

# [The Brahman Cattle Breeders Society of South Africa "the Society"]

## TERMS AND CONDITIONS OF SALE OF BRAHMAN PRODUCTS (AS DEFINED) USING THE WEBSITE AS AN ONLINE TRADING PLATFORM

### 1. INTRODUCTION

1.1. The terms and conditions (the "Terms") govern access to and/or use of this ecommerce website (the "website") by the User, of the applications, website, content, products and services made available by the Society and its Members.

1.2. Contact details are:

1.2.1. Contact Persons: #

1.2.2. Tel: #

1.2.3. Email: #

1.2.4. Physical Address: #

### 2. DEFINITIONS

2.1. Unless the context indicates otherwise, the words and expressions set out below shall have the meanings assigned to them and cognate expressions shall have a corresponding meaning, namely:

Terms or the Terms means the terms and conditions upon which Users access and use the website for the Intended Purpose as defined below.

Website means the ecommerce website with address [www.brahmanshop.co.za](http://www.brahmanshop.co.za) which enables the online sale of Brahman Merchandise and Members Products to prospective Purchasers;

The Board or Board Members means the duly elected Board Members of the Society;

The Constitution means the Constitution of the Society, as amended and as it may further be amended from time to time;

Online Trading Platform	means use of the Website as a platform to host and advertise Brahman Merchandise and Members Products to facilitate the Online Sale of such Products;
Members	means any Member of the Society;
Purchaser/s	means Users who are natural persons or legal entities or trusts or associations or partnerships with legal capacity who uses the Website as a trading platform to purchase Brahman Merchandise or Members Products using the Online trading platform provided by the Website;
User/s	means any person who accesses, uses or registers on the Website for the Intended Purpose and includes the Society, Members and Purchasers of Products;
Online Transactions or Online Sale	means transactions involving the purchase of Brahman Merchandise and Members' Products using the Website as an ecommerce trading platform;
Intended Purpose	means the use of the website as a platform to facilitate the advertising, marketing and Online Sale of Brahman Merchandise and the Members' Products to Members of the Society and Users.
Commission	means 2% (two percent) commission payable by Members on the the selling price of all Members Products hosted and advertised on the Website and sold using the Website as an Online Trading Platform;
Charges	means any bank or credit card charges (payable by Members) levied by financial institutions on the Purchase Price of Members' Products sold using the website as an Online Trading Platform;
Business Day	means any day which is not a Saturday, Sunday or a public holiday in the Republic of South Africa

(within the meaning of the Public Holidays Act No. 36 of 1994);

**The Purchase Price** means the price at which Brahman Merchandise and Members Products are sold using the Website as an Online Trading Platform;

**Services** means any services available on the Website, including advertising of Brahman Merchandise and Member's Products including receiving payment for Brahman Merchandise and Member's Products and disbursing the balance of the balance of the Purchase Price, after deducting Commission and Charges, to Member/s who's Members Products had been sold using the Website as a trading platform;

**Brahman Merchandise** means a clothing range for women and men, as well as bags, jewelry and any other product offered for sale by the Society on the Website as an Online Trading Platform;

**Members' Products** means Brahman Cattle, semen of Brahman Cattle and embryos of Brahman Cattle offered for sale by Members on the Website as an online trading platform;

**Brahman Products** Means Brahman Merchandise and Members's Products;

**Compliance** means compliance with the provisions of the Animal Improvement Act, 62 of 1998 and any and all legislation applicable to the harvesting and sale of Semen and Embryos by Members and Purchasers, as well as compliance with the terms when using the Website as a n Online Trading Platform;

Paymaster means the Society who shall fulfill the role of a Paymaster in regard to the receipt of the Purchase Price in regard to the sale of Members's Goods and the distribution of the proceeds of proceeds to Members who's products had been sold using the Website as an Online Trading Platform;

Net Proceeds means the Purchase Price of Members Products sold using the Website as an Online Trading Platform, less Commission and Charges.

2.2.

