumstances shall the Adopted Animal be used for breeding or Thoroughbred or Standardbred racing purposes or offered for sale or auction. Any individual or organization in possession of the equine as of the date of the agreement and any time thereafter is bound to not sell the equine at auction for slaughter or allow the equine to be sold, transferred, released, or otherwise placed into possession of any person or organization that will cause or allow the equine to be sold at auction for slaughter.

2.3. Adoption Donation. Concurrent with the signature of this Agreement, Adopter has paid an adoption donation in the amount of $_____ to HOP to help defray HOP's expenses for food, shelter, spay/neuter, vaccinations, and veterinary care. Adopter understands the small adoption donation does not cover the true value or costs HOP invested in the Adopted Animal. Payment in full of the adoption donation is required before removal of the Adopted Animal from HOP's facility. This adoption donation may be tax deductible by the Adopter, although HOP makes no representation or warranty in that regard. Adopter should consult his/her independent tax advisor to determine deductibility.

Section 3. **Disclosure and Release**. Adopter represent, warrants, and declares that Adopter is aware of the following in connection with his/her adoption of the Adopted Animal from HOP:

3.1. That animals are different from human beings in responses to human actions;

3.2. That the actions of animals are often unpredictable;

3.3. That animals should be closely and carefully supervised when they are with or around children;

3.4. That the Adopted Animal's behavior may change after it leaves HOP's premises;

3.5. That animals in a new environment may act differently;

3.6. That the activities of HOP are potentially of interest to donors, foundations, contributors, government officials and the public at large, and that in connection therewith such activities, including adoptions, may be recorded on film, video or other electronic recording media. The Adopter hereby consents to such recording and to the use by HOP of any recorded images or other media recordings of his/her name and likeness for any purpose related to furtherance of the objectives of HOP. In particular, the Adopter grants HOP permission to copyright and use, reuse, publish, and republish recorded images or other media recordings, without restriction as to changes or alterations, for art, advertising, trade, or other purpose.

3.7. That any statements made by HOP regarding the Adopted Animal, either orally or within this Adoption Agreement, are merely opinions and are made or given solely as a

courtesy to those considering adopting an animal, and in no way amount to claims, representations, or warranties as to the temperament, health, training, or mental disposition of the Adopted Animal or the suitability or safety of the Adopted Animal for Adopter's intended purposes.

3.8. That Adopter releases, discharges, indemnifies, and holds harmless HOP and its directors, founders, employees, officers, agents, representatives, contractors, volunteers, successors and assigns from and against any and all claims, suits, liens, damages, losses, and causes of action which may be asserted by Adopter and all third parties from all liability, injury, illness, death, or damage to all persons, property, or thing whatsoever caused directly or indirectly by the Adopted Animal or HOP's own negligence. The Adopter expressly agrees that the releases and indemnity agreement are intended to be as broad and inclusive as permitted by law.

Section 4. **General Adopted Animal Care Requirements**.

4.1. Standard of Care. Adopter will, at Adopter's sole risk, cost, and expense, care for and maintain the Adopted Animal in strict accordance with (a) the Maryland Minimum Standards for Equine Care as established by the Maryland Horse Council (regardless of whether the Adopted Animal is sheltered within the State of Maryland or elsewhere), and (b) those guidelines as adopted by HOP and attached to this Agreement as **Exhibit 1** (Maryland Minimum Standards of Care Guidelines, can be found on our website under FORMS), as the same may be from time to time amended by HOP. HOP will provide Adopter updated care guidelines as and when requested by Adopter.

4.2. Standard of Care Records. HOP may, at its sole discretion, require receipt of documentation of any and all of the required actions pursuant to the minimum standards of care established in Subsection 4.1 of this Agreement. Should Adopter fail to provide HOP such documentation within five (5) business days after request thereof, Adopter shall be considered in material breach of this Agreement. The Adopter authorizes HOP to review the veterinary records of the Adopted Animal at any time. A signed copy of this agreement is sufficient authorization from the Adopter to any veterinarian to release the records of the Adopted Animal to HOP. Should any veterinarian require additional documentation to release records, Adopter agrees to comply with and provide the veterinarian any required documentation in order to release the records to HOP.

