

**AGREEMENT FOR ANIMAL LICENSING SERVICES
(PETDATA, INC.)**

THIS AGREEMENT FOR ANIMAL LICENSING SERVICES (“Agreement”) is made and entered into by and between the City of Beaumont, a California municipal corporation (hereinafter called “CITY”), and PETDATA, INC., a Texas for-profit corporation (hereinafter called “CONTRACTOR”), as of _____, 2020 (“the Execution Date”). CITY and CONTRACTOR are referred to individually as a “Party” and collectively as the “Parties” throughout this Agreement.

1. SERVICES

For the consideration set forth below, CONTRACTOR agrees to provide to CITY the animal licensing services described under “CONTRACTOR’s RESPONSIBILITIES” in Exhibit A, attached hereto and incorporated herein by reference (collectively, the “Services”), upon the terms and conditions of this Agreement. The Services relate to CITY’s licensing and registration of pets. CITY agrees to perform “CITY’s RESPONSIBILITIES” described in Exhibit A. In the event of any conflict between any of the content of Exhibit A and any of the provisions of the main body of this Agreement, the provisions of the main body of this Agreement will prevail.

2. INDEPENDENT CONTRACTOR STATUS

It is the express intention of the Parties that CONTRACTOR is an independent contractor and not an employee, agent, joint venturer or partner of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONTRACTOR or any employee or agent of CONTRACTOR. Both Parties acknowledge that CONTRACTOR is not an employee for state or federal tax purposes. CONTRACTOR shall not be entitled to any of the rights or benefits afforded to CITY’S employees, including, without limitation, disability or unemployment insurance, workers’ compensation, medical insurance, sick leave, retirement benefits or any other employment benefits. CONTRACTOR shall retain the right to perform services for others during the term of this Agreement.

3. OVERSIGHT AND COORDINATION

All Services under this Agreement shall be performed to the reasonable satisfaction of the City Manager or his/her designee or his or her designated representative as provided in Section 4. However, CONTRACTOR shall determine the method, details and means of performing the above-described Services and CITY shall have no right to, and shall not, control the matter or determine the method of accomplishing CONTRACTOR’s services. CONTRACTOR shall perform the services required by this Agreement at any place or location and at such times as CONTRACTOR shall determine is necessary to properly and timely perform CONTRACTOR’s services.

4. PERFORMANCE OF SERVICES

CONTRACTOR acknowledges that, prior to signing this Agreement, CONTRACTOR has become acquainted with matters relating to the performance of this Agreement and the terms and conditions of this Agreement, as reasonably determined by the City Manager or other person whom CITY shall from time to time designate to monitor the performance of the Services by CONTRACTOR. CITY agrees to promptly notify CONTRACTOR of the name and contact information of the person who will monitor the performance of the Services on behalf of CITY, and to promptly notify CONTRACTOR of any changes to CITY’S monitoring designee or the contact information for CITY’s monitoring designee.

5. CUSTOM SUPPLIES

If CITY requests that CONTRACTOR utilize specific supplies in connection with the performance of the Services, such as, for example, forms, brochures, or rabies books, CITY will provide those supplies to CONTRACTOR without charge.

6. BANK ACCOUNTS

Licensing fees and any other amounts that are collected by CONTRACTOR for the benefit of CITY under this Agreement shall be deposited into an account of one of the following types that is from time to time designated by CITY (a "Bank Account"):

A. CITY Account.

An account established and maintained by CITY in its name at a bank or other financial institution (a "CITY Account"); or

B. Maintained Account.

A separate account established and maintained by CONTRACTOR at a bank or other financial institution selected by CONTRACTOR in which will be deposited funds that relate solely to this Agreement (a "Maintained Account").

CITY will initially designate the type of Bank Account to be utilized hereunder in a notice that CITY will deliver to CONTRACTOR during the Transition Phase in accordance with Section 12. CITY may thereafter change the designation of the type of Bank Account to be utilized hereunder from time to time upon notice to CONTRACTOR, and CONTRACTOR will have a reasonable time in order to effect any such requested change. CITY will reimburse CONTRACTOR for all out-of-pocket expenses incurred by CONTRACTOR in connection with any change in the type of Bank Account utilized hereunder. CITY acknowledges and consents that CONTRACTOR may make an initial deposit into a Maintained Account from CONTRACTOR's funds in order to establish the account, which initial deposit will be refunded or otherwise reimbursed to CONTRACTOR. When a Maintained Account is closed, any funds remaining in the account after the payment of all amounts due CITY hereunder will belong to and be disbursed to CONTRACTOR.

