



Friends of Ferdinand Inc. Trial Agreement

This Trial Agreement (this "Agreement") is made this ___ day of _____, 20_16_ by and between **Friends of Ferdinand Indiana, Inc.**, an Indiana not for profit corporation ("FRIENDS" or "FFI"), and _____ ("Adopter") (FRIENDS and Adopter are hereinafter sometimes collectively referred to as the "Parties").

Recitals

WHEREAS, FRIENDS is a non-profit corporation that seeks out persons who are willing and able to care for injured, neglected and/or abused horses; and

WHEREAS, Adopter has inspected horses offered by FRIENDS and made a commitment to properly care for the Adopted Animal described below; and

WHEREAS, FRIENDS and Adopter wish to evidence their agreement by this writing.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Description of Adopted Animal. Adopter agrees to care for _____
_____ (the "Adopted Animal"), who is generally described as follows:

Approximate age: _____

Breed: _____ Thoroughbred _____

Species: Equine

Gender: Male/Gelding ___ Female ___

Color: _____

Markings: _____

Tattoos: _____

Scars: _____

Approximate height: _____

Approximate weight: _____

2. Care of Adopted Animal.

(a) General Requirements. At the time of delivery of the Adopted Animal, FRIENDS will provide Adopter with access to all health records of the Adopted Animal that are known and reasonably available to FRIENDS together with general guidelines for the proper care and feeding of the Adopted Animal. Attached hereto as Exhibit "A" are the Adoption Policies and Facility Policies for the Adopted Animal which are incorporated herein by reference. FRIENDS does not represent or warrant that Exhibit "A" contains all guidelines for the proper care and feeding of the Adopted Animal nor does it represent or warrant that it will provide Adopter with all pertinent medical or other records of or information about the Adopted Animal. Adopter shall care for and maintain the Adopted Animal in compliance with the care guidelines set forth on Exhibit "A" hereto and all other care guidelines to which Adopter becomes aware or are subsequently provided to Adopter by FRIENDS. Such required care and maintenance shall include, but shall not be limited to, providing the Adopted Animal with the following: (i) adequate and proper quantities of wholesome feed and fresh water; (ii) safe and adequate shelter, which shall include at least a stall or 3-sided run-in shed and turnout area; (iii) proper, adequate, and regular exercise; (iv) appropriate hoof care no less often than every eight (8) weeks; (v) all required veterinary attention, including without limitation, yearly vaccinations for Rabies, EWT, Rhino, Flu, and other diseases for which vaccines may be recommended or required in the State of Indiana from time to time; and, (vi) adequate preventive care against parasites including, without limitation, de-worming no less often than every eight (8) weeks. Adopter shall execute the Authorization attached hereto as Exhibit "B" and incorporated herein by reference.

SAMPLE

Upon the execution of this Agreement, all future veterinarian care and transport expenses of the Adopted Animal shall be paid by Adopter. In the event Adopter fails to provide FRIENDS with documentation of the treatment and care provided by Adopter to the Adopted Animal or of Adopter's compliance with the terms and conditions of this Agreement within five (5) business days after FRIENDS' request for same, Adopter shall be deemed in material breach of this Agreement giving FRIENDS the right, but not the obligation, to enter upon the Adopter's property to examine the Adopted Animal, including a medical exam, at cost to Adopter, and/or to terminate Adopter's care and treatment of the Adopted Animal, and remove or cause the removal of the Adopted Animal from Adopter's premises, each without notice to or liability to Adopter. In such event, Adopter shall cooperate in all material respects with FRIENDS in the return of the Adopted Animal and the delivery of all documents regarding the treatment and care of the Adopted Animal.

In the event the Adopted Animal is returned to FRIENDS for any reason, the horse will be returned in the same or better body condition. Adopter shall pay all veterinarian and other expenses associated with the Adopted Animal that are incurred prior to the return of the Adopted Animal to FRIENDS, as well as all veterinarian and other expenses resulting from Adopter's failure to care for the Adopted Animal as prescribed herein.

(b) Prohibited Use. Adopter agrees that under no circumstances shall it permit the Adopted Animal to be used for racing or breeding (except as set forth in Exhibit "A") or to be abused or neglected.

