



findmeapuppy.com.au

## Terms and Conditions for the use of our Website and Services

### DEFINITIONS

- a. Site: refers to the website established and operated by Find Me a Pet (FMAP)
- b. Advertiser: is an individual or corporation that posts an advertisement on the Site for the purpose of advertising the sale, adoption, or a wanted advertisement for a dog or puppy.
- c. Seller: is an Advertiser that purchased a listing.
- d. User: is any individual or corporation that visits and uses the Site in any manner.
- e. Content: refers to all information, data, text, photographs, graphics, images, messages or other materials posted by an Advertiser, Seller or User on the Site.
- f. Buyer: is a User of the Site that contacts an Advertiser or Seller with the intent to purchase a dog or puppy.
- g. Member: is any User that registers with the Site.
- h. Your Information: is any information you provide to us or other users in the registration or listing process, in any public message area (including the business directory, classifieds directory, online store and forums) or through any email feature. Your Information includes the descriptions of items you list for sale or display on our Site as well as any content you post on other web pages within our Site. You are solely responsible for Your Information, and we act as a passive conduit for your online distribution and publication of Your Information.
- i. Publicly accessible: are areas of the Site that are intended by FMAP to be available to the general public. However, publicly accessible areas of the Site do not include portions of the Site that are intended for private communication between the user and FMAP.

This Agreement ("Agreement") is by and between Find Me a Pet ("FMAP") and You, Your heirs, agents, successors and assigns ("You"), and is made effective as of the date of electronic execution. This Agreement sets forth the terms and conditions of Your use of the FMAP's website and the services of pet selling and buying and the selling of pet supplies and explains FMAP's obligations to You and Your obligations to FMAP's.

This Agreement along with any other or additional FMAP policies, together with any modifications that may be made hereto, constitutes the complete and exclusive agreement between You and FMAP. This Agreement supersedes all prior proposals, agreements, or other communications. All FMAP's policies and agreements specific to



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## **Terms and Conditions for the use of our Website and Services**

use of the FMAP's website are incorporated herein and are made part of this Agreement by reference.

You acknowledge that You have read, understood, and agree to be bound by all terms and conditions of this Agreement and any other policies or agreements made part of this Agreement by reference, as well as any new, different or additional terms, conditions or policies which FMAP may establish from time to time, and any agreements that FMAP's is currently bound by or will be bound by in the future.

You understand and agree that FMAP operates this website on a commercial basis and that in consideration of your use of the site, you agree that You are bound to the terms and conditions herein with regard to your use of this website, and You agree to be bound as to any use and/or transactions undertaken on your behalf by anyone acting as Your Agent or otherwise using your account whether or not the transactions were on Your behalf. You acknowledge that FMAP's acceptance of any request for price information and/or FMAP's ratification of any contract related to the use of the web site will take and/or is deemed to have taken place at FMAP's offices located in Coonamble, NSW, Australia.

The most current version of this Agreement is available online at: <http://www.findmeapet.com.au>.

The following additional terms and conditions apply:

### **1. Term of agreement and modification**

You agree that FMAP may modify this Agreement at any time and You agree to be bound by all changes that FMAP may reasonably make hereto. If You conduct a transaction with FMAP the term of this Agreement shall continue in full force and effect as long as You use and/or take advantage of the subject of that transaction.

### **2. FMAP Fees and Services**

FMAP provides individuals and businesses an online venue for the use of selling and placing up of pets for sale or adoption. Becoming a FMAP member is entirely free. The charges that occur are for listings in our Business Directory, Classifieds Directory and Advertising through our various Mediums such as Banner ads, Newsletters etc. All listings in the Business Directory are annual. All new listings are to be purchased up front. Before the initial period expires you will receive an email giving you the option to extend or to let it expire, unless cancelled. In order to cancel the ad; go to "My Account" and click the "Cancel My Ad" link at any time. FMAP may change the fees at any time. All fee changes are effective immediately when posted to the Site with or without prior notice to you the user. When you subscribe to the service, you have the opportunity to review and accept the fees that will be charged for the use of



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FMAP. We may choose to temporarily change our Fees and Credits Policy and the fees for our services for promotional events and such changes are effective when we post the temporary promotional event on site. We may in our sole discretion change some or all of our services at any time. In the event we introduce a new service, the fees for that service are effective at the launch of the service. Unless otherwise stated, all fees are quoted in Australian Dollars. You are responsible for paying all fees associated with using our service and our Site and all applicable taxes (including any GST, which will be automatically added to amounts billed to you). Please Note: You cannot include FMAP's fees in the 'terms of sale' of your item or request another member to pay FMAP's fees.

