

Terms and Conditions of Use for [www.deoudemeulrestaurant.co.za](http://www.deoudemeulrestaurant.co.za) and the **Old Mill Country Lodge and Restaurant**

## TERMS AND CONDITIONS OF USE

**PLEASE REVIEW THESE TERMS AND CONDITIONS OF USE CAREFULLY. BY ACCESSING THIS WEBSITE AND/OR USING ANY OF THIS ESTABLISHMENT'S ONLINE OR OTHER SERVICES, YOU AGREE TO BE BOUND BY AND COMPLY WITH THE FOLLOWING TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT ANY OF THESE TERMS OR CONDITIONS, YOU MUST IMMEDIATELY DISCONTINUE YOUR ACCESS OF THIS WEBSITE AND/OR USE OF ANY SERVICES.**

### 1. Terms of Use

- 1.1 Welcome and thank you for using our website and/or services. Please read the Terms and Conditions of Use of this website and business carefully.
- 1.2 These Terms and Conditions of Use (hereafter referred to as the "Terms") set forth the Terms and Conditions of Use that apply to your use of this website [www.deoudemeulrestaurant.co.za](http://www.deoudemeulrestaurant.co.za) (hereafter referred to as the or this "Site") and of our business providing accommodation **Oldmill Country Lodge and Guesthouse** (hereafter referred to as the or this "Establishment") and any other services, facilities or information provided. Your use of this Site or our services indicates your acceptance of these Terms and Conditions and your agreement to follow and be bound by them. Do not use the Site or any services offered by us if you do not agree to be bound by these Terms.
- 1.3 By using the Site or by making use of a service provided by this Establishment, the Terms and Conditions herein contained shall be deemed to have been read and accepted.
- 1.4 The right to use the Site is personal to you (hereafter referred to as the "Guest", "User", "Client" or "Visitor") and is not transferable to any other person or entity. You, the guest, the user and the client include all persons staying at this Establishment under a booking/reservation and not only the person(s) that made the reservation/booking.
- 1.5 This Establishment may at any time modify these Terms and your continued use of the Site will be subject to the modified Terms and Conditions of Use. Accordingly you agree to review and check these Terms periodically for changes or updates, and your continued access or use of the Site and/or any provided services shall be deemed to be your acceptance of the amended Terms and Conditions of the Site. Amendments, changes or updates will be posted on this Site and will become effective immediately. The User's continued use of this Site and/or services provided following the posting of changes or updates shall be considered notice of the User's acceptance to abide by and be bound by these Terms, including such changes or updates. This Establishment also reserves the right at any time to change, suspend or discontinue without notice, any aspect, feature or service offered by way of this Site or the Site itself.
- 1.6 Any material, information or content that you download or receive from this Site or this Establishment is done so at your sole discretion and risk, and that you will be solely responsible for any damage or harm caused to your network connection(s), computer or computer-related software and equipment, system loss or data that results from your visit to this Site and/or the download or reception of any data or information from the Site.
- 1.7 By visiting this Site and making use of the information and/or services provided, you expressly understand and agree that the use of the information, content and services provided by this Site is undertaken at your own risk and that the information, content and services are provided on an "AS IS" basis. We expressly disclaim all warranties, express or implied, including but not limited to, fitness for a particular purpose, merchantability, accuracy, completeness, validity or fitness for any other nature. We do not guarantee that any information, services or products will suit your requirements or that the service as a whole or in part will be available, timely, accurate, reliable, secure or free of errors.

## **2. Intellectual Property, Copyrights and Trademarks:**

- 2.1 All materials contained on the Site are copyrighted and all rights are reserved.
- 2.2 Copyright and all intellectual property rights in all materials (including, but not limited to, all software, programs, technology, databases, know-how, text, graphics, icons, hyperlinks, process, private information, designs, publication, product, or ideas described in this Site) made available through this Site are owned by this Establishment, alternatively, this Establishment is the lawful user thereof and is protected by both South African and international intellectual property right legislation, treaties and conventions. Accordingly, any unauthorised copying, reproduction, transmission, retransmission, distribution, dissemination, sale, publication, broadcasting, adaptation, posting, downloading, storing, performance, licensing displaying, or other circulation or exploitation of such material as aforesaid or any component thereof will constitute an infringement of such copyright and other intellectual property rights if done without the prior written permission of this Establishment.
- 2.3 The trademarks, names, logos, graphics and service marks (collectively "trademarks") displayed on this Site are registered and unregistered trademarks of this Establishment and/or alternatively this Establishment is the lawful user of the trademarks. Nothing contained on this Site should be construed as granting any licence or right to use (by implication, estoppel or otherwise) any trademarks without the prior written permission of this Establishment and these may not be used without its prior written permission.