(c) Inability to Provide Care. If for any reason Adopter is unable or unwilling to care for the Adopted Animal as set forth in this Agreement, Adopter shall immediately so notify FRIENDS and return the animal with 72 to hours to FRIENDS. The cost of transporting the Adopted Animal to a facility approved by FRIENDS shall be the sole cost and expense of Adopter, and, in the event that FRIENDS has removed or caused the removal of the Adopted Animal in accordance with Section 2, Adopter shall reimburse FRIENDS for any and all costs of such removal. Adopter shall pay all costs associated with the Adopted Animal (except as may be expressly otherwise set forth elsewhere herein) that are incurred by Adopter while the Adopted Animal is in the care and custody of Adopter. Adopter shall not sell, trade, abandon, transfer, give away or sell for slaughter the Adopted Animal without the prior written consent of FRIENDS, which consent may be withheld or conditioned in the sole discretion of FRIENDS. In the event the Adopted Animal is returned to FRIENDS for any reason, Adopter shall pay all veterinarian and other expenses associated with the Adopted Animal that are incurred prior to the return of the Adopted Animal to FRIENDS, as well as all veterinarian and other expenses resulting from Adopter's failure to care for the Adopted Animal as prescribed herein.

(d) Health Problems. Adopter shall notify FRIENDS and a nearby veterinarian immediately upon the discovery of any medical problem, except for minor medical problems that are usual and incident to regular horse maintenance and do not require the care of a veterinarian.

(e) Death of Adopted Animal. Adopter agrees to notify FRIENDS immediately upon the death of the Adopted Animal, and to provide FRIENDS within five (5) business days after such death with a veterinarian's certification as to the cause of the Adopted Animal's death.

3. Assumption of Risk and Release. Adopter understands and agrees that FRIENDS provides no warranty or guarantee of any kind with respect to the soundness, temperament, or general condition of the Adopted Animal. Adopter acknowledges that caring for a horse is an inherently dangerous activity and Adopter assumes the risks associated with same. Adopter acknowledges that Adopter has been given an opportunity to have the Adopted Animal inspected by a veterinarian. Adopter understands and assumes the risk that the Adopted Animal may have one or more mental or physical health limitations or defects due to prior abuse and/or neglect of the Adopted Animal. Adopter does hereby assume the risk that there are limitations as to the types of riding that are appropriate for the Adopted Animal. Adopter shall only ride (and permit others to ride) the Adopted Animal in a reasonable manner and in compliance with the limitations and requirements set forth in Exhibit "A" hereto. Adopter does hereby release, indemnify, and hold harmless the Adopted Animal's donor and FRIENDS, and their respective managers, members, officers, directors, partners, employees, agents and attorneys, and their respective heirs, personal representatives, successors and assigns (collectively the "Protected Parties") forever, from and against any and all cost, expense (including any and all attorneys'

fees), liability, damage or injury to person or property caused directly or indirectly by the Adopted Animal.

Adopter further agrees to release, indemnify, and hold harmless the Protected Parties from and against any and all claims, demands, actions, expenses or liabilities (including any and all attorneys' fees and expenses) for any injury or damage to the undersigned and/or the undersigned's property, arising out of the undersigned's entry onto FRIENDS' premises and/or participating in, or being in proximity to, equestrian activities thereon, and/or any injury or damage to any person or property arising out of any act or omission of anyone or any animal within the undersigned's control. Adopter understands and assumes the risk that Adopter's interaction with horses is inherently dangerous. Adopter agrees to be responsible for the safety and wellbeing of all of his/her/their guests and property brought on to FRIENDS' premises and assumes the risk of injury to person and property thereon.

Adopter represents that, in the event that Adopter is an equine activity sponsor (as defined by IC 34-6-2-42) or equine professional (as defined by IC 34-6-2-43), Adopter shall post a sign, in a clearly visible location in proximity to the equine activity, printed in black letters each at least one (1) inch in height, stating as follows: "WARNING Under Indiana law, an equine professional is not liable for an injury to, or the death of, a participant in equine activities resulting from the inherent risks of equine activities."

4. Access to Adopted Animal. Adopter shall notify FRIENDS of the place where the Adopted Animal will be kept and agrees that a representative of FRIENDS may make unannounced visits at any time to any location where the Adopted Animal is kept to confirm that the care required in this Agreement is being provided. Adopter hereby authorizes FRIENDS to enter Adopter's property without prior notice to inspect the Adopted Animal and the care and facilities being provided by Adopter.

The Adopted Animal will initially be cared for at the following location:

Property Owner Name: _____

Address: _____

Phone Number: _____

The current contact information for Adopter is:

Mailing Address: _____

Mailing City/State/Zip: _____

Driver's license #: _____

Home phone #: _____

Business phone #: _____

5. Relocation of Adopted Animal. In the event that Adopter desires at any time to relocate the Adopted Animal to a different facility, Adopter shall notify FRIENDS at least ten (10) business days prior to such move of the location of the proposed new facilities. Adopter shall

not relocate the Adopted Animal to such new facilities without the express prior written consent of FRIENDS which consent shall not be unreasonably withheld, conditioned or delayed provided such facilities meet the minimum requirements of FRIENDS.

