

# WEBSITE TERMS AND CONDITIONS AND PRIVACY POLICY (Date of last amendment: 2 April 2014)

The following provisions are drawn to the attention of the user if the Consumer Protection Act 68 of 2008 (“the CPA”) applies to any transaction concluded pursuant to these Terms and Conditions (as defined below):

- clause 4.3 of these Terms and Conditions contains a provision in terms whereof the user warrants and undertakes that the information supplied during the registration process is true, accurate and correct and indemnifies Sissy Boy, its directors, shareholders, employees, contractors, suppliers, partners, affiliates and agents in respect of loss, damage or expense incurred or suffered by Sissy Boy, its directors, shareholders, employees, contractors, suppliers, partners, affiliates or agents in connection with a breach by the user of such warranty and undertaking. The effect of this is that the user could become liable to compensate Sissy Boy, its directors, shareholders, employees, contractors, suppliers, partners, affiliates and/or or agents if any such party becomes liable pursuant to a breach by the user of the warranty and undertaking furnished by the user in terms thereof;
- clause 8.5 of these Terms and Conditions contains a provision in terms whereof Sissy Boy, its directors, shareholders, employees, suppliers, contractors, partners, affiliates and agents exclude liability for any damage or loss occasioned on or subsequent to delivery of the goods to the user as a result of a breach by the user of such clause. The effect of this is that the user may have limited or no recourse against Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents in the circumstances referred to therein;
- clause 8.7 of these Terms and Conditions contains a provision in terms whereof risk in the products will pass to the user on delivery of the products to the user (subject to any provision in the CPA that provides for a particular party to bear the risk in the products at any particular time – to the extent that the CPA applies to the transaction in question with the user). The effect of this is that the user will assume risk in respect of the product(s) ordered from Sissy Boy with effect from the delivery thereof to the user;
- clause 15.2 of these Terms and Conditions contains a provision in terms whereof Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents exclude liability for any error or inaccuracy appearing in any advertising or sponsorship material on this Website. The effect of this is that the user may have limited or no recourse against Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents in the circumstances referred to therein;
- clause 16.3 of these Terms and Conditions contains a provision in terms whereof, to the maximum extent permitted in law, Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents, accept no liability whatsoever for any loss, whether direct or indirect, consequential or arising from information made available on (or by means of) the Website (or any of the pages therein contained) and/or transactions or actions resulting therefrom (including any Offers and/or Orders). The effect of this is that the user may have limited or no recourse against Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents in the circumstances referred to therein;
- clause 16.4 of these Terms and Conditions contains a provision in terms whereof, to the maximum extent permitted in law, Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents, accept no liability whatsoever for any costs, expenses, fines or damages, including but not limited to direct or indirect loss or damages, including any economic loss, consequential loss, loss of profits or any form of punitive damages, resulting from the access to, or use of, this Website in any manner. The effect of this is that the user may have limited or no recourse against Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents in the circumstances referred to therein;
- clause 16.5 of these Terms and Conditions contains a provision in terms whereof, to the maximum extent permitted in law, Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents

accept no liability whatsoever for any direct or indirect loss or damage arising from the use of third party websites, contents and/or features. The effect of this is that the user may have limited or no recourse against Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents in the circumstances referred to therein;

- clause 16.6 of these Terms and Conditions contains a provision in terms whereof, to the maximum extent permitted in law, Sissy Boy, its directors, shareholders, agents and employees accept no liability for the quality of any products of third parties delivered, or for any typographical errors in the descriptions of any of the products of such third parties. The effect of this is that the user may have limited or no recourse against Sissy Boy, its directors, shareholders, employees and agents in the circumstances referred to therein;
- clause 16.9 of these Terms and Conditions contains a provision in terms whereof neither Sissy Boy nor any of its directors, shareholders, employees, servants, subcontractors, partners, subsidiaries or affiliates accept liability for any losses in the event that any Offer or Order (as the case may be) cannot be made by a user or confirmed by Sissy Boy (as the case may be) on any specific occasion for any reason arising out of any failure, malfunction or delay in any electronic device for any reason. The effect of this is that the user may have limited or no recourse against Sissy Boy, its directors, shareholders, employees and agents in the circumstances referred to therein;
- clause 17.1 of these Terms and Conditions contains a provision in terms whereof the user indemnifies and holds harmless Sissy Boy, its directors, shareholders, employees, servants, subcontractors, partners, subsidiaries and affiliates from any demand, action or application or other proceedings, including for attorneys fees and related costs such as tracing fees, made by any third party and arising out of or in connection with the user's use of this Website, third party websites or any of the products and/or services offered or ordered through such sites in any way. The effect of this is that the user could become liable to compensate Sissy Boy and/or its directors, shareholders, employees, servants, subcontractors, partners, subsidiaries and/or affiliates if any such party becomes liable pursuant to the provisions of this clause;
- clause 17.2 of these Terms and Conditions contains a provision in terms whereof the user indemnifies and holds Sissy Boy harmless from any direct or indirect liability, loss, claim or expense (including reasonable legal fees) related to the user's breach of these Terms and Conditions. The effect of this is that the user could become liable to compensate Sissy Boy if it becomes liable pursuant to the provisions of this clause;
- clause 17.3.1 of these Terms and Conditions contain a provision in terms whereof the user indemnifies Sissy Boy and holds it harmless from any direct or indirect loss, damage, expense or liability suffered by the user by virtue of the user not adhering to, or using the products contrary to, any specific advice or instructions provided by Sissy Boy to the user in relation to the products. The effect of this is that the user may have limited or no recourse against Sissy Boy in the circumstances referred to therein;
- clause 17.3.2 of these Terms and Conditions contain a provision in terms whereof the user indemnifies Sissy Boy in respect of any claim against Sissy Boy by any third party under section 61 of the CPA, by virtue of such third party not adhering to, or using the products contrary to, any specific advice or instructions provided by Sissy Boy to the user in relation to the products. The effect of this is that the user could become liable to compensate Sissy Boy if it becomes liable to any such third party in the circumstances referred to therein;
- clause 20.12 of these Terms and Conditions contain a provision in terms whereof, in the event of the user failing to pay any amount timeously or breaching the terms of these Terms and Conditions, the user assumes liability for any legal costs (on the scale as between attorney and own client) (including collection commission) which may be incurred by Sissy Boy arising therefrom. The effect of this is that the user could become liable to compensate Sissy Boy if it becomes liable pursuant to the provisions of this clause.

