

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM519819

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Sergeant's Pet Care Products, Inc.		01/01/2018	Corporation: MICHIGAN
RECEIVING PARTY DATA			
Name:	PetSmart, Inc.		
Street Address:	19601 N. 27th Avenue		
City:	Phoenix		
State/Country:	ARIZONA		
Postal Code:	85027		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Registration Number:	4774373	CAT MD MAXIMUM DEFENSE	
Registration Number:	4989392	HOME MD	
Registration Number:	4774383	DOG MD MAXIMUM DEFENSE	
CORRESPONDENCE DATA			
Fax Number:	6235806137		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	6232953118		
Email:	ccasey@petsmart.com		
Correspondent Name:	Christine A. Casey		
Address Line 1:	19601 N. 27th Avenue		
Address Line 2:	PetSmart, Inc.		
Address Line 4:	Phoenix, ARIZONA 85027		
NAME OF SUBMITTER:	Christine A. Casey		
SIGNATURE:	/Christine A. Casey/		
DATE SIGNED:	04/18/2019		
Total Attachments: 11			
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AGREEMENT

This Agreement (this "Agreement") is effective as of the 1st day of January, 2018 (the "Effective Date") and is by and between Sergeant's Pet Care Products, Inc. ("Sergeant's"), a corporation of the State of Michigan, having its principal place of business in Omaha, NE; and PetSmart, Inc. ("PETSMART"), a corporation of the State of Delaware, having a principal place of business in Phoenix, AZ. Each of Sergeant's and PETSMART may be referred to as a "party" or collectively as the "parties."

WHEREAS, Sergeant's is the sole and exclusive owner of the following trademarks: CAT MD MAXIMUM DEFENSE®, CAT MD™, DOG MD MAXIMUM DEFENSE®, DOG MD™, HOME MD MAXIMUM DEFENSE™, HOME MD®, MD™, and MAXIMUM DEFENSE™ (the "MD Marks") and all associated goodwill with the foregoing;

WHEREAS, Sergeant's is the manufacturer of a variety of flea and tick products, pet health and wellness products, and related pet products ("Sergeant's Products") sold under a variety of brands; and

WHEREAS, the MD Marks and all associated goodwill are protected by U.S. Trademark Reg. Nos. 4,774,373, 4,774,383, and 4,989,392; U.S. Serial Nos. 86/054,535 and 86/054,526, and common law trademark rights.

WHEREAS, Sergeant's has agreed to assign or cause to be assigned the MD Marks and all of the rights used or held by Sergeant's in connection with the MD Marks to PETSMART as the new owner of the MD Marks under the terms of this Agreement; and

WHEREAS, in consideration therefor, PETSMART has agreed to treat Sergeant's as a preferred source under the terms and conditions contained in this Agreement.

NOW THEREFORE, for good and valuable consideration the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. ASSIGNMENT OF MD MARKS. Sergeant's hereby transfers and assigns to PETSMART, and PETSMART hereby accepts from Sergeant's, any and all tangible and intangible property and rights, held by Sergeant's to and under all right, title and interest worldwide in, to and under the MD Marks, including as shown on Exhibit A for the registered trademarks, and the form set forth in Exhibit B for the common law trademarks, both of which are attached hereto and incorporated herein by reference, any pending applications to register the same anywhere in the world, any variations thereof, all goodwill associated with the foregoing, and the right to prosecute all claims of infringement or misappropriation of any of the foregoing and to retain any proceeds therefrom. PETSMART will not assume, pay, discharge, perform or otherwise be liable or responsible for, any liabilities, indebtedness or obligations of Sergeant's of any nature whatsoever in connection with the MD Marks, whether known or unknown, contingent, direct, or consequential, which may have accrued prior to the Effective Date. PETSMART shall only be responsible for any obligations with respect to the MD Marks from and after the Effective Date.