6. Adoption Fee. On or before the end of this Trial Agreement, Adopter shall pay FRIENDS a nonrefundable adoption fee of \$_____ and the Adoption Agreement will be executed by both parties.

7. Term/Transfer of Ownership. The Parties understand and agree that this Agreement shall expire in 30 days hereof, unless sooner terminated pursuant to Section 8(r) or as may be otherwise provided herein. During the term of this Agreement, FRIENDS will retain ownership of the Adopted Animal. After 30 days of proper care of the Adopted Animal (as determined by FRIENDS in its sole and absolute discretion) by Adopter, FRIENDS will enter into an Adoption Agreement.

8. Miscellaneous Provisions.

(a) Entire Agreement. This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties with respect to its subject matter and supersedes any and all prior understandings, agreements, negotiations, statements, and representations by or between the Parties, whether written or oral, to the extent they related in any way to the subject matter hereof.

(b) Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement shall remain full force and effect. Any provision of this Agreement that is held invalid or unenforceable only in part or degree shall remain in full force and effect to the extent such provision is not held invalid or unenforceable.

(c) Waiver. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

(d) Amendments in Writing. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by all of the Parties.

(e) Governing Law. This Agreement, and any dispute related to this Agreement, shall be governed by and construed exclusively in accordance with the laws of the State of Indiana

without giving effect to any choice or conflict of law provision or rule (whether of the State of Indiana or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Indiana.

(f) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective heirs, personal representatives, successors and permitted assigns.

(g) Assignment. Adopter shall not assign any of his/her/their rights or obligations under this Agreement without the prior written consent of FRIENDS. FRIENDS shall have the right to assign part or all of its rights and obligations hereunder in its sole discretion.

(h) Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

(i) Headings. The headings in this Agreement are provided for convenience only and will not affect the construction or interpretation of this Agreement.

(j) No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the Parties and their respective heirs, personal representatives, successors and permitted assigns unless expressly provided elsewhere herein.

(k) Notices. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given two (2) business days after it is sent by registered or certified mail, return receipt requested, postage prepaid, and addressed to the intended recipient as set forth below:

If to FRIENDS:	Friends of Ferdinand Attention: Adoption Coordinator PO Box 1784 Indianapolis, IN 46206 (317) 679-8521
With Copy to:	John P. Wilkowski Williams Hewitt Barrett & Wilkowski, LLP 600 North Emerson Avenue P. O. Box 405 Greenwood, IN 46142
If to the Adopter:	_____ _____ _____ () - _____

Any party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall not be deemed to have been duly given unless and until it actually is received by the intended recipient. Any party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other party notice in the manner herein set forth.

(l) Construction of Terms. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed according to its plain meaning as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context otherwise requires. Unless otherwise expressly provided herein, word "including" shall mean including without limitation. All words used in this Agreement shall be construed to be of such gender or number as the circumstances require.

(m) Jurisdiction and Venue. Any controversy, claim or dispute arising out of or relating to this Agreement or the breach, termination, enforceability or validity of this Agreement, shall be brought exclusively in the courts of Johnson County, the State of Indiana, and each of the Parties irrevocably submits to the exclusive jurisdiction of each such court in any such matter, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the matter shall be heard and determined only in any such court and agrees not to bring any such matter arising out of or relating to this Agreement in any other court. The Parties agree that either of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and bargained agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum. Process in any matter referred to in this paragraph may be served on any party anywhere in the world.

(n) Further Cooperation. The Adopter shall promptly, upon the request of FRIENDS, (a) furnish such further information, (b) execute and deliver such other documents, and (c) do such other acts and things, all as FRIENDS may reasonably request for the purpose of carrying out the intent of this Agreement and the documents referred to in this Agreement.

(o) Reasonableness. The Parties shall exercise their respective rights hereunder in a reasonable manner taking into consideration all relevant facts and circumstances.

(p) Attorneys' Fees. In the event of a breach of this Agreement by Adopter, Adopter shall pay all attorneys' fees and expenses incurred by FRIENDS in its enforcement of this Agreement whether or not suit is filed.

(q) Expenses. Except as otherwise expressly provided elsewhere herein, each of the Parties shall bear its own costs and expenses (including without limitation legal fees and expenses, except as otherwise provided herein) incurred in connection with this Agreement and the transactions contemplated hereby.