## **3. Disclaimer:**

- 3.1 The contents, services and information published on the Site and any links are provided on an "as is" basis. This Establishment makes no representations or warranties of any kind, express or implied, as to the operation of this Site or the accuracy, timelines, performance, quality, correctness, fitness for a particular purpose, reliability of any information or completeness of the information and contents included on the Site.
- 3.2 This Establishment shall not be liable for any loss or damage directly or indirectly caused by your use of, or inability to use, this Site or any services provided or offered. This Establishment shall also not be liable for any damage or loss caused by information changes, deletions, site suspension or discontinuation, or for any errors or reliance upon any information, contained in this site. Accordingly, you download or access data, programs, files, software, etc. at your own risk.
- 3.3 No warranty, whether express or implied, is given that any files, downloads or applications available via this web site are free of viruses, worms, Trojans, bombs, time-locks or any other date or code which has the ability to corrupt or that has contaminating or destructive properties.
- 3.4 It is the sole responsibility of the User to satisfy itself prior to accessing this Site and/or services provided that it will meet the User's individual requirements and be compatible with the User's hardware and/or software.
- 3.5 This Site is provided on an "as is" basis. This Establishment expressly disclaims all implied warranties or representations, including, without limitation, warranties of merchantability, title, fitness for a particular purpose, non-infringement, compatibility, security, truth, accuracy, adequacy, completeness and reasonableness and makes no express or implied warranties or representations regarding the content or the information and materials accessed through this Site.
- 3.6 The use of the content of this Site is at the User's own risk. The User assumes full responsibility and risk of loss resulting from the use of this Site, its contents, information, services offered or downloads provided.
- 3.7 This Establishment shall not be liable for any damage, loss or liability of whatsoever nature arising from the use or inability to use this Site or the services, information or content provided from, through or via this Site (subject to sections 43(5) and 43(6) of the Electronic Communications and Transactions Act 25 of 2002).
- 3.8 The provisions of Part 2 of Chapter III of the Electronic Communications and Transactions Act 25 of 2002 is hereby excluded from applying to any electronic communications and data messages that a User sends to this Establishment. Any communication or data message that a User sends to this Establishment will be regarded having been received by this Establishment when receipt is

acknowledged in writing. If the User however does not receive a response within a reasonable period of time, the User must follow it up by contacting this Establishment again. This Establishment shall not be liable or held accountable for any failure to respond to any communications whatsoever.

- 3.9 This Establishment disclaims all responsibility for any loss, injury, claim, liability or damage of any kind resulting from, arising out of, or any way related to any errors in or omissions from this site and its content, including but not limited to technical inaccuracies and typographical errors, any third party websites or content therein directly or indirectly accessed through links in this site, any errors or omissions from the unavailability of this site or any portion thereof, your use of this Site, or your use of any equipment, programs or software in connection with this site.

