

## Terms of Use

Last Updated: October 15, 2020

This site is operated by Rafter C Aussies, L.L.C. ("RafterCAussies"), a Utah Limited Liability Company. By using any of the sites owned and operated by RafterCAussies, including, but not limited to [www.raftercaussies.com](http://www.raftercaussies.com) and its associated social media platforms (collectively referred to herein as the "Site"), You are indicating your acceptance to be bound by the provisions of these Terms of Use. RafterCAussies, may revise these Terms of Use at any time by updating this posting. You should visit this page periodically to review the Terms of Use, because they are binding on You. The terms You and User as used herein refer to all individuals and/or entities accessing the Site for any reason.

### **1. Eligibility.**

You must be 18 years of age or older to visit or use the Site in any manner. By visiting the Site, and / or accepting these Terms of Use, You represent and warrant to RafterCAussies that You are 18 years of age or older, and that You have the right, authority and capacity to agree to and abide by these Terms of Use. You also represent and warrant to RafterCAussies that You will use the Site in a manner consistent with any and all applicable laws and regulations.

### **2. Use of Content on the Site.**

RafterCAussies authorizes You to view and access a single copy of the content available on or from the Site solely for your personal use. The contents of the Site, such as text, graphics, images, logos, button icons, software and other

content (collectively, "RafterCAussies Content"), are protected under both United States and foreign copyright, trademark and other laws. All RafterCAussies Content is the property of RafterCAussies or its content suppliers or clients. The compilation (meaning the collection, arrangement and assembly) of all content on the RafterCAussies Sites are the exclusive property of RafterCAussies and protected by U.S. and international copyright laws. Unauthorized use of the RafterCAussies Content may violate copyright, trademark, and other laws. You must retain all copyright, trademark, servicemark and other proprietary notices contained in the original RafterCAussies Content on any copy You make of the RafterCAussies Content. You may not sell or modify the RafterCAussies Content or reproduce, display, publicly perform, distribute, or otherwise use the RafterCAussies Content in any way for any public or commercial purpose. The use of the RafterCAussies Content on any other web site or in a networked computer environment for any purpose is prohibited. You shall not copy or adapt the HTML code that RafterCAussies creates to generate any RafterCAussies Content or the pages making up any RafterCAussies Site which is also protected by such copyright.

### **3. Proprietary Rights.**

You represent and warrant to RafterCAussies that the information you provide to RafterCAussies, including information posted in any profile you create on any Site, including any photographs, is posted by you and that you are the exclusive author of your profile and the exclusive owner of your photographs and videos. You assign to RafterCAussies, with full title guarantee, all copyright in your profile, your photographs or videos posted, your comments on any Site, and any additional information posted on the Site or sent to RafterCAussies at any

time in connection with your use of the Site or any services offered through the Site. You waive absolutely any and all moral rights to be identified as author of any such content and any similar rights in any jurisdiction in the world. In addition, other users of the Site may post copyrighted information, which has copyright protection, whether or not it is identified as copyrighted. Except for that information which is in the public domain or for which you have been given express written permission, you will not copy, modify, publish, transmit, distribute, perform, display, or sell any such proprietary information. By providing to RafterCAussies, including posting information, photographs or content on any the Site, you automatically grant, and you represent and warrant that you have the right to grant, to RafterCAussies and other members of the Site, without any additional compensation, an irrevocable, perpetual, non-exclusive, royalty-free, fully-paid up, worldwide license to use, copy, perform, display, promote, publish and distribute such information, content, videos and photographs and to prepare derivative works thereof, or incorporate such information and content into other works and to grant and authorize sub-licenses of the foregoing.

#### **4. RafterCAussies Site Restrictions.**

You may not use any Site in order to transmit, distribute, store or destroy material, including without limitation RafterCAussies Content, (a) in violation of any applicable law or regulation, (b) in a manner that will infringe the copyright, trademark, trade secret or other intellectual property rights of others or violate the privacy, publicity or other personal rights of others, or (c) that is defamatory, obscene, threatening, abusive or hateful. You are also prohibited from violating or attempting to violate the security of any Site, including, without limitation the

following activities: (a) accessing data not intended for such user or logging into a server or account which the user is not authorized to access; (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; (c) attempting to interfere with service to any user, host or network, including, without limitation, via means of submitting a virus to any Site, overloading, flooding, spamming, mailbombing or crashing; or (d) forging any TCP/IP packet header or any part of the header information in any e-mail or newsgroup posting. Violations of system or network security may result in civil or criminal liability.

RafterCAussies will investigate occurrences which may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations.