### **3. THE TERMS**

- 3.1. All Purchasers and Members agree that the Society is governed by its Constitution (which is available on the Website and which all Users confirm has been read by them);
- 3.2. The Society has Members;
- 3.3. The Board has the powers set out in the Constitution;
- 3.4. Any Online Transaction concluded between Members and Purchaser are concluded between such Members and Purchasers in regard to the purchase of Members Products and that the shall be subject to the Terms;
- 3.5. Any Online Transaction concluded between the Society and Purchaser are concluded between such Members and Purchasers in regard to the purchase of Brahman Merchandise and that the shall be subject to the Terms;
- 3.6. All Users agree that access to, registration on and the use of the Website as an Online Trading Platform or any Services provided thereon shall be subject to the Terms;
- 3.7. The Society, Purchasers and Members agree that the Terms constitute binding contractual provisions between them in regard to all Online Transactions concluded between them for the use of the Website as an Online Trading Platform;
- 3.8. The Society, Purchasers and Members agree that any and or all reciprocal obligations in regard to and or consequent upon the conclusion of an Online Transaction involving the sale of Members Products hosted on the Website as an Online Trading Platform shall become established between the Member concerned and the Purchaser concerned and not between any of them and the Society and they recognize that the Society purely provides the Website as an Online Trading Platform and that the Society shall not have any obligation in regard to the quality of the Members's Products, its functionality or value and that the Society shall not be liable for any deficiency or lack in any Members' Products of whatsoever nature and howsoever arising and the Members and Purchasers hereby expressly indemnify and holds the Society harmless

against any claim which any Member or Purchaser may have against each other in regard to the any Online Transaction or costs and agree that the Society shall not be a party to any legal proceedings or any alternative dispute resolution proceedings between them;

- 3.9. All Members, Purchasers and the Society agree that any and or all reciprocal obligations in regard to and or consequent upon the conclusion of an Online Transaction involving the sale of Members' Products hosted on the Website shall become established between the Member concerned and the Purchaser concerned and not between any of them and the Society;
- 3.10. All Members and Purchasers agree that the Society is not a party to any Online Transaction concluded between them;
- 3.11. All Purchasers agree that no Member is a party to any Online Transaction concluded between a Purchaser and the Society in regard to Brahman Merchandise;
- 3.12. The Members intending to use the Website for the Intended Purpose agree to ensure Compliance prior to the posting or hosting of Members' Products on the Website for the Intended Purpose and the Online Sale of Members's Products using the Website as an Online Trading Platform;
- 3.13. The Members intending to use the Website for the Intended Purpose agree that the Society shall be entitled to act as the Paymaster;
- 3.14. All Members intending to use the Website for the Intended Purpose agree to assume liability for the Payment of Commission and Charges;
- 3.15. The Members hereby authorises the Society to deduct the Commission and Charges as a first charge and to pay the balance of the Purchase Price to the Member upon receipt thereof;
- 3.16. The Members agree that the Society shall only be obliged to effect payment of the balance of the Purchase Price after the Purchase Price reflects as cleared effects in its bank account;
- 3.17. All Members intending to use the Website for the Intended Purpose agree that the Society shall be entitled to:
  - 3.17.1. determine the amount of the Charges per Online transaction involving the sale of Members Products;
  - 3.17.2. deduct the Charges from the Purchase Price of Members Products using the Website as an Online Trading Platform before transferring the Net Proceeds to the Member concerned;
  - 3.17.3. pay the bank and credit card charges incidental to and associated the Online sale of Members's Products to Purchasers using the Website as an Online Trading Platform, as well as the bank and credit card charges incidental to and associated with the transfer of the net Purchase Price to them by the Society.
- 3.18. The Society may at any time modify, amend, replace and/or substitute any of the provisions or conditions of the Terms, such modification or substitution will replace any

previous terms and the User shall be bound to such new Terms and the amended terms will become effective once it has been posted on the Website.

- 3.19. The Society may at any time modify, amend, suspend, replace, substitute, deny access or cease offering any of the Services or any portion of the Services at any time for any reason and any amendment by the Society of the Services shall be effective as soon as the amendment has been posted on the Website.
- 3.20. The User's continued access or use of the Website or the Services after amendments have been posted and made available on the Website constitutes his/her/ its consent to be bound by the amended Terms;
- 3.21. If the User elects not to be bound by the Terms, as amended from time to time, the User must refrain from accessing, displaying, utilizing, downloading or otherwise copying or distributing any content obtained from the Website;
- 3.22. All Users and in particular all Members and Purchasers confirm that they are aware and accept that neither the Society nor any employee, agent or representative of the Society is responsible for the provision and accuracy of any information posted and or hosted on the Website at the special instance and request of its Members and on their behalf o and that all such information is supplied to the Society by its Members for the purpose of posting and or hosting such information to enable such Members to use the Website as an advertising and marketing platform of Members' Products to enable them to sell their Products to Purchasers.
- 3.23. All Users and in particular all Members and Purchasers confirm that they are aware and accept that neither the Society nor any employee, agent or representative of the Society, including a Board Member or a member of a committee established by the Board for any purpose whatsoever, would attract any liability or be responsible for any representation or non-disclosure by any of its Members in regard to the quality and or functionality of any Members' Product and that no Member or Purchaser shall have any claim against the Society or its aforesated functionaries in regard thereto.
- 3.24. All Users, including Members and Purchasers, acknowledge and agree that neither the Society nor an employee, agent or representative or Board Member of committee member shall be liable for any loss or damage which may be caused through accessing or using or registering on the Website or using the Website to conclude Online Transactions in regard to the Online Sale of Members' Products, or as a result of any reliance placed by Users and in particular Purchasers on the accuracy and/or completeness of any information posted or hosted on the Website by the Society for and on behalf of its Members at their special instance and request.
- 3.25. The Society shall be entitled but not obliged to validate information supplied to it by its Members in regard to Members Products;
- 3.26. The Society shall be entitled but not obliged to formulate Rules applicable to the posting and hosting by the Society of Members' Products on the Website for the Intended Purpose;
- 3.27. All Users are solely responsible for the content and accuracy of any information published by them on the Website including but not limited to contact details and the Society shall not be liable for any loss or damage which may be incurred by relying on any information published on the Website or any platforms linked thereto.

