

## Puppy Sales Agreement 2019

This Puppy Sales Agreement (“Agreement”) effective as of the date shown on the attached Customer Pet Record / Contract (“Signature Page”) is between Boni Enterprises, LLC, a limited liability company with headquarters at 25873 246<sup>th</sup> St., Okaton, SD 57562 (“Seller”), and the individual whose name and address appear on the attached Signature Page (“Buyer”). Seller and Buyer may each be referred to as a “Party” and collectively as the “Parties.”

This Agreement is in reference to the sale of the puppy specified on the attached Signature Page (“Puppy”).

### Background

- A. Seller breeds and sells pug puppies as companion animals and show prospects for use in competitions offered by the American Kennel Club (“AKC”).
- B. Buyer desires to purchase a pug puppy as a companion animal, and not for use in AKC conformation shows or for breeding purposes..

Accordingly, the Parties agree as follows:

### Article I: Purchase Procedure

**1.1 Terms of Purchase.** Seller sells Puppy to Buyer as a companion animal, with limited AKC registration.

**1.2 Deposit.** If Puppy is under four (4) weeks of age, Buyer shall pay a deposit of fifty (50) percent toward the total purchase price. In the event of a) the death of Puppy, or b) Seller’s dissatisfaction with the health of Puppy, Seller shall refund Buyer’s deposit or apply the deposit toward another puppy of equal or greater value at its discretion.

**1.3 Remaining Payment.** When Puppy is over the age of four (4) weeks, Buyer shall pay seller the total purchase price of as stated on Signature Page at time of contract (minus any deposit already paid) within five (5) days business days of execution of the contract or Puppy’s reaching four (4) weeks of age. Failure to pay in a timely manner shall render this entire Agreement null and void. Seller may retain Buyer’s deposit if Buyer fails to timely pay.

**1.4 Costs and Expenses for Shipping or Delivery.** Buyer shall pay all shipping charges and related expenses included in deliver of Puppy to Buyer or pick up of Puppy.

## **Article II: Care of Puppy**

**2.1 Essentials of Care.** Buyer shall provide Puppy with adequate food, fresh water at all times, shelter, affection, love, and medical care, including all necessary immunizations, parasite control, and medication recommended by Buyer's veterinarian.

**2.2 Veterinary Care.** Buyer shall provide Puppy with veterinary care upon sickness, disease, or injury, and shall take it to a veterinarian at least once a year for an annual health examination and routine vaccinations.

**2.3 Spay or Neuter.** Buyer shall have a veterinarian spay or neuter Puppy by the time Puppy is nine (9) months old.

**2.4 Compliance with Animal Welfare and Control Laws.** Buyer shall provide Puppy with humane care and maintain it in accordance with all current and future state, county, and municipal laws and ordinances where Buyer resides.

**2.5 Containment.** Buyer shall provide Puppy with a fully fenced yard or other humane means of exercise. Puppy shall not be kept constantly chained or crated or constantly outdoors.

**2.6 Identification Tags.** Buyer shall provide a collar and identification tag for Puppy to wear at all times when outdoors.

## **Article III: Initial Health Guarantee**

**4.1 Three Day Return Policy.** Puppy is sold with a guarantee of initial good health. Within three business days of assuming physical custody, Buyer shall have Puppy examined by a veterinarian. If a veterinarian determines that Puppy is unhealthy, Buyer may return so long as:

- a. Buyer notifies Seller of intent to return Puppy within three business days of assuming physical custody;
- b. Buyer provides a written description of Puppy's health condition written by a licensed veterinarian; and
- c. Buyer returns Puppy to Seller at Seller's headquarters.

**4.2 Puppy's Condition Upon Return.** Puppy must be in the same condition as when Buyer assumed physical custody. Any evidence of neglect will result in the forfeiture of the option to receive a replacement puppy or a refund.

**4.3 Buyer Responsible for Costs.** Buyer shall be responsible for all veterinary costs and expenses and shipping costs involved with returning Puppy for exchange or refund.

