

SMOKEY VALLEY KENNEL PET CONTRACT TERMS

In exchange for the promises and exchange of consideration set forth below, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, Smokey Valley Kennels (hereinafter referred to as "Seller"), and X _____, (hereinafter referred to as "Buyer(s)") enter into this contract ("Agreement") this ____ day of _____, _____.
X _____

RECITALS

A. Seller is owner of the dog (hereinafter "dog") identified as follows:

Name: _____
Birth date: _____ Gender: _____ Breed: Miniature Australian Shepherd
Sire: _____ NSDR# _____
Dam: _____ NSDR# _____

B. Buyer desires to acquire the dog identified above and owned by Seller according to the terms and conditions set forth below.

C. Seller and buyer agree that the dog described above is being sold as "PET QUALITY." Use of this dog for exhibition or breeding is strictly prohibited. Accordingly, registration papers are not available for this dog.

NOW THEREFORE, in consideration of the above, and of the mutual covenants herein set forth and other good and valuable consideration, receipt of which is hereby acknowledged, it is agreed as follows:

SECTION I

- 1.1. Sale. Seller shall transfer to Buyer, and Buyer shall acquire from Seller, the dog identified above.
- 1.2. Purchase Price. Buyer agrees to pay Seller the following amount in exchange for ownership of the dog: \$ _____. The purchase price includes a deposit of \$ _____, which was paid by Buyer on _____.
Deposits are non refundable. Washington State Sales Tax is required on all pets.
- 1.3. Payment. Payment shall be made as follows (check the applicable box):
 A single payment of \$ _____
 Other payment arrangement as follows: _____

SECTION II. GUARANTEES

Health Guarantee

- 2.1. Seller guarantees that the dog is in good health and has received appropriate medical inoculations, worming, and care. Seller will provide Buyer with the medical records associated with treatment the dog has received under Seller's care, and any future care Seller feels is essential to the dog's well being.
- 2.2. Seller has disclosed in writing any life-threatening diseases or disabilities known to Seller for foreseeable to Seller at the time of the execution of this Agreement. If a life-threatening diseases or disability exists, Buyer acknowledges the condition and accepts the dog as-is. No remedies under Section III are available for dogs with conditions that have been disclosed in writing as part of this Agreement.

- 2.3. At no time will the Seller be responsible or obligated to pay for Veterinary Treatments Not agreed upon in advance and recorded in this Agreement, including any such expenses directly or indirectly related to any inheritable/genetic defects.
- 2.4. Should the dog develop a life threatening medical condition, the condition must be brought to the Seller's attention within (24) months from the date of birth. The medical condition must be confirmed by two unaffiliated veterinarians and/or offices. Buyer must produce veterinary reports and other necessary documentation to satisfactorily prove the existence of the disqualifying condition.
- 2.5. Seller will not be responsible for disqualifying faults, diseases, viruses, disorders, or any other condition that is due to Buyer's negligence or for which Buyer was contributorily negligent.

SECTION III. REMEDIES

3.1. Remedy for Buyer:

- 3.1.1. If the dog develops a condition as described in Section II and not disclosed as provided for in Section II, Buyer's sole remedy is the replacement of the dog as described in Section 3.1.4. No refunds will be issued by Seller to Buyer for any reason.
- 3.1.2. Conditions of Return: The following conditions must be satisfied before Seller will be obligated to accept and replace the disqualifying dog; a) the dog must never have been bred to or bred with, b) the dog must have remained in the owner's possession or control since the date the Agreement was executed, c) the dog must never have been sold, and d) Seller must have ensured the dog received the usual and necessary veterinary and medical services for this breed. Medical and veterinary services must be evidenced by adequate medical and veterinary records to the satisfaction of Seller.
- 3.1.3. If the above conditions have been satisfied, Buyer shall return the disqualifying dog to Seller. Buyer must pay all charges associated with returning, registering, and transporting the disqualifying dog back to the Seller. Seller's duty to replace the dog will arise only when the dog is returned to Seller's possession.
- 3.1.4. Seller will provide a replacement pet quality dog of similar quality, age, and gender. Within these parameters, Seller shall have sole discretion in selecting the dog that will replace the dog that was returned. The replacement dog shall be sent to Buyer within a reasonable time taking into account the uncertain nature of breeding dogs, whelping puppies, and the life cycle of dogs. Buyer will pay all charges associated with transporting the replacement dog to the Buyer.