2. PREFERRED SOURCE. In consideration for the assignment of the MD Marks by Sergeant's to PETSMART, PETSMART shall make the following consideration available to Sergeant's:

- (a) For each item PETSMART offers for sale under a MD Mark, including, without limitation, any in the categories of (1) flea and tick repellent products for canines or felines or (2) other health, welfare and beauty products for felines or canines, which are currently being supplied by Sergeant's as of the Effective Date of this Agreement, PETSMART hereby grants to Sergeant's rights of first refusal to supply items in the above categories as a Preferred Vendor. "Preferred Vendor" status means that for twenty-four (24) months from the end of the Minimum Purchase Period (as defined below), in connection with requests for proposals or bids to supply PETSMART with items for its resale to consumers, Sergeant's will have an opportunity to make a proposal and in the event a third-party offers more favorable terms to PETSMART than does Sergeant's, in respect of products that are equivalent, then PETSMART will revert to Sergeant's with an opportunity to rebid with more favorable terms in order to claim the business opportunity. In any instance where PetSmart notifies Sergeant that it has received more favorable terms from a third party, Sergeant's must respond with its rebid within a commercially reasonable period or it will waive its right to rebid. Notwithstanding the foregoing, all winning supplier bids will be selected by PETSMART in its sole discretion with reference to its then-current, internal supply criteria, which PETSMART is under no obligation to share with any supplier.
- (b) Notwithstanding anything to the contrary herein, for 24 months beginning from the Effective Date of this Agreement (the "Minimum Purchase Period"), PETSMART shall purchase from Sergeant's at Sergeant's then-current wholesale prices Sergeant's flea & tick and health, welfare and beauty products from Sergeant's totaling at least \$12,000,000 during the first 12-month period of the Minimum Purchase Period and \$7,740,000 during the second 12 month period of the Minimum Purchase Period (collectively, the "Minimum Purchase Amount").
- (c) Except as otherwise set forth above, PETSMART shall have no continuing obligation to purchase any amount of Sergeant's Products or pay any other consideration, proceeds or amounts to Sergeant's in respect of the MD Marks. Sergeant's shall be solely responsible for any tax implications in connection with the payment of the Minimum Purchase Amount to Sergeant's.

3. TERM. The term of this Agreement commences on the Effective Date of this Agreement and extends four (4) years from the Effective Date of this Agreement.

4. REPRESENTATIONS AND WARRANTIES. To induce PETSMART to enter into this Agreement and to consummate the transactions contemplated herein, Sergeant's hereby makes the following representations and warranties to PETSMART as of the Effective Date:

- (a) Organization and Good Standing. Sergeant's is a corporation duly organized, validly existing and in good standing under the laws of the State of Michigan. Sergeant's has all requisite power and authority to own, operate and lease its assets and properties, and to conduct its business as it is now being conducted, and is qualified to transact business in each jurisdiction in which it conducts business.

- (b) Execution and Effect of Agreement. Sergeant's has the power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery by Sergeant's of this Agreement and the other documents and agreements contemplated hereby, the consummation by Sergeant's of the transactions contemplated hereby and thereby, and the performance by Sergeant's of its obligations hereunder and thereunder, have been duly and effectively authorized by all necessary action on the part of Sergeant's. This Agreement has been duly authorized and delivered by Sergeant's and constitutes a legal, valid and binding obligation of Sergeant's, fully enforceable against Sergeant's in accordance with its terms, except as enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application relating to or affecting the enforcement of creditors' rights and exercise of judicial discretion in accordance with general principles of equity. When executed and delivered by Sergeant's as a party thereto in accordance with the provisions of this Agreement, the other agreements and documents contemplated hereby will constitute legal, valid and binding obligations of Sergeant's, fully enforceable against Sergeant's in accordance with their respective terms, except as enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application relating to or affecting enforcement of creditors' rights and exercise of judicial discretion in accordance with general principles of equity.
- (c) Restrictions. The execution and delivery of this Agreement and other documents and agreements contemplated hereby by Sergeant's, the consummation of the transactions contemplated hereby and thereby by Sergeant's, and the performance of the obligations of Sergeant's hereunder and thereunder, will not (i) violate any of the provisions of the articles of organization, bylaws or other organizational documents of any of Sergeant's, (ii) to Sergeant's knowledge, violate or conflict with the provisions of any laws applicable to Sergeant's or its business, (iii) result in the creation of any encumbrance upon any of the property or assets hereby conveyed, or (iv) conflict with, violate any provisions of, result in a breach of or give rise to a right of termination, modification or cancellation of, constitute a default of, or accelerate the performance required by, with or without the passage of time or giving notice or both, the terms of any agreement, indenture, mortgage, deed of trust, security or pledge agreement, lease, contract, note, bond, license, permit, authorization or other instrument to which Sergeant's is a party or to which Sergeant's, or any of the property or assets hereby conveyed, are subject.
- (d) Consents. Except for the filing of the confirmatory Trademark Assignment by PETSMART following the Effective Date, in the form attached hereto as Exhibit A, with the United States Patent and Trademark Office, no filing with, or consent, waiver, approval or authorization of, or notice to, any governmental authority or any third party is required to be made or obtained by Sergeant's in connection with the execution and delivery of this Agreement or any other document or agreement contemplated hereby, the consummation of any of the transactions contemplated hereby or thereby, or the performance of any of their respective obligations hereunder or thereunder.