1. This website, including all content herein contained ("the Website"), is owned and operated by Blue Jean Traders (Pty) Ltd t/a Sissy Boy ("Sissy Boy"). Your access and/or use of this Website constitute your agreement to be bound by the terms and conditions set out hereunder ("the Terms and Conditions"). All rights in and to the content of this Website remain at all times expressly reserved by Sissy Boy. In the event of a conflict between these Terms and Conditions and any other term or condition appearing on this Website, the provisions of these Terms and Conditions shall prevail.
2. The terms "user", "you" and "your" are used interchangeably in these Terms and Conditions and refer to all persons accessing this Website for any reason whatsoever.
3. **Supplier information and required disclosures under section 43 of the Electronic Communications and Transactions Act 25 of 2002 (as amended) ("the ECT Act") which are not provided elsewhere in these Terms and Conditions or on the Website**
  - 3.1 The full name and legal status of the supplier is Blue Jean Retail (Pty) Ltd (Registration Number: [2006/012880/07](#)), a private company duly incorporated in accordance with the laws of the Republic of South Africa ("RSA"), whose full and further details appear hereunder:
    - 3.1.1 Directors: Ronaldo Sassoon; Rory John McKeag; Roselyne Therese Mcconnell and Godijah Williams;
    - 3.1.2 Telephone Number: +27 21 5064600;
    - 3.1.3 E-mail Address: [info@sissyboyjeans.com](mailto:info@sissyboyjeans.com);
    - 3.1.4 Website: [www.sissyboyjeans.com](http://www.sissyboyjeans.com);
    - 3.1.5 Physical Address: 18 Coronation Road, Maitland, Cape Town, South Africa.
  - 3.2 The Website is intended to facilitate the purchase by users within the RSA of various fashion related products (including jeans, tops, dresses, jackets, shoes, bags) offered for sale hereon ("the products").
  - 3.3 Records of transactions: The products ordered by users in terms hereof are confirmed by an order confirmation e-mailed to the user after the Offer (as defined below) is submitted and can be copied and pasted or printed. The record of any transaction can be accessed by viewing your order status by logging into your account on the Website, which record is available for a period of 12 (Twelve) months from date of the transaction.
  - 3.4 Further supplier information and required disclosures in terms of section 43 of the ECT Act (including the manner in which orders may be placed and payment effected and Sissy Boys' return, exchange and refund policy) are more fully dealt with below, or on the Website (as the case may be).
4. **Registration process and password security**
  - 4.1 Before a user can place any order(s) for products from or through this Website, they are required to go through the full registration process – which process is completed once a confirmatory e-mail is sent to the user in the manner contemplated in clause 4.4 below.
  - 4.2 Please note that only persons aged 18 (Eighteen) years or older who are resident in the RSA may register on, or utilise, this Website. Should you be under the age of 18 (Eighteen) years of age, kindly ensure that your parent or guardian registers on this Website.
  - 4.3 Users are solely responsible for the correctness and completeness of information supplied during the registration process and for ensuring that such information is up to date. The user warrants and undertakes that the information supplied during the registration process is true, accurate and

correct and, to the extent that Sissy Boy, its directors, shareholders, employees, contractors, suppliers, partners, affiliates and/or agents rely upon the warranty and undertaking contained herein, the user indemnifies Sissy Boy, its directors, shareholders, employees, contractors, suppliers, partners, affiliates and agents in respect of any loss, damage or expense of whatsoever nature incurred or suffered by any such party in connection with a breach thereof.

- 4.4 Once you have completed the registration process, Sissy Boy will send a confirmatory e-mail to the e-mail address provided by you, confirming that you have successfully registered on the Website and that you have agreed to these Terms and Conditions.
- 4.5 Users are solely responsible for the creation and safekeeping of their user name and password and will be responsible for all orders or other activities placed or performed while a user is logged into the Website under that user name and password.
- 4.6 Any auto-login functionality provided by the website browser utilized by any user is used at the sole risk of the user and should not be enabled on any shared computers.
- 4.7 Sissy Boy reserves the right to request that a user change a password where Sissy Boy has reason to believe that there has been, or is likely to be, a misuse of information or breach of security.