**4.4 Seller to Decide Remedy.** Following return of Puppy as described above, Seller shall a) refund Buyer's full purchase price within thirty (30) days, or b) offer a replacement puppy of equal or greater value within six (6) months, at Seller's sole discretion.

### **Article V: Return and Transfer Policy**

**5.1 Initial Returns.** Should Buyer desire to return Puppy for any reason, Buyer shall have twenty-eight (28) days after assuming physical custody to return Puppy to Seller at Seller's headquarters at Buyer's expense. Seller shall remarket Puppy. Seller shall refund any payment collected to the Buyer within thirty (30) days of collection, minus expenses incurred in remarketing or veterinary care.

**5.2 Lifetime Return Policy.** For the remainder of Puppy's life, Buyer may return Puppy to Seller at any time and for any reason. Buyer shall sign the necessary AKC papers (as applicable) to list Seller as sole owner of Puppy.

**5.3 Transfer of Ownership Policy.** If for any reason Buyer transfers physical custody of Puppy, Buyer shall notify Seller immediately. Buyer shall not sell, transfer, or give Puppy to any individual or to any retail or wholesale establishment for the purpose of sale or resale to the public, nor to any research institution where medical experimentation or other practices take place.

### **Article VI: Genetic and Congenital Health Guarantee**

**6.1 Covered Genetic and Congenital Conditions.** Seller guarantees Puppy to be free of the following congenital and genetic health defects:

- a. **Hereditary Orthopedic Disease:** Hip dysplasia, Legg-Calvé-Perthes disease, and elbow dysplasia as diagnosed in writing by the Orthopedic Foundation for Animals (OFA), so long as Buyer's veterinarian submits the requisite diagnostic radiographs to the OFA prior to Puppy's reaching thirty-six (36) months of age.
- b. **Patellar Luxation:**
  - i. Seller asserts that it is not uncommon for young puppies to have lax joints and tendons. It is not possible to accurately diagnose any but the most severe cases of patellar luxation in a puppy under the age of six months. Unfortunately, veterinarians unfamiliar with toy breeds or pugs may attempt to do so at Puppy's initial veterinary visit.
  - ii. For the purposes of this contract, patellar luxation may be diagnosed by two (2) licensed veterinarians examining Puppy six (6) months and thirty-six (36) months of age, and concluding in writing that a) Puppy has grade 2, 3, or 4 patellar luxation as defined by the Orthopedic Foundation for Animals, and b) corrective surgery is medically necessary.
- c. **Respiratory System Defects:** Tracheal collapse or elongated soft palate as diagnosed in writing by a licensed veterinarian prior to Puppy's reaching thirty-six (36) months of age.

- d. Stenotic Nares:
  - i. Seller asserts that pug dogs have small noses in proportion to their faces. It is not possible to accurately diagnose any but the most severe cases of stenotic nares in a puppy under the age of six months. Unfortunately, veterinarians unfamiliar with toy breeds or pugs may attempt to do so at Puppy's initial veterinary visit. The laser surgery for stenotic nares is dangerous and must not be undertaken lightly.
  - ii. For the purposes of this Agreement, stenotic nares shall be diagnosed by two licensed veterinarians examining Puppy between the ages of six (6) months and thirty-six (36) months of age and concluding in writing that surgical intervention is necessary for Puppy's health and comfort.
- e. Hypothyroidism: as diagnosed in writing by a licensed veterinarian prior to Puppy's reaching thirty-six (36) months of age.
- f. Pug Dog Encephalitis: as diagnosed in writing by a licensed veterinarian prior to Puppy's reaching thirty-six (36) months of age.
- g. Hereditary Ocular Defects: Dry eye syndrome, bilateral cataracts, and entropion as diagnosed in writing by a licensed veterinarian prior to Puppy's reaching twenty-four (24) months of age. Progressive retinal atrophy as diagnosed in writing by a Canine Eye Registration Foundation certified veterinarian prior to Puppy's reaching twenty-four (24) months of age.
- h. Demodectic Mange and Auto-Immune Disorders: as diagnosed in writing by a licensed veterinarian prior to Puppy's reaching twenty-four (24) months of age.