#### **4. Limitation of Liability**

- 4.1 This Establishment, its employees, representatives, subcontractors, agents, successors, etc. shall not be liable for any direct, indirect, incidental, special or consequential damages of any kind whatsoever (including, without any limitation, attorneys fees and or lost profits or savings) in any way due to, resulting from, or arising in connection with this Site, information, facilities or services provided, including its content, regardless of any negligence. Such limitation shall also apply with respect to damages resulting from the inability to use the Site, the operational failure of the Site, or for any information, data and services obtained through the Site, or otherwise arising out of the use of the Site, whether based on contract, delict, strict liability or otherwise.
- 4.2 The Site and all content on the Site, including any current or future offer of products or services, are provided on an "as is" basis and may include inaccuracies or typographical errors.
- 4.3 The owners and/or this Establishment make no warranty or representation as to the availability, validity, safety, accuracy, usefulness, correctness, or completeness of the content, information, tools or services provided on or via the Site.
- 4.4 This Establishment makes no warranties, claims, promises or guarantees as to the correctness, accuracy, validity, safety, completeness or usefulness of the facts, views, advice, opinions and recommendations provided by this Establishment unless expressly stated otherwise. This Establishment makes no representations about the correctness, suitability of any of the information and services offered contained in the contents, documents and related graphics on this Establishment Site for any purpose. All such documents, related graphics, products and services are provided "as is" and without warranties or conditions of any kind.
- 4.5 This Establishment shall not be liable to any person using this Site, or any cessionary or third party claiming through or on behalf of any of these entities or persons, in respect of any claim whatsoever, whether in contract, or otherwise, for any loss, damages, costs or expenses directly or indirectly incurred as a result of any of these entities or persons using this Site or services provided.
- 4.6 This Establishment, the owner of the property, representatives and/or the companies servants or agents are not liable to you, the Guest, the Guest's visitors or invitees for any loss, damage, injury or death suffered by you or your clients/visitors/invitees on or about the Premises (includes buildings, furnishings, swimming pool, garden, parking areas, etc.) of this Establishment howsoever arising including but not limited to theft, whether resulting from any act or omission whether negligent or not on the part of this Establishment, the owner of the property, their servants, employees and/or agents. You, your clients, visitors or invitees irrevocably waive all such claims and further indemnify and hold harmless this Establishment, the owner of the property their servants, employees and/or agents against any claim made against the above by your visitors or invitees, including all dependants of yours, your visitors or invitees or anybody representing or acting on behalf of them.
- 4.7 Without limiting the foregoing this Establishment, the owner of the property, their employees, representatives and/or agents, are not liable for any damage, injury to or death of anyone or anything that may occur as a result of any use of the swimming pool, buildings, property, furnishings, equipment, garden, etc. of this Establishment (the "Premises") or any other cause, accidental or otherwise, whilst on the Premises and you indemnify them accordingly. Parents are solely responsible for bringing children to the Establishment and do so entirely at their own risk and that of their children.

## **5. Indemnity**

- 5.1 The User hereby agrees to indemnify and save this Establishment harmless against all damages, losses, expenses and costs (including legal costs) suffered or incurred by this Establishment in connection with or arising from the User's breach of any of these Terms, the User's access of this Site (and/or use of any services) and/or any other party's access of this Site (and/or use of any services).
- 5.2 You agree to defend, indemnify and hold this Establishment and its affiliates and related companies harmless from any and all liabilities, costs and expenses, including reasonable attorneys' fees, related to any violation of these Terms by you or users of your account/name, or in connection with the use of this Establishment Site or the Internet or the transmission of any message, information, software or other materials on this Establishment's Site or on the Internet by you or users of your account/name.
- 5.3 You will indemnify this Establishment and keep them fully indemnified from and against any damage or loss suffered or liability incurred, including without limitation in respect of any claim or demand by any third party by reason of any act or omission on your part or that of any family member, agent, representative or third party acting on your behalf in connection with transactions concluded on the Site and/or under these Terms and/or in relation to receipt of products or services or facilities supplied by this Establishment.
- 5.4 You warrant that any comments of information disclosed, submitted or offered by you to the Site or this Establishment do not and will not violate any right of any third party, including copyright, trademark, privacy or any other personal or proprietary right. You agree not to disclose, submit or offer any comments or information that will be or will contain any defamatory, unlawful, abusive or obscene material. This Establishment disclaims any liability towards any third party regarding your comments and you shall remain accountable towards any third party regarding the contents of your comments.
- 5.5 Notwithstanding any other provisions contained herein, this Establishment's liability whether in contract or delict arising from any breach of any obligation of these Terms, negligence or otherwise shall not exceed at any time more than the monetary value of the service in respect of which any such dispute or claim arises.

