

January 16, 2008

The time has finally arrived. By court order, the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) has the authority to direct the removal of at least 350 animals from the All Creatures Great and Small (ACGS) site in Hendersonville, North Carolina. I respectfully ask that ANY group that has space please make arrangements to accept as many animals from ACGS as quickly as possible.

The current on-site animal count today is as follows: 284 dogs, 220 cats, 6 rabbits, 2 guinea pigs.

The procedure for adopting from ACGS as a rescue/humane group at no cost to your group is as follows, and must be adhered to:

1. Go to our website <http://www.agr.state.nc.us/vet/welfare.htm> , click on the ACGS button, download and complete the **Request for Adoption** form and fax it to our Animal Welfare Section.
2. We will verify that you are a legitimate rescue or humane organization, provide your entity's name to ACGS so they will know you will be coming soon, and respond to your contact within 3 days (probably much quicker than that).
3. You will sign a brief MOA that releases NCDA&CS from any liability, as required by our attentive legal support.
4. You can then go to ACGS and request to adopt however many animals your facility can properly manage. Please do not go before you finish steps 1-3.
5. Upon completion of the adoption, you then will fill out the **Notice of Adoption** form and fax it to our office, so we can maintain an accurate count of animals removed under the Consent Order.
6. You will be thanked profusely by all animal lovers, including us in NCDA&CS, for helping get these animals into appropriate situations!

Please feel free to contact me directly with questions or concerns – and thank you for helping us help these animals.

*Mary Ann McBride, DVM*

Mary Ann McBride, DVM  
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# North Carolina Department of Agriculture and Consumer Services

FAX number: (919) 733-6431

## Request to Adopt from All Creatures Great and Small of Hendersonville as part of the Consent Order-directed Release

Date of Request: \_\_\_\_\_ Organization's  
web site URL: \_\_\_\_\_

Name of organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_ FAX number: \_\_\_\_\_

Contact person & phone number: \_\_\_\_\_

*Check one*

- We are a 501 (c) (3) organization  
 We are not 501 (c) (3) organization

*Check one*

- We are a no-kill organization  
 We are not a no-kill organization

We request to adopt the following number of animals:

\_\_\_\_\_ cats \_\_\_\_\_ dogs \_\_\_\_\_ rabbits \_\_\_\_\_ Guinea pigs

I understand that our group is adopting animals of unknown temperament and health status. I take full responsibility for this/these animal(s) and any and all liability associated with the same. I agree that the requested adoptions cannot proceed until both this form and a **Memorandum of Agreement** are signed by our group, faxed to the number at the top of this sheet and approved by the NCDA&CS. I further agree that within 24 hours of adoption, this organization will complete and return a **Notice of Adoption** form (**attached**) to FAX number given on this sheet.

**PLEASE ALLOW 3 DAYS FOR REPLY**

Date: \_\_\_\_\_

Printed name of authorized organization representative: \_\_\_\_\_

Signature of authorized organization representative: \_\_\_\_\_

MOA signed & approved  Return FAX confirmation attached  Logged into database

Date & signature of NCDA&CS employee \_\_\_\_\_

# North Carolina Department of Agriculture and Consumer Services

FAX number: (919) 733-6431

## Notice of Adoption from All Creatures Great and Small of Hendersonville

Name of organization: \_\_\_\_\_

We adopted the following animals from ACGS on \_\_\_\_\_ date

cat	dog	rabbit	Guinea pig	Name of animal & brief physical description
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

*Attach additional pages if necessary*

page \_\_\_\_\_ of \_\_\_\_\_

Signature of authorized organization representative: \_\_\_\_\_

Logged into database

Date & signature of NCDA&CS employee \_\_\_\_\_

# MEMORANDUM OF AGREEMENT

Between

North Carolina Department of Agriculture and Consumer Services (NCDA&CS), an agency of the State Government of North Carolina, with headquarters located at 14 West Edenton Street, Raleigh, North Carolina,  
and

\_\_\_\_\_ (agency name ), located at  
\_\_\_\_\_ Street, \_\_\_\_\_ (city), \_\_\_\_\_ (state)  
\_\_\_\_\_ (zip code).

