

# Website Terms of Use

Little Outfitters

These Terms were last updated on 19 June 2019

## 1. Website

- 1.1. **Site:** This website located at [www.littleoutfitters.nz](http://www.littleoutfitters.nz) (the **Website**) is operated by Little Outfitters Limited.
- 1.2. **Agreement to be bound:** These website terms of use (**Terms**) and our Privacy Policy apply to all users of our Website, whether as a Member or as a visitor.
- 1.3. **Not agree:** If you do not agree to be bound by these Terms and the Privacy Policy, then you must stop browsing, accessing or using the Website.

## 2. Defined Words

- 2.1. In these Terms, the following words have these meanings:

**"Content"** means any software, data, information, picture, graphics and other materials published or made available on the Website, including all third-party content and User Generated Content.

**"GST"** means goods and services tax as set out in the Goods and Services Tax Act 1985.

**"Item"** means a good or goods being offered for sale or hire by Members and promoted through the Website or Affiliated Website.

**"Member"** means a user that has completed our registration process and created an account.

**"Success Fee"** means the fee charged to a seller's membership account when an Item is sold or hired via the Website.

**"Unacceptable"** means anything that is defamatory, harmful, offensive, upsetting, obscene, inappropriate, racially or ethnically objectionable, false, misleading, unsuitable for persons under the age of 18 years, in violation of any law or regulation, or otherwise considered by us as being unacceptable.

**"User"** means any user of the Website who is not a Member.

**"User Generated Content"** means any information and materials uploaded or generated by Members (which may include you).

**"We", "us", and "our"** are a reference to Little Outfitters Limited.

**"Website"** has the meaning given to that term in clause 1.1.

**"You" and "your"** are a reference to you.

## 3. Conduct of Users

- 3.1. In accessing and using the Website or any Affiliated Website whether as a User or a Member, you acknowledge and agree that you will not do any of the following:
  - (a) post or transmit any Content that is or is reasonably likely to be Unacceptable;
  - (b) abuse, harass, stalk, threaten, breach the confidence of or otherwise violate the rights (such as rights of privacy and publicity) of others;
  - (c) post or transmit Content that infringes the intellectual property rights of any person;

- (d) access an account, without authority, that is not your own or impersonate any other User or Member;
- (e) manipulate or access, without authority, any part of the Website or any Affiliated Website, or post or transmit any Content that contains any virus or other destructive component;
- (f) commit or encourage a criminal offence, or post or transmit any Content that is prohibited by or violates any applicable law or regulation;
- (g) transmit any unsolicited advertising, promotional materials or any other forms of solicitation, unless expressly authorised by us; or
- (h) any other conduct that otherwise breaches the Terms.

#### **4. Membership specific terms**

- 4.1. **Members:** Clauses 4 - 6 (inclusive) apply to your use of the Website as a Member. If you are not a Member, then the terms in clauses 4 - 6 (inclusive) do not apply to you.
- 4.2. **Registering:** To become a Member of the Website, you must complete the online registration form, which will include creating a user login and password. By completing the registration process and/or accessing the Website as a Member, you are stating that you are eligible for membership and that you agree to be bound by the membership specific terms set out in clauses 4 - 6 (inclusive), in addition to the other terms in these Terms and the Privacy Policy, without qualification. We reserve the right to verify and/or reject any application for membership.
- 4.3. **Details:** You confirm that any information you provide to us relating to you and your Items (if any) through the membership registration process, or subsequent to registration, is current, complete and accurate at the time you provide it, is not misleading or deceptive, or likely to mislead or deceive. If your details or details relating to your Items (if any) change whilst you are a Member, you agree to update such information in a timely manner (which can be done by logging onto the Website).
- 4.4. **User ID and password:** You must ensure that your user ID and password is kept secure and confidential and not revealed to any other person. You are entirely responsible for all activities that occur through the use of your user ID and password. You must notify us immediately of any unauthorised use of your user ID and password or any other breach of security. Following any unauthorised use, you will cease using that password and create a new unrelated password. You indemnify us, our directors, officers and employees against all costs, expenses and damages incurred in connection with any claim arising from any reasonable reliance by us on any use of your password, including us disclosing information relating to your membership.
- 4.5. **Communications:** Where, on registering as a Member or subsequently, you indicate that you wish to receive email communication or mobile phone text messages from us, we may continue to communicate with you using such technology until you indicate otherwise. These communications may include information about your or another Member's Items, features of the Website, notices about applicable fees and charges, transactional information and other information concerning or related to the Website. You may opt-out of receiving:
  - (a) email communication at any time by using the unsubscribe link in any email; and
  - (b) mobile phone text messages by following the instructions set out in any text message.
- 4.6. **User-Generated Content:** The Website may include User-Generated Content. We may monitor, approve and/or moderate all User-Generated Content prior to such content being published on the Website. We may also delete, edit or move any User-Generated Content uploaded and/or published which we consider (at our sole discretion) is Unacceptable. Any views expressed in any User-Generated Content do not necessarily represent our views or values. If you believe that any User-Generated Content is Unacceptable, or if you would otherwise like to complain about it, you can [contact us here](#).