- (e) Intellectual Property (MD Marks). To the best of Sergeant's knowledge, Sergeant's owns the MD Marks free and clear of any and all Encumbrances. Sergeant's has not granted any right or license in the MD Marks to any third parties. While Sergeant's is granting worldwide rights in the MD Marks to PETSMAART, Sergeant's represents to PETSMAART that Sergeant's has never sought to register any of the MD Marks outside of the United States. The execution and delivery by Sergeant's of this Agreement to PETSMAART as of the Effective Date will vest good and marketable title to the property and assets hereby conveyed in PETSMAART, free and clear of any and all Encumbrances. Sergeant's (i) has not received any notice or claim to the effect that (a) the use of any of the MD Marks by Sergeant's infringes upon, conflicts with or misappropriates the rights of any other person or entity or (b) that any of the MD Marks is not valid or enforceable, and (ii) has not made any claim that any person or entity has violated or infringed upon the rights of Sergeant's with respect to the MD Marks. "Encumbrances" means any interest of any third party, including, without limitation, any right to acquire, option, right of preemption, or any mortgage, lease, charge, pledge, lien, encumbrance, assignment, hypothecation, security interest, title retention, claim, covenant, condition, or any other security agreement or arrangement or any restriction of any kind or character.

4. FURTHER ASSURANCES. Sergeant's shall not use the MD Marks, any variations of the MD Marks, or any confusingly similar marks from and after the Effective Date without the prior written consent of PETSMAART in each instance. In addition, Sergeant's shall hereafter execute and deliver any further assignments, instruments of transfer, bills of sale or conveyance which may be necessary or which may be deemed necessary by PETSMAART to fully vest in PETSMAART title to the property and assets hereby conveyed. At any time and from time to time hereafter, at PETSMAART's reasonable request and without further consideration (but at PETSMAART's cost of preparation and filing), Sergeant's promptly shall execute and deliver such confirmatory instruments of sale, transfer, conveyance, assignment and confirmation, and take such other reasonable action, as PETSMAART may reasonably request to transfer, convey and assign to PETSMAART, and to confirm PETSMAART's right, title and interest in and to, all of the property and assets hereby conveyed, to put PETSMAART in actual possession and control thereof, to assist PETSMAART in exercising all rights with respect thereto and to carry out the purposes and intent of this Purchase Agreement.

5. GOVERNING LAW. This Agreement will be governed by and interpreted according to the laws of the State of Michigan.

6. ASSIGNMENT. This Agreement and the rights of the parties hereunder may not be assigned or transferred by merger, operation of law, or otherwise, and the obligations of the parties hereunder may not be delegated, in whole or in part, by any party without the prior written consent of the other party hereto. Notwithstanding the foregoing, this Agreement and PETSMAART's rights hereunder may be assigned by PETSMAART to an affiliate of PETSMAART or any entity merging with PETSMAART or acquiring all or substantially all of PETSMAART's assets or capital stock without first obtaining the prior written consent of Sergeant's, provided that such assignee agrees to remain bound by PETSMAART's obligations hereunder.