## **5. Specific Prohibited Uses.**

The features of RafterCAussies may be used only for lawful purposes by individuals seeking pets. You specifically agree NOT to do any of the following: (a) post any dogs or content on any Site for or on behalf of any competitor of RafterCAussies or posting dogs or other content that contains links to any site competitive with RafterCAussies; (b) post dogs or content on any Site that contain any hyperlinks, hidden keywords or any keywords that are irrelevant to the dog or are otherwise misleading contained in a dog posting are prohibited; (c) post dogs for modeling or talent or talent scouting positions; (d) post or submit to any Site any incomplete, false or inaccurate information or information which is not correct; (e) send unsolicited mail or e-mail, making unsolicited phone calls or send unsolicited faxes regarding promotions and/or advertising of products or services to a user of any Site; (f) delete or revise any material

posted by any other person or entity; (g) take any action that imposes an unreasonable or disproportionately large load on any Site infrastructure; (h) notwithstanding anything to the contrary contained herein, use or attempt to use any engine, software, tool, agent or other device or mechanism (including without limitation browsers, spiders, robots, avatars or intelligent agents) to navigate or search any Site other than the search available from RafterCAussies on such Site and other than generally available third party web browsers (e.g., Google Chrome, Safari, or Microsoft Explorer); (i) attempt to decipher, decompile, disassemble or reverse engineer any of the software comprising or in any way making up a part of any Site; (j) aggregate, copy or duplicate in any manner any of the RafterCAussies Content or information available from any Site; or (k) frame or link to any of RafterCAussies Content or information available from any Site.

## **6. Registration Information.**

If you register with any Site, you may be asked to provide certain information including, without limitation, name, physical address, mobile phone number, and a valid email address (your Information). In addition to the Terms of Use and any privacy policy applicable to any such Site, You understand and agree that RafterCAussies may disclose to third parties, on an anonymous basis, certain aggregate information contained in your registration application. Except to provide the services offered through the Site, for marketing purposes and to the extent necessary or appropriate to comply with applicable laws or in legal proceedings where such information is relevant or as permitted by any applicable privacy policy, RafterCAussies will not disclose to any third party your name, address, e-mail address or telephone number without your prior

consent. RafterCAussies reserves the right to offer third party services and products to you based on the preferences that you identify in your registration and at any time thereafter; such offers may be made by RafterCAussies or by third parties. Please see RafterCAussies's Privacy Policy for further details regarding your Information. Without limiting any of the other disclaimers of warranty set forth in these Terms of Use, RafterCAussies does not provide or make any representation as to the quality or nature of any of the third party products or services purchased through the Site or any other RafterCAussies website or mobile application, or any other representation, warranty or guaranty. Any such undertaking, representation, warranty or guaranty would be furnished solely by the provider or seller of such product or service, under the terms set forth by such provider or seller.

## **7. User Account.**

If you create an account on any Site, you are responsible for maintaining the confidentiality of your Site account information, including, but not limited to the username and password. You shall be responsible for all uses of your Site account, whether or not authorized by you. You agree to immediately notify RafterCAussies of any unauthorized use of your Site account.

## **8. RafterCAussies's Liability for Information Contained on the Site.**

The Site and the RafterCAussies Content may contain inaccuracies or typographical errors. RafterCAussies makes no representations about the accuracy, reliability, completeness, or timeliness of any Site or the RafterCAussies Content. Changes are periodically made to Site and the services offered thereon and such changes may be made at any time. Any

information obtained by you from the Site is subject to such changes, and should be independently verified by you prior to taking any actions in reliance thereon.

## **9. Waiting List Terms**

All members currently on the waiting list will be notified as soon as puppies arrive.

After puppies are here safe and healthy, RafterCAussies will go through the waiting list according to what puppies are available.

At such time, reservations will be made according to the order of deposits paid on a first-come-first-serve basis.

If there is not a puppy available that is your preference, and you have paid a deposit, you will be placed on a future litter's waiting list of your preference.

Deposits shall be no less than \$300.

Deposits made to hold a puppy are non-refundable but are transferrable to another puppy.

All names displayed on the "Wait List" with an \* have already made a deposit and will have the pick of the litter in the order that such deposits were received. All puppies with a deposit made are not considered finally sold until the final sales agreement is signed, full payment is received, and the puppy is picked up.