### **3. FMAP Trading Terms**

**3.1 Representations and site use:** FMAP Site acts as an electronic venue to allow members to offer, sell, and buy just about any pet or pet related product, at anytime, from anywhere in Australia! FMAP is not a party to the transaction between buyers and sellers and does not guaranty any portion of the transaction. As a result, we have no control over the quality, safety or legality of the items or content posted by users on the Site, the truth or accuracy of the listings, the ability of sellers to sell items or the ability of buyers to buy items. We cannot ensure and do not guarantee that a buyer or seller will actually complete a transaction or act lawfully in using our Site.

**3.2 Safe Trading:** Because user authentication on the Internet is difficult, FMAP cannot and does not confirm each user's purported identity. We encourage you to communicate directly with potential trading partners through the tools available on our Site. We recommend never paying for an animal without seeing it first or reassuring that it's not a scam. Additionally, there may also be risks with international trading and dealing with foreign nationals.

**3.3 Release:** Because we are not involved in the actual transaction between buyers and sellers, in the event that you have a dispute with one or more users, you release FMAP (and our officers, directors, agents, affiliates, parents, subsidiaries and employees) from claims, demands and damages (actual, special, direct, indirect and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes. You agree that no joint venture, partnership, employment or agency relationship exists between you and FMAP as a result of this Agreement or use of its Site.

**3.4 Information Control:** We may from time to time send you communications and notices regarding your transactions and your account on our Site. Our communications do not represent any endorsement, guarantee or legitimisation of your transactions. You are responsible for completing all transactions you participate in (including monitoring the status and complying with all relevant legal obligations).



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We do not control, endorse or approve the items, information or content provided by other users which is made available through our system. You may find other users' information to be offensive, harmful, inaccurate, or deceptive. Please use caution, common sense, and practice safe trading when using our Site. Please note that there are also risks of dealing with underage persons or people acting under false pretence.

Topics posted on the Site's "Chat Forum" do not imply endorsement by the Site; they are the views of the original poster. The Site will remove feedback and comments if we feel it violates any of these terms. All individuals or business that post any statement or advertisement on the Site are legally responsible for their comments and any damages related thereto. Because the Site does not censor feedback or investigate it for accuracy, the Site is not legally responsible for the remarks that members post, even if those remarks are defamatory. This law does not protect the person who leaves the feedback from responsibility for it. You agree that Content, whether publicly posted or privately transmitted, is the sole responsibility of the person from which such Content originated. You are entirely responsible for all Content that you upload, post, email, transmit or otherwise make available via the Site. FMAP does not control the Content posted via the Site and, as such, does not guarantee the accuracy, integrity or quality of such Content. You understand that by using the Site, you may be exposed to Content that is offensive, indecent or objectionable. FMAP is not liable in any way for the Content, including, but not limited to, any errors or omissions in Content, or any loss or damage incurred as a result of the use of any Content posted, emailed, transmitted or otherwise made available via the Service. You warrant that each action You make is being done so in good faith and that You have no knowledge of it infringing upon or conflicting with the legal rights of a third party or a third party's trademark or trade name.

Forum Posts ("Feedback") may be removed if:

- The Site is ordered by a court of law to remove the Feedback from the Site.
- The Feedback contains profane, vulgar, obscene, or racist language or adult material as determined by FMAP.
- The Feedback contains personal identifying information, including, but not limited to, real name, address, phone number, or e-mail address.
- The Feedback contains scripts.
- Negative Feedback regarding a user if the poster of the comment personally requests FMAP to remove the post.
- Feedback left by an ineligible participant to the Site.
- Feedback left by an individual who did not provide accurate contact information to FMAP.
- Feedback posted by users who are suspended.