## **6. Applicable law and jurisdiction**

- 6.1 The User's access and use of this Site, any services provided and these Terms shall be governed by and construed in accordance with the laws in force in the Republic of South Africa.
- 6.2 The User hereby consents to the exclusive jurisdiction of the Magistrates Court of the Republic of South Africa, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall also be deemed to constitute the required written consent conferring jurisdiction upon the court in terms of section 45 of the Magistrates' Courts Act, 1944 (Act 34 of 1944), as amended.
- 6.3 The User specifically consents to the jurisdiction of the Magistrates Court that has territorial jurisdiction in the area of this Establishment in respect of any dispute (which can not be resolved amicably) arising in connection with this Site and/or services provided by this Establishment. At the sole discretion of this Establishment, any dispute arising out of these Terms may however be brought in any other Magistrates' Court of competent jurisdiction (also notwithstanding that the amount in issue may exceed the jurisdiction of such court). The User agrees to this.
- 6.4 Any dispute, difference or deadlock pursuant to these Terms that cannot be settled amicably may also be settled by Arbitration by one or more arbitrators appointed in accordance with the Arbitration Act, if so elected by this Establishment in its sole discretion. The User irrevocably agree and undertake that the arbitrator(s) decision shall be final and binding upon them, will be carried into effect and may be made an order of court. The Arbitration proceedings shall be conducted in the English language and shall take place in South Africa at a location chosen at the sole discretion of this Establishment. The standard provisions of the Arbitration Act shall apply.

6.5 Access to the Site from territories or a country where the content is illegal is prohibited. If the User accesses this Site from locations outside South Africa, that User is responsible for compliance with all local and international laws.

## **7. Confidential information:**

7.1 The use of this Site does not constitute an invitation to the User to communicate confidential information to this Establishment. The User furthermore agrees that this Establishment will have no duty to either retain the information, or keep confidential any information the User may choose to transmit to us.

## **8. General Incapacity:**

8.1 This Establishment cannot be held liable in any way if any of the following events or conditions below prevent it from fulfilling its obligation to clients/Users:

- a) Unanticipated interruption (or defect in) to the electricity, water, gas, sewage to, from or on any premises or facilities where this Establishment, its employees, representatives or subcontractors are operating from.
- b) Criminal activity, industrial action or civil uprising.
- c) Flooding, fire, frost, or any other force majeure event.
- d) Public enemy, explosion, earthquake, perils of the sea, flood, storm or other adverse weather conditions, subsidence, war declared or undeclared, civil war, revolution, civil commotion or other civil strife, riot, strikes, blockade, embargo, sanctions, epidemics, act of any Government or any 'Act of God'.

## **9. Inherent Nature of the Internet**

9.1 You acknowledge and accept that the inherent nature of the Internet is such that transmissions may be subject to interruption, interception, hacking, transmission blackout, delayed transmission and/or incorrect data transmission. This Establishment shall not be liable for any failures or defects in server or communications facilities not under its control that may affect the accuracy, authenticity or timeliness of messages and transactions that may be sent and does not warrant that any identified failures or defects will be corrected.

## **10. Security and acceptable use**

10.1 Any person, business, or entity that delivers or attempts to deliver any unauthorised, damaging, destructive, malicious or contaminating code, programs or software to this Site, to gain unauthorised access to any page on this Site, to tamper with any of the content or pages that constitute this Site may be prosecuted to the full extent of the law. If this Establishment or any third party suffers any damage or loss as a result of such actions, this Establishment reserve the right to claim civil damages and/or lay criminal charges.

10.2 You agree to act responsibly when using the site.

10.3 Your use of the site may not be for any purpose that may be illegal in South Africa or within the jurisdiction from which you are accessing the site.

10.4 You may not introduce viruses or code with destructive, damaging or contaminating properties or anything of a nature that may damage, place unreasonable burdens on, or interfere with, the operation of the site or the systems on which it runs, nor may you attempt to gain access to any restricted areas of the site without obtaining prior written permission from this Establishment.

10.5 You may not collect any information about other users of the site without their consent.

10.6 This Establishment has no obligation to monitor this Site. However, you agree that this Establishment has the right to monitor this Site electronically and to disclose any information as necessary to satisfy any law, regulation or other governmental request, to operate this Site properly, or to protect itself or its users.

10.7 This Establishment might provide or offer certain information, services or facilities to you via the Internet. This Establishment however makes no representations, nor gives any warranties or

guarantees of any nature as to the availability of any communications network or systems of any third party on whom the User or this Establishment rely to provide any of the services or facilities. This Establishment has no control over any third party's communication network or systems that it might rely upon.