#### **4. CONTENT OF THE WEBSITE**

The content and information related to the Services which are featured on the Website are based on the laws of the Republic of South Africa.

#### **5. USE OF WEBSITE AND INDEMNIFICATION**

5.1. All Users agree not to:

5.1.1. post, distribute, publish or by any other means place any computer code on the Website which directly or indirectly links to another Website without the Societie's prior express written permission;

5.1.2. distribute or share their username and/or password details with any other individual or entity for the purposes of allowing others to utilize the Services provided through the Website; and

5.1.3. in any way copy, modify, publish, transmit, display, sell, distribute or reproduce copyrighted material, trademarks or other protected proprietary information without the prior express written consent of Society.

5.2. All Users shall and undertake to, defend, indemnify, and hold harmless the Society, its Board Members, employees or agents, for any losses, costs, damages, liabilities and expenses (including legal fees) relating to or arising out of the User's use of the Website as an Online Trading Platform.

5.3. The User hereby indemnifies the Society, its Board Members, employees or agents against any loss, liability, damage, claim, action or expense of whatsoever nature which the Society or any third party may suffer which is caused by or attributable to, whether directly or indirectly, a breach by the User of any of the provisions of these Terms.

5.4. All Users undertakes not to copy, reproduce or transmit any part of the Website for any other purpose in any way whatsoever.

5.5. If the User uses any of the Services, the User warrants and represents that the User is legally authorised to do so and hereby indemnifies the Society against any damage or loss due to the unauthorised use or access of the Website or any of the Services provided thereon.

#### **6. GENERAL TERMS**

6.1. All Members:

6.1.1. hereby agree that by placing Members Products on the Website they hold themselves out to be willing to contract directly with any Purchaser in regard to the Online Sale of the Members' Products;

6.1.2. accept that they are solely responsible for the performance, quality and fulfillment of all contractual obligations between themselves and a Purchaser in respect of the Members' Products hosted on the Website;

6.1.3. warrant that they are the owners of the Members Products and that the Members Products are not subject to a notarial bond or hypothecated or pledged to a third party;

- 6.1.4. agree that the risk in and to the Member's Products shall pass to the Purchaser upon delivery, irrespective that payment may not coincide with delivery;
- 6.1.5. accept responsibility's for compliance with and payment of all income tax and other taxes which they should properly account for;
- 6.1.6. advise the Society once delivery had occurred;
- 6.1.7. accept that the Society shall not be entitled to payment of the Purchase Price pending the determination of a dispute between the Member and a Purchaser and that the Society shall only be obliged to pay the Purchase Price over to the Member in the absence of a dispute upon delivery and that the Society shall be entitled to retain the Purchase Price in an interest bearing account pending the determination of any dispute between the Member and the Purchaser in regard to the Member's Product raised in writing by the Purchaser;
- 6.1.8. accept the risk that a Purchaser may declare a dispute before or after deliver and before or after payment of the Purchase Price, in regard to the Member's Products, to the Society and that such dispute and the resolution thereof shall be determined solely between the contracting parties, to viz the Member and the Purchaser and that the Society shall have no part therein;
- 6.1.9. hereby release the Society from any claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, which may arise due to a failure on the part of a Member to ensure that their personal contact details, including their contact email address, are accurate at all times.
- 6.2. All Members are expressly agree not to circumvent the Society by negotiating or discussing or changing the Purchase Price either directly or indirectly with a Purchaser and to conclude a transaction on terms different to the published terms with the Purchaser introduced to it through the Website as an Online Trading Platform and agree that such conduct shall qualify as a ground for the expulsion of the Member and that such Member shall notwithstanding be liable for the Commission to the Society and all legal costs.