**3.5 General practices regarding usage and storage:** You acknowledge that FMAP may establish general practices and limits on the use of Site, including, but not



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limited to, the number of days an email message or other uploaded Content will be retained, the number of email messages that may be sent or received, the size of an email message sent or received, the disk space that will be allotted on the Company's servers, and the number of times (and the duration for which) you may access the Site in a given period of time. You agree that FMAP has no responsibility or liability for the deletion or failure to store any messages and communications or Content maintained or transmitted by the Site. You acknowledge that FMAP reserves the right to suspend or terminate accounts that are inactive for an extended period of time. You further acknowledge that FMAP reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

### **4. Listing and Selling and Buying**

**4.1 Listing Description:** You must be legally able to sell the item(s) you list for sale on our Site. You, or the individuals who electronically agree to this Agreement on your behalf represent and warrant that they have the right, power, legal capacity and appropriate authority to enter into this Agreement. You represent and warrant that You are 18 years of age or older, or that You have an agent authorised by law to represent You who is 18 years of age or older who is entering into this Agreement on Your behalf. You must describe your item and all terms of sale on the listing page of our Site. Your listings may only include text descriptions, graphics, pictures and other content relevant to the sale of that item. All listed items must be listed in an appropriate category You agree to provide true, accurate, current and complete information about yourself as requested in the "Membership Data" request form and will update information on an as needed basis. If you provide any information that is untrue, inaccurate, not current or incomplete or FMAP has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, your membership may be suspend or terminated.

FMAP expressly reserves the right to deny transactions with any person if in its sole discretion it determines that such transaction would conflict with any applicable laws, government rules or requirements, requests of law enforcement, dispute resolution process, or to avoid any liability, civil or criminal, on the part of FMAP, as well as its affiliates, subsidiaries, officers, directors and employees.

You affirm that you will not use FMAP's Site for any purpose that is unlawful or prohibited by this Agreement.

**4.2 Buyer Notices:** Buyer understands that a transaction is not completed or a formal contract until a deposit has been paid. Until a deposit has been paid, Buyer agrees that Seller may sell the dog or puppy to any other interested Buyer.

Buyer understands that even though it has contacted Seller of an interest to



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purchase a dog or puppy, that Seller is not required to respond to said offer and that said offer does not constitute a contract.

**4.3 Seller Agreements:** The Seller agrees to comply with filing requirements and will process all payments in accordance with the Site.

**4.4 Fraud:** Without limiting any other remedies available to FMAP at law, in equity or under this Agreement, FMAP may, in its sole discretion, suspend or terminate your account if we suspect that you (by conviction, settlement, insurance or escrow investigation, or otherwise in our sole discretion) have engaged in fraudulent activity in connection with our Site.

**4.5 Manipulation:** Neither you, nor any other buyers or sellers may manipulate the price of any item, nor may you interfere with other users' items listed for sale.

## **5. Information use**

**5.1 Your Information:** The Member's information ("Your Information") (definition above) is information provided during the registration, the listing process or "Breed selector" process, email or gathered in monitoring your usage of FMAP. You are solely responsible for Your Information, and we act as a passive conduit for your online distribution and publication of Your Information. It is FMAP's policy to take reasonable measures to respect the privacy of FMAP's users. FMAP will take reasonable measures to not disclose the contents of your communications unless required to do so by law or in the good faith belief that such action is reasonably necessary to: (i) conform to the edicts of the law or comply with legal process served on FMAP's website; (ii) protect and defend the rights or property of FMAP, enforce or further the application or intent of the terms of this Agreement; or (iii) act to protect the personal safety of FMAP participants or the public.

**5.2 Restrictions:** Your Information (including but not limited to any items listed) must not:

1. be false, inaccurate or misleading;
2. be fraudulent or involve the sale of counterfeit or stolen items;
3. infringe any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy;
4. violate any applicable law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, criminal law, antidiscrimination or trade practices/fair trading laws);
5. be defamatory, trade libellous, unlawfully threatening or unlawfully harassing;
6. be obscene or contain child pornography or, if otherwise adult in nature or harmful to persons under the age of 18 years, shall be distributed only to people legally permitted to receive such content.