## **5. Order Process**

- 5.1 Users should regard nothing contained in this Website as an offer by Sissy Boy to sell any products to the user, but rather as an invitation for such user to do business with Sissy Boy.
- 5.2 Any order placed by a user through this Website constitutes an offer by the user to purchase the particular products contemplated in such order from Sissy Boy through the Website ("the Offer"). Offers for products may be submitted by a user via the Website at any time after successful completion by the user of the registration process referred to in paragraph 4 above.
- 5.3 When making an Offer, users will be required to select the products which they wish to purchase and to complete the entire checkout process with respect thereto ("the Checkout Process").
- 5.4 A binding agreement between Sissy Boy and the user in respect of any Offer will only be entered into at the stage at which Sissy Boy receives the Offer and confirms its acceptance thereof to the user ("the Order"). Sissy Boy reserves the right to refuse to accept any Offer.
- 5.5 Orders will be processed within 2 (Two) Business Days of acceptance of the Offer by Sissy Boy and in the manner contemplated further herein and shall be executed (as contemplated further in section 46(1) of the ECT Act) within 30 (Thirty) days after the day on which Sissy Boy accepts the Offer ("the Order Execution Period"), subject to the provisions of clause 8.2 below. For the purposes of this clause 5.5 and clause 19 below, the term "Business Day" means any day other than a Saturday, Sunday or proclaimed Public Holiday in the RSA.

## **6. Pricing of products and/or services**

- 6.1 All prices are in Rand values and are inclusive of value added tax ("VAT") and exclude delivery charges, unless otherwise stated.
- 6.2 The price payable for the products shall be:
  - 6.2.1 the amount reflected on the Website in respect of an Order during the Checkout Process; and
  - 6.2.2 delivery fees (if any); and

**6.2.3** other additional costs or delivery charges occasioned by the Order.

**6.3** All payments in respect an Order shall be effected, without deduction or set-off, and in cleared funds, prior to the delivery of the products

**6.4** Pricing of products is subject to change. For the avoidance of any doubt, the price that the user shall pay in respect of any Order shall be the price reflected on the Website in respect of the Order during the Checkout Process. Users are always able to check pricing telephonically at the telephone number referred to in clause 3.1.2 above.

## **7. Payment**

**7.1** All amounts payable by the user to Sissy Boy in respect of any Order shall be settled in full, without deduction or set off, in South African Rands by using any major credit, debit (with a chip and personal identification number only) or cheque (with a chip and personal identification number only) cards accepted by Sissy Boy at the time of placing the Order (which credit and, to the extent applicable, cheque cards are currently Visa, MasterCard, Diner's Club International and American Express).

**7.2** Credit card transactions are acquired and processed through the PayU Payment Solutions (Pty) Ltd ("PayU") payment gateway using industry standard Secure Sockets Layer ("SSL"). SSL encrypts information between sender and receiver to prevent anyone from reading such information while it is in transit. For more information on PayU, and to view their security certificate and security policy, please visit <https://www.payu.co.za>.

**7.3** This Website does not store any user credit card information. At no stage is credit card information stored together with user personal information.

## **8. Delivery of products**

**8.1** No products shall be delivered in respect of any Order to any address outside of the RSA or until payment in full in respect of such Order has been received and verified by Sissy Boy.

**8.2** In the event that payment in full in respect of any Order is not received by Sissy Boy at the time at which the Order is confirmed by Sissy Boy ("the Order Date"), then the Order Execution Period (as defined in clause 5.5 above) shall be deemed to be extended by an amount of time equal to the period between the Order Date and the date on which payment in full in respect of such Order has been received and verified by Sissy Boy.

**8.3** As part of the Checkout Process, users will be required to select 1 (One) of the following methods of delivery they require Sissy Boy to utilize in order to deliver the product(s) to the user:

**8.3.1** delivery via a courier service to an address within the RSA; or

**8.3.2** collection by the user of the products at a Sissy Boy store in the RSA selected by the user,

provided that in the event that a user elects to have the product(s) delivered:

**8.3.3** via a courier service in the manner contemplated in clause 8.3.1 above and the delivery address provided by the user is situated outside the courier's normal routes, or is within a region in the RSA not covered by the courier; or

**8.3.4** by way of the collection by the user of the product(s) from a particular Sissy Boy store in the RSA in the manner contemplated in clause 8.3.2 above, then Sissy Boy will notify the user via e-mail when such product(s) are ready for collection and if the user does not collect such product(s) within 10 (Ten) days of the date of such notification,

then Sissy Boy will cause the product(s) to be delivered to the user via registered post and the user shall, notwithstanding any selection to the contrary made by the user in the Checkout Process, be deemed to have selected that the product(s) be delivered via registered post.

- 8.4 Delivery charges are subject to change. For the avoidance of any doubt the delivery charge that the user shall pay in respect of any Order shall be the delivery charge as reflected on the Website in respect of the Order during the Checkout Process.
- 8.5 It is the sole responsibility of the user to ensure that suitable arrangements are made to take delivery of the products (including to ensure that a responsible party is available to take such delivery). Neither Sissy Boy, nor its directors, shareholders, employees, suppliers, contractors, partners, affiliates or agents will be liable for any damage or loss occasioned on or subsequent to delivery of the products to the user as a result of a breach by the user of this provision of the Terms and Conditions.
- 8.6 Ownership of the products shall only pass from Sissy Boy to the user after the user has effected payment of the purchase price in full to Sissy Boy and such products have been delivered to the user.
- 8.7 Risk and benefit in the products will pass to the user on delivery of such products to the user. The foregoing is subject to any provision in the CPA that provides for a particular party to bear the risk in the products at any particular time, to the extent that the CPA applies to the transaction in question with the user.