7. COMPENSATION TO CONTRACTOR

In consideration of the Services, CONTRACTOR shall be entitled to the following compensation:

A. Basic Fees.

CITY shall pay to CONTRACTOR the following fees for all animal licenses issued during the term of this Agreement, regardless of whether the licenses are issued by CITY, CONTRACTOR, veterinarians, or any other persons:

- 1) Four dollars and twenty cents (\$4.20) for each one-year license or replacement tag and for the first year for each multi-year license (which amount is subject to adjustment as provided below).
- 2) Two dollars (\$2.00) for each additional year after the first year for each multi-year license.
- 3) Two dollars and fifty cents (\$2.50) collection service fee for each late fee, if any, paid by a Licensee during the term of this Agreement. As used in this Agreement, the term "Licensee" refers to any person who applies for an animal license to be issued by or on behalf of CITY.

The fee provided for in clause A.1), above, will be adjusted as follows during any of the following periods that fall within the term of this Agreement: (a) commencing on the third (3rd) annual anniversary of the Execution Date and continuing until the fifth (5th) annual anniversary of the Execution Date, the fee provided for in clause A.1), above, will be four dollars and thirty cents (\$4.30); and (b) if the term of this Agreement is for more than five (5) years, then, commencing on the fifth (5th) annual anniversary of the Execution Date and continuing on each annual anniversary of the Execution Date thereafter throughout the remaining term of this Agreement, the fee provided for in clause A.1), as previously adjusted, will increase by an amount equal to five percent (5%) of the fee under clause A.1) that is in effect immediately prior to the respective anniversary, and the fee, as so increased, will thereupon become the fee payable under clause A.1) unless and until further adjusted in accordance with this clause (b).

An animal license will be considered "issued" for purposes of this Agreement regardless of the means, method, program, process, or agency used for the issuance or registration of the license, and whether or not a fee or other

consideration is charged or received by the CITY for the license. Without limiting the generality of the foregoing, an animal license that is donated or issued free of charge by the CITY or that is issued as part of a bundling of CITY services or programs will be considered "issued" for purposes of this Agreement. Further, any animal license that is processed by CONTRACTOR for CITY during the term of this Agreement will be considered "issued" for purposes of this Agreement, whether or not the license was or is actually issued or delivered before, during, or after the term of this Agreement.

Notwithstanding the preceding provisions of this Section 7A, the Parties agree that CONTRACTOR's minimum aggregate fees under this Section 7A are six thousand dollars (\$6,000.00) per calendar year. In order to assure the payment of such minimum aggregate annual fees to CONTRACTOR, the Parties agree that if the aggregate fees payable to CONTRACTOR under this Section 7A for a calendar month would, but for the application of this sentence, be less than five hundred dollars (\$500.00), then the aggregate fees payable to CONTRACTOR under this Section 7A for that calendar month will be five hundred dollars (\$500.00). However, the foregoing minimum monthly amount will not be applicable if the aggregate fees paid to CONTRACTOR under this Section 7A have already equaled or exceeded, or in the opinion of CONTRACTOR are reasonably expected to otherwise equal or exceed, six thousand dollars (\$6,000.00) for that calendar year. If the aggregate annual fees paid to CONTRACTOR under this Section 7A during any calendar year do not equal or exceed six thousand dollars (\$6,000.00), then CITY shall pay an amount equal to the positive difference between (i) six thousand dollars (\$6,000.00) and (ii) the amount previously paid to CONTRACTOR for that calendar year, upon demand by CONTRACTOR. The six thousand dollars (\$6,000.00) minimum annual amount shall be prorated for any partial calendar year during the term of this Agreement. No delay or failure on the part of CONTRACTOR in imposing or collecting the aforesaid monthly minimum amount shall affect CONTRACTOR's right to receive the aforesaid minimum aggregate annual fees or to collect the aforesaid minimum aggregate monthly amount either then or in the future. CITY acknowledges that the aforesaid minimum fee amounts apply only to the fees payable to CONTRACTOR under this Section 7A, and do not include, by way of example and not by way of limitation, any Start-Up Fee payable to CONTRACTOR under Section 7B.