- 4.7. **Warranties and acknowledgments:** In relation to any Content you submit to the Website as a Member, you:
- (a) warrant that you are the owner of the Content or are otherwise authorised or licensed to provide it to us;
  - (b) warrant that the Content is not Unacceptable;
  - (c) grant us a non-exclusive, worldwide, perpetual, royalty-free licence to use and republish your Content in any format, and to exercise all copyright, moral and publicity rights relating to your Content;
  - (d) acknowledge that we may edit your Content for brevity, style or clarity; and
  - (e) acknowledge that if we use and republish your Content in accordance with clause 4.7(c) we would attribute such Content to you and we would still attribute such Content to you if we make minor edits to your Content.
- 4.8. **Termination:** You may cancel your Membership at any time by giving us three days' notice. We reserve the right at our sole discretion to terminate your membership at any time if you violate these Terms. If you close your membership, or if it is terminated by us, you must complete any outstanding transactions with other Members and pay any Success Fees outstanding to us. To the extent that you continue to access the Website, clauses 1 - 3 (inclusive) and 7 - 10 (inclusive) of these Terms continue to apply.

## 5. Transactions between Members

- 5.1. **Marketplace:** The Website provides a marketplace for people to buy, sell or hire new or used high quality and/or designer children's clothing, footwear, toys, accessories and other goods.
- 5.2. **Transactions between Members:** Where a member purchases or hires another Member's Item, a contract will be formed between those Members directly. We do not act as agent for either party and do not participate in any provision of goods or services (other than the marketplace services provided via the Website) or any transaction between you and other Members; we simply facilitate payments made by one Member to another.
- 5.3. **At your own risk:** Transactions and all other contact between you and other Members are conducted entirely at your own risk. You agree that we take no responsibility or liability for any misconduct of any of our Members including, without limitation, Members that have registered under false pretences or who attempt to defraud you. We give no undertakings, representations, or warranties in relation to Items sold or listed on the Website including:
- (a) about ownership of any Item;
  - (b) as to the content, safety, description, worthiness, quality, fitness for purpose or legality of the Items that are listed on the Website. Without limiting the foregoing, if you are a buyer you should not assume an Item meets any applicable product safety or other standards just because the seller is offering to supply the Item to you - you should always carry out your own checks and enquiries on the Items and satisfy yourself that the Items are safe to use (e.g. you can ask the seller to provide information and evidence of safety tests, such as certificates or carry out safety tests yourself). In New Zealand, product safety standards apply to items such as baby walkers, children's nightwear, children's toys, household cots and pedal bicycles. Child restraints must also meet an approved standard (e.g. New Zealand/Australian Standard AS/NZ 1754);
  - (c) as to the accuracy or truth of listings;
  - (d) that any Item will meet your requirements or expectations; or

(e) about the ability of Members to complete a transaction, including the ability to pay for transactions or provide the Items in a transaction.

5.4. **Obligations as a seller:** If you list Items for sale or hire on the Website you must:

- (a) only enter listings that are accurate, current, complete, and include all relevant information about the terms of sale, payment terms, delivery methods and who bears the cost of delivery;
- (b) only place listings for Items that exist, are to be sold or hired, and that you are legally entitled to sell or perform;
- (c) only list Items in New Zealand dollars;
- (d) ensure those Items: (i) are not Unacceptable, illegal, stolen, or unsafe; (ii) do not infringe copyright or other intellectual property rights; (iii) have not been illegally imported or do not require illegal import or export in order to complete the transaction; and/or (iv) are not prohibited by, or in violation of, any, law, regulation or standard;
- (e) without limiting clause 5.4(d), ensure the Items comply with any applicable product safety or other standards. If you have any doubts about the safety of an Item, do not sell the Item. You must be satisfied that any Item you sell or hire complies with any applicable product safety standard;
- (f) ensure you hold the copyright or are otherwise licensed to use any images or other content you add to your listings;
- (g) complete the transaction in the manner specified in the listing or as otherwise agreed with the buyer; and
- (h) comply with all of your obligations under the Fair Trading Act 1986 and the Consumer Guarantees Act 1993 (to the extent applicable).

5.5. **Obligations as a buyer:** If you purchase or hire an Item via the Website you must complete the transaction in the manner specified in the listing or as otherwise agreed with the seller including by making full and prompt payment.

5.6. **Feedback:** Following the sale and purchase, or hire, of an Item via the Website, the Members involved in the transaction will have the option to rate the transaction out of 5 stars. All ratings you give must be based on your honestly held opinions of the particular transaction and Item that the rating relates to. We reserve the right to delete any rating you give or receive at our sole discretion.

## 6. Fees, prices and payment

6.1. **Prices:** Prices of Items displayed on the Website are in New Zealand dollars.