## **9. Return, exchange, cancellation and refund policies**

- 9.1 Once your Offer has been accepted, same will not be capable of being amended or cancelled and you will be held liable for the full value of the Order; provided that if:
  - 9.1.1 section 17 of the CPA applies to your Order, then you shall be entitled to cancel such Order, subject to Sissy Boy's right to impose a reasonable charge for the cancellation thereof, in accordance with the provisions of section 17 of the CPA; and/or
  - 9.1.2 section 44 of the ECT Act applies to your Order, then you shall be entitled to cancel your Order within 7 (seven) days after the date of the receipt of the products.
- 9.2 In the event that the user exercises its rights in terms of clause 9.1.2 above:
  - 9.2.1 the only charge that may be levied on the user by Sissy Boy is the direct cost of returning the products; and
  - 9.2.2 if payment for the products has been effected by the user prior to it exercising its right referred to therein, then the user is entitled to a refund of such payment, which refund must be made within 30 (Thirty) days of the date of cancellation.
- 9.3 Products may only be returned by the user in the following circumstances:
  - 9.3.1 if the product is not defective or an incorrect product is delivered to the user, within 28 (Twenty Eight) days of delivery of the product to the user; provided that:
    - 9.3.1.1 the user notifies Sissy Boy that they are returning the product to it within 48 (Forty Eight) hours of delivery of the product to the user in the manner contemplated on the following page of the Website: <http://sissyboyjeans.com/customer-care/returns>; and
    - 9.3.1.2 all tickets and tags are still attached to the product; and

9.3.1.3 the product is in the original saleable condition it was in when delivered to the user; and

9.3.1.4 the user is in possession of valid proof of purchase of the product.

In the event of any dispute as to whether the provisions of this clause 9.3.1 have been complied with, then such dispute shall be determined by Sissy Boy, utilising its reasonable discretion; or

9.3.2 if the product is defective, in which event:

9.3.2.1 the user will be required to:

9.3.2.1.1 notify Sissy Boy of the defect in the manner contemplated on the following page of the Website: <http://sissyboyjeans.com/customer-care/returns> ("the Defect Notification"); and

9.3.2.1.2 return the defective product to Sissy Boy in the manner contemplated in clause 9.4 below, together with valid proof of purchase of the product; and

9.3.2.2 Sissy Boy shall, at its election and to the extent that Sissy Boy determines that the product is, in fact, defective, replace the product or alternatively, repay the price;

provided that if the CPA does not apply to the transaction with the user, then the user shall only be entitled to return such defective product within 28 (Twenty Eight) days of delivery of such product to the user and provided further that the user furnished the Defect Notification to Sissy Boy within 48 (Forty Eight) hours of delivery of the product to the user; or

9.3.3 if otherwise permitted by law,

subject to, if the CPA applies to the transaction with the user, the peremptory provisions of sections 56(2) and (3) of the CPA.

9.4 Products to be returned by the user in accordance with the provisions of clause 9.3.1 or 9.3.2 above may only be returned by the user to Sissy Boy in the following manner:

9.4.1 to any Sissy Boy store in the RSA; or

9.4.2 by way of registered post or courier service and at the user's own expense, to Sissy Boy's physical address detailed in clause 3.1.5 above,

subject to, if the CPA applies to the transaction with the user, the peremptory provisions of section 56(2) of the CPA and provided that if the user is returning an incorrectly delivered product to Sissy Boy (as contemplated further in clause 9.3.1 above) or Sissy Boy determines that the product is defective, then Sissy Boy will bear the reasonable cost of the collection of the product and the delivery of a replacement product (to the extent applicable) to the user.

9.5 Products may not be exchanged once your Offer has been accepted by Sissy Boy.

9.6 No cash refunds will be made in respect of any products ordered via the Website.

9.7 While Sissy Boy will use its reasonable endeavors to fill any Order, the fulfillment of any and all Orders is subject to availability of the products from Sissy Boy or the particular supplier thereof (as the case may be) and is furthermore subject to any factors beyond Sissy Boy's control which may either wholly or partially prevent it from fulfilling such Order(s). Sissy Boy will communicate any

such difficulty to you and will remove any unavailable product from your Order and ensure that you are not charged for it or alternatively, if you have already been charged for such product, will endeavor to agree with you on a suitable substitute product or, if no suitable substitute product can be agreed to between Sissy Boy and yourself within 5 (Five) days, will credit you in respect of the monies paid therefor.

## **10. Intellectual property protection**

- 10.1** All trade marks, copyright, database rights and other intellectual property rights in the materials on this Website (as well as the organisation and layout of this Website) together with the underlying software code (collectively, "the intellectual property") are owned (or co-owned or licensed, as the case may be) by Sissy Boy, its directors, shareholders, associates and/or partners, whether directly or indirectly, and as such, are protected from infringement by domestic and international legislation and treaties. Subject to the rights afforded to the user herein, all other rights to all intellectual property on this Website are expressly reserved. You may not copy, download, print, modify, alter, publish, broadcast, distribute, sell or transfer any intellectual property, editorial content, graphics or other material on this Website or the underlying software code whether in whole or in part, without the written consent of Sissy Boy first being had and obtained, which consent may be refused at the discretion of Sissy Boy. Permission to use the intellectual property and/or editorial content of and/or graphics on this Website may be granted on a case by case basis and/or in regard to Sissy Boy's corporate policies from time to time. No modification of any intellectual property or editorial content or graphics is permitted. Any enquiries in this regard must be directed to Sissy Boy at [info@sissyboyjeans.com](mailto:info@sissyboyjeans.com).
- 10.2** Sissy Boy grants to users a personal, non-exclusive, non-assignable and non-transferable license to use, print and display all content and information contained in this Website on any machine of which the user is the primary user for non-commercial purposes only. Save as aforesaid, nothing contained on this Website should be construed as granting any licence or right to use any intellectual property without the prior written permission of Sissy Boy.
- 10.3** You may only use this Website in accordance with these Terms and Conditions and, in any event, for lawful and proper purposes which includes complying with all applicable laws, regulations and codes of practice within the RSA or other jurisdiction from which you are accessing this Website.
- 10.4** In particular, you agree that you will not:
- 10.4.1** post, transmit or disseminate any information on or via this Website which is or may be harmful, obscene, defamatory or otherwise illegal;
  - 10.4.2** use this Website in a manner which causes, or may cause, an infringement of the rights of any other person;
  - 10.4.3** use any software, routine or device to interfere or attempt to interfere electronically or manually with the operation or functionality of this Website including but not limited to uploading or making available files containing corrupt data or viruses via whatever means;
  - 10.4.4** deface, alter or interfere with the front end 'look and feel' of this Website or the underlying software code.
- 10.5** Without prejudice to any of Sissy Boy's other rights (whether at law or otherwise), Sissy Boy reserves the right to deny you access to this Website where Sissy Boy believes (in its reasonable discretion) that you are in breach of any of these Terms and Conditions.
- 10.6** Sissy Boy reserves the right to make improvements or changes to the intellectual property, information, artwork, editorial content, graphics and other materials on this Website, or to suspend or terminate this Website, at any time without notice; provided that any Orders already placed through this Website will not



