

BB's Doggy Day Care

Terms and Conditions of Service

1. APPLICATION

The following terms apply to all Orders of Services by you from J.R. Hender & M.J. Klein, trading as BB's Doggy Daycare ABN 24 582 103 468 (us, we, our). Each Order is a separate agreement between you and us.

2. ORDERS

You must provide sufficient information with an Order (including any special requirements) to enable us to provide you with the Services. Information required with an Order may include:

- 2.1. the name and breed of your dog;
- 2.2. your dog's sex (male or female);
- 2.3. whether your dog has been sprayed or neutered;
- 2.4. the colour of your dog and any markings;
- 2.5. your dog's feeding schedule;
- 2.6. whether your dog has any allergies;
- 2.7. whether your dog receives worm, flea or tick preventatives;
- 2.8. whether your dog has interacted with other dogs at a dog park or in a social setting; and
- 2.9. any additional information which we should be made aware of prior to providing the Services.

We may change the information required with an Order at any time without notice.

By accepting these terms you acknowledge that the information you provide with an Order (including any special requirements) is true and correct and we will rely on the accuracy of the information in providing the Services.

We may refuse to accept an Order (or part of it) on any grounds.

If an Order includes any special conditions agreed by us, they will, unless stated otherwise take precedence over these terms.

3. CANCELLATION OF ORDERS

If you cancel an Order prior to provision of the Services, we will refund any Price paid, less any cancellation fees notified to you and costs incurred by us due to the cancellation.

We may cancel an Order at any time prior to providing the Services by notice to you where the requested Services are not available, there is an error in the Price or description of the Services, we are unable to provide the Services due to the information (or lack thereof) you have provided with an Order, or the Order has been placed in breach of these terms.

Where we cancel an Order we will give you a refund of any Price paid for that Order.

4. SERVICES

A description of the Services which we provide from time to time can be found on the Site.

5. PRICE

Unless otherwise agreed, your payment of the Price is due on placement of the Order.

A quoted Price is exclusive of all Taxes unless otherwise specified and quoted times for delivery are an estimate only.

The advertised price for Services listed on our website are an estimate only and we may change any advertised price at any time without notice.

In certain circumstances, a Price may change once an Order has been accepted by us, where the scope of the Services, or additional Services are required. If this occurs, we will use reasonable endeavours to confirm with you any additional fees and charges prior to commencing the Service.

6. PREPAID SUBSCRIPTION SERVICE

We offer a prepaid subscription service for Doggy Daycare Services from time to time, the details of which can be found on the Site.

If you have been approved for our prepaid subscription service you must pay the associated fees in accordance with the terms of your approved prepaid subscription service application.

Prepayments are non-refundable other than as required under the ACL or at our discretion.

7. FAILURE TO PAY

Where you fail to make full payment of the Price by the due date, we may:

- 7.1. refuse to supply you with further Services; or
- 7.2. require you to pay for further Services in full prior to providing the Services.

Time is of the essence in respect of your obligation to pay the Price.

If we incur costs of collection of any amount you have failed to pay by the due date you agree to indemnify us against such costs.

8. CREDITS AND REFUNDS

You can make a claim for a refund or credit if you believe the Services were not provided or there is a defect with the Services.

We will provide refunds in accordance with our Refund Policy.

9. SET-OFF

If you owe money under one Order, we may set-off that money against any money that we owe to you under another Order.

10. TIMEFRAMES

We will endeavour to meet the dates and/or times for Services specified in an Order, however you acknowledge that we will not be responsible for delays in providing the Services to the extent we are not directly and solely responsible.

You agree to comply with any requirements we notify to you when you place an Order.

11. ASSUMPTION OF RISK

While we undertake all reasonable endeavours to provide the Services in accordance with your requests and these Terms, you acknowledge and agree that due to pre-existing conditions, age or injury, or as a result of normal pet interaction, pets may sustain injuries. Injuries or cosmetic changes may also result in the normal application of our Services, including:

- 11.1. injuries to your dog resulting from the removal of matting in hair; and
- 11.2. minor injuries to your dog including cuts, strains or razor burns;

In the event your dog's hair is matted, clumped, unable to be brushed or unable to be cleaned, we will contact you to inform you of our intention to shave your dog's hair. If you fail to answer our call or respond to us within a reasonable time, we reserve the right to shave your dog's hair.

You acknowledge that injuries and cosmetic changes to your dog may occur in the provision of the Services and you release us from all claims and liability and agree that you will be responsible for any loss associated with any such injuries or changes to your dog.

12. MEDICAL RELEASE

While we take all reasonable endeavors to pre-screen your dog and other dogs at our facility for pre-existing health conditions, in the event of a medical emergency involving your dog, you authorise us to obtain medical attention at the closest available facility to our location. This may include, but is not limited to situations involving your dog slipping, getting injured while providing the Services or fighting with other dogs/s.

We will call the veterinary clinic in closest proximity to our location to ensure they can undertake an emergency procedure (if required) and notify you as soon as possible.