The fees paid to CONTRACTOR under this Section 7A are further subject to reasonable adjustment in the event that CITY adds, modifies, or eliminates any fees that are charged to Licensees during the term of this Agreement. CITY and CONTRACTOR agree to negotiate any such reasonable adjustments in good faith.

B. Start-Up Fee.

Startup fee is waived for this Agreement as this is the second agreement between CITY and CONTRACTOR.

C. Additional Service Fees or Costs.

The following fees or cost reimbursements will apply to the extent that the corresponding services described below are requested by CITY:

- 1) Cost of Bank Account. CITY will be responsible for all out-of-pocket costs related to any Bank Account. CITY will reimburse CONTRACTOR on a monthly basis for any out-of-pocket costs for a Bank Account that are paid by CONTRACTOR. CITY may request copies of the bank statements for a Maintained Account at any time and CONTRACTOR will provide available bank statements for that Maintained Account within five (5) business days after a request is received by CONTRACTOR.
- 2) Bank Deposit Mailing Fees. If CITY requires CONTRACTOR to deposit money into a CITY Account other than at a branch located in Irving, Texas (or any other city to which CONTRACTOR's principal office may be moved during the term of this Agreement), CONTRACTOR may make any deposit to that CITY Account by means of any form of U.S. Mail or overnight delivery service, and the actual cost to transmit the deposits to the required bank location will be borne by CITY and included in invoices submitted to CITY for the Services.
- 3) Postal Box/Mail Forwarding Fee. If CITY requests CONTRACTOR to establish a local post office box for mail collection and forwarding, CITY will pay or reimburse CONTRACTOR for the actual costs of mail box rental, mail forwarding and postage fees.

- 4) Supply Fee. If CITY requests changes to supplies or notices that it has previously approved, including but not limited to fee or program changes, CITY will be responsible for the actual costs associated with changing, replacing or discontinuing the use of the previously approved supplies. If CITY terminates this Agreement for any reason other than for cause, CITY will remain responsible for the actual cost of supplies purchased on its behalf.
 - 5) Lock Box Fees. If CITY utilizes a lockbox, the actual fees and costs associated with the lockbox, including the cost to forward mail to CONTRACTOR from a lockbox, shall be borne solely by CITY.
- D. Charges to Licensees.

For purposes of this Agreement, CITY agrees that CONTRACTOR may charge the following fees to Licensees, which shall be in addition to any compensation paid by CITY to CONTRACTOR under this Agreement:

- 1) Two dollars (\$2.00) for each on-line transaction engaged in by a Licensee.
 - 2) CONTRACTOR may charge a fee to a Licensee of no more than twenty-five dollars (\$25.00) for each check or other payment from that Licensee that is returned uncollected for any reason. Any such returned item fee related to a maintained Bank Account that is actually collected shall be deposited into the maintained Bank Account and shall be for the benefit of CITY.
- E. Invoices.

CONTRACTOR shall submit no-pay invoices or other similar report for all services rendered. CONTRACTOR's invoice shall describe the work performed and any approved direct expenses incurred during the preceding period.

- F. Other Expenses.

Except as otherwise set forth in this Agreement, CONTRACTOR shall be responsible for its own reasonable costs and expenses incident to the performance of services for CITY.

8. MODIFICATIONS OF SERVICES

If CITY requests Services in addition to those described in this Agreement, and CONTRACTOR agrees to provide those additional Services, then CONTRACTOR shall be entitled to additional compensation for those additional Services as shall be agreed upon by CONTRACTOR and CITY in a written modification to this Agreement that is signed by CITY and CONTRACTOR. CONTRACTOR shall not be required to perform any such additional Services unless and until the Parties have entered into a written modification of this Agreement. Without limiting the other types of services that may be considered to be outside of the scope of the Services described in this Agreement, the following types of Services would be considered to be outside of the scope of the Services described in this Agreement and, therefore, the subject of additional compensation to CONTRACTOR: customized software projects; requests for new features in CONTRACTOR's software; or requests for CONTRACTOR to implement new procedures or operations. CITY may determine after the Execution Date that certain portions of the Services are no longer necessary, in which event CITY shall notify CONTRACTOR of the portions of the Services that are no longer required, and CONTRACTOR shall be relieved of the responsibility for performing those portions of the Services. However, there shall be no adjustment in CONTRACTOR's compensation hereunder for any portions of the Services that CONTRACTOR is not required to perform.