be affected by such suspension or termination (as the case may be).

## **11. Receipt and transmission of data messages**

- 11.1** Data messages, including e-mail messages, sent by users to Sissy Boy shall be deemed to be received only when acknowledged or responded to.
- 11.2** Data messages sent by Sissy Boy to users shall be regarded as received when the complete data message enters an information system designated or used for that purpose by the recipient and is capable of being retrieved and processed by the recipient.
- 11.3** Sissy Boy reserves the right not to respond to any e-mail or other data message which contains obscene, threatening, defamatory or otherwise illegal, unlawful or inappropriate content, and to take the appropriate action against the sender of such e-mail where necessary.
- 11.4** Messages sent over the internet cannot be guaranteed to be completely secure as they can be intercepted, lost or corrupted. Sissy Boy is therefore not responsible for accuracy of any message sent by email over the internet – whether from Sissy Boy to you, or from you to Sissy Boy.

## **12. Personal Information**

- 12.1** We collect, collate, process, export and use the following types of information about you when you use this Website:
  - 12.1.1** information provided by you. We collect personal information, that is, information about you that is personally identifiable like your name, address, e-mail address, phone number(s) and other unique information such as user IDs and passwords, billing and transaction information, product and service preferences and contact preferences that are not otherwise publicly available; and
  - 12.1.2** information that is collected automatically. Sissy Boy receives and stores information which is transmitted automatically from your computer when you browse the internet. This information includes information from cookies (which are described in clause 12.2 below), your Internet Protocol (“IP”) address, browser type, web beacons, embedded web links, and other commonly used information-gathering tools. These tools collect certain information that your browser sends to the Website, such as your browser type and language, access times, and the address of the website from which you arrived at the Website. Your IP address is the unique address of your computer which is automatically provided to other computers when your web browser or email application requests a web page or email from those computers on the internet. Sissy Boy may also use some of these automatic information-gathering tools in connection with certain emails sent from Sissy Boy and therefore may collect information using these tools when you open the email or click on a link contained in the email.
- 12.2** Cookies are a common internet technology. Many web sites use cookies to provide useful features for their users. Cookies are files that are written or downloaded to your computer’s hard drive when you access a site. They may allow us to store and quickly retrieve login information on your computer and provide data that we can use to improve the quality of our service. Certain internet browsers may be initially set up to accept cookies. If you prefer, you can set your browser to refuse cookies, although you may not be able to take full advantage of the Website if you do so.
- 12.3** Sissy Boy may link information stored in cookies such as your age, gender and country with your personally identifiable information and we may use such information to gather statistics about the number of people who visit the Website and to customize our content, layout and services for delivery to you.
- 12.4** Our advertising partners may set and access cookies or use other technologies such as web beacons (which are electronic files that allow a web site to count users who have visited that page or to access certain

cookies) in order to personalise advertising content. Use by these advertising partners of their own cookies and any other tracking technologies are subject to their privacy policies. Sissy Boy uses its reasonable efforts to ensure that its advertising partners are operating privacy policies that are in accordance with our own privacy standards as set out in herein.

## **12.5 Use and Disclosure of information**

### **12.5.1 Sissy Boy may use your information to, amongst other things:**

- 12.5.1.1 send a welcoming e-mail to you when you log onto the Website;**
- 12.5.1.2 assist you in completing a transaction or Order – including confirming that products that you have purchased have been delivered to you and reminding you that there are products which have been selected by you for purchase, but in respect of which the Checkout Process has not been completed;**
- 12.5.1.3 communicate with you about products and/or services and about our promotional competitions and promotional offers from time to time;**
- 12.5.1.4 provide service and support;**
- 12.5.1.5 update you on new products, services and benefits;**
- 12.5.1.6 provide personalized promotional offers;**
- 12.5.1.7 select content to be communicated to you;**
- 12.5.1.8 allow you to participate in promotional competitions and surveys;**
- 12.5.1.9 contact you for market research regarding products or services.**

**12.5.2 In addition, Sissy Boy may use information about your product and/or service interests and purchases to help us improve the Website design and the products offered for sale therein.**

**12.5.3 Sissy Boy may display your personal information contained in your profile.**

**12.5.4 Sissy Boy will use your email address to contact you from time to time and may also use it for security reasons to confirm that you are who you say you are.**