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7. contain any content that may be considered to be prohibited or potentially prohibited content for the purposes of the Broadcasting Services Act 1992 (Cth) (for more information about this legislation, please refer to the Internet Industry Association's Codes of Practice located at <http://www.iaa.net.au> or <http://www.aba.gov.au>);
8. contain any viruses, Trojan horses, worms, time bombs, cancelbots, easter eggs or other computer programming routines that may damage, modify, delete, detrimentally interfere with, surreptitiously intercept, access without authority or expropriate any system, data or personal information;
9. create liability for us or cause us to lose (in whole or in part) the services of our ISPs or other suppliers; and
10. threaten FMAP's use of its ISPs or other suppliers; and
11. link directly or indirectly to or include descriptions of goods or services that: are prohibited under this Agreement or cause FMAP to violate any applicable law, statute, ordinance or regulation.

Furthermore, you may not list any item on our Site (or complete any transaction that was initiated using our service) that, by paying to us any listing fee or sales commission, could cause us to violate any applicable law, statute, ordinance or regulation.

**5.3 Content:** By submitting Content to FMAP You grant FMAP the world-wide, royalty free and non-exclusive license(s) to make available for the inclusion on the publicly accessible Site the Content you submit and agree FMAP has the right to distribute, reproduce, modify, adapt, publicly perform and publicly display such Content on its Site solely for the purpose of promoting FMAP for any period of time that such Content is provided to the Site by You or FMAP removes such Content from the Site.

If other information is submitted to the Site other than Content You agree that FMAP may make it "publicly accessible" (def'n above) on the Site, and provide it with the perpetual, irrevocable and fully license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such information (in whole or in part) and to incorporate such information into other works in any format or medium now known or later developed. FMAP does not screen Content, but has the right (but not the obligation) in its sole discretion to amend any Content that is located on the Site. Without limiting the foregoing, FMAP shall have the right to remove Content that violates this Agreement or is otherwise objectionable. You agree that You bear the risks associated with the use of any Content, including reliance on the accuracy, its completeness, or usefulness of such Content. You acknowledge that you may not rely on any Content created by FMAP or submitted to FMAP, including without limitation information on FMAP.



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**5.4 License:** Solely to enable FMAP to use the information you supply us with, so that we are not violating any rights you might have in that information, you agree to grant us a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sub licensable (through multiple tiers) right to exercise the copyright, publicity, and database rights (but no other rights) you have in Your Information, in any media now known or not currently known, with respect to Your Information. FMAP will only use Your Information in accordance with our Privacy Policy ([link](#)).

### **6. Access and Interference**

**6.1 Monitoring:** Our Site contains robot exclusion headers and you agree that you will not use any robot, spider, other automatic device, or manual process to monitor or copy our web pages or the content contained herein without our prior expressed written permission. You agree that you will not use any device, software or routine to bypass our robot exclusion headers, or to interfere or attempt to interfere with the proper working of our Site or any transaction being conducted through our Site. You agree that you will not take any action that imposes an unreasonable or disproportionately large load on our infrastructure. Much of the information on our Site is updated on a real time basis and is proprietary or is licensed to FMAP by our users or third parties. You agree that you will not copy, reproduce, alter, modify, create derivative works, or publicly display any content (except for Your Information) from our Site without the prior express written permission of FMAP or the appropriate third party authorised to grant such permission.

**6.2 Account, Password and Security:** You will be assigned an account after completing the membership process. You are responsible for maintaining the confidentiality of your account and password, and are responsible for all account activity. You agree to (a) immediately notify FMAP of any unauthorised use of your account or any other unauthorised use of your account, and (b) ensure that you exit from your account at the end of each session. FMAP is not liable for any loss or damage arising from any unauthorised use of your account

### **6.3 Spam:**

Spam is email that is sent against the wishes of the recipient. There are two kinds. The first kind of spam concerns individuals who email people that they don't know personally. The second type of spam is sent by organizations to individuals who have not expressed a desire to receive such communications. FMAP regards both kinds of spam as inappropriate. FMAP has zero tolerance for spam. Spam complaints will be dealt with seriously and can result in losing FMAP privileges such as loss of customer's account and memberships. Users are forbidden to send spam on FMAP's behalf. If you receive spam and want to report it to FMAP, please forward the email you've received to [info@findmeapet.com.au](mailto:info@findmeapet.com.au)