9. REPORTS

A. Reports from CONTRACTOR.

Within fifteen (15) business days after the end of each calendar month during the term hereof, CONTRACTOR shall submit an animal licensing summary report for the preceding calendar month to CITY in a format that is mutually agreed upon by CITY and CONTRACTOR. Any such report may be transmitted electronically or by any other means.

B. Reports from CITY.

Within ten (10) calendar days after the end of each calendar month during the term hereof, CITY shall submit a report to CONTRACTOR of all license fees that CITY has received during the preceding calendar month from Licensees, veterinarians or any other source other than CONTRACTOR. Any such report may be transmitted electronically or by any other means.

10. PAYMENTS

A. CITY Account Used.

If and for so long as a CITY Account is utilized hereunder, the following provisions shall apply (and the provisions of Section 10B shall be inapplicable):

Within fifteen (15) business days after the end of each calendar month, CONTRACTOR shall submit to CITY an invoice with supporting documentation for the compensation due CONTRACTOR under this Agreement for that calendar month. CITY shall pay CONTRACTOR the invoiced amount by means of check, ACH payment or other form of payment acceptable to CONTRACTOR within thirty (30) days after the date CONTRACTOR submits the invoice to CITY. Invoices that are not timely paid will, at CONTRACTOR's option, bear interest from the thirtieth (30th) day after the date that CONTRACTOR submits the invoice to CITY until paid at a rate equal to the lesser of (i) 18% per annum or (ii) the maximum annual rate of interest permitted from time to time under applicable law (or if those rates are the same, then at the rate determined under either clause). Invoices shall be submitted electronically to the e-mail address that CITY shall from time to time provide CONTRACTOR for the submission of invoices or in such other manner as CITY may from time to time request in writing to CONTRACTOR and that is acceptable to CONTRACTOR.

B. Maintained Account Used.

If and for so long as a Maintained Account is utilized hereunder, the following provisions shall apply (and the provisions of Section 10A shall be inapplicable):

Within fifteen (15) business days after the end of each calendar month, CONTRACTOR shall remit to CITY the residual amount, if any, of all license fees collected by CONTRACTOR hereunder during the preceding calendar month after deducting therefrom all fees, costs, expenses, and reimbursements due CONTRACTOR hereunder. If at any time the funds in the Maintained Account are not sufficient to fully pay amounts due to CONTRACTOR hereunder, then CONTRACTOR may recoup any shortfall from any subsequent payments due to CITY under this paragraph until all sums due CONTRACTOR have been fully paid.

C. Direct Collections by CITY.

If CITY collects any animal license fee or any other amount that is subject to this Agreement directly from a Licensee, veterinarian or other source, other than CONTRACTOR, CITY may either forward the amount collected to CONTRACTOR within fifteen (15) business days for deposit into a Maintained Account, if a Maintained Account is in effect, or retain the amount. In either event, CITY shall report the amount so collected to CONTRACTOR in accordance with Section 9B so that the fee(s) due CONTRACTOR hereunder with respect to the amount collected by CITY may be determined and paid in accordance with this Agreement.

11. TERM

The initial term of this Agreement will commence on the Execution Date and will expire at the close of business on the last day of the thirty six (36) full calendar months after the Execution Date unless this Agreement is sooner terminated in accordance with other provisions of this Agreement.

12. PERMITS AND REQUIREMENTS

A. Permits.

CONTRACTOR shall obtain the necessary permits(s), including a business license, required by CITY or its governing ordinances for the performance of the Services. CITY agrees to provide CONTRACTOR with a list of any and all such permits and to work with CONTRACTOR in good faith to aid it in obtaining any such permits in a timely fashion.

B. Compliance With Codes & Laws.

CONTRACTOR shall use reasonable business efforts to keep itself informed of all State and National laws and all municipal ordinances and regulations of CITY which, in any manner, affect those engaged or employed in the performance of the Services by or on behalf of CONTRACTOR or which in any way affect the performance of the Services by or on behalf of CONTRACTOR. CITY agrees to provide CONTRACTOR with copies of any municipal ordinances and regulations which, in any manner, could affect the way in which CONTRACTOR performs the Services. Without limiting the foregoing, CONTRACTOR agrees to observe the provisions of CITY's Municipal Code obligating every contractor or subcontractor under a contract or subcontract to CITY to refrain from discriminatory employment or subcontracting practices on the basis of the race, color, sex, religious creed, national origin, or ancestry of any employee, applicant for employment, or any potential subcontractor.