**12.5.5 Sissy Boy may use the information collected automatically, such as your IP address and information stored via cookies, to gather statistics about the number of people who visit this Website and the products perused and/or purchased by them and to customise our Website content, layout and services. We may share this information with third parties to help us improve and better serve our users.**

**12.5.6 Advertisements may be delivered to you by our advertising partners. Sissy Boy may however transfer information about your use of the Website, such as your IP address and information stored via cookies, to our advertising partners and other third parties. This information may be used to provide advertising, promotions and other products and services that may be of particular interest to you.**

**12.5.7 Sissy Boy's advertising and promotions partners have no access to your name or personal contact information stored by us unless you choose to share it with them. We will not provide your name or personal contact information to an advertising partner when you interact with or view a targeted advertisement.**

**12.5.8 Sissy Boy may provide your personally identifiable information and the data generated by cookies**

and the aggregate information to the vendors, service providers and service agencies that we may engage to assist us in providing our products to you. Such vendors and service agencies will be obligated to use your personally identifiable information solely to provide the products to us.

- 12.5.9 Sissy Boy will disclose your personally identifiable information if we reasonably believe we are required to do so by law, regulation or other government authority or to protect the rights and property of Sissy Boy, its directors, shareholders, affiliates or the public. Sissy Boy may also cooperate with law enforcement in any official investigation and we may disclose your personally identifiable information to the relevant agency or authority in doing so.
- 12.5.10 Sissy Boy reserves the right to transfer your personal information in the event of a transfer of ownership, such as acquisition by, or merger with, another entity. If any acquiring entity should plan to materially change this privacy policy, we will notify you beforehand.
- 12.5.11 Circumstances may arise where, whether for strategic or other business reasons, Sissy Boy decides to sell, buy, merge or otherwise reorganize its business or where the shareholders of Sissy Boy determine to sell, merge or otherwise reorganize their shareholding in Sissy Boy. Such a transaction may involve the disclosure of personal information to prospective or actual purchasers, or the receipt of it from sellers. It is Sissy Boy's practice to seek reasonable protection for the protection of your personal information in these types of transactions.

## 12.6 Access to and accuracy of your information

- 12.6.1 Sissy Boy strives to keep your personal information accurately recorded. We have implemented technology, management processes and policies to help maintain data accuracy. Sissy Boy provides individuals with the reasonable ability to review and correct it or ask for anonymization or blockage, as applicable. To the extent that a user is desirous of deleting any of their personal information, then they will need to send a request via e-mail to [info@sissyboyjeans.com](mailto:info@sissyboyjeans.com) to this effect.
- 12.6.2 To protect your privacy and security, we will also take reasonable steps to verify your identity, such as requiring a password and user ID, before granting access to your data. To view and change the personal information that you directly provided to Sissy Boy you can utilize the "My Dashboard" function on the Website after having successfully logged-in to same.
- 12.6.3 You are entitled to request access to any relevant personal information held by Sissy Boy as laid out in the Promotion of Access to Information Act 2 of 2000 ("PAIA") and where such access is necessary for you to exercise and/or protect any of your rights. Detailed information on PAIA and the procedure to follow in making a request for access to relevant personal data is available in Sissy Boy's Promotion of Access to Information Manual.

## 13. Monitoring and interception of data messages

In order to provide a relevant and secure service and to promote the secure and efficient operation of the Website, and where required to do so by law, Sissy Boy may monitor and/or intercept electronic communications such as e-mails which are sent to this Website. To the full extent necessary under law, the user hereby acknowledges that he or she is aware of such potential monitoring and/or interception and consents thereto.

## 14. Hyperlinks, deep links & framing

- 14.1 This Website may include links to other internet sites ("the other sites"). Sissy Boy does not endorse the other sites and is not responsible for the information, material, products or services contained on or accessible through those other sites. Any such hyperlinks do not imply any endorsement, agreement or support of the content, products and/or services of such target sites.

- 14.2 Your access and use of the other sites remains solely at your own risk.
- 14.3 Hyperlinks to the Website from any other source shall be directed at the home page of this Website and shall not portray Sissy Boy or its directors, shareholders, employees, associates, partners or their products and/or services in a false, misleading, derogatory, or otherwise offensive matter. Links beyond the home page of this Website may only be used with Sissy Boy's prior written consent. It is expressly prohibited for any person, business, entity, or website to frame any page on this Website, including the home page, in any way whatsoever, without the prior written consent of Sissy Boy.

## 15. Advertising and sponsorship

- 15.1 This Website may contain advertising and sponsorship. Advertisers and sponsors are responsible for ensuring that material submitted for inclusion in this Website complies with all applicable laws and regulations, including, for the avoidance of any doubt, the CPA.
- 15.2 Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents accordingly exclude, to the maximum extent permitted in law, any responsibility or liability for any error or inaccuracy appearing in advertising or sponsorship material on this Website.