(r) Breach. In the event that Adopter is in breach of any term of this Agreement or is cited by any humane society or animal control agency for the inhumane treatment of any animal or the Adopted Animal, this Agreement may be terminated by FRIENDS immediately without liability. Upon the termination of this Agreement FRIENDS may enter onto Adopter's premises where the Adopted Animal is being kept and retake possession of the Adopted Animal without notice or liability to Adopter. In the event this Agreement is terminated due to the breach of Adopter, FRIENDS shall not be obligated to reimburse Adopter for any expenses associated with the Adopted Animal.

(s) Incorporation of Exhibits. The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

(t) Time of the Essence. Time is of the essence with respect to the performance of the obligations of Adopter hereunder.

(u) Survival. Notwithstanding any provision set forth in this Agreement to the contrary, the obligations of Adopter under Sections 2, 3, 4 and 8 of this Agreement shall survive the expiration or early termination of this Agreement for a period of six (6) years thereafter.

(v) Compliance With Laws. Adopter shall at all times comply with all applicable federal, state, and local laws, rules, regulations, and ordinances with respect to the care and treatment of the Adopted Animal.

(w) No Transfer of Title. This Agreement does not transfer any title to or ownership interest in the Adopted Animal to Adopter. FRIENDS shall retain ownership rights in and title to the Adopted Animal as determined in the sole and absolute discretion of FRIENDS, all as more particularly set forth in Section 7.

In Witness Whereof, this Agreement was executed and made effective on the day and date first set forth above.

ADOPTER

Name (signed): _____
Name (printed): _____
Date: _____

Name (signed): _____
Name (printed): _____
Date: _____

FRIENDS

Name (signed): _____
Name (printed): _____
Title: _____
Date: _____

SAMPLE

EXHIBIT "A"

(Adoption/Trial Policies and Facility Policies)

Adoption Policies

1. FFI does not tender horses for entry into the race industry.
2. FFI does not condone irresponsible breeding. Therefore, FFI will not tender a horse for production breeding purposes.
3. FFI does not tender horses into anger management, or emotional rehabilitation programs.
4. FFI will consider adoption to a Therapeutic Riding program, provided that program has a long term plan for the horse after it is no longer suitable for the primary goal of the program.
5. FFI will consider entering a horse in a riding program, after careful consideration and scrutiny of the facility, its instructors, horses, and usage.
6. FFI will retain Right of First Refusal if an adopter decides to sell or re-home an FFI horse.
7. FFI will retain ownership of a horse for one year after a FFI horse is placed in an adoptive home. During this time, there will be scheduled 3, 6 and 12 month check-ups and the potential adopter will be responsible for all costs incurred by the horse during this time. During this time, the horse cannot be moved without consent from the adoption coordinator designated by FFI ("Adoption Coordinator"). Provided that the adopter has successfully passed each check, ownership will be transferred to the adopter at the end of one year.
8. Adoption fees are paid upfront and are refundable only within the 30-day trial period.
 - a. In the event that the trial agreement is followed by an adoption agreement, or the horse is returned to FRIENDS more than 30-days, the adoption fee is non-refundable.
 - b. In the event that the horse is returned within, but not after, the 30-day trial period the horse will be evaluated by FRIENDS and a veterinarian (as deemed necessary by FRIENDS), for soundness, injuries, overall body condition and farrier care.
 - a. If the horse is in the same or better condition the adoption fee will be refunded, in full, within 30 days.
 - b. If the horse is not returned in the same, or better condition the adoption fee will be refunded less any and all expenses incurred by FRIENDS as a result of lack of care, injury (minor or major) or change in farrier care during the 30-day trial period. This includes board/care expenses incurred by FRIENDS in the event that the horse cannot be ridden while it recovers from the lack of care, injury (minor or major) or change in farrier care while in the adopters care. If expenses incurred by FRIENDS exceed the adoption fee, the adopter will be billed for any and all additional expenses incurred by FRIENDS.
 - c. In the event that the trial agreement is not followed by an adoption agreement, and the horse has not been returned to FRIENDS, in addition to the non-refundable adoption fee, the adopter is responsible for any and all transport expenses and related expenses incurred by FRIENDS to recover the horse.

9. In the event that a potential adopter does not pass a 3, 6 or 12 month check-up, and the issue has not been remedied in a reasonable time determined by the Adoption Coordinator, the horse will be removed. In the event that a horse must be removed, the adoption fee is non-refundable.
10. Adoption is at the discretion of the Adoption Coordinator.