Rafter C Aussies reserves the right to refuse service or sales to anyone. Such refusal may be made at any time for any reason in our sole discretion if we do not approve the buyer or the proposed living arrangements for the puppy or if delivery of the animal is not in the best interest of the puppy. These puppies are

considered a part of our family and we want to ensure they are going to the best home possible. If we determine that cancellation or refusal of a sale is necessary, we will notify you in writing. Such cancellation or refusal may be contested or appealed by you if such appeal is made to us in writing within 3 business days, detailing any additional facts, assurances, or reasons you believe we should consider in making a final cancellation or refusal decision in our discretion. In the event of a final cancellation or refusal, or if 3 business days have followed the initial notice of cancellation or refusal, the deposit amount will be refunded to you.

#### **10. Disclaimer of Warranty.**

RAFTERCAUSSIES DOES NOT WARRANT THAT ANY SITE WILL OPERATE ERROR-FREE OR THAT ANY SITE AND ITS SERVERS ARE FREE OF COMPUTER VIRUSES OR OTHER HARMFUL MECHANISMS. IF YOUR USE OF ANY SITE OR THE RAFTERCAUSSIES CONTENT RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT OR DATA, RAFTERCAUSSIES IS NOT RESPONSIBLE FOR THOSE COSTS. THE SITES AND RAFTERCAUSSIES CONTENT ARE PROVIDED ON AN AS IS BASIS WITHOUT ANY WARRANTIES OF ANY KIND. RAFTERCAUSSIES, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE AND NON-INFRINGEMENT. RAFTERCAUSSIES MAKES NO WARRANTIES ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS, OR TIMELINESS OF THE RAFTERCAUSSIES CONTENT, SERVICES, SOFTWARE, TEXT, GRAPHICS, AND LINKS.

## **11. Disclaimer of Consequential Damages.**

IN NO EVENT SHALL RAFTERCAUSSIES, ITS SUPPLIERS, OR ANY THIRD PARTIES MENTIONED ON ANY SITE BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, INCIDENTAL AND CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OR INABILITY TO USE ANY RAFTERCAUSSIES SITE, THE RAFTERCAUSSIES CONTENT, OR ANY PURCHASE MADE ON ANY RAFTERCAUSSIES SITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT RAFTERCAUSSIES IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **12. Liquidated Damages.**

A. If You have a dispute with RafterCAussies related to an animal purchased or attempted to be purchased by You from RafterCAussies, or in the event of any dispute arising out of or related to Your use of the Site, including any sales or services arising out of or related to such use of the Site, or in connection with any animal purchased or attempted to be purchased by You as a result of Your use of the Site, You agree that the damages for such disputes cannot properly be calculated or determined at this time. As a result, the value of the animal as listed by RafterCAussies or as agreed by and between You and RafterCAussies (whichever is less) is hereby deemed and agreed by You and RafterCAussies to be the reasonable value of the animal. Such amount is agreed by You to be a reasonable estimate of the damages which You would incur under such circumstances. Such dispute, if successfully established by you, shall carry liquidated damages in the amount of that reasonable value of the animal as

defined above. No additional damages may be requested nor awarded, and all damages separate from such liquidated damages are hereby waived by You.

B. In the event of any other dispute hereunder, including specifically (but without limitation) in the event of actions by You which RafterCAussies regards as damaging, including disparagement, defamation, slander, or other impairment of the RafterCAussies business, You agree that the damages for such disputes cannot properly be calculated or determined at this time. As a result, You and RafterCAussies have undertaken their best efforts to estimate the cost of such disputes or actions, and have deemed \$10,000 to be a reasonable estimate of the damages which RafterCAussies would incur under such circumstances. You and RafterCAussies hereby agree that such amount is reasonable and represents the best estimate of such damages under such circumstances. As such, in the event of any dispute or actions arising hereunder, if such is established by RafterCAussies, liquidated damages shall apply in favor of RafterCAussies in the amount of \$10,000 per occurrence.

### **13. Release.**

If You have a dispute with one or more other Site user(s), you release RafterCAussies (and our officers, directors, agents, subsidiaries, joint ventures and employees) from any claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such dispute.

### **14. Limitation of Liability.**

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL RAFTERCAUSSIES, INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, SUCCESSORS, ASSIGNS OR

AFFILIATES (COLLECTIVELY, THE "COVERED PARTIES") BE LIABLE FOR ANY INJURY, DEATH, LOSS, CLAIM, DAMAGE, ACT OF GOD, ACCIDENT, DELAY, OR ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER BASED IN CONTRACT, TORT OR OTHERWISE, WHICH ARISE OUT OF OR ARE IN ANY WAY CONNECTED WITH ANY USE OF THIS SITE OR WITH ANY DELAY OR INABILITY TO USE A SITE, OR FOR ANY INFORMATION, SOFTWARE, PRODUCTS OR SERVICES OBTAINED THROUGH THIS SITE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO CERTAIN USERS. IN NO EVENT SHALL THE COVERED PARTIES' TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE) ARISING FROM THIS AGREEMENT OR YOUR USE OF THE SITE EXCEED THE AMOUNT PAID BY YOU TO RAFTERCAUSSIES IN THE TRANSACTION IN QUESTION OR IF NO TRANSACTION IS AT ISSUE, IN THE PRECEDING TWELVE (12) MONTHS.