## 16. Disclaimers

- 16.1 This entire Website is provided "as is" and "as available". Sissy Boy makes no representations or warranties, express or implied, including but not limited to warranties as to the accuracy, correctness or suitability of either the Website or the information contained in it.
- 16.2 All information supplied by product suppliers and any opinions expressed by any product supplier, director, shareholder, employee, agent or service provider of Sissy Boy in relation to any of the products are those of the authors and not Sissy Boy. While Sissy Boy makes every reasonable effort to present such information accurately and reliably on the Website, Sissy Boy, to the maximum extent permitted in law, does not endorse, approve or certify such information, does not guarantee the accuracy, completeness, efficacy or timeliness of such information nor does it warrant in any way that the suitability or competency of the suppliers listed on the Website.
- 16.3 To the maximum extent permitted in law, Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents, accept no liability whatsoever for any loss, whether direct or indirect, consequential or otherwise, arising from information made available on (or by means of) the Website (or any of the pages therein contained) and/or transactions or actions resulting therefrom (including any Offers and/or Orders).
- 16.4 To the maximum extent permitted in law, Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents, accept no liability whatsoever for any costs, expenses, fines or damages, including but not limited to direct or indirect loss or damages, including any economic loss, consequential loss, loss of profits or any form of punitive damages, resulting from the access to, or use of, this Website in any manner.
- 16.5 Sissy Boy has no control over third party content and features which can be accessed through the use of this Website and does not examine or edit such content and features or act as an agent for third parties accessible through this Website. As such and to the maximum extent permitted in law, Sissy Boy, its directors, shareholders, employees, suppliers, partners, affiliates and agents shall not be liable whatsoever for any direct or indirect loss or damage arising from the use of third party websites, contents and/or features.
- 16.6 The user acknowledges that, in addition to selling its own products, Sissy Boy sell products on the Website obtained from third parties. Accordingly and to the maximum extent permitted in law, Sissy Boy, its directors, shareholders, agents and employees shall not be liable for the quality of any products delivered

or for any typographical errors in the descriptions of any of the products of such third parties.

- 16.7 Sissy Boy does not warrant or represent that your access to the Website will be uninterrupted or error free or that any information, data, content, software or other material accessible through this Website will be free of bugs, viruses, worms, trojan horses or other harmful components. Your access to and use of this Website remains solely at your own risk.
- 16.8 It is the sole responsibility of the user to determine whether the products ordered by the user are suitable for purpose for which the user intends using them.
- 16.9 Neither Sissy Boy nor any of its directors, shareholders, employees, servants, subcontractors, partners, subsidiaries or affiliates will be liable for any losses in the event that any Offer or Order (as the case may be) cannot be made by a user or confirmed by Sissy Boy (as the case may be) on any specific occasion for any reason arising out of any failure, malfunction or delay in any electronic device for any reason.
- 16.10 Sissy Boy gives no warranty, express or implied, in respect of any products (including warranties as to the fitness for purpose, quality, condition, service-ability or otherwise of the products) other than those expressly contained in these Terms and Conditions (if any) or, to the extent the CPA applies to the Order, which are imposed by the CPA.

## 17. Indemnities

- 17.1 The user indemnifies and holds harmless Sissy Boy and its directors, shareholders, employees, servants, subcontractors, partners, subsidiaries and affiliates from any demand, action or application or other proceedings, including for attorneys fees and related costs such as tracing fees, made by any third party and arising out of or in connection with the user's use of this Website, third party websites or any of the products and/or services offered or ordered through such sites in any way.
- 17.2 The user agrees to indemnify, defend and hold Sissy Boy harmless from any direct or indirect liability, loss, claim and expense (including reasonable legal fees) related to the user's breach of these Terms and Conditions.
- 17.3 Where Sissy Boy furnishes the user with specific advice/instructions as to the manner in which any products supplied by Sissy Boy to the user should be utilised and/or as to the capacity and/or tolerance of any of the products supplied by Sissy Boy to the user ("the instructions") the user:
  - 17.3.1 indemnifies and holds harmless Sissy Boy from any direct or indirect loss, damage, cost, expense or liability suffered by the user; and
  - 17.3.2 indemnifies Sissy Boy in respect of any claim against Sissy Boy by any third party under section 61 of the CPA,

by virtue of the user or any such third party to whom the products are supplied by the user or who utilises such products, not adhering to, or using the products contrary to, the instructions.

## 18. Regulation 44 of the CPA

If Regulation 44 of the CPA applies to the Order, then, it is agreed between the parties that the provisions of clauses 6.3, 7.1, 8.7, 17.1, 17.3.1, 20.6 and 20.9 hereof are fair in view of the particular circumstances applicable to the Order. Should it nevertheless transpire that any such provision or portion thereof (as the case may be) is found by any party referred to in section 69 of the CPA or any Court (as the case may be) not to be fair in view of the particular circumstances applicable to the Order, then same will apply to the maximum extent permitted under the CPA and shall be governed by the provisions of clause 20.15 subject to changing those things which need to be changed ("mutatis mutandis").

## 19. Notices

- 19.1 Each of the parties chooses their *domicilium citandi et executandi* for the purposes of the giving of any notice, the serving of any process and for any other purposes arising from these Terms and Conditions as being:
- 19.1.1 in the case of Sissy Boy, at the email and physical addresses set forth in clause 3.1 above; and
  - 19.1.2 in the case of the user, at the e-mail and delivery addresses provided by the user to Sissy Boy in the registration process.
- 19.2 Any notices to any party will be sent via prepaid registered post, delivered by hand or sent by e-mail. Unless the contrary is proved, any notice:
- 19.2.1 sent by prepaid registered post will be deemed to have been received on the 3<sup>rd</sup> (Third) Business Day after posting;
  - 19.2.2 any notice delivered by hand on a Business Day will be deemed to have been received on the date of delivery; provided that if such day is not a Business Day, then such notice shall be deemed to have been received on the 1<sup>st</sup> (First) Business Day following the date of delivery;
  - 19.2.3 communicated by email will be deemed to have been received on the same day of transmission; provided that if such day is not a Business Day, then such notice shall be deemed to have been received on the 1<sup>st</sup> (First) Business Day following the day of communication.
- 19.3 For the purposes of clause 5.5 above and this clause 19, the term "Business Day" means any day other than a Saturday, Sunday or proclaimed Public Holiday in the RSA.
- 19.4 Each of the parties will be entitled from time to time, by written notice to the other to vary its domicilium to any other address in the RSA which is not a post office box or poste restante, provided that the change will become effective only 14 (fourteen) days after service of the notice in question.
- 19.5 Notwithstanding the above, any notice given in writing in English, and actually received by the party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause.