## **11. Hyperlinks and External Links**

- 11.1 This Establishment reserve the right to contain links (hyperlinks or external links) to websites of third parties on the Site. Such websites are independently managed and maintained by such third parties or individuals and this Establishment has no control over these websites or its contents. This Establishment is not liable for any loss or damage caused by using any link or website that links to the Site and use of such websites is at the User's own discretion and risk.
- 11.2 These links do not indicate that this Establishment controls nor has any special affiliation or association with the third parties which own, manage, maintain, advertise on or link to these websites. This Establishment cannot accept responsibility or liability for the contents of or the consequences of accessing any linked website or any link contained in a linked website. You agree that your access to and/or use of such linked websites are entirely at your own risk and subject to the terms and conditions of use contained therein.
- 11.3 Please note that other web sites may contain sexually explicit, violent, racist or other types of material which are objectionable or which may be offensive to you, and access is at the sole risk and discretion of the User.

## **12. Privacy policy, Access to and Use of Information:**

- 12.1 This Establishment respects your privacy and will try to protect any information received by it. Despite such undertaking, it is possible for Internet based communications to be intercepted. Even with the use of encryption, the Internet is not a secure medium and privacy cannot be ensured. Internet email and other electronic communications are vulnerable to interception and forging.
- 12.2 This Establishment, its employees, representatives, agents or owners will not be responsible for any damages you or any third party may suffer as a result of the transmission of confidential information that you make to this Establishment through the Internet (including via e-mail), or that you expressly or implicitly authorise the owners to make, or for any errors or any changes made to the transmitted information.
- 12.3 The User may visit the Site without providing any personal information. The Site servers might in such instances collect the IP address of the User computer, but not the email address or any other distinguishing information. This information might be aggregated to measure the number of visits, average time spent on the Site, pages viewed etc. This Establishment and/or third parties assume no obligation or obligation to protect this information and may copy, distribute, or otherwise use such information without limitation.
- 12.4 If the User posts content or other information to the Site, and unless otherwise indicated, then the User grants to this Establishment a non-exclusive, royalty-free, perpetual, irrevocable and fully sub-licensable right to use, reproduce, modify, adapt, publish, translate, distribute and display such information in any media for any reason. The User grants to this Establishment the right to use the name that the User submits in connection with such information, if they so choose.
- 12.5 The User warrants that the User owns or otherwise controls all of the rights to the information that the User posts, that the information is accurate and that by the supply of the information to this Establishment, the User does not violate this policy and does not infringe the rights of any person or entity. Furthermore, the User indemnifies this Establishment for all claims resulting from the receipt by this Establishment of the information the User supplies to it. This Establishment reserves the right but not the obligation to monitor and edit or remove any information and you consent to this.
- 12.6 This Establishment takes no responsibility and assumes no liability for any information posted by the User or any third party.
- 12.7 This Establishment will endeavour to ensure that your personal information and/or credit card details are protected as they travel over the Internet. However, there is no 100% secure

transmission of data on the Internet given the current state of Internet technology. Therefore this Establishment cannot guarantee the absolute security of any information you transmit to us or which we transmit to you.

- 12.8 The User is hereby notified that information and data might automatically be collected through the standard or customised operation of Internet servers and also possibly through the use of "cookies." "Cookies" are small text files a Site can use to recognise repeat users, facilitate the user's ongoing access to and use of the Site and allow a Site to track usage behaviour and compile aggregate data that will allow better content and targeted advertising. Generally, cookies work by assigning a unique number to you that has no meaning outside the assigning site. Cookies are usually not programs that come onto your system and damage files. If you do not want information collected through the use of cookies, there are a few simple procedures in most browsers that allow you to deny or accept the cookie feature. You should note that accepting the use of cookies might be necessary to provide you with certain features available on the Site. You can delete cookies from your hard drive at any time. Further information on the use of cookies can be found at: <http://www.cookiecentral.com>
- 12.9 Users are notified that third parties may also use unique identifiers and invisible images (sometimes called "pixel tag" or "clear GIF") to perform message open sensing, message format sensing, and message clickthrough sensing. The User hereby consents to this.
- 12.10 This Establishment usually does not monitor your use of the Site (including email), but it reserves the right to do so. The User hereby consents to monitoring.
- 12.11 This Establishment does not sell or rent personal information about individual Users (such as name, address, e-mail address, telephone or fax number) to third parties. We do however reserve the right to disclose information regarding our members and usage of the Site to our business partners and affiliates, its advertisers, suppliers and other selected third parties.