#### **15. Links to Other Sites.**

The Site may contain links to third party web sites. These links are provided solely as a convenience to You and not as an endorsement by RafterCAussies of the contents on such third-party Web sites. RafterCAussies is not responsible for the content of linked third-party sites and does not make any representations regarding the content or accuracy of materials on such third

party Web sites. If You decide to access linked third-party Web sites, You do so at your own risk.

#### **16. No Resale or Unauthorized Commercial Use.**

You agree not to resell or assign your rights or obligations under these Terms of Use. You also agree not to make any unauthorized commercial use of any Site. RafterCAussies has and asserts a copyright under relevant state and federal law to all material contained in the Site.

#### **17. Indemnity.**

You agree to defend, indemnify, and hold harmless RafterCAussies, its affiliates, and their respective officers, directors, employees and agents, from and against any claims, actions or demands, including without limitation reasonable legal and accounting fees, alleging or resulting from (i) any content or other material You provide to any RafterCAussies Site, (ii) your use of any RafterCAussies Content, (iv) your activities in connection with the Site, or (iv) your breach of the terms of these Terms of Use. RafterCAussies shall provide notice to You promptly of any such claim, suit, or proceeding.

#### **18. Agreement to Conditions Precedent to Litigation.**

PLEASE READ THIS CAREFULLY AS IT AFFECTS YOUR RIGHTS. PRIOR TO INITIATING ANY SUIT OR PROCEEDING IN COURT, YOU AND RAFTERCAUSSIES AGREE THAT THE EXCLUSIVE MEANS OR RESOLVING ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF, OR RELATING TO, THESE TERMS OF USE OR ANY APPLICABLE PRIVACY POLICY, YOUR USE OR INABILITY TO USE THE SITE, ANY PURCHASE

MADE THROUGH THE SITE OR ANY CONTACT WITH RAFTERCAUSSIES OR ITS EMPLOYEES, CONTRACTORS OR AFFILIATES OR OTHERWISE ARISING OUT OF YOUR RELATIONSHIP OR INTERACTION WITH RAFTERCAUSSIES , SHALL BE CONDITIONED EXPRESSLY UPON THE FOLLOWING PRIOR CONDITIONS BEING SATISFIED: 1) YOU MUST FIRST GIVE NOTICE OF ANY CLAIM TO THE EMAIL CONTACT LISTED FOR RAFTERCAUSSIES; 2) YOU MUST THEREAFTER ATTEND AND COMPLETE MEDIATION IN UTAH COUNTY, UTAH; 3) YOU MAY THEN INITIATE A PROCEEDING OR SUIT IN COURT. YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU ARE WAIVING THE RIGHT TO A TRIAL BY JURY AND THE RIGHT TO PARTICIPATE IN ANY CLASS OR REPRESENTATIVE ACTION OR OTHER CLASS PROCEEDING. YOU AND RAFTERCAUSSIES FURTHER AGREE AS FOLLOWS:

1. This agreement is intended to be broadly interpreted, and includes, but is not limited to: (1) disputes and claims arising out of or relating to any aspect of the relationship between You and RafterCAussies, whether based in breach of contract, breach of any guarantees or warranties, tort, statute, fraud, misrepresentation or any other legal theory; (2) claims that arose before this Agreement or any prior agreement (including, but not limited to, claims relating to advertising); (3) claims that may arise after the termination of Your relationship with RafterCAussies; and (4) claims that are currently the subject of purported class action litigation in which You are not a member of a certified class.
2. You and RafterCAussies each are responsible for their respective costs relating to counsel, experts, and witnesses.

3. If You or RafterCAussies fail to comply with this provision, said breaching party shall be liable for the costs and attorneys' fees incurred by the other party in enforcing compliance with the clause.
4. Any proceeding to enforce this clause, may exclusively be commenced in a court of competent jurisdiction located in Utah County, Utah, or if there be none, in Salt Lake County, Utah. In the event that this clause is for any reason held to be unenforceable, any litigation against RafterCAussies (except for small-claims court actions) may be commenced only in the federal or state courts located in Utah County, Utah, or if there be none, in Salt Lake County, Utah. You hereby irrevocably consent to the jurisdiction of those courts for such purposes.