4.3. Euthanasia. The Adopter agrees not to euthanize the Adopted Animal because the Adopter cannot afford necessary veterinary treatment. The Adopter agrees to contact HOP before euthanizing the Adopted Animal. At its discretion, HOP has the right to take possession and/or ownership of the Adopted Animal to prevent the animal from being

euthanized. This provision does not apply in dire situations when the horse is suffering and needs to be immediately euthanized as recommended by a veterinarian.

Section 5. **Care Requirements Specific to the Adopted Animal**. HOP recommends that all adopters consider a pre-purchase exam by a veterinarian of their choice before finalizing this Agreement. Adopter specifically understands that the Adopted Animal may have health limitations due to previous instances of abuse or neglect. Adopter warrants that Adopter has inspected the Adopted Animal and agrees to accept possession of the Adopted Animal in its present "as is" condition. Adopter specifically acknowledges that HOP makes no representation or warranty to Adopter about the health, temperament, or training of the Adopted Animal or its suitability or safety for the purposes now or hereafter intended by Adopter. HOP makes the following disclosures as a courtesy to the Adopter, which disclosures are merely opinions:

5.1. Discussed or known Health History and Health Problems of Adopted Animal:

[_____]

5.2. Discussed or known Required Medications and Supplements:

[_____]

5.3. Discussed or known Limitations as to Riding Adopted Animal:

[_____]

Section 6. **Location and Inspection of Adopted Animal.**

6.1. Location of Adopted Animal. Until such time as title in and to the Adopted Animal may be transferred to Adopter pursuant to Section 10 below, Adopter shall at all times keep HOP informed in writing as to the location or facility where the Adopted Animal is sheltered (the "Shelter Facility").

6.2. HOP Inspection of Adopted Animal. Adopter shall provide HOP periodic (at least monthly) written updates, including photographs of the Adopted Animal, of the Adopted Animal's transition to the Shelter Facility and overall condition. Representatives of HOP may make unannounced visits to the Shelter Facility at any reasonable time to confirm that the Adopter is providing the care and maintenance required under the terms of this Agreement.

6.3. Change in Location of Adopted Animal. Adopter agrees to notify HOP at least ten (10) business days in advance of any proposed relocation of the Adopted Animal. During the term of this Agreement, each new Shelter Facility must be expressly approved by HOP prior to relocation of the Adopted Animal. Approval by HOP of any Shelter Facility for

another animal previously or concurrently adopted from HOP shall not automatically constitute approval of such Shelter Facility under the terms of this Agreement.

6.4. Death of Adopted Animal. Adopter agrees to notify HOP immediately upon the death of the Adopted Animal, and to provide HOP veterinary certification as to cause of death within five (5) business days after such death.

6.5. Boarding Facility. If the approved Shelter Facility is one other than the principal residence of Adopter and/or is owned by a third party (the "Boarding Facility"), Adopter shall present the owner of such Boarding Facility with a copy of this Agreement prior to and as a condition of sheltering the Adopted Animal at such Boarding Facility. Adopter, not HOP, shall be liable for all boarding fees, costs, damages, or other claims under any written or verbal contract between the Adopter and the Boarding Facility. Under no circumstances shall HOP 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 HOP with the owner of such Boarding Facility, including but not limited to delinquent or unpaid board payments. Any lien against the Adopted Animal to which the Boarding Facility may be entitled under the terms of a boarding agreement with the Adopter or by statute shall at all times be subject and subordinate to the terms of this Agreement. HOP's ownership rights in and to the Adopted Animal are prior and paramount to any right of title asserted by any Boarding Facility. Adopter shall indemnify and hold harmless HOP from and against any and all claims or damages by such Boarding Facility resulting directly or indirectly from the breach of Adopter of any contract, written or verbal, between the Boarding Facility and Adopter, or under the terms of this Agreement. The terms of this Section 6.5 shall survive expiration or termination of this Agreement.