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### **7. Breach:**

You agree that FMAP, in its sole discretion, may terminate your account (or any part thereof) or Your use of the Site, and remove and discard any Content on the Site, for any reason, including, but not limited to, lack of use or if FMAP determines You violated or acted inconsistently with this Agreement. If FMAP determines You breached this Agreement it reserves the right to suspend, and/or terminate your listing and/or account without issuing a refund or notice. FMAP may in its sole discretion and at any time discontinue providing the Site, or any part thereof, with or without notice. You agree that any termination of your access to the Site under any provision of this Agreement may be effected without prior notice, and acknowledge and agree that FMAP may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Site. Further, you agree that FMAP shall not be liable to you or any third-party for any termination of your access to the Site. Without limiting other remedies available to FMAP at law, in equity or under this Agreement, we may, in our sole discretion, immediately issue a warning, temporarily suspend, indefinitely suspend or terminate your membership and refuse to provide our services to you if:

1. you breach this Agreement, the Privacy Policy or the terms and policies those documents incorporate by reference;
2. we are unable to verify or authenticate any information you provide to us; or
3. we believe that your actions may cause legal liability for you, our users or us

### **8. Privacy.**

FMAP has a Privacy Policy which applies to all members and is incorporated into this User Agreement by reference. Our current Privacy Policy is available ([link](#)). You must read and accept our Privacy Policy upon registration in order to use our Site, and you will continue to be bound by its provisions (and any amendments we make to the Privacy Policy) while you are a member of FMAP.

### **9. Warranty.**

**9.1 WE AND OUR SUPPLIERS PROVIDE OUR WEB SITE AND SERVICES ON AN "AS IS" and "AS AVAILABLE" BASIS AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. TO THE EXTENT PERMITTED BY LAW, WE AND OUR SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. FURTHERMORE FMAP MAKES NO WARRANTY THAT (i) THE SITE WILL MEET YOUR REQUIREMENTS, (ii) THE SITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SITE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SITE WILL MEET YOUR EXPECTATIONS, AND (V) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SITE IS**



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DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM NEXT DAY PETS OR THROUGH OR FROM THE SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE AGREEMENT.

**9.2** To the extent that FMAP and all affiliates and related entities of FMAP are able to limit the remedies available under this Agreement, FMAP and all affiliates and related entities of FMAP expressly limit their liability for breach of a non-excludable condition or warranty implied by virtue of any legislation to the following remedies (the choice of which is to be at FMAP's sole discretion):

1. in the case of goods, any one or more of the following:
  - i. the replacement of the goods or the supply of equivalent goods;
  - ii. the repair of the goods;
  - iii. the payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - iv. the payment of the cost of having the goods repaired; and
2. in the case of services:
  - i. the supply of the services again; or
  - ii. the payment of the cost of having the services supplied again.

## **10. Liability Limit**

1. **10.1** YOU EXPRESSLY UNDERSTAND AND AGREE THAT FMAP SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF FMAP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SITE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SITE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SITE; OR (v) ANY OTHER MATTER RELATING TO THE SITE. YOU AGREE TO ACCEPT SOLE RESPONSIBILITY FOR THE LEGALITY OF YOUR ACTIONS UNDER THE LAWS WHICH APPLY TO YOU. YOU AGREE THAT FMAP AND ALL AFFILIATES AND RELATED ENTITIES OF FMAP HAVE NO RESPONSIBILITY FOR THE LEGALITY OF OUR MEMBERS' ACTIONS.



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## **Terms and Conditions for the use of our Website and Services**

**10.2** Notwithstanding the above provisions, nothing in this Agreement is intended to limit or exclude any liability on the part of FMAP and its affiliates and related entities where and to the extent that applicable law prohibits such exclusion or limitation.

### **11. Indemnity.**

You agree to defend and indemnify and hold us and (as applicable) our parent, subsidiaries, affiliates, officers, directors, agents, and employees, harmless from and against any claims, demands, proceedings, losses and damages (actual, special and consequential) of every kind and nature, known and unknown, including reasonable solicitors' fees, made by any third party due to or arising out of your breach of this Agreement or the terms and policies it incorporates by reference, or your violation of any law or the rights of a third party. This indemnification is in addition to any indemnification required of You elsewhere. Should FMAP be notified of a pending law suit, or receive notice of the filing of a law suit, FMAP may seek a written confirmation from You concerning Your obligation to indemnify FMAP. Your failure to provide such a confirmation may be considered a breach of this Agreement.