6.2. **Fees:**

- (a) There is no fee for listing an Item on the Website.
- (b) We will charge you a Success Fee for each sale or hire you make via the Website. Our current fees are listed on our [fees page](#). Before listing an Item, you should review our fees to ensure you are aware of the fees that you will incur.
- (c) We may (at our sole discretion) refund a Success Fee charged if the sale or hire is not successfully completed or if the sale or hire is reversed. You must provide us with all information about the incomplete or reversed sale or hire that we may reasonably request for the purposes of determining whether to refund the relevant Success Fee.

- (d) We reserve the right to change the Success Fees at any time, and/or introduce other fees. Where it is practicable for us to do so, we will notify you of any such changes.

6.3. **GST:** Unless otherwise expressly stated, all amounts specified on the Website are GST inclusive (where GST is applicable).

6.4. **Payment method:** You must pay any applicable Success Fees and for any Items purchased or hired with a debit card, credit card and/or any other payment method that we make available from time to time. In doing so, you acknowledge that:

- (a) additional bank or payment provider charges may apply to certain transactions; and
- (b) you are liable for all costs associated with any default in payment for any Item purchased or hired.

6.5. **Payment processing:** Payments are processed by an independent third-party service provider. To allow the processing of payment and in accordance with our Privacy Policy, we provide certain personal information about you to that third-party provider.

6.6. **Payment information:** We, and/or our independent third-party payment service provider, may securely store and use debit card, credit card and/or other payment account information provided by you to make withdrawals from your account in exchange for payment for any Item you purchase or hire via the Website.

## 7. Intellectual Property

7.1. You acknowledge and agree that we own all intellectual property rights in and to the Website. Except as expressly stated in these Terms, we do not grant you any intellectual property rights in or to, or any other rights or licences in respect of, the Website or the information and materials published on it.

## 8. Disclaimer, limitation of liability, indemnity and warranties

8.1. **Updates:** We reserve the right to update and amend any information on the Website at any time.

8.2. **Limitation and Exclusion of liability:** To the maximum extent permitted by law, we will not be responsible or liable to you or any other person for any loss or damage:

- (a) in relation to your access and use of the Website, including if the Website is unavailable (in whole or part) or performing slowly;
- (b) in connection with any errors, omissions or misstatements in any material on the Website;
- (c) in relation to any Item that you have purchased or hired via the Website; or
- (d) resulting from any breach of these Terms by any other User or Member.  
This exclusion applies regardless of whether our responsibility or liability arises in contract, tort (including negligence), statute or otherwise and for any loss or damage however caused (including direct, indirect, incidental, special or consequential loss or damage).

8.3. **Indemnity:** You will take all necessary action to defend and indemnify us and our directors, officers and employees against all loss and damage suffered or incurred in connection with any claim brought by a third party against us arising from a breach by you of these Terms or the Privacy Policy.

8.4. **Warranties:** Warranties, conditions or obligations may be implied or imposed by the Consumer Guarantees Act 1993 (**CGA**), which cannot be excluded, restricted or modified. This clause is not intended to limit your rights under the CGA, except where you use the Website for business purposes, in which case we:

- (a) to the extent permitted by law, expressly contract out of all provisions of the CGA; and
- (b) will not be liable to you in any event, whether in contract, tort (including negligence), statute or otherwise and for any loss or damage however caused (including direct, indirect, incidental, special or consequential loss or damage) for any loss of goodwill or loss of profits for an amount in excess of the Success Fees paid by you to us.

## 9. **Linked sites**

- 9.1. **Third parties:** The Website may contain links to other third-party websites (**Linked Sites**). Linked Sites are not operated, controlled, or maintained by us and are provided for your convenience only.
- 9.2. **Liability:** You access Linked Sites at your own risk and to the maximum extent permitted by law we will not be:
  - (a) responsible for the availability, content, security, policies, or practices of any Linked Sites; or
  - (b) liable for any loss or damage (including direct, indirect, incidental, special or consequential loss or damage) suffered by you from accessing, using, relying on or trading with third parties; or
  - (c) responsible or liable for any dealings that you have with the third party.
- 9.3. **No approval:** Any link to a Linked Site does not constitute sponsorship, endorsement, or approval by us of the content, policies, or practices of such Linked Sites.

## 10. **General**

- 10.1. **Suspension and termination:** Without prejudice to any other rights and remedies available to us, if we consider that you have breached these Terms, we may immediately and without written notice to you, suspend or terminate your access to the Website (or any part of the Website). On suspension or termination, you must immediately cease using the Website and must not attempt to gain access to the Website.
- 10.2. **Amendments:** We reserve the right to change these Terms and the Privacy Policy (**Amendments**) at any time. Any Amendments will be posted on this page on the Website (and the "last updated" date will be updated). By continuing to access the Website and Affiliated Websites you agree to be bound by the Amendments. We recommend you regularly review these Terms and the Privacy Policy to see any updates or changes to our Terms.
- 10.3. **Law:** These Terms are governed by and will be construed in accordance with the laws of New Zealand. You submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 10.4. **Contact:** If you have any questions or concerns in relation to the Website, Affiliated Website or these Terms, please [contact us](#).