## **7. USE OF THE WEBSITE AS AN ONLINE TRADING PLAFORM**

- 7.1. Members must by way of electronic mail send the details in regard to the Members' Products to the Society as well as the Purchase Price and state whether the transaction is exclusive or inclusive of Value Added Tax.
- 7.2. The Online Transaction shall be regarded as concluded once the Purchaser paying the Purchase Price into the Societies designated bank account using the stipulated lot number and the member number of the Member concerned as a reference and upon clearance of the amount in the Societie's bank account;

## **8. COMPLIANCE WITH SOCIETY STANDARDS**

- 8.1. All Members agree to:
  - 8.1.1. Submit to and comply with the standards set by the Society in regard to Members Products which Members intend to sell using the Website as an Online Trading Platform.



## **9. PROVISION OF FEEDBACK**

- 9.1. All Members agree to provide immediate feedback by way of electronic mail to the Society upon delivery of Members' Products sold using the Website as an Online Trading Platform.

## **10. REGISTRATION OF MEMBERS' PRODUCTS**

- 10.1. When registering Members Products for sale on the Website, the Member concerned will be required to provide, to the Society, all relevant information, as follows:
- 10.1.1. proof of compliance in the event of Semen or Embryo sales;
  - 10.1.2. the pedigrees of the bulls and or cows;
  - 10.1.3. the prefix and registration number of the cattle;
  - 10.1.4. photographs of the cattle max well as the Member's;
  - 10.1.5. contact details, an email address and preferred method of contact;
  - 10.1.6. a Skype ID, if any;
  - 10.1.7. name of the contact person;
  - 10.1.8. farm name where the cattle are kept.
- 10.2. By registering Members's Products each Member concerned confirms that he/she/it is:
- 10.2.1. the owner of the cattle or Semen or Embryos;
  - 10.2.2. Duly authorized to register and sell the Members' Products;
  - 10.2.3. the capacity to consent to the Terms and to enter into and conclude the contract with a Purchaser on the terms of trade.
- 10.3. Members agree that the Purchase Price be published by the Society.

## **11. REGISTRATION OF PURCHASERS**

- 11.1. A prospective Purchaser shall complete the relevant sections on the Website relating to the sale of Brahman Products (Brahman Merchandise and Members Products).
- 11.2. When registering as a Purchaser, the Purchaser will be required to provide personal information, including but not limited to the Purchaser's:
- 11.2.1. full name;
  - 11.2.2. contact details and email address, as well as preferred method of contact;
  - 11.2.3. skype ID, if any;
  - 11.2.4. date of birth and identity number;
  - 11.2.5. primary language, secondary language and any other languages (if applicable);

- 11.2.6. physical address and location pin;
- 11.2.7. country of residence.
- 11.3. Use of any information supplied by Users will be in accordance with the Website Privacy Policy.

## 12. COMMUNICATION

- 12.1. All Users shall refrain from making any remarks, using any language, performing any action or communication which, reasonably interpreted and understood could be classified as vulgar, derogatory, racist, sexist, or unacceptable.

## 13. COPYRIGHT AND INTELLECTUAL PROPERTY

- 13.1. All copyright, trademarks, logos, names, designs, service marks, proprietary rights, goodwill, intellectual property rights, materials, texts, information, illustrations data on the Website or modifications thereof (whether registered or unregistered) (the "**Intellectual Property**") are owned by the Society, alternatively, the Society is the lawful user and licensor thereof, and is protected by both South African and international intellectual property laws, as the case may be.
- 13.2. Nothing contained on this Website should be construed as granting any licence or right to use any of the Intellectual Property without the prior written permission of the Society.
- 13.3. Any unauthorised copying, reproduction, retransmission, distribution, dissemination, sale, publication, broadcast or other circulation or exploitation of such Intellectual Property or any component thereof by any User shall constitute an infringement of the Society's rights and the User hereby indemnifies Society against any loss, liability, damage, claim, action or expense of whatsoever nature (whether direct, indirect, specific, incidental or consequential) which the Society may suffer which is caused by or attributable to the User's unauthorised use of the Intellectual Property.