Section 7. **Termination of Agreement by Adopter**. If, for any reason, Adopter is unable or unwilling to care for the Adopted Animal as set forth in this Agreement, Adopter will immediately notify HOP and return the Adopted Animal to a location specified by HOP. Should the Adopted Animal no longer meet the needs of Adopter, Adopter may return the Adopted Animal to HOP; however, all HOP adoption agreements are intended to last for the life of the horse. Under no circumstance should the animal be sold or transferred. The Adopter understands that he/she is responsible for the care of the Adopted Animal until he/she has delivered the Adopted Animal to HOP and he/she will do everything to ensure the safe return of the Adopted Animal to HOP if the Adopted Animal cannot stay with the Adopter. HOP will not be liable for any other extraneous charges or costs incurred by the Adopter before repossession by HOP (including, but not limited to, unpaid board payments per Section 6.5 of this Agreement).

7.1. Refund. Should the Adopted Animal need to be returned to HOP, an amount not to exceed eight hundred dollars ($800) or the Adoption Donation noted in Section 2.3 of this Agreement, whichever is less, will be reimbursed if the Adopter requests. This refund amount will reflect animal condition and transport costs.

7.2. Rehoming by Adopter. In the event that Adopter finds a suitable alternative home for the Adopted Animal, Adopter will contact HOP with the name, address, and phone number of the proposed new adopter. Any proposed new adopter will be required to complete the HOP adoption application, be approved, sign the adoption agreement, and fulfill any other requirements for adoption as required by HOP at that time. The proposed new adopter must obtain written approval from HOP prior to transfer of possession to the potential new adopter. Under no circumstances shall the Adopter transfer possession of the Adopted Animal to any entity, family, friends, or agency, without the written approval and consent of HOP for the lifetime of the adopted animal.

Section 8. **Adopted Animal Medical Problems Arising after Transfer of Possession to Adopter**. The Adopter agrees to notify HOP and a veterinarian immediately upon the discovery of any medical problem, except those minor medical problems that are usual and incident to regular equine maintenance. HOP is available, should Adopter need assistance in locating an equine veterinarian. The Adopter, under no circumstances, shall cause the Adopted Animal to be put down or otherwise humanely destroyed without the recommendation of a veterinarian. Any long term or chronic illness should be brought to the attention of HOP. HOP should be consulted when adopter determines the best course of treatment and care for the horse.

Section 9. **Remedies upon Breach**.

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

9.2. Liquidated Damages. In the event that Adopter 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 Adopter agrees to pay to HOP the sum of Two Thousand Five Hundred and No/100ths Dollars ($2,500) as liquidated damages and not as penalty. HOP and Adopter expressly agree and acknowledge that HOP's actual damages in the event of a default by Adopter would be extremely difficult or impracticable to ascertain and that the amount of the liquidated damages represents their reasonable estimate of such actual damages.

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

Section 10. **Ownership**.

10.1. Ownership. Upon the expiration of one (1) calendar year (365 days) following the date of this Agreement, Adopter may request to become the owner of the Adopted Animal provided that all requirements of adoption have been abided, that HOP has received a written statement on their form from a licensed veterinarian that the Adopted Animal is in good health, and the Adopter has completed ownership request form by and fully meets the standards of care set forth by HOP. Adopter agrees to not withhold or otherwise unreasonably interfere with HOP's ability to seek information regarding the Adopted Animal for the lifetime of the animal and to obtain veterinary records as stipulated in Section 4.2.