Facility Policies

1. Shelter: The minimum acceptable shelter to be provided by Adopter is at least 3-sided and large enough to accommodate the number of horses on the site. Ideally the minimum space for each horse is 10' x 10' per horse. Shelter should be dry at all times, and clean, offering protection from the sun and rain.
2. Fencing: Barbed wire is not acceptable. The type of fencing must meet the needs of the individual horse.
3. Pastures: Must be clean, free of debris and safe.
4. Overall condition of the facility should provide a safe environment for the horse to live.
5. Water should be plentiful and clean. Troughs should be reasonably clean of algae.
6. Hay and grain should be of sufficient quality and be properly stored.
7. Each Facility (adoption or foster) must pass a facility inspection.
8. The horse shall be transported in a trailer designed and manufactured for use in transporting horses, and in good condition and repair.

SAMPLE

EXHIBIT "B"

**Friends of Ferdinand
Adoption Agreement**

GENERAL AUTHORIZATION

Addendum to Adoption Contract:

I/we, the undersigned, hereby authorize Friends of Ferdinand, Inc. ("*FRIENDS*") and its designees to contact my veterinarian, farrier and other equine professionals and persons who currently render or have in the past rendered treatment or care to _____ (the "*Adopted Animal*") at my request or on my behalf and to obtain all documentation and information pertaining the treatment and care of the Adopted Animal pursuant to my/our request or on my/our behalf. Furthermore, my signature on this addendum authorizes the release of all documents and information pertaining to the care and treatment of the Adopted Animal to FRIENDS and its designees.

Name (signed) _____ Date: _____

Name (printed) **SAMPLE**

Name (signed) _____ Date: _____

Name (printed) _____



Friends of Ferdinand Inc. Liability Release

PO Box 1784

Indianapolis, IN 46206

Fax: 1-888-298-3091

Website: www.friendsofferdinand.com

Email: contact@friendsofferdinand.com

For and in consideration of Friends of Ferdinand, a non-profit corporation ("FFI") granting the undersigned permission to enter upon FFI's facility and/or allowing the undersigned to participate in equestrian activities on its premises, the undersigned hereby assumes any and all risk of loss or injury to the undersigned's person and/or property, whether anticipated or unanticipated, arising from such entry upon FFI's premises and/or the undersigned's participation in any equestrian activities.

The undersigned further agrees to indemnify FFI, its Board of Directors, owners, agent, servants and employees and to hold same harmless from any and all claims, demands, actions, expenses or liabilities (including FFI's attorneys' fees and court costs) for any injury or damage to the undersigned and/or the undersigned's property, arising out of the undersigned's entry onto FFI's premises and/or participation in such equestrian activities, and/or arising out of any act or acts of anyone or any animal upon or in proximity to FFI's premises and/or within the undersigned's control.

The undersigned acknowledges that equestrian activities such as horseback riding, horse care and maintenance contain inherent risks of injury and damage to the undersigned personally, the undersigned's property and horses. Based upon such knowledge and in consideration of FFI's allowing the undersigned to enter onto the premises, I hereby, for myself, my heirs, executors and administrators waive, release and hold harmless FFI, its Board of Directors, owners, agents, servants and employees from any and all right, or from any and all claims of any kind or nature that the undersigned might have as the result of, or arising out of the undersigned's participation, whether caused by the undersigned's own act or the acts of anyone or any animal, upon or in proximity to FFI's premises and/or within the undersigned's control.

WARNING: Under Indiana law (IC 34-31-5-5), an equine professional is not liable for an injury to, or the death of, a participant in equine activities resulting from the inherent risks of equine activities.

THE UNDERSIGNED HEREBY ACKNOWLEDGES THAT I HAVE READ THE FOREGOING PARAGRAPHS AND UNDERSTAND THE CONTENTS THEREOF.

SAMPLE

Signature: _____ Date: _____

Name: _____ Phone: _____

Address: _____

Family Physician: _____ Phone: _____

MINORS:

The undersigned represents and warrants that the undersigned is the parent or legal guardian of the minor named below. The undersigned has read the foregoing Release and Indemnity Agreement and in consideration of FFI allowing such minor entry onto its premises and/or allowing such minor to participate in equestrian activities, hereby agrees that all of the terms and conditions contained herein shall apply to such minor and shall be binding upon the undersigned and the minor. The undersigned agrees to defend, indemnify, and hold harmless FFI from and against any and all claims, demands, actions, expenses or liabilities (including any and all attorneys' fees and expenses) for any injury or damage arising from any breach of the undersigned's representations and warranties hereunder.

The undersigned declares under penalty of perjury under the laws of the State of Indiana, that the foregoing is true and correct.

Executed this _____ day of _____, 200__

Signature: _____

Minor: _____

Parent/Guardian: _____ Phone: _____

Address: _____