You agree that FMAP shall have the right to participate in the defence of any such claim through counsel of its own choosing. You agree to notify FMAP of any such claim promptly in writing and to allow FMAP to control the proceedings.

You agree to cooperate fully with FMAP during such proceedings. You agree You will not be entitled to a refund of any fees paid to FMAP if, for any reason, FMAP takes corrective action with respect to Your improper or illegal use of its Site.

Comments posted on the Site's forum do not imply endorsement by the Site, they are the sole expressed views of the original poster. You agree to indemnify and hold the Company, and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any and all claims, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees) which arise out of negative comments posted on the forum.

### **12. Legal Compliance.**

You shall comply with all applicable domestic (including common law) and international laws, statutes, ordinances and regulations regarding your use of our service and your listing, purchase, solicitation of offers to purchase, and sale of items. Specifically, you must ensure that your activities, items you list, and Your Information you post on our Site do not violate the Broadcasting Services Act 1992 (Cth), the Trade Practices Act 1974 (Cth) and other relevant state-based fair trading legislation. For more information about this legislation and other legislation which may apply to you, please refer to <http://www.austlii.edu.au> Notwithstanding the successful conclusion of a transaction on our Site, you must ensure strict compliance



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with any particular formalities which, if not complied with, will either render a transaction void or unlawful (eg. the sale of interests in real property ordinarily requires a written document to be created). YOU ALONE, AND NOT FMAP, ARE RESPONSIBLE FOR CONFIRMING THAT YOUR ACTIVITIES ARE LAWFUL. YOU MUST ENSURE THAT YOU COMPLY WITH ALL APPLICABLE LAWS. YOU MUST ALSO ENSURE THAT YOU COMPLY WITH ALL CLAUSES OF THIS USER AGREEMENT AND THE PRIVACY POLICY, AND ALL OTHER TERMS AND POLICIES INCORPORATED BY REFERENCE IN THOSE DOCUMENTS.

### **13. No Agency**

You and FMAP are independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement.

### **14. Notices**

Except as explicitly stated otherwise, any notices shall be given by registered ordinary post (or if posted to or from a place outside Australia, by registered airmail) or by facsimile transmission to Find me a pet Pty Ltd, PO BOX 111, Coonamble, NSW. Australia, Attention: Find Me a Pet Pty Ltd, Facsimile: +61 2 68243224 or to the email address you provide to FMAP during the registration process (in your case). Alternatively, we may give you notice by certified airmail, postage prepaid and return receipt requested, to the address provided to FMAP during the registration process, or as updated by you as relevant. Any notice shall be deemed given

1. if sent by email, 24 hours after email is sent, unless the sending party is notified that the email address is invalid,
2. if sent by pre-paid post, three Business Days after the date of posting, and on the seventh Business Day if sent to or posted from outside Australia, and
3. if sent by facsimile transmission, on the Business Day the transmission is sent (as long as the sender has a confirmation report specifying the facsimile number listed above, the number of pages sent and the date of the transmission). For purposes of this section, "Business Day" means a day on which banks are open for general business in Sydney, NSW, other than a Saturday, Sunday or public holiday.

### **15. Arbitration**

Any controversy or claim arising out of or in connection with this Agreement may at our discretion be settled by binding arbitration by reference to a commercial disputes centre. You agree to be bound by the ruling arbitrator. The costs of the dispute are borne by the originator.