## 14. THIRD PARTY LINKS

- 14.1. From time to time, the Website may also include links to other websites ("**Links**"), including, but not limited to advertisements. These links are provided in order to enhance the interest of other featured content and are not intended to signify that the Society endorses, supports, advocates or otherwise has any responsibility for the content of the Links or the use or access thereof by the User. Use or reliance on any Links provided is at the User's own risk and the Society makes no representation in relation thereto whatsoever. When visiting Links, the User must refer to the external terms and conditions of use of such Links.
- 14.2. No endorsement or approval of any third party or their advice, opinions, information, products or services is expressed or implied by any information, material, data or pages on the Website.

## 15. PERMISSION TO LINK TO THE WEBSITE

No person, business, entity or website may establish a hyperlink, frame, meta tag or similar reference, whether electronically or otherwise ("**Linking**"), to the Website or any subsidiary pages of the Website before receiving the Society's prior written approval, which, in their sole

discretion, may be withheld or granted subject to the conditions which the Society specifies from time to time.

## **16. FRAMING**

No person, business, entity or website may frame the Website or any of the pages on the Website in any way whatsoever.

## **17. CRAWLERS AND SPIDERS**

No person, business, entity or website may use any technology or device to search and/or gain information from the Website without the prior written consent of the Society.

## **18. GUARANTEES**

18.1. All Users agree that performance by Society of its contractual obligations to both Members and Purchasers in respect of any Online Transaction will be deemed complete when:

18.1.1. the Society hosted the Members' Products, receives\nd payment of the Purchase Price from the Purchaser on behalf of the Member; and

18.1.2. the Society notifies the Member concerned and the Purchaser that the Purchase Price reflects as cleared effects in the Societie's bank account; and

18.1.3. the Society disburses the Purchase Price less Commission and Charges to the Member upon receipt of written confirmation from the Member that delivery of the Members's Products to the Purchaser had occurred.

19. In the event of any dispute between the Member and the Purchaser before delivery and distribution of the Purchase Price to the Member concerned occurred the Society shall be entitled to retain the Purchase Price pending the determination of the dispute and the Society shall upon receipt of payment of the Purchase Price be entitled to Commission and the Charges, irrespective of the advent or determination of the dispute, if any.

20. The Society shall not be liable for any loss or damage which the Purchaser or the Member may suffer as a result of commission of any act or any failure to act in any way whatsoever.

21. The Society, its Board and employees or agents disclaim all liability, regardless of the form of action, for the acts or omissions of the Purchaser or the Member concerned who's Members's Products had been sold using the Website as an Online Trading Platform, loss or damages caused by unauthorized Users, or "hackers" of the Website.

## **22. WARRANTIES, DISCLAIMERS AND LIMITATION OF LIABILITY**

22.1. The Society, its Board Members and employees or agents specifically do not make any warranties or representations regarding the accuracy or completeness of any information or Services and/or Brahman Products advertised or sold using the Website as anOnline Trading Platform and the Website and the Service/s are provided "as is".

- 22.2. Save as set out in the Terms, the Society, its Board Members and employees make no warranties, representations, statements or guarantees, whether express, implied in law or residual regarding the:
- 22.2.1. Website;
  - 22.2.2. Service/s; and
  - 22.2.3. The Brahman Products.
- 22.3. To the fullest extent possible by law, the Society expressly disclaim all, express or implied warranties, including, without limitation:
- 22.3.1. warranties and non-infringement;
  - 22.3.2. compatibility;
  - 22.3.3. security; and
  - 22.3.4. accuracy,
- in respect of this Website.
- 22.4. The Society, its Board Members and employees or agents do not warrant that the Website is free of viruses or destructive codes.
- 22.5. The Society, its Board Members and employees or agents shall not be responsible for, and they hereby disclaim all liability for:
- 22.5.1. any loss, liability, damage (whether direct, indirect, specific, incidental or consequential);
  - 22.5.2. any expense or cost of any nature whatsoever which may be suffered by the Members concerned or the Purchasers or any third party, as a result of or which may be attributable, directly or indirectly, to the User's access and/or use of the Website for any purpose whatsoever, including as an Online Trading Platform;
  - 22.5.3. any information or material contained on or received via the Website;
  - 22.5.4. the User's use of any of the Service/s, and/or the Brahman Products or offered by the Services; and/or
  - 22.5.5. the User's reliance on any information or Links offered via the Website and service/s and/or products,
- whether arising negligently or not.
- 22.6. Without limiting the generality of the foregoing, the Society, its Board Members and employees or agents shall not be liable for any:
- 22.6.1. loss of business;
  - 22.6.2. loss of data;