7. MISCELLANEOUS. The provisions of this Agreement will be considered as severable, so that the invalidity or unenforceability of any provision(s) will not affect the validity or enforceability of the remaining provisions. The failure of either party to require the performance of any item or obligation of this Agreement, or the waiver by either party of any breach of this Agreement will not act as a bar to subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach. This Agreement shall be binding upon and shall inure the benefit of the parties hereto and their respective permitted assigns. This Agreement, including its attachments, represents the entire agreement between the parties with regard to the acquisition of the MD Marks by PETSMART from Sergeant's and supersedes all prior or contemporaneous representations, understandings or agreements regarding such subject matter, whether written or oral. For clarity, this Agreement does not have any impact on any other agreements as may exist between the parties with respect to any other subject matter outside of the acquisition of the MD Marks by PETSMART from Sergeant's. This Agreement may not be modified or amended except by an agreement in writing signed between the parties hereto. This Agreement may be executed in counterparts and multiple originals and by facsimile or by email in portable document format (PDF), each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Sergeant's and PETSMART have caused this Agreement to be executed and delivered on the Effective Date set forth above.

PETSMART, INC.

By [Signature]
Printed Name Michael Seal
Title SVP - Buyer

SERGEANT'S PET CARE PRODUCTS, INC.

By [Signature]
Printed Name Neal Wilmore
Title VP / GM

LEGAL REVIEW
Initial [Signature] Date 3/11/19

EXHIBIT A

Trademark Assignment

This Trademark Assignment ("Assignment") is made and entered into as of the 1st day of March, 2019 (the "Effective Date"), by and between Sergeant's Pet Products, Inc., a Michigan corporation ("Assignor"), and PetSmart, Inc., a Delaware corporation ("Assignee").

WHEREAS, pursuant to that certain Agreement, dated as of March 1, 2019 by and between Assignor and Assignee (the "Agreement"), Assignee is acquiring all right, title and interest of Assignor in and to the federally registered trademarks set forth in the attached Schedule A incorporated herein, including (without limitation) all goodwill associated therewith and symbolized thereby, all applications for registration therefor, and all registrations thereof, and all causes of action, claims and demands and other rights for, or arising from, any infringements and misappropriations thereof (the "Marks").

WHEREAS, Assignor is the sole and exclusive owner of the Marks.

WHEREAS, Assignor desires to assign its entire right, title, and interest in and to the Marks, and Assignee desires to receive an assignment of Assignor's entire right, title, and interest therein and thereto, including (without limitation) all goodwill associated therewith and symbolized thereby.

NOW, THEREFORE, for good and valuable consideration, the receipt whereof is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. The Marks. The Marks assigned by Assignor to Assignee are as set forth in the Recitals above, which are incorporated herein by reference.

2. Assignment. Assignor hereby sells, assigns, transfers, and conveys to Assignee its entire right, title, and interest in and to the Marks. Assignee shall be responsible for all costs and actions for transfer of the foregoing Marks and to permit Assignee to be duly recorded as the registered owner. Assignor further agrees without further consideration to cause to be performed such other lawful acts and to be executed such further assignments and other lawful documents as Assignee may from time to time reasonably request to effect fully this Assignment and to permit Assignee to be duly recorded as the registered owner of the Trademarks and all other rights hereby conveyed. Assignor also hereby irrevocably designates and appoints Assignee as Assignor's special agent and attorney-in-fact to execute, deliver and file on behalf of Assignor all such assignment instruments and other documentation as may be necessary to transfer to Assignee or its designee, legally and as a matter of record, all right, title and interest in and to each of the Marks. Assignor acknowledges that the foregoing special power of attorney is coupled with an interest and is therefore irrevocable.

3. Miscellaneous. This Trademark Assignment does not modify or affect, and is subject to, the provisions of the Agreement. This Trademark Assignment may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an

original and all of which counterparts taken together shall constitute but one and the same instrument. The exchange of copies of this Trademark Assignment and of executed signature pages by facsimile transmission or by email transmission in portable document format (PDF), or similar format, shall constitute effective execution and delivery of such instrument(s) as to the parties and may be used in lieu of the original Trademark Assignment for all purposes.

IN WITNESS WHEREOF, the Assignor has caused this Trademark Assignment to be executed and delivered on the date set forth above.

Sergeant's Pet Care Products, Inc.

