



**Animal Care Trust USA**  
Keeping loved PETS in loving homes

## Pet Trust Drafting Guidelines for Attorneys

Welcome to Animal Care Trust USA, Inc., a non-profit corporation, exempt from federal tax pursuant to Section 501(c)(3) of the Internal Revenue Code. We are the nation's only all Pet Trust and Pet Trustee services organization whose mission is to keep loved pets in loving homes.

We've created these drafting guidelines to help you help your clients. In turn, please reach out to us if our services as Pet Caregiver or Pet Trustee are required.

### Drafting Guidelines:

1. **Pet Trust Beneficiary.** The pet or pets who will benefit from the Trust should be clearly identified. They can be defined as the Trustmaker's current pets or any they may acquire in the future. A Forever Loved Pet Profile™ for each Pet should be completed and attached to the Trust. These Profiles should be updated periodically, but not less than annually.
2. **Pet Caregivers, both Short Term and Long Term.** The Pet Caregivers for the pet beneficiaries should be clearly identified, along with their successors. There should be both short term and long term Pet Caregivers identified. Short term Pet Caregivers are intended to provide pet care until such time as the pets are delivered to the long term Pet Caregiver.

Animal Care Trust can be named as a long term Pet Caregiver only.

3. **Disability of Trustmaker.** Will the pets be provided for in the event of disability of the Trustmaker or only in the event of the Trustmaker's death?
4. **Initial and Successor Trustees.** The initial and all successor Trustees should be clearly identified. There should be a process for the appointment of successor Trustees in the event the last named Trustee is unable or unwilling to serve as Trustee.

Animal Care Trust may be named as the Initial or successor Trustee.



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Trustees should be protected from the prior acts of a previous Trustee with exoneration language.

Does the Trustee have the power to resign? Can the departing Trustee nominate their successor?

Clearly state who has the power to remove and replace Trustees. Will this be with or without cause?

What is the process for appointing successor Trustees if there is no successor named who can serve?

5. **Trust Advisor/Trust Protector.** Has a Trust Protector been appointed? What are the powers of the Trust Protector with regard to:
  - a. The Pets, including the ability to remove and replace Pet Caregivers, or provide permanent placement for the pets in the event of early trust termination.
  - b. The Trustees, including the ability to hire, fire, appoint successors, etc.
  - c. The Trust, including the ability to amend, terminate, etc.
  
6. **Distribution Provisions.** The provisions regarding distributions for the benefit of the pet beneficiaries is very important. These provisions will vary based upon the complexity of the Pet Trust provisions. If the pets are to remain in the home of the Trustmaker, in addition to providing distributions for the lifetime care of the pets, there should be provisions for the upkeep, care and maintenance of the real property, including taxes, insurance, repairs, etc. If a Pet Caregiver will live in the home, then distributions provisions should be included to provide what compensation, if any, will be provided to the Pet Caregiver.

Distribution provisions should also be specific regarding the type of care to be provided to the pet beneficiaries, including daily care, periodic veterinary care, urgent care, and final care costs.



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**7. Termination Provisions.** When will the Pet Trust terminate? At the death of the last pet? When the funds run out? When the state statute says termination is required?

**8. Remainder Beneficiaries.** We recommend naming only charitable organizations as remainder beneficiaries for the purpose of minimizing the possibility of litigation brought by disgruntled individual remainder beneficiaries.

Include a provision for alternate or successor charities in the event the named charity is no longer in existence.

If Animal Care Trust is named as Trustee, they must have a contingent remainder interest of at least \$100.

**9. Governing Law.** What state law will govern the interpretation of the Pet Trust?

If Animal Care Trust is named as Trustee, there should be provisions allowing the Trustee to change the situs of the Pet Trust upon written notice to the Trust Protector, if any, or the Remainder Beneficiaries.

**10. Compensation of Trustees.** There should be a provision allowing for compensation of the Trustee. Corporate trustees, like Animal Care Trust, should be compensated at their published Trustee Services rates.

**11. Trustee Powers.** The powers of the Trustee should be broad and in conformity with the state law where the trust is sited.

**12. Accountings.** To whom should periodic trust accountings be provided? Who can demand a trust accounting?

**13. In Terrorem Clause.** Include an *in terrorem* clause to deter possible Pet Trust litigation.

**14. Alternative Dispute Resolution.** Include an alternative dispute resolution provision allowing the parties to submit disputes to mediation, before arbitration or litigation. Include a prevailing parties clause in the event of litigation.



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**15. Funding.** Proper and sufficient funding is absolutely required for the proper operation of a Pet Trust and to carry out the intention of the Trustmaker. Care costs should be carefully calculated. If the Pet Trust is intended to provide care for the pets in the event of the Trustmaker's disability, then immediately available assets should be titled to the name of the Pet Trust allowing the successor Trustee immediate access to these funds. Funds should be sufficient to provide for the possible long term disability of the Trustmaker.

If Animal Care Trust USA is named as Pet Caregiver or Pet Trustee, then a Pet Trust Funding Agreement and enrollment in the Forever Loved Pet Protection Plan™ are required.

**For more information or to join our Trusted Advisor Network, visit us at [www.ACT4Pets.org](http://www.ACT4Pets.org), or email [info@ACT4Pets.org](mailto:info@ACT4Pets.org).**

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