3.2. Remedies for Seller:

- 3.2.1. Any breach of any term of this Agreement shall be considered a material breach and shall relieve the Seller of any further duty or obligation under this Agreement. Seller may either require specific performance of the contract, rescind the contract, or require the Buyer to pay liquidated damages in the amount of \$ _____ per day/month/year. Buyer agrees that this calculation of damages is reasonable and enforceable given the nature and purpose of this agreement
- 3.2.2. Upon any breach by Buyer or should Buyer relinquish ownership in the dog, for any reason, the remainder of Seller's guarantees and duties under this Agreement shall be null, void, and unenforceable.

SECTION IV. ACKNOWLEDGMENTS AND DISCLAIMERS

- 4.1. Buyer acknowledges and agrees that Buyer will alter the dog by 18 months of age. Buyer must transmit medical records and an affidavit proving compliance with the terms of this section. Failure to satisfy the requirements of this Section is a material breach of this Agreement. Buyer agrees that Seller's remedies described in Section 3.2. are reasonable and enforceable and that Buyer will pay any costs incurred by Seller to enforce the terms of this Agreement. **Initial** _____
- 4.2. Seller shall not be held responsible for conditions contracted or observed in the dog that are not due to Seller's willful acts or negligence. These include, but are not limited to diseases, viruses, disorders, the development of disqualifying faults and other conditions. **Initial** _____

4.3. Seller is not responsible for behaviors exhibited by the dog once the dog leaves the possession and control of Seller. Buyer understands that dogs can exhibit undesirable behaviors including, but not limited to, chewing and biting people, things and other animals, urinating and defecating in undesirable places, chasing people and animals in unwanted ways, etc. Dogs have the ability to injure and/or kill other living things. Buyer agrees that Seller is not responsible for the dog's acts of destruction, altercations between other dogs, cats, other animals, or people. Buyer accepts responsibility for the dog's behavior once the dog leaves the possession and control of Seller. Buyer is aware risks exist, both known and unknown, and voluntarily assumes the risks. Initial _____

4.4. Buyer acknowledges that Seller recommends that Buyer attend obedience classes with dog and provide proper socialization opportunities for the dog. Initial _____

SECTION V. RELEASE, WAIVER, HOLD HARMLESS, AND INDEMNIFICATION

5.1. Release, Waiver, and Hold Harmless: The parties agree that, as of the date this Agreement, Buyer shall release Seller and Seller's agents, successors, heirs and assigns from any liability under this agreement except those expressly assumed in Section II. Buyer waives any rights Buyer may have against Seller, holds Seller harmless for any damage or injury arising from the dog's behavior. Buyer agrees to hold harmless Seller from any and all claims, causes of action and or liabilities arising from the dog that is the subject of this Agreement.

5.2. Indemnification; Buyer agrees that Buyer must indemnify and hold Seller and Seller's agents, successors, heirs, and assigns harmless from and against any and all costs, liabilities, or expenses associated with or arising from any action taken against Seller arising from this transaction. This includes any claim or award that Seller may be compelled to make or satisfy due to the dog's actions or behavior. This indemnification includes, without limitation, legal fees, accounting fees, and other expenses.