Signature: Neal Wilmore
Printed Name: Neal Wilmore
Title: VP/GM

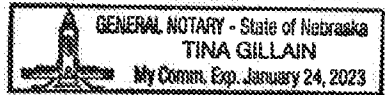
State of Nebraska
Douglas County

I, Tina Gillain, a Notary Public for said County and State, do hereby certify that Neal Wilmore, the above-named individual, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 15th day of April, 2019

Notary Public

My commission exp: Jan 24, 2023
Tina Gillain



Acknowledged and agreed:

PetSmart, Inc.
Signature: [Signature]
Name: Michelle Sage
Title: JVP - Buyer

**Schedule A
to Trademark Assignment**

The Marks being assigned are as identified below:

Record Owner	MARK	SERIAL/REGISTRATION NO.	Filing Date/Registration Date
Sergeant's Pet Care Products, Inc.	CAT MD MAXIMUM DEFENSE	4,774,373	07/14/2015
Sergeant's Pet Care Products, Inc.	HOME MD	4,989,392	06/28/2016
Sergeant's Pet Care Products, Inc.	DOG MD MAXIMUM DEFENSE	4,774,383	07/14/2015

EXHIBIT B

Common Law Trademark Assignment

This Common Law Trademark Assignment ("Common Law Assignment") is made and entered into as of this 1st March, 2019 (the "Effective Date"), by and between Sergeant's Pet Products, Inc., a Michigan corporation ("Assignor"), and PetSmart, Inc., a Delaware corporation ("Assignee").

WHEREAS, pursuant to that certain Agreement, dated as of March 1, 2019 ("Agreement"), by and between Assignor and Assignee, Assignor is required to assign to Assignee all right, title and interest in and to certain trademarks set forth in the attached Schedule A incorporated herein and as further defined below.

NOW, THEREFORE, for good and valuable consideration, the receipt whereof is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. **The Marks.** The trademarks being assigned by Assignor to Assignee are those as set forth in the attached Schedule A including all applications for registration therefor, and all registrations thereof, together with all goodwill associated with and symbolized by the same and all causes of action, claims and demands and other rights for, or arising from, any infringements and misappropriations (the "Common Law Marks").

2. **Assignment.** Assignor hereby assigns to Assignee all right, title, and interest in and to the Common Law Marks. Assignor further agrees without further consideration to cause to be performed such other lawful acts and to be executed such further assignments and other lawful documents as Assignee may from time to time reasonably request to effect fully this Common Law Assignment and to permit Assignee to be duly recorded as the registered owner of the Common Law Marks and all other rights hereby conveyed. Assignor also hereby irrevocably designates and appoints Assignee as Assignor's special agent and attorney-in-fact to execute, deliver and file on behalf of Assignor all such assignment instruments and other documentation as may be necessary to transfer to Assignee or its designee, legally and as a matter of record, all right, title and interest in and to each of the Common Law Marks. Assignor acknowledges that the foregoing special power of attorney is coupled with an interest and is therefore irrevocable.

3. **Miscellaneous.** This Common Law Assignment does not modify or affect, and is subject to, the provisions of the Agreement. This Common Law Assignment may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. The exchange of copies of this Common Law Assignment and of executed signature pages by facsimile transmission or by email transmission in portable document format (PDF), or similar format, shall constitute effective execution and delivery of such instrument(s) as to the parties and may be used in lieu of the original Common Law Assignment for all purposes.

IN WITNESS WHEREOF, the Assignor has caused this Common Law Trademark Assignment to be executed and delivered on the date set forth above.

Sergeant's Pet Care Products, Inc.

Signature: Neal Wilmore
Printed Name: Neal Wilmore
Title: VP/EM

State of Nebraska
Douglas County

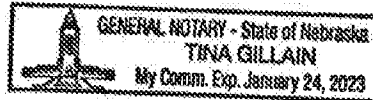
I, Tina Gillain, a Notary Public for said County and State, do hereby certify that Neal Wilmore, the above-named individual, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 15th day of April, 2019

Notary Public

My commission exp: Jan 24, 2023

Tina Gillain



Acknowledged and agreed:

PetSmart, Inc.

Signature: [Signature]

Name: Michael Sapp

Title: SVP - Buying

Schedule A
to Common Law Trademark Assignment

The Common Law Marks being assigned are as identified below:

COMMON LAW MARK
CATMD
DOGMD
HOME MD MAXIMUM DEFENSE
MD
MAXIMUM DEFENSE