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### **16. Use of Communication Services**

FMAP Web Site's may contain bulletin board services, chat areas, news groups, forums, communities, personal web pages, calendars, and/or other message or communication facilities designed to enable you to communicate with the public at large or with a group (collectively, "Communication Services"), you agree to use the Communication Services only to post, send and receive messages and material that are proper and related to the particular Communication Service. By way of example, and not as a limitation, you agree that when using a Communication Service, you will not:

1. Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
2. Post, upload, email or otherwise transmit any Content or material that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, disruptive to the site, hateful, or racially, ethnically or otherwise objectionable;
3. Upload files that contain software or other material protected by intellectual property laws (or by rights of privacy or publicity) unless you own or control the rights thereto or have received all necessary consents.
4. post, upload, email, transmit or otherwise make available any material that contains viruses, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
5. Advertise or offer to sell or buy any goods or services for any business purpose, unless such Communication Service specifically allows such messages.
6. post, upload, email or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation except as otherwise expressly authorized by FMAP;
7. forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Site;
8. Download any file posted by another user of a Communication Service that you know, or reasonably should know, cannot be legally distributed in such manner.
9. Falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded.
10. Restrict or inhibit any other user from using and enjoying the Communication Services.
11. Violate any code of conduct or other guidelines which may be applicable for any particular Communication Service.



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## **Terms and Conditions for the use of our Website and Services**

12. impersonate any person or entity, including, but not limited to, a Next Day Pets official, forum moderator, guide or host, or falsely state or otherwise misrepresent your affiliation with a person or entity;
13. Harvest or otherwise collect information about others, including e-mail addresses, without their consent.
14. Solicit, or attempt to solicit FMAP users for products or services of any kind, whether in direct competition or otherwise, by direct contact via published email addresses or through any communication services provided by FMAP.
15. Post, upload, email, hyperlink or otherwise transmit any Content or material that is unlawful, harmful, threatening, abusive, harassing, tortuous, or hateful, ethnically or otherwise objectionable to animals;
16. harm minors in any way;
17. interfere with or disrupt the Site or servers or networks connected to the Site, or disobey any requirements, procedures, policies or regulations of networks connected to the Site;
18. collect or store personal data about other users;
19. Advertise pet products or anything other than a dog in the Dog Rescue/For Sale/Wanted sections.

FMAP has no obligation to monitor the Communication Services. However, FMAP reserves the right to review materials posted to a Communication Service and to remove any materials in its sole discretion. FMAP reserves the right to terminate your access to any or all of the Communication Services at any time without notice for any reason whatsoever.

FMAP reserves the right at all times to disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in FMAP's sole discretion.

Always use caution when giving out any personally identifying information about yourself or your children in any Communication Service. FMAP does not control or endorse the content, messages or information found in any Communication Service and, therefore, FMAP specifically disclaims any liability with regard to the Communication Services and any actions resulting from your participation in any Communication Service.

Materials uploaded to a Communication Service may be subject to posted limitations on usage, reproduction and/or dissemination. You are responsible for adhering to such limitations if you download the materials.



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### **17. General.**

This Agreement constitutes the entire agreement between You and FMAP and governs your use of the Site, superseding any prior agreements between You and FMAP. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content or third-party software. The failure of FMAP to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavour to give effect to the parties' intentions as reflected in the provision, and the other provisions of this Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of act arising out of or related to use of the Site or this Agreement must be filed within one (1) year after such claim or cause of act arose or be forever barred. You agree that this Agreement may not be construed adversely against us solely because we prepared it. This Agreement and the terms and conditions incorporated herein set forth the entire understanding and agreement between us with respect to the subject matter hereof. It supersedes all prior oral or written understandings and agreements relating to use of this Site.

The section titles in this Agreement are for convenience only and have no legal or contractual effect.

FMAP reserves the right to make changes to this policy as deemed necessary and without notice. Always refer to this page for the latest terms of service and FMAP' policies.

### **18. Disclosures**

The services hereunder are offered by Find Me a Pet Pty Ltd, located at PO BOX 111, Coonamble, NSW 2829, Australia. Fees for our services are published online. We encourage you to try and resolve disputes with other users directly with them, and to use a certified mediation or arbitration entity or report disputes to your local police or law enforcement agency as appropriate. FMAP may add, delete, or modify some or all of information at any time. FMAP does not control the actual transaction between Buyer and Seller. Accordingly, it does not set or endorse: (i) the price, contract terms, quality, conformance or legality of the sale or advertisement. It cannot and does not control whether any Seller will complete the sale they offer. It is not responsible for any transaction and/or contact, or the result of any such transaction and/or contact made by and between Sellers and Buyers.

You expressly acknowledge that FMAP is not acting in a fiduciary capacity for either Buyer or Seller.