SECTION VI. ARBITRATION AND MEDIATION

6.1. Mediation. If any dispute arising under this agreement cannot be resolved, the parties must submit the dispute to a mediator. Any party may initiate mediation sending the parties a written request for mediation. If the parties cannot agree on a mediator within twenty (20) business days, the parties must submit the dispute to the Judicial Arbitration and Mediation Services, or its legal successor ("JAMS"). JMAS' rules will govern the selection of the mediator and the subsequent mediation. The mediation must occur no later than sixty (60) days after the date the mediation was requested. The mediator's fees will be split equally among the parties. Each party is responsible for any other individual cost incurred.

6.2. Arbitration. In the event a dispute arises under the terms of this Agreement that is not resolved under Section 6.1, it is agreed that the dispute shall be referred to a mutually agreed arbitrator from Washington Arbitration & Mediation Service (WAMS) for resolution within 21 days from a written request for arbitration submitted by either party. If an arbitrator cannot be agreed upon, then WAMS shall designate one on its own. The arbitrator's decision shall be final and binding, and judgment may be entered thereon. The prevailing party shall be entitled to such party's reasonable costs, expenses, and attorney fees incurred in resolving or settling the dispute.

SECTION VII. MISCELLANEOUS

7.1. Purchaser is aware and agrees that all deposits are non-refundable.

7.2. This Agreement contains the sole and entire agreement and understanding of the parties with respect to the sale of the dog. Any and all prior and related discussions, negotiations, commitments, writings or understandings are hereby merged in this document.

7.3. This Agreement is assignable by any party, nor is the performance of any of duty hereunder delegable by any party to another without the written consent of the other party. This Agreement shall not be assignable or transferable by operation of law.

7.4. The parties agree that the rights and obligations under this Agreement shall inure to and be binding upon their respective successors in interest and assigns, subject, however, to any express provisions restricting assignment in this Agreement.

7.5. This Agreement may not be modified or terminated except as provided in this Agreement or by other written agreement signed by all parties to this Agreement.

7.6. The paragraph headings are for convenience only and in no way define, limit, extend, or interpret the scope of this Agreement or of any particular paragraph.

7.7. If any legal action or arbitration is filed in relation to this Agreement, the prevailing party shall be entitled to all costs and reasonable attorney fees. The prevailing party will be compensated for attorneys' fees actually incurred at their normal hourly rates and this section shall constitute a request to the court that such rate or rates be deemed reasonable.

7.8. If any term of this Agreement shall be held invalid, illegal, or unenforceable, in whole or part, the validity of all other terms of this Agreement shall remain in effect.

7.9. Any waiver of any term or failure to insist on strict performance of any term of this agreement by any party, or any failure to exercise any option, shall not be construed to be a waiver or relinquishment of any option, right, or other term of this Agreement.

7.10. This Agreement shall be governed by, construed, and enforced according to the laws of Washington State. Venue for any action under this Agreement shall be in Lewis County.

7.11. This Agreement has been submitted for the inspection of all parties to this Agreement. Each party has had opportunity to have this document reviewed by counsel of their choice. The Agreement shall be given a fair and reasonable interpretation without consideration or weight being given to its having been drafted by any party or that party's counsel. Each party expressly waives any right to claim the contrary.

7.12. Any notice required by this Agreement shall be in writing, delivered in person or mailed by certified or registered mail, postage prepaid, to the appropriate party(s) at the addresses provided below, or to any other address the parties may designate. Notices sent by U.S. Mail shall be considered given and received four (4) days following the date of mailing.

7.13. If an entity is a party to this Agreement, the agent signing on behalf of the entity warrants and represents that the execution, delivery and performance of this agreement by the agent has been duly authorized by the entity.

Executed this ____ day of _____ (month), _____ (year).

X _____
Buyer's Signature

_____ Seller's Signature

X _____
Printed Name

_____ Printed Name

X _____
Street Address, City, State, Zip

_____ 113 Blake Road, Toledo, WA 98591
Street Address, City, State, Zip

X _____
Phone and email address

_____ 360-864-6116 smokeyvalley@toledotel.com
Phone and email address