13. COVENANTS REGARDING DATA

The vaccination and license data collected on behalf of CITY by CONTRACTOR pursuant to this Agreement and maintained by CONTRACTOR shall be deemed for all purposes to be the property of the CITY and may not be sold, assigned, or otherwise transferred by CONTRACTOR or any successor in interest to the assets of CONTRACTOR, including a trustee or receiver.

CONTRACTOR agrees that it will not use any data collected on behalf of CITY for any purposes other than for the performance of the Services and other purposes under this Agreement without the written consent of CITY except as provided in the Agreement or applicable laws. Furthermore, CONTRACTOR specifically agrees that it will not intentionally sell, transfer, or release personal data it has collected in fulfilling the terms of this Agreement to any third party. Additionally, CONTRACTOR agrees that any intentional sale, transfer or release of animal licensing data in violation of this Agreement represents an event of default and CITY has the right to terminate this Agreement immediately. In addition, CONTRACTOR, shall be liable for any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities, and expenses, including, without limitation, reasonable attorneys' fees (collectively "Damages") incurred by CITY as a result of any intentional transfer of such data which is not authorized by this Agreement or otherwise in advance by CITY in writing, as to which obligations the indemnification provisions of Section 14A below are specifically agreed to apply.

In the event that this Agreement is terminated for any reason by either Party or upon its expiration, CONTRACTOR agrees to return and transfer all animal licensing data to CITY within ten (10) business days after CITY and CONTRACTOR have agreed to a format that is reasonably acceptable to both Parties and the reimbursement to CONTRACTOR of its reasonable and necessary expenses in connection with such return and transfer.

14. INDEMNIFICATION/ INSURANCE REQUIREMENTS

A. Duty to Defend and Indemnify.

To the fullest extent permitted by law, CONTRACTOR agrees to defend, through counsel approved by CITY (which approval will not be unreasonably withheld), indemnify, and hold CITY, its officers, agents and employees harmless against any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities, and expenses, including, without limitation, reasonable attorneys' fees arising from a breach of this Agreement by CONTRACTOR or any willful misconduct, negligent acts, errors or omissions of CONTRACTOR or CONTRACTOR'S assistants, employees, or agents, including all claims relating to the injury or death of any person or damage to any property; excluding, however, such liability, claims, losses, damages, or expenses to the extent caused by the breach of this Agreement, willful misconduct, gross negligence, or negligence of CITY, or any of its officers, agents (excluding CONTRACTOR) or employees.

B. Insurance.

CONTRACTOR shall procure, pay for, and maintain during the term of this Agreement:

- 1) Commercial Liability Insurance with a minimum combined single limit coverage of \$1,000,000 per occurrence, and a \$2,000,000 General Aggregate Limit for all damages due to bodily injury, sickness or disease, or death to any person, and damage to property, including the loss of use thereof.
- 2) Workers Compensation Insurance to cover obligations imposed by federal and state statutes having jurisdiction or employees engaged in the performance of the work or services of not less than \$1,000,000 per accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.
- 3) CONTRACTOR shall furnish evidence of such coverage to CITY and will provide 30 days' written notice of policy lapse or cancellation, or of a material change in policy terms.
- 4) CONTRACTOR does not own any vehicles. However, CONTRACTOR does have coverage for non-owned vehicles under its commercial liability policy. Therefore, CONTRACTOR does not carry and shall not be obligated to carry separate automobile liability coverage.
- 5) CONTRACTOR shall not commence work under this Agreement until it has furnished evidence of the insurance coverage required by this Section to CITY. For Commercial Liability insurance policies, CONTRACTOR shall provide CITY, prior to commencement of work, with a separate endorsement which states that the policy contains the following language:
 - (a) the insurer waives the right of subrogation against CITY and CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and
 - (b) insurance shall be primary non-contributing.
- 6) All insurance required by this Agreement shall be carried only by responsible insurance companies licensed and admitted, or otherwise legally authorized to carry out insurance business in California with a current A.M. Best's rating of no less than A:VII.