10.2. Deed of Ownership. In the event Adopter elects to become the owner of the Adopted Animal as established in Section 10.1 above, and at the request of the Adopter, HOP shall, if all requirements are satisfied to the standards of HOP, within thirty (30) days following the acceptance of the request from Adopter, execute a limited Deed of Ownership in favor of Adopter, in substantially the form as attached as **Exhibit 2**, granting Adopter limited title to and limited ownership of the Adopted Animal. This Adoption Agreement remains in place and does not terminate or cease upon this execution.

10.3. Right of First Refusal. In the event Adopter ever elects to become the owner of the Adopted Animal, the Adopter agrees not to sell, lease, loan, or transfer ownership of the Adopted Animal to anyone other than HOP without HOP's written approval. In the event Adopter wishes to sell or otherwise transfer title of the horse at any time, Adopter hereby grants HOP the right of first refusal to reclaim the horse for an amount not to exceed eight hundred dollars ($800.00) or the Adoption Donation described in Section 2.3 above, whichever is less.

10.4. Reversion of Title. The Adopter agrees that the title to the Adopted Animal automatically reverts to HOP if, including but not limited to, the following occurs: (a) the

Adopter voluntarily surrenders possession of the Adopted Animal to HOP; (b) information submitted by the Adopter on the Adoption Application was false or misleading; (c) there is a breach of this Agreement; or (d) HOP determines that the Adopter is not adequately caring for the Adopted Animal as delineated by the standards of care in Section 4.1 of this Agreement.

10.5. Seizure and/or Impoundment. If the Adopted Animal shall, for any reason, be picked up by law enforcement or animal control, the Adopter will immediately contact HOP. The Adopter shall inform the authorities that the Adopted Animal is owned by HOP pursuant to Section 10.4 of this Agreement and shall provide contact information for HOP and request that the authorities contact HOP immediately.

Section 11. **Miscellaneous Provisions**.

11.1. 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 West Virginia. The parties hereto shall also consent to the jurisdiction of the courts of West Virginia for all purposes and for any disputes arising hereunder. All proceedings resulting from this Adoption Agreement shall take place in Wayne County, West Virginia, the location of HOP's incorporation.

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

11.3. Waiver. No waiver of any provision of this Agreement shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

11.4. 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.

11.5. Assignment. Adopter may not assign this Agreement and Adopter's right as Adopter hereunder without the prior written consent of HOP, which may be withheld in HOP's

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

11.6. 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.

11.7. Entire Agreement; Modifications. This Agreement and all Exhibits, attachments or Addenda represents the entire agreement of the parties relating to the adoption of Adopted 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 adoption of the Adopted Animal other than those incorporated herein.

11.8. Binding Effect. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of HOP and Adopter, its and their heirs, personal representatives, executors, administrators, successors, and permitted assigns.

11.9. Exhibits. The exhibits attached hereto constitute an integral part of this Agreement and are incorporated herein.

Section 12. **Notices.** All notices required or permitted hereunder will be deemed to have been delivered when posted with the U.S. Postal Service, Federal Express, United Parcel Service, or sent by email, facsimile, telecopier, or other such electronic device, directed as follows. The parties shall promptly notify the other in writing of a change of notice address.

If to HOP:

Heart of Phoenix Equine Rescue, Inc.

Mailing Address: PO BOX 81 Shoals, WV 25562

Attn: Tinia Creamer

Phone: 304-784-4061

If to Adopter:

Name:_____

Mailing Address:

Phone: _____

Delivery Address (if different than mailing address):

Verification and Signature

I, the undersigned, whose signatures appears below, hereby verify that we fully understand, accept, and agree to the terms and conditions set forth herein; and that we are entering into this Adoption Agreement freely and voluntarily. This Adoption Agreement has been executed on the day and year first written above.

_____

SIGNATURE OF ADOPTER

_____

NAME (Printed)

_____

AUTHORIZED SIGNATURE OF HEART OF PHOENIX

_____

NAME & TITLE (Printed)