## The Parties

- a. NCDA&CS is preparing for, planning, responding to and coordinating the imminent closure of an unlicensed animal shelter [hereinafter, the “facility”] in Hendersonville, North Carolina, located at 1040 Seventh Avenue, containing approximately 630 dogs and cats. In the course of performing its duties under the North Carolina Animal Welfare Act NCDA&CS has entered into a Consent Order, filed December 6, 2007, with All Creatures Great and Small of Henderson County, Inc., authorizing NCDA&CS to arrange for transfer and assignment of ownership of at least 350 dogs and cats [hereinafter, “the transferred animals”] from the facility to animal welfare organizations to be designated [hereinafter, the “designees”].
  - \_\_\_\_\_ [hereinafter, “the designee”] is an animal welfare organization, animal humane organization or governmental animal control entity and desires to offer its services to assist NCDA&CS as set forth in this Memorandum of Agreement.

## 2. Purpose

This Memorandum of Agreement (“MOA”) establishes a cooperative arrangement between NCDA&CS and the designee to help define the roles that the designee can undertake in connection with the designee’s participation in removal of some of the transferred animals from the facility pursuant to paragraph six of the Consent Order; the designee hereby acknowledges receipt of a true and accurate copy of the Consent Order, which is deemed incorporated herein by reference.

## 3. Methods of Cooperation and Representations.

NCDA&CS and the designee agree that designee shall participate in caring for and/or removal of animals from the facility and any other ancillary facility used to house, assess and/or process animals for adoption, and designee shall receive ownership of animals removed from the facility in accordance with the Consent Order. NCDA&CS and the designee further agree that with respect to its participation in the acts contemplated here, the designee will not have any obligation of reimbursement or compensation to anyone, including the facility’s owner, for adoption fees or any expense facility’s owner or others have incurred for providing animal husbandry and veterinary care to said animals. The parties additionally agree:

- The designee and its employees, agents, independent contractors, and volunteers [“personnel”] who are in North Carolina will comply fully the North Carolina law, in general and, specifically, with the N.C. Animal Welfare Act and 02 N.C. Administrative Code chapter 52] [hereinafter, “Ch. 52J”].
- The designee further represents that it is in full compliance with the animal welfare laws of each and every other state in which it maintains facilities and/or networks of foster homes for the benefit of companion animals.
- The designee further represents that it has no knowledge that the designee or any of its personnel in North Carolina, or any of its officers have been convicted or are currently charged with violating animal cruelty laws of any state or of the United States of America.

It is understood that "Officers" are those persons deemed by the designee as having authority to make or participate in making policy and other discretionary decisions on behalf of designee. If designee or any of designee's personnel or officers have been convicted or charged with violating said animal cruelty laws, the names of said organizations or individuals and the circumstances related thereto are set forth in pages attached to this MOA.

- The designee is hereby asked to provide assistance with animal sheltering needs, transporting animals as necessary in the course of assessment activities, managing sheltering, animal husbandry care and veterinary care and other necessary activities, and removing some of the transferred animals from either facility (if more than one is used), starting on \_\_\_\_\_, 2008.
- The designee hereby agrees to report to NCDA&CS the following, upon removing any animal from the facility, within forty-eight hours of removal:
  - i. The specific date of removal;
  - ii. Specific identifying information with respect to each animal removed using forms provided by NCDA&CS.
- The designee:
  - \_\_\_\_\_ is/ \_\_\_\_\_ is not an IRC section 501(c)(3) organization; designee;
  - \_\_\_\_\_ is/ \_\_\_\_\_ is not a not-for-profit organization registered with the North Carolina Secretary of State or the \_\_\_\_\_ (agency) of the state of \_\_\_\_\_.
- This memorandum of agreement in no way restricts either party from participating in similar activities anywhere.
- The parties agree and understand that animal adoption records, assessment records and any other records created in carrying out the purpose stated in section two above shall be retained by the designee for no less than one year after the expiration or termination of this memorandum of agreement.
- The designee agrees to comply with and follow specific directions issued by NCDA&CS' Incident Command System, the organization overseeing the operations described above.

#### **4. Treatment of Animals Subsequent to Removal**

The designee hereby agrees to comply with all provisions of paragraph six of the Consent Order to the extent they relate to the designee and/or persons adopting the transferred animals.

#### **5. Financial Obligations**

NCDA&CS and the designee will each manage their own finances and resources used in removing animals from the facility. Neither can commit funds or the actions of the other signatory.

#### **6. Liability**

The designee agrees to indemnify, defend, and hold NCDA&CS and its employees and agents harmless from any claims by designee's personnel or third parties for liability of any type, including but not limited to personal injury or injury to real or personal property of any kind arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the designee's personnel in the removal and care of the transferred animals, or in any conduct related to performance of this Agreement.

**7. Insurance**

Designee hereby reports that, on or before the effective date of this Agreement, it has acquired general liability insurance in an amount equal to a minimum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per occurrence and \_\_\_\_\_ (\$\_\_\_\_\_) in the aggregate. Designee agrees to provide worker's compensation insurance for its personnel as required under North Carolina law.