- 22.6.3. loss of profits;
- 22.6.4. failure and/or unavailability of the Website for any reason whatsoever; and/or
- 22.6.5. failure and/or delay by any third party service provider to render any service/s which are necessary to ensure the availability of the Website.
- 22.7. This Website is made available for public viewing on the basis that the Society, its Board Members and employees or agents exclude, to the extent lawfully permitted, all liability whatsoever for any loss, claim, action or damage of whatsoever nature and howsoever arising out of the use of this Website for any purpose including as an Online Trading Platform, reliance upon the content of this Website or use of the Services or Brahman Products.
- 22.8. Information transmitted via the internet is susceptible to monitoring and interception. The User will bear all risks of transmitting information in this manner. the Society, its Board Members and employees or agents will not be liable for any loss, harm or damage suffered by the User as a result of transmitting information to the Society, its Board Members and employees or agents.
- 22.9. The User specifically acknowledges and agrees that the the Society, its Board Members and employees or agents are not liable for any conduct of any User in any way whatsoever in respect of the access, use or sharing of the resources or otherwise provided on the Website.
- 22.10. Nothing on this Website is intended to be, nor should it be construed as, an offer to enter into a contractual relationship with the User or anyone else, except for the Terms which govern the relationship between the Society in relation to the User's access or use of the Website. The Society reserves the right to reject and/or refuse any User access to or use of the Services for any reason whatsoever on notice to the User.
- 22.11. All Users warrant and self-certify that they can form legally binding contracts under their applicable law.
- 22.12. By accessing or using the Website or any Brahman Products or Services provided in terms thereof, the User warrants and represents to the Society that it is legally entitled to do so.
- 22.13. The User further warrants that the User will not use the Website, the Services and/or any information of whatsoever nature made available and/or sent to the User by the Society pursuant to the User's use or access of the Website for any purpose that is unlawful and/or prohibited under South African and/or international law or is contravention of the Terms.
- 22.14. The Society, its Board Members and employees or agents specifically disclaim any implied warranties of merchantability, fitness for a particular purpose, or non-infringement. The Society, its Board Members and employees or agents do not warrant that the User's use of any Service provided to Members or Purchasers through the Website will be secure, uninterrupted, always available, or error-free, or will meet the User's requirements, or that any defects in the Website will be corrected.
- 22.15. Any Service provided through the Website is on an "as is" basis without any warranties of any kind, express or implied.

## **23. DISCLAIMER**

- 23.1. Neither the Society, its Board Members and employees or agents shall have any responsibility for the actions of Users, including, but not limited to Members and Purchasers and do not condone any communications deemed to be unacceptable.

## **24. COMPLIANCE WITH LEGISLATION**

- 24.1. The Society shall not tolerate anyone accessing or using the Website in contravention of any law, whether in common law or statute and reserves the right to take action against anyone doing so, including laying a criminal charge, where applicable and the Society shall insist on strict Compliance.

## **25. DISPUTE RESOLUTION**

- 25.1. Members and Purchasers contract directly with each other in regard to the sale of Members Products with the Website facilitating the transaction.
- 25.2. Where there is any dispute of whatsoever nature and howsoever arising between a Purchaser and a Member in regard to Members Products such dispute shall be resolved between the Member and the Purchaser directly as the two principals to the contract.
- 25.3. Users hereby release the Society, its Board Members and employees or agents from any and all claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown, related to any dispute arising between a Member and a Purchaser.
- 25.4. Where there is any dispute of whatsoever nature and howsoever arising between a Purchaser and a the Society in regard to Brahman Merchandise such dispute shall be resolved between the Society and the Purchaser directly as the two principals to the contract.

## **26. PRIVACY POLICY**

- 26.1.1. This privacy policy (the "**Privacy Policy**") applies to all Users.
- 26.1.2. The Society respects the User's privacy and the User's right to keep personal information private and confidential.
- 26.1.3. In light of the aforementioned, kindly refer to the Societie's Privacy Policy which governs the way in which thE Society collects and uses personal information provided by the User to the Society, as part of any Online Transaction.

## **27. THE USER'S CONSENT**

- 27.1.1. By submitting details and/or accessing or using the Website as an Online Trading Platform all Users accept the Privacy Policy and expressly provides voluntary, specific and informed consent to the use and disclosure of the User's personal information in the manner described below.
- 27.1.2. The User has the right to object the Societie's use of Users' personal information. Depending on the information the User objects to, the Society may not be able to provide the User with certain Services.

- 27.1.3. The User agrees and warrants that the User has read, considered and understood the terms contained in the Privacy Policy and that the Privacy Policy will constitute an on-going binding agreement between them Society and the User.