C. No Third Party Beneficiaries.

The provisions of this Section are solely for the benefit of the Parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity. This Section 14 shall survive termination of this Agreement.

15. STATE AND FEDERAL TAXES

As CONTRACTOR is not CITY'S employee, CONTRACTOR shall be responsible for paying all required state and federal taxes owed by CONTRACTOR. Without limiting the foregoing, CONTRACTOR acknowledges and agrees that:

- a. CITY will not withhold FICA (Social Security) from CONTRACTOR'S payments;
- b. CITY will not make state or federal unemployment insurance contributions on CONTRACTOR'S behalf;
- c. CITY will not withhold state or federal income tax from payment to CONTRACTOR;
- d. CITY will not make disability insurance contributions on behalf of CONTRACTOR; and
- e. CITY will not obtain workers' compensation insurance on behalf of CONTRACTOR.

16. TERMINATION

A. Expiration.

If the term of this Agreement expires and is not extended in accordance with other provisions of this Agreement, then CONTRACTOR shall be paid all amounts due CONTRACTOR hereunder with respect to all periods through the date of termination, including CONTRACTOR's basic fees under Section 7A with respect to animal licenses or renewals that are in process at the time of termination.

B. For Cause.

CITY may, at its option and without prejudice to any other remedy it may be entitled by law or in equity, or elsewhere under this Agreement, terminate this Agreement due to a material default by CONTRACTOR in the performance of the Services under this Agreement, but if and only if CONTRACTOR fails to cure the default within thirty (30) days after being given written notice of such default by CITY. For purposes of this section, written notice will be deemed delivered to CONTRACTOR if sent by e-mail, facsimile, or first class mail. In the event of such termination, CONTRACTOR shall be entitled to payment for all amounts due CONTRACTOR hereunder with respect to all periods through the date of termination, including CONTRACTOR's basic fees under Section 7A with respect to animal licenses or renewals that are in process at the time of termination.

C. Termination of Licensing Program.

CITY may terminate this Agreement upon not less than ninety (90) days prior notice to CONTRACTOR if CITY determines to terminate its animal licensing program. Upon such termination, CONTRACTOR shall be entitled to payment for all amounts due CONTRACTOR hereunder with respect to all periods through the date of termination plus an additional amount (the "Cancellation Fee") equal to the sum of all compensation payable to CONTRACTOR under this Agreement for the three calendar months in which the highest monthly compensation was payable to CONTRACTOR hereunder during the twelve (12) calendar months preceding the date of termination (or if shorter during the period from the Execution Date until the date of termination). The parties agree that the Cancellation Fee is reasonable compensation to CONTRACTOR for its lost revenue resulting from the early termination of this Agreement by CITY and is not a penalty.

17. UNFORESEEN CIRCUMSTANCES

CONTRACTOR shall not be responsible for any delay or omission in the performance of any of CONTRACTOR'S obligations under this Agreement to the extent caused by natural disaster, power outages, war, civil disturbance, labor dispute or other cause beyond CONTRACTOR'S reasonable control. To the extent CONTRACTOR is able to do so, CONTRACTOR shall provide notice to CITY of any event described in this Section within ten (10) business days after the occurrence of such event.

18. RIGHT OF CITY TO INSPECT RECORDS

CITY, through its authorized employees, representatives or agents, shall have the right, at any and all reasonable times, during the term of this Agreement and for a period of three (3) years following the term of this Agreement to audit the books and records (including, but not limited to, invoices, vouchers, canceled checks, time cards, etc.) of CONTRACTOR for the purpose of verifying any and all charges made by CONTRACTOR in connection with this Agreement. CONTRACTOR may elect to maintain books, records and documents in an electronic format, in a database, on paper, or a combination of the aforementioned. After the termination of this Agreement, paper records and supporting documents will either be shipped to CITY or destroyed, at CITY’S option, at CITY’S expense. Records that relate to any litigation, appeals, or settlements of claims arising from performance under this Agreement shall be made available until a final disposition has been made of such litigation, appeals, or claims.

19. NOTICES

Any notice, payment, statement, or demand required or permitted to be given hereunder by either Party to the other shall be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the Parties at the addresses appearing below, but each Party may change its address by written notice in accordance with this Section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

Notices to CITY shall be addressed as follows:

City of Beaumont
Attn: Chief of Police
660 Orange Avenue
Beaumont, CA 92223
Telephone: 951-769-8500
Fax: 951-769-8508
E-mail: SThuilliez@beaumontpd.org
Attn: Chief of Police

Notices to CONTRACTOR shall be addressed as follows:

Chris Richey, President
PetData, Inc.