**6.2 Conditions Required for Fulfillment of Guarantee:** to be eligible for the fulfillment of guarantee as described in section 6.4, Puppy must:

- a. Show no evidence of neglect, abuse, disease, fever, viral or bacterial infection, improper nutrition, injury or accidents contributing to non-genetic hip or eye defects as diagnosed by a licensed veterinarian;
- b. Have been spayed or neutered prior to the age of nine (9) months;
- c. Have been maintained at an appropriate body weight and condition;
- d. Have received appropriate basic veterinary care including vaccinations and parasite control;
- e. Have been kept primarily indoors in a non-smoking environment; and
- f. Have been in the consistent and ongoing physical custody and control of Buyer.

**6.3 Procedural Requirements:** to request fulfillment of guarantee as described in section 6.4, Buyer shall:

- a. Notify Seller in writing via postal mail or email that Puppy has a congenital or hereditary condition covered by this Agreement;
- b. Provide written diagnosis of the condition as described in section 6.1 of this agreement; and
- c. Provide a written statement from a licensed veterinarian that Puppy has:
  - i. received appropriate basic veterinary care, including recommended vaccinations;

- ii. was spayed or neutered prior to the age of nine (9) months, if Puppy is more than nine months of age at time of request;
- iii. is at an appropriate body weight and condition; and
- iv. appears to have been kept primarily indoors in a non-smoking environment.

**6.4 Fulfillment of Guarantee:** Should Buyer fulfill all diagnostic criteria, conditions, and procedural requirements as described in sections 6.1 – 6.3, Buyer may either:

- a. return Puppy to Seller at Seller's headquarters and receive a replacement puppy of equal or greater value as soon as one becomes available; or
- b. Submit veterinary bills associated with the treatment of the medical condition as listed in section 6.1. Seller shall remit a sum of up to 50% of the Puppy's purchase price as shown on the Signature Page directly to the treating veterinarian exclusively for treatment of conditions listed in section 6.1.

**6.5 Costs of Diagnoses Excluded from Guarantee:** Buyer is solely responsible for all costs and expenses related to the diagnosis of any condition covered by Article VI.

**6.6 Limited Guarantee.** If Buyer fails to comply with sections 6.2 and 6.3 of this Agreement, Article VI shall become null and void. Seller offers no other health guarantees, express or implied.

## **Article VII: General**

**7.1 Binding on successors.** This Agreement will be binding upon Seller and any entity which is a successor by merger, acquisition, consolidation, or otherwise to the business formerly carried on by Seller, or an affiliate of any such entity, without regard to whether or not such successor actively adopts this Agreement. Any failure by a successor to Seller to perform Seller's obligations under this Agreement shall constitute a material breach of this Agreement.

**7.2 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of South Dakota.

**7.3 Jurisdiction and Venue.** Parties shall institute any legal action, suit or proceeding arising out of or relating to this Agreement exclusively in the Jones County, South Dakota court.

**7.4 Payment of Enforcement Costs.** Should Seller prevail in any action under this Agreement, Buyer shall pay any and all of Seller's expenses in defending or enforcing this Agreement, including court costs and reasonable attorney fees.

**7.5 Notice.** Any notice or other communication required or permitted under this Agreement shall be effective only if it is in writing and delivered personally or sent by email or certified mail, postage prepaid, to Seller's headquarters.

**7.6 Entire Agreement.** This Agreement and the Signature Page constitute the complete, final, and exclusive embodiment of the entire agreement between Seller and Buyer. It supersedes any other such promises, warranties, or representations and any other written or oral statements.

**7.7 Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination will not affect any other provision of this Agreement and the provision in question will be modified by the court so as to be rendered enforceable in a manner consistent with the intent of the Parties insofar as possible.

**7.8 Execution in Counterparts.** This Agreement may be signed on the Signature Page in counterparts and the counterparts taken together will constitute one agreement. Facsimile, photographed, or scanned signatures shall be deemed as effective as original signatures.