## **28. SECURITY AND CONFIDENTIALITY**

- 28.1.1. The Society understands the value of the User's personal information and therefore shall take all reasonable steps to protect the User's personal information from loss, misuse or unauthorised alteration.
- 28.1.2. The User's personal information is stored in databases that have built-in safeguards and firewalls to ensure the privacy and confidentiality of that information.
- 28.1.3. The Society recognises the need for appropriate protection and management of the personal information the Users.
- 28.1.4. Finally, the Society is subject to South African data protection laws, including the Constitution of the Republic of South Africa of 1996, the Protection of Personal Information Act No. 4 of 2013, the Electronic Communications and Transactions Act, 2002 ("ECT Act"), the Regulation of Interception of Communication Act No. 25 of 2002 and the Consumer Protection Act No. 68 of 2008 ("CPA") which the Society comply with fully.

## **29. PERSONAL INFORMATION**

- 29.1.1. Personal information is information that identifies or relates specifically to the User, for example, name, age, identity number, date of birth, contact details, country of residence, Skype ID, languages, and qualifications. In short, any information that the Society knows about the User will be regarded as the User's personal information.

## **30. COLLECTING THE USER'S DATA**

- 30.1.1. The Society collects information about the User when registering on the Website.
- 30.1.2. The Society may use data that identifies the User's personal information for:
- 30.1.2.1. statistical analysis;
  - 30.1.2.2. to provide, supply, develop and improve the Societie's Services;
  - 30.1.2.3. to update the User's records;
  - 30.1.2.4. to identify and prevent:
    - 30.1.2.5. abuse of the Website or Users;
    - 30.1.2.6. fraud; and
    - 30.1.2.7. money laundering and any other criminal activities;  - 30.1.2.8. to carry out regulatory checks, and for market research; and

- 30.1.2.9. in order to develop and monitor the Brahman Products or Services which the Society or its Members offer.

## **31. ADDITIONAL DATA COLLECTION**

- 31.1.1. In addition to the personal information which the User submits, the Society may collect information about the User's computer including, where available:
  - 31.1.1.1. the User's IP address;
  - 31.1.1.2. operating system; and
  - 31.1.1.3. browser type,
  - 31.1.1.4. for purposes of administration and to report aggregate information to the Society's advertising partners/sponsors which allow the Society to have a better understanding of the User's requirements and/or preferences by using cookies to track Users as they travel from website to website recording what commercial advertisements the User view and select while browsing. This is statistical data about browsing actions and patterns and does not identify any individual.
  - 31.1.1.5. The Society may also obtain information about the User's general internet usage by using a cookie file which is stored on the hard drive of the User's computer.
  - 31.1.1.6. Cookies enable the Society to improve its service, estimate its audience size and usage patterns, store information about the User's preferences and recognise the User when the User returns to the Website.
  - 31.1.1.7. The User can set the User's web browser to refuse cookies, but if the User does this the User may not be able to enjoy full use of the Website and the User may not be able to take advantage of certain promotions the Society may run from time to time.
  - 31.1.1.8. Please note that third parties who advertise on the Society's Website may also use cookies, but the Society do not have access to, or control over them and therefore does not take any responsibility in respect thereto whatsoever.
  - 31.1.1.9. All advertisers are bound by contract to maintain the confidentiality and security of the User's personal information and are restricted in their use thereof as per this Privacy Policy.
  - 31.1.1.10. The Website uses Google Analytics Premium, a web analytics service provided by Google Ireland Limited ("**Google**"). Google Analytics Premium uses "cookies", which are text files placed on the User's computer, to help the website analyse how users use the Website. The information generated by the cookies about the User's use of the Website and the User's current IP address will be transmitted by the User's browser to and will be stored by Google on servers in the United States and other countries. On behalf of the operator of the Website Google will use this information for the purpose of evaluating the User's use of the Website, compiling reports on website activity and providing other services relating to website activity and internet usage to the website operator. The IP address collected through Google Analytics will not be



associated with any other data held by Google. The User may refuse the use of cookies by selecting the appropriate settings on the User's browser, however please note that if the User does this the User may not be able to use the full functionality of the Website. The User may also stop the transmission of information generated by the cookies about the User's use of the Website and of the User's IP address to Google, by downloading and installing the Google Analytics Opt-out Browser Add-on available here:<http://tools.google.com/dlpage/gaoptout>.

## **32. PERSONAL IDENTIFICATION NUMBER**

- 32.1.1. When the User uses the Website and the services provided by the Society, the User may be given an access number, username, password and/or personal identification number ("PIN").
- 32.1.2. The User is responsible for maintaining the secrecy and confidentiality of the User's username, access number, password and/or PIN.