You acknowledge that in the event of medical attention being, at the discretion of a veterinarian professional, required, you are liable for any veterinary, medical, travel or other costs associated with the emergency procedure.

13. YOUR RESPONSIBILITIES

The provision of Services is subject to you:

- 13.1. providing us with all information requested by us or which we may reasonably need to know in order to provide the Services safely;
- 13.2. ensuring your dog is wearing a soft collar and identification tag; and
- 13.3. ensuring to the best of your knowledge, that your dog is in good health and not suffering from any known illness or sickness at least 7 days prior to the provision of Services.

14. WARRANTIES

The Services come with guarantees that cannot be excluded under the ACL and you are entitled to your choice of a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage;

- 14.2. our choice of having the Services refixed, repaired, replaced or refunded if failure does not amount to a major failure. We'll do this within a reasonable time.

To the extent permitted by law, we exclude all other guarantees, warranties, undertakings and representations expressed or implied, whether arising by statute or otherwise, which are not given in these terms or any warranty document given at the time of supply.

15. LIABILITIES

Subject to your rights under the consumer guarantees, our liability to you is limited, (provided it is fair and reasonable to do so), to the Price you have paid for the Services giving rise to the claim.

Other than as specifically accepted by us in these Terms, we are not liable for any other losses or damages associated with the Services or your dog that you may suffer, including any:

- 15.1. loss caused by you or to the extent it results from your failure to take reasonable steps to avoid or minimise that loss, including a failure to provide accurate information about your dog with an Order;
- 15.2. loss caused by events falling outside our reasonable control;
- 15.3. loss caused by injury to your dog resulting from the provision of Services;
- 15.4. loss caused by your dog becoming pregnant during the provision of Services; or
- 15.5. indirect or consequential losses (including loss of revenue, profits, enjoyment or loss of business), or losses you might suffer as a result of unauthorised access to information we hold.

16. INDEMNITY

You indemnify, and keep indemnified, us and our directors, officers, employees and agents from and against any loss (including reasonable legal costs and expenses) or liability incurred or suffered by us arising from any claim, demand, suit, action or proceeding by any person against us where such loss or liability arose out of, or in connection with your acts or omissions or breach of these terms, or associated with of the Services (including all acts of your pets).

17. SUSPENSION OF SERVICES

We may limit, suspend or cancel the provision of Services to you:

- 17.1. in the event of an emergency involving your dog or another dog;
- 17.2. in the event (in our reasonable opinion) the provision of Services is likely to cause death or injury to your dog;
- 17.3. in the event the information you have provided with an Order is incorrect or in breach of these terms;
- 17.4. if, notwithstanding the information you have provided with an Order, your dog is poorly behaved or a threat to itself, other dogs or us;
- 17.5. if you do not pay us any amounts due for the Services on time;
- 17.6. if an administrator or receiver is appointed to you or you are unable to pay your debts as and when they fall due.

18. OUR SITE

We operate the Site, which is provided for your personal use only via standard web and mobile internet browsers. Access to the Site may be suspended, restricted or terminated at any time.

You must not, and not allow others to use or permit anyone else to access the Site for any purpose that is unlawful or fraudulent, attempts to access unauthorised data or configurations or interferes with the functionality of the Site, or in breach of these terms.

We do not warrant that the Site will be available at all times or is free from viruses and where the Site contains links to third party sites, we assume no responsibility for the content of such third party sites.

All IPR in the Site, materials, information and content on the Site, any database operated by us, all the Site design, text, graphics, software, photos, video, music, sound, data, all software compilations, underlying source code (including applets and scripts) is our property (or that of our licensors). You shall not, and shall not attempt to, obtain any ownership or title to any such property. All rights are reserved.

Except where necessary for viewing the Site on your browser, or as permitted under the Copyright Act 1968 (Cth) or other applicable laws or these terms of use, no material on the Site may be reproduced, adapted, uploaded to a third party, linked to, framed, performed in public, distributed or transmitted in any form by any process without our specific written consent.

19. LINKS TO OTHER WEBSITES

The Site may contain links to websites operated by third parties (Third Party websites). We do not endorse, or approve of the operators of Third Party websites, or the information, graphics and material on those Third Party websites (Third Party Material).

Subject to any applicable law which cannot be excluded, we make no warranties or representations regarding the quality, accuracy, merchantability or fitness for purpose of Third Party Material or products or services available through Third Party websites or that Third Party Material does not infringe the intellectual property rights of any person.

All statements relating to goods and services available on Third Party websites are the responsibility of and given by the Third Party.

20. TERMINATION

If you commit an Act of Default which is not remedied within 5 days of us giving written notice to do so, we may terminate these terms or suspend the Services until you remedy the Act of Default.

If we terminate these terms all amounts payable by you to us will immediately become due and payable notwithstanding that the due date has not yet arisen.

If we commit an Act of Default which is not remedied within 5 days of you giving written notice to do so, you may terminate these terms and obtain a refund of any amount of the Price already paid for the Services not delivered, less any other amounts due and payable to us.