## 20. General

- 20.1 This document contains the entire agreement between the parties in relation to the subject matter hereof. Save as contemplated in clause 20.6 below, no alteration, consensual cancellation, variation of, or addition hereto will be of any force or effect unless reduced to writing and signed by all the parties to these Terms and Conditions or their duly authorised representatives.
- 20.2 No indulgence, leniency or extension of time granted by Sissy Boy shall constitute a waiver of any of Sissy Boy's rights under these Terms and Conditions and, accordingly, Sissy Boy not be precluded as a consequence of having granted such indulgence, from exercising any rights against the user which may have arisen in the past or which might arise in the future.
- 20.3 Words importing the singular will include the plural, and vice versa, and words importing the masculine gender will include the feminine and neuter genders, and vice versa, and words importing persons will include partnerships, trusts and bodies corporate, and vice versa.
- 20.4 In these Terms and Conditions the word "including" shall mean "including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word", and the word "include" and its derivatives shall be construed accordingly.
- 20.5 The headings to the paragraphs to the Terms and Conditions are inserted for reference purposes only and will not affect the interpretation of any of the provisions to which they relate.

- 20.6** Sissy Boy may amend, vary and/or modify these Terms and Conditions at any time, and such amendment, variation and/or modification shall be effective immediately upon posting of the amended, varied and/or modified Terms and Conditions on this Website ("the modified Terms and Conditions). Accordingly, your continued access or use of this Website is deemed to be your acceptance of the modified Terms and Conditions.
- 20.7** Without prejudice to any other rights of Sissy Boy, any payment not made on due date for payment thereof, will bear interest at the prime rate levied by Sissy Boy's bankers from time to time plus 2 (Two) percentage points. Any dispute between the parties as to the said prime rate of interest, shall be determined by the issue of a certificate by any director or manager of Sissy Boy, which certificate shall constitute prima facie proof thereof, amongst other things, for the purposes of summary judgment and/or provisional sentence
- 20.8** Your access and/or use of this Website, any downloaded material from it and the operation of these Terms and Conditions (including any transaction concluded pursuant thereto) shall be governed by and construed in accordance with the laws of the RSA.
- 20.9** The parties consent to the non-exclusive jurisdiction of the High Court of South Africa (Western Cape Division, Cape Town). In terms of Section 45 of the Magistrate's Courts Act (no 32 of 1944, as amended) or any comparable legislation, both parties consent to the jurisdiction of a Magistrate's Court having jurisdiction in respect of any action arising between Sissy Boy and the user.
- 20.10** You hereby consent to receive any and all approaches and/or communications from Sissy Boy, its directors, shareholders, agents and/or their marketing service providers, (whether via e-mail or otherwise) whether for the purposes of direct marketing or otherwise. Should you not wish to receive any approaches and/or communications as aforesaid, kindly address an e-mail to [info@sissyboyjeans.com](mailto:info@sissyboyjeans.com) advising Sissy Boy of same or follow any instructions contained in any such approaches and/or communications (to the extent applicable) in this regard.
- 20.11** Should you have any complaints or queries, kindly address an e-mail to [info@sissyboyjeans.com](mailto:info@sissyboyjeans.com) advising Sissy Boy of same.
- 20.12** In the event of the user failing to pay any amount timeously or breaching the terms of these Terms and Conditions, the user shall be liable for all legal costs (on the scale as between attorney and own client) (including collection commission) which may be incurred by Sissy Boy arising therefrom.
- 20.13** To the extent necessary in law, if any of the provisions in these Terms and Conditions constitute a stipulatio alteri (i.e. a contract in favour of a third party) in favour of any person who is not a party hereto, the benefit thereof may be accepted by such person at any time, from time to time.
- 20.14** Save to the extent specifically provided for in these Terms and Conditions, all amounts provided for in terms hereof shall be exclusive of VAT. All or any VAT arising from the supply of any goods and/or services (as defined in the Value-Added Tax Act No 89 of 1991 or any statutory reenactment or modification thereof) by Sissy Boy to the user in terms of a transaction shall become due for payment and shall be paid by the user together with the amount in respect of which such VAT has been levied.
- 20.15** Each sentence, paragraph, term, clause and provision of these Terms and Conditions and any portion thereof shall be considered severable and if, for any reason, any such sentence, paragraph, term, clause or provision is held to be invalid, contrary to, or in conflict with any applicable present or future law or regulation (including, without limitation, the CPA and any regulations thereto) or in terms of a final, binding judgment issued by any court, it shall to that extent be deemed not to form part hereof and shall not impair the operation of, or have any effect upon such other sentence, paragraph, term, clause or provision hereof as may otherwise remain valid or intelligible, which shall continue to be given full force and effect and bind the parties hereto.

**20.16** No term or condition of these Terms and Conditions is intended to breach any peremptory provisions of the CPA and any regulations thereto ("Prohibited Provision"). Any breach of any such Prohibited Provision shall be governed by the provisions of clause 20.15 mutatis mutandis.