**8. Use of Names, Logos, and other Marks**

The use of the logos, and other marks or emblems of either organization (NCDA&CS or the designee) by the other shall be allowed only with express consent by the organization whose name, logo or mark is being used, and only in the case of particular projects undertaken pursuant to the prior express written consent of the organization and when such projects are in conformity with that organization's regulations.

**9. Amendment**

Provisions of this MOA can only be amended upon mutual written agreement of the parties.

**10. Term of Memorandum of Agreement**

This MOA shall be effective on the date the party last to consent executes this Agreement. The termination date is March 14th, 2008. Prior to termination, the parties shall meet to review the progress and success of the MOA and determine whether it shall be extended and, if so, the length of time for the extension.

It is understood by both parties that at any time this Memorandum of Agreement may be terminated upon submission of a one-day (1) advance written notice of termination by either party.

**11. Entire Agreement**

This MOA and any documents, exhibits and amendments annexed hereto and any documents incorporated specifically by reference represents the entire agreement between the parties and supersedes all prior oral and written statements or agreements.

**12. Execution in Counterparts Acceptable**

This MOA may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

**13. Choice of Law; Venue**

Should any dispute arise over the performance of this MOA, the law of North Carolina shall apply to such dispute, and venue shall be proper only in Raleigh, North Carolina.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2008, by:  
North Carolina Department of Agriculture and Consumer Services

\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

## Appendix A

### Designee's Personnel

#### Code of Conduct

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Designee's Personnel working under this MOA, activated and tasked by that designee shall adhere to the following policies. All of designee's personnel will sign this document to indicate that they understand and agree to abide by the codes identified within this document. All of designee's personnel participating in the activities described in the MOA must be properly identified by their designee, which includes check-in at designated sites as well as signing this Code of Conduct agreement prior to engaging in said activities.

Designee's personnel who do not sign this document will be considered "self-deployed" and may be asked to cease activities. NCDA&CS personnel will have authority to deactivate any of designee's personnel for any reason including for behavior(s) that is contrary to the code of conduct based on their discretion:

1. Individuals shall project a professional manner and appearance while participating in any state disaster-related activities. The following will not be tolerated while at the facility or at any site the parties use in support of the described activity:
  - A. Consumption of alcoholic beverages while on duty or any display of public drunkenness;
  - B. Possession, use or selling of any illegal drugs
  - C. Violation of any laws
  - D. Public outbursts, public derogatory remarks about other organizations, partners or individuals.
  - E. Illegal use or display of a firearm.
2. Designee's personnel shall identify operations that are beyond their capabilities based on their experience, training and knowledge, and will provide and carry professional credentials during activities. Individuals shall observe all safety rules and regulations and be familiar with proper usage and operation of all equipment.
3. Designee's Personnel shall be expected to accept assignments and/or orders as directed by the designee's supervisors.
4. NCDA&CS personnel will not participate or otherwise support operations that serve to promote personal or organizational gains or ideologies outside of the MOA's stated purpose.
5. Designee's personnel shall not enter private properties other than the facility and any designated ancillary facilities to perform duties supporting this MOA's stated purpose without permission from the owner or NCDA&CS or proper local authority.
6. Designee's personnel shall remain in contact with the appropriate NCDA&CS personnel, and confine their activities to the stated purpose and directives of the MOA, as directed by the ICS designated by NCDA&CS.
7. All of designee's personnel at the facility shall wear current identification as directed and recognized by NCDA&CS.
8. Designee's personnel will be required to document or participate in documentation of removal of each animal designee takes in a timely manner, and submit documentation to the appropriate site or NCDA&CS employee.

9. Designee's personnel shall not transport animals to facilities in North Carolina other than the sites that have been designated by NCDA&CS or animal shelters licensed by NCDA&CS without permission from NCDA&CS.
10. Designee's personnel shall refrain from taking photographs, audio records or video recording at the facility and any ancillary facilities out of respect of the privacy of the facility's owner and/or private individuals at the facility, except any photos needed for identification of animals consistent with the stated purpose of the MOA. Any photos that are made will not be used for public display without the expressed written permission of the facility's owner or any private persons appearing therein.
11. Designee's personnel shall not accept personal gratuities or charitable contributions in the course of removing animals from the facility or transporting them in North Carolina. Any person desiring to make a personal donation to a designee shall be provided a mailing address or other information for that purpose.

DESIGNEE: \_\_\_\_\_

SIGNATURE & DATE BELOW:

NAME:

DATE:

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