21. VARIATIONS

We may amend these terms at any time by posting such amendments on the Site. In relation to an Order, you will be bound only to the version of the terms in force at the time of that Order.

22. CONFIDENTIALITY

All information supplied by a party to the other party will be treated as confidential except to the extent that it becomes public knowledge (otherwise than through a breach of confidentiality) and must not be disclosed to a third party without the prior written consent of the party who originally supplied the information, or as required by law.

23. PRIVACY

Our commitment to privacy is set out in our Privacy Policy.

24. FORCE MAJEURE

Neither party will be liable for any delay or failure in the performance of any obligation or the exercise of any right under these terms (other than an obligation to pay money due) or for any loss or damage if such performance or exercise is prevented or hindered in whole or in part by reason of an event beyond that party's reasonable control.

25. DISPUTES

If a dispute arises under these terms, the party claiming that a dispute has arisen must give notice to the other party specifying the nature of the dispute and the parties will attempt to negotiate a resolution in good faith. If a dispute persists for more than 14 days, either party can refer the dispute to mediation before a mediator to be appointed by the Australian Commercial Disputes Centre. The costs of mediation will be shared by the parties equally.

Save for seeking urgent interlocutory or injunctive relief, neither party may issue court proceedings in relation to a dispute until resolution by mediation has been attempted.

26. SEVERABILITY

If any portion of these Terms are deemed by a Court of competent jurisdiction to be invalid, then the remainder of these Terms shall remain in full force and effect and the offending provision or provisions severed.

27. ASSIGNMENT

Neither party may assign, novate or otherwise transfer any of its rights or obligations arising out of or under these terms to another person without the other party's prior written approval (which will not be unreasonably withheld).

28. ENTIRE AGREEMENT

These terms represent the entire agreement between the parties in relation to the Services and supersedes all prior discussions, negotiations, understandings and agreements in relation to those Services.

29. GOVERNING LAW

These terms will be governed by the Laws of Victoria. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in that jurisdiction.

30. WAIVER

A provision of these terms, or right, power or remedy created under them, may not be varied or waived except as agreed in writing.

31. RELATIONSHIP

The relationship between us is that of principal and independent contractor. You must not represent yourself as our employee or agent.

32. UNFAIR TERMS TO BE READ DOWN

If any law making unfair contract terms void could apply to a term in these terms, the following rules apply to interpreting that term.

32.1. if the law would make the term void because the term permits us to exercise a right or discretion in a way that would cause detriment to you, the term shall be read down and construed to the extent as not to permit us to exercise the right or discretion in such a way.

32.2. if the law would make the term void because it authorised us to recover costs or losses or damages to be calculated in a way we chose, the term shall be read down and construed as authorising us to recover the maximum reasonable costs, losses and damages to be calculated in a reasonable way that did not cause the term to be void.

If, despite the application of this clause, the law would make the term void, the term is to be read down and construed as if it were varied, to the minimum extent necessary, so that the term is not void. These reading down rules apply before any other reading down or severance provision in these terms and conditions.

33. INTERPRETATION

In the Agreement:

- 33.1. headings, bold type and square brackets are for convenience only and will not affect interpretation of this Agreement;
- 33.2. words in the singular include the plural and words in the plural include singular, according to the requirements of the context;
- 33.3. a reference to a legislation or other Law includes delegated legislation and consolidations, amendments, re-enactments or replacements of any of them;
- 33.4. a reference to any of the words "include", "includes" and "including" is read as if followed by the words "without limitation"; and
- 33.5. terms used that are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the meaning given in that Act, unless the context otherwise requires.

34. DEFINITIONS

- 34.1. **ACL** means the Australian Consumer Law.
 - 34.2. **Act of Default** occurs if either party:
 - 34.2.1. commits a material breach of these terms;
 - 34.2.2. is unable to pay its debts as and when they fall due;
 - 34.2.3. commits an act of bankruptcy, enters into any composition or arrangement with its creditors or does anything which would make it liable to be put into liquidation;
 - 34.2.4. has a receiver, other form of insolvency administrator or statutory or official manager appointed over any of its assets.
 - 34.3. **IPR** means includes all copyright, patents, trademarks, service marks, trade names, domain names, social media identifiers, designs, whether registered or unregistered.
 - 34.4. **Order** means any request for the provision of Services by you that has been accepted by us, evidenced by a document constituting a Tax Invoice.
 - 34.5. **Personnel** means a party's employees, secondees, directors, officers, contractors, professional advisors and agents.
 - 34.6. **Price** means the amount payable for the Services specified in an Order.
 - 34.7. **Privacy Policy** means our Privacy Policy from time to time available at
 - 34.8. **Refund Policy** means our refund policy from time to time available on the Site.
 - 34.9. **Services** means the services as identified in an Order.
 - 34.10. **Site** means <https://www.bbsdoggdaycare.com.au/>.
 - 34.11. **Taxes** means taxes, levies, imposts, duties, excise, and charges, deductions or withholdings, however described, imposed by Law or government authority or agency other than Australian GST or any tax imposed on, or calculated having regard to, net income.
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