P.O. Box 141929 (if mailed)
Irving, Texas 75014-1929

8585 N Stemmons Fwy, Suite 1100-N (if delivered)
Dallas, Texas 75247

214-821-3106 (facsimile)

Any such notice shall be effective (a) if delivered personally or by courier, when received, (b) if sent by overnight courier, when received, (c) if mailed, on the second business day after being mailed as described above, and (d) if sent by confirmed (either personal or machine) written telecommunication, when dispatched. Any Party may change any of its contact information for notices upon not less than ten (10) days’ prior notice to the other Party in accordance with this Section. The provisions of this Section shall not govern the means of submission of invoices by CONTRACTOR to CITY under this Agreement.

20. CONTRACTOR’S SYSTEM

CITY acknowledges that CONTRACTOR has developed and coordinated proprietary means and methods of performing the Services and related know-how, skills, and property (collectively, the “System”). The System includes, among other items, an interactive website, databases, software, and related items. The System is special and unique to CONTRACTOR and has been developed by CONTRACTOR at great cost and expense to CONTRACTOR. CITY acknowledges that CITY

is not acquiring any rights in or to the System, and that the System is and will remain the sole and exclusive property of CONTRACTOR. CITY further acknowledges and agrees that any information that CITY obtains related to the use, formulation or operation of the System that is not generally known is CONFIDENTIAL, may only be used by CITY for the limited purposes described in this Agreement, and may not be disclosed to any third parties except as may be required under applicable law or with CONTRACTOR's prior, express written consent in CONTRACTOR's sole discretion. Upon the termination of this Agreement, any information and materials, in whatever media or format, related to the System that CITY has in its possession will be returned to CONTRACTOR or destroyed at CONTRACTOR's option. CITY agrees that it will not attempt to discover, duplicate, or replicate the System in any manner.

21. MISCELLANEOUS

A. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

B. Entire Agreement.

This Agreement, including any exhibits hereto, supersedes any and all prior agreements, whether oral or written, between the Parties hereto with respect to the rendering of services by CONTRACTOR for CITY and contains all the covenants and agreements between the Parties with respect to the rendering of such services in any manner whatsoever. Each Party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

No other agreements or conversation with any officer, agent, or employee of CITY, prior to execution of this Agreement, shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Such other agreements or conversations shall be considered as unofficial information and in no way binding upon CITY.

C. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

D. Successors and Assigns.

CONTRACTOR shall not assign this Agreement to any person or entity without the express written agreement of CITY which CITY may withhold in its absolute discretion. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors, and, except as otherwise provided herein, their assigns.-

E. General.

All references in this Agreement to sections and other subdivisions refer to corresponding sections and other subdivisions of this Agreement unless the context indicates otherwise. Titles appearing at the beginning of any such sections or subdivisions are for convenience only and shall not constitute part of such sections or subdivisions and shall be disregarded in construing the language contained in such sections or subdivisions. These words "this Agreement", "this instrument", "herein", "hereof", "hereby", "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires. Words in any gender (including the neutral gender) shall include any other gender, unless the context otherwise requires. Examples shall not be construed to limit, expressly or by implication, the matter they illustrate. The word "includes" and its derivatives shall mean "includes, but is not limited to" and corresponding derivative expressions. The term "or" includes "and/or." All exhibits attached to this Agreement are incorporated herein by reference. No consideration shall be given to the

fact or presumption that one Party had a greater or lesser hand in drafting this Agreement. All references herein to “\$”, “dollars”, or other sums of money shall refer to U.S. Dollars. References in this Agreement to “business days” shall refer to days other than Saturdays, Sundays, or other days on which CITY offices are closed. Any references in this Agreement to “days” other than business days shall refer to calendar days. Time is of the essence of this Agreement. No delay or forbearance in asserting any right or enforcing any obligation under this Agreement shall constitute a waiver of such right or obligation.

F. Authorization.

Each of the Parties represents and warrants to the other that this Agreement has been duly authorized by all necessary corporate or governmental action on the part of the representing Party and that this Agreement is fully binding on such Party.

G. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

H. Captions.

The captions to the various clauses of this Agreement are for information purposes only and shall not alter the substance of the terms and conditions of this Agreement.

I. Waiver.

The Parties agree that waiver by the other of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

J. Venue,

All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Riverside County, California.

EXECUTED by CITY and by CONTRACTOR on the respective dates set forth below to be effective as of the Execution Date.

“CITY”

CITY OF BEAUMONT
California municipal corporation

By: _____

Mike Lara

Its: Mayor

Date: _____

ATTEST: _____

City Clerk

APPROVED AS TO FORM:

SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

City Attorney

“CONTRACTOR”

PETDATA, INC.
Texas for-profit corporation

By: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT A
Description of Services

This exhibit is attached to and a part of the above and foregoing Agreement for Animal Licensing Services (Agreement). Terms used in this exhibit that are not defined in this exhibit but which are defined elsewhere in the Agreement shall have the respective meanings given to them in the other provisions of the Agreement. In the event of any conflict between any of the provisions of this exhibit and the other provisions of the Agreement, the other provisions of the Agreement shall control.

CONTRACTOR RESPONSIBILITIES

1. Process License Applications
 - A. Receive and process animal license applications through the mail.
 - B. Provide online licensing and process applications initiated through CONTRACTOR's website.
 - C. Enter new and renewal license applications into CONTRACTOR's proprietary database.
 - D. Deposit, or transmit for deposit, all receipts collected for license fees, with the exception of those payments made via credit card, into a Bank Account.
 - E. Mail license tags within 10 business days after receipt of payment and complete documentation as required by local ordinance and/or CITY policy.
 - F. Update license information in CONTRACTOR'S database and issue replacement tags as needed.
 - G. If CONTRACTOR collects any payments due CITY from Licensees via credit card transactions that are paid to CONTRACTOR, those payments will be deposited, or transmitted for deposit, into a Bank Account within 15 business days after the end of the calendar month in which collected.
2. Mail License Notices
 - A. Mail renewal and reminder notices for expiring animal licenses. Renewal notices will be mailed in the month prior to the license expiration date, or as otherwise agreed upon between CONTRACTOR and CITY.
 - B. Mail billing notices to pet owners who have vaccinated a pet against rabies but have not licensed, if CITY collects rabies vaccination reports from veterinarians.
3. Customer Service for Licensing Program
 - A. Provide customer service to pet owners via phone, email and mail, and respond to requests in a timely fashion.
 - B. Provide customer service to CITY staff, and respond to CITY requests in a timely fashion.
 - C. Provide online access to licensing data to appropriate personnel via CONTRACTOR's proprietary website, at no additional charge.
4. Manage Reports from Authorized Registrars and Veterinary Clinics
 - A. Process and enter license sales records from any registrars and veterinary clinics authorized to sell animal licenses.
 - 1) Track tag inventories at all authorized registrars, and reconcile reports.
 - 2) Invoice authorized registrars for licenses sold as needed
 - B. Process and enter rabies vaccination records from local veterinary clinics if rabies reporting is required by CITY.

- C. Follow up with delinquent clinics and registrars and report delinquent clinics and registrars to CITY as needed.
- 5. Provide veterinarians and other authorized registrars with reasonable quantities of supplies (reporting forms, applications or vaccination certificates, citizen mailing envelopes, etc.) necessary to sell license tags and/or report rabies vaccinations to CONTRACTOR. Supplies are to be printed in one color with the design and layout to be determined by CONTRACTOR.
- 6. Reporting to CITY
 - A. Send reports to CITY within 15 business days after the end of each month including the number of licenses sold at each location.
 - B. Provide statistical reports to CITY as requested within a timely manner. Depending on the information requested, CONTRACTOR can provide most reports within five business days.

CITY RESPONSIBILITIES

- 1. Purchase license tags to CONTRACTOR's specifications and ship them to CONTRACTOR. CONTRACTOR recommends that tags be shipped directly from tag vendor to CONTRACTOR to reduce shipping costs.
- 2. Report CITY license sales electronically or by mail at least monthly by the 10th calendar day of the month for the prior month's sales.
- 3. Give CONTRACTOR at least 60 days' notice of license fee or ordinance changes.
- 4. Respond to CONTRACTOR inquiries in a timely fashion.
- 5. Provide feedback to CONTRACTOR regarding program and customer matters.