#### **19. General.**

1. RafterCAussies makes no claims that the RafterCAussies Content may be lawfully viewed or accessed outside of the United States. Access to the RafterCAussies Content may not be legal by certain persons or in certain countries. If You access a Site or other U.S.-based RafterCAussies Sites from outside of the United States, You do so at your own risk and are responsible for compliance with the laws of your jurisdiction. These Terms of Use are governed by the internal substantive laws of the State of Utah, without respect to its conflict of laws principles. If any provision of these Terms of Use are found to be invalid by any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect. No waiver of any term of these Terms of Use shall be deemed a further or continuing waiver of such term or any other term. Except as expressly provided in an additional agreement, additional terms of use for areas of RafterCAussies, a particular Legal Notice, or Software License or material on particular Web pages, these Terms of Use constitute the entire agreement between You and RafterCAussies with respect to the use of RafterCAussies. No changes to these Terms of Use shall be made except by a revised posting on this page. If any provision of these Terms of Use is found to be invalid by a court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms

of Use, which shall remain in full force and effect. No waiver of any term of these Terms of Use shall be deemed a further or continuing waiver of such term or any other term.

## **20. Additional Terms of Use.**

Certain areas of the Site may be subject to additional terms of use. By using such areas, or any part thereof, You agree to be bound by the additional terms of use applicable to such areas.

## **21. Term and Termination**

These Terms of Use will remain in full force and effect while You are a User of the Site at any level, including, but not limited to having a profile or account on the Site. RafterCAussies reserves the right, at its sole discretion, to pursue all of its legal remedies, including but not limited to deletion of your Information and any content you have posted on the Site from RafterCAussies and the other RafterCAussies Sites and immediate termination of your registration with or ability to access the Sites and/or any other services provided to You by RafterCAussies, upon any breach by You of these Terms of Use or if RafterCAussies is unable to verify or authenticate any information You submit to RafterCAussies or through any Site registration. RafterCAussies reserves the right to terminate your account and access to the Site and its services at any time. Termination by RafterCAussies may include removal of access to the Site, deletion of your account, deletion of all related information and files, may include the deletion of content associated with your account (or any part thereof), and other steps intended to bar your further use of the Site and its

services. If you become dissatisfied with the Site, your sole and exclusive remedy is to immediately discontinue use of the Site.

## **22. Amendments to Terms of Use.**

RafterCAussies reserves the right, at our sole discretion, to change, modify or otherwise alter the Terms of Use at any time. You agree that we may modify the Terms of Use and such modifications shall be effective immediately upon posting. You agree to review these terms and conditions periodically to be aware of modifications. Continued access or use of the Site following such posting shall be deemed conclusive evidence of your acceptance of the modified Terms of Use except and to the extent prohibited by applicable state or federal law.

## **23. Changes to the Site.**

We reserve the right, for any reason, in our sole discretion, to terminate, suspend or change any aspect of the Site including but not limited to content, prices, features or hours of availability. We may impose limits on certain features of the Site or restrict your access to any part or all of the Site without notice or penalty. You agree that RafterCAussies will not be liable to you or to any third party for any such limitation, modification, change, suspension or discontinuance of the Site.

## **24. Notices.**

Except as explicitly stated otherwise, any notices shall be given by email to RafterCAussies at [raftercaussies@gmail.com](mailto:raftercaussies@gmail.com) or to you at the email address you provide to RafterCAussies. Notice shall be deemed given 24 hours after the

email is sent, unless the sending party is notified that the email address is invalid.

## **25. How do I contact RafterCAussies?**

We can be reached via email at [raftercaussies@gmail.com](mailto:raftercaussies@gmail.com).

## **26. NOTICE OF PROCEDURE FOR MAKING A CLAIM OF COPYRIGHT INFRINGEMENT.**

If you believe that any content on any RafterCAussies Site constitutes work that is owned by you or a third party, and is displayed on such site without proper authorization, please send the following information to the attention of the Copyright Agent noted below:

1. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
2. a description of the copyrighted work or other intellectual property that you claim has been infringed;
3. a description of where the material that you claim is infringing is located on a RafterCAussies Site;
4. your address, telephone number, and email address;
5. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
6. a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Copyright Agent: Chantelle Petersen

Notice shall be sent by email to [raftercaussies@gmail.com](mailto:raftercaussies@gmail.com).