## **33. SHARING THE USER'S DATA FOR SERVICE PROVISION**

- 33.1.1. The Society shares the data the User submits with third parties involved in the process of providing the Services to the User.
- 33.1.2. All service providers are bound by contract to maintain the confidentiality and security of the Users's personal information and are restricted in their use thereof as per this Privacy Policy.
- 33.1.3. The service provider is required to notify the Society immediately where there are grounds to believe that the Users's personal information has been accessed or acquired by any unauthorised person.

## **34. RIGHT TO REQUEST ACCESS TO THE USER'S PERSONAL INFORMATION**

- 34.1.1. As aforementioned, the Society is committed to the protection of the User's personal information and any information disclosed to third parties is only done so with the Society's knowledge and express authorisation. The User is entitled to request access to the User's information at a prescribed fee and to request that inaccurate, irrelevant, excessive, out-dated, misleading or unlawfully obtained information be corrected, deleted or in the case of a dispute, indicate that a correction has been requested, but not made.

## **35. ELECTRONIC COMMUNICATIONS AND TRANSACTIONS ACT**

- 35.1.1. The Society also voluntarily subscribes to the principles, outlined in Section 51 of the ECT Act, which govern the User's right to have the User's personal information kept private. The Society briefly outlines these principles below:
- 35.1.2. The Society will only collect, collate, process and store ("Use") the User's personal information with the User's permission as set out in this Privacy Policy, unless legally required to do so, and will only Use such information for the lawful purpose for which it is required as set out in this Privacy Policy;
- 35.1.3. The Society hereby discloses in writing, the specific purpose for which it Uses the User's personal information;

- 35.1.4. The Society will also keep a record of that personal information and the specific purpose for which it have used it; and
- 35.1.5. The Society will not Use the User's personal information for any purpose, other than that which the Society disclosed to the User herein, unless the User gives the Society the User's express written permission to do so, or unless the Society is permitted and/or required to do so by law.
- 35.1.6. Further to the requirements of the ECT Act; the Society will disclose the User's personal information without the User's consent:
  - 35.1.6.1.1. if the Society is required to do so by law or a court order;
  - 35.1.6.1.2. if disclosure is in the public interest;
  - 35.1.6.1.3. if disclosure is in the Societie's interest; or
  - 35.1.6.1.4. with the User's implied consent.
- 35.1.7. In terms of the CPA and section 45 of the ECT Act, the User understands that the User has the option to opt out of any mailing list maintained by the Society for commercial and marketing communications.
- 35.1.8. If the User ticked "yes" (that it is prepared to receive promotional material) but no longer wishes to receive such communications, kindly visit the "My Account" page, login and change If the User ticked "yes" but no longer wishes to receive such communications, kindly visit the "My Account" page, login and change communication preference at any time, or communication preference at any time, or
- 35.1.9. The User may also register on the National "Opt Out" register of the Direct Marketing Association of South Africa by going to [www.dmasa.org](http://www.dmasa.org).

### **36. THIRD PARTY LINKS**

- 36.1.1. The Website may contain links to third party websites.
- 36.1.2. If the User follows a link to any of these websites, please note that these websites have their own terms and privacy policies and that the Society does not accept any responsibility or liability for them.
- 36.1.3. The User may receive follow-up offers and communications from third party companies as the User has agreed to receive same by accepting this Privacy Policy and, while the Society only works with selected partners, the Society is not responsible for the services or representations of third parties.
- 36.1.4. Because the Society is not responsible for any representations and/or information and/or warranties and/or content on any website of any third party (including websites linked to the Website or websites facilitated by the Society), the Society does not exercise control over third parties' privacy policies and the User should refer to the privacy policy of any such third party to see how such party protects the User's privacy.

### **37. CHANGES TO THIS PRIVACY POLICY**

- 37.1.1. The Society reserves the right, in its sole discretion to update, modify or amend (including without limitation, by the addition of new terms and conditions) this Privacy Policy from time to time with or without notice.
- 37.1.2. The User therefore agrees to review the Privacy Policy whenever the User visits the Website for any such change.
- 37.1.3. Save as expressly provided to the contrary in the Privacy Policy, the amended version of the Privacy Policy shall supersede and replace all previous versions thereof.

**38. APPLICABLE LAWS**

- 38.1.1. The Privacy Policy will be governed by and construed and interpreted in accordance with the laws of South Africa.
- 38.1.2. To the extent that a court has jurisdiction over any dispute which may arise out of or in connection with the Privacy Policy, both the Society and the User submit to the jurisdiction of the South African courts or dispute resolution and arbitration bodies.