

# DEED OF RELEASE

## BETWEEN:

Sarah O'Reilly & Niall O'Reilly ( the O'Reilly's)

- and -

Banksia Park Puppies Pty Ltd [BPP].

## WHEREAS:

- A. The O'Reilly's purchased a male Spoodle dog microchip no. 9560000 – 08494627 [Max] from Pines Pets [Pines] on or about 16 August 2012 [the sale].
- B. Max was bred by BPP and supplied to Pines prior to the sale.
- C. Max was found to suffer from a congenital defect at age of 14 months and was subsequently euthanized.
- D. That defect was not and could not have been known to BPP at the time of its selling Max to Pines.
- E. The O'Reilly's incurred veterinary and associated expenses in the sum of \$5,082.85 in connection with Max.
- F. The O'Reilly's have threatened legal action against BPP in connection with its supply of Max. (the action).
- G. BPP denies that it is liable in any manner to the O'Reilly's;
- H. In order to avoid the cost, expense and inconvenience of litigation the parties to this Deed have agreed to settle the claim in the manner and on the terms set out in this Deed.

## THIS DEED WITNESSES AS FOLLOWS:

### 1. *CONSIDERATION*

BPP agrees to pay the sum of \$5082.85 all inclusive to The O'Reilly's in exchange for O'Reilly's promises set out in this Deed and The O'Reilly's acknowledge that the said sum is the full amount of the monetary consideration payable and that no further sums by way of compensation, damages, legal costs, disbursements or interest of any kind or for any other reason whatsoever shall be payable by BPP to the O'Reilly's.

### 2. *RELEASE*

For the consideration set out in Clause 1, O'Reilly's for themselves, their heirs, executors, administrators, transferees and assigns hereby release and forever discharge BPP and its servants and agents and their respective heirs, executors, administrators, transferees and assigns from all claims, actions, suits, demands, damages, charges, costs and expenses of every description whatsoever which the O'Reilly's may have or may have had but for this Deed against any of them in respect of any injury, loss, costs or expense of any kind suffered or incurred by the O'Reilly's by

reason of, arising out of or in any way connected with the supply of Max or the negotiations relating to the settlement evidenced by this Deed.

3. ***DENIAL OF LIABILITY AND BAR TO SUIT***

The O'Reilly's acknowledges that:

- (a) The consideration set out in Clause 1 is given with a denial of liability and solely for the purpose of avoiding litigation; and
- (b) This Deed may be pleaded by BPP in bar to any action, suit, demand, claim, indemnity or other proceedings now or hereafter commenced by any person arising out of or in connection with the facts or circumstances giving rise to or pleaded in the action.

4. ***PAYMENT OF SETTLEMENT SUM***

BPP shall pay the settlement sum to such account as the O'Reilly's may nominate in writing within three clear business days of receipt of a copy of:

- (a) This Deed duly Executed by the O'Reilly's each in the presence of an independent adult witness who shall endorse his or her full name, address and contact telephone numbers hereon.
- (b) A photocopy or other legible image of the O'Reilly's driver's licences

5. ***CONFIDENTIALITY***

The O'Reilly's agree to keep the terms of this Deed and the matters giving rise to them or any other matter concerning or relating to Max confidential and shall not disclose these terms or the matters giving rise to them or any other matter concerning or relating to Max to any third person without the prior written consent of BPP .

6. ***AMENDMENT***

The terms of this Deed may not be amended save by way of a further Deed executed by all the parties hereto.

7. ***WARRANTY***

The O'Reilly's warrant that they are the only persons with property in Max or who have suffered loss or damage arising from his supply, life or death.

8. ***UNDERTAKING***

The O'Reilly's undertake not to assert a claim or bring any proceedings against any person whatsoever arising out of or in any way whatsoever related to the supply life, treatment or death of