### **13. Email disclaimer**

- 13.1 All electronic mail that you receive from this Establishment, its employees, representatives or any other person using a this Establishment' e-mail address, including any attachments thereto, is subject to this e-mail disclaimer ("disclaimer"). Such e-mails may contain information that is confidential, private, subject to legal privilege or otherwise protected by law. It is intended solely for the use of the individual or entity to whom it is addressed and others authorised to receive it. Construction, validity and performance of this disclaimer shall be governed in all respects by the laws of the Republic of South Africa.
- 13.2 This Establishment or any of their employees or representatives shall not be liable for the proper and complete transmission of the information contained in any communications, or for any delay in its receipt, or for the assurance that it is free of harmful viruses or any other code or programs with destructive or contaminating properties. Furthermore this Establishment accept no liability for the accuracy of the information or advice contained in the e-mail, or for any losses arising from reliance on it. You acknowledge and accept that the inherent nature of the Internet is such that transmissions may be subject to interruption, interception, hacking, transmission blackout, delayed transmission and/or incorrect data transmission.
- 13.3 This email is confidential and may contain privileged or copyright information. You may not present this message to another party without consent from the sender.
- 13.4 If you are not the intended receiver please notify the sender at the e-mail address provided on the contact page and delete this email. You are hereby notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited and may be unlawful. If you are not one of the stated addressees or the intended recipient (or such person's authorised representative) you must refrain from printing, copying, forwarding or otherwise disclosing any information contained in the e-mail or any part thereof; and refrain from reading, storing, selling or otherwise using any information contained in the e-mail or any part thereof for any purpose.
- 13.5 This email is not a binding agreement and does not conclude an agreement without the express confirmation by this Establishment.

- 13.6 This Establishment does not certify that this email is free of viruses, worms or any other or code or programs with destructive, damaging, malicious or contaminating properties.
- 13.7 Any views or opinions presented in this email are solely those of the author and do not necessarily represent those of this Establishment. Any actions taken on the basis of this email are at the reader's own risk.
- 13.8 The sender of this email is expressly required not make any defamatory statements. Any such communication is contrary to this Establishment's policy and this Establishment will not accept any liability in respect of such communication.
- 13.9 Notwithstanding any other provision of this disclaimer, shall this Establishment, the sender of the e-mail, any employee or representative be liable for any loss, damage or expense of whatever nature (including without limitation that caused by the corruption or loss of data, damage to software programmes and interruption of business operations) resulting directly or indirectly from the transmission of the e-mail (including without limitation any malicious, damaging or destructive software code or viruses transmitted together with the e-mail, or any corruption to or loss of data contained in the e-mail).
- 13.10 This Establishment reserves the right to read, monitor, access, block, delete, copy or otherwise intercept any e-mail transmitted to or from the Establishment's mail servers.
- 13.11 The provisions of Part 2 of Chapter III of the Electronic Communications and Transactions Act 25 of 2002 is hereby excluded from applying to any electronic communications and data messages that a User sends to this Establishment. Any communication or data message that a User sends to this Establishment will be regarded having been received by this Establishment when receipt is acknowledged in writing. If the User however does not receive a response within a reasonable period of time, the User must follow it up by contacting this Establishment again. This Establishment shall not be liable or held accountable for any failure to respond to any communications whatsoever.
- 13.12 Where the date or time on which the e-mail was transmitted is in question, this Establishment will be deemed to have sent the e-mail once reflected on its mail servers (in its log files) as 'sent'. This Establishment will be deemed to have received, but not deemed to have read, an e-mail when it is shown in the log files as 'received' on this Establishment's mail servers.
- 13.13 Failure to comply with this disclaimer may amount to the unlawful interception of a communication, the infringement of copyright (or other intellectual property right) and/or the infringement of the right to privacy and could expose you to criminal and/or civil liability.

#### **14. Domicilium citandi et executandi.**

- 14.1 This Establishment chooses as its *domicilium citandi et executandi* for all purposes under these Terms, whether in respect of court process, notice, or other documents or communication of whatsoever nature the physical address of this Establishment as provided on the contact page of the Site.
- 14.2 Users/clients choose as their *domicilium citandi et executandi* for all purposes under these Terms, whether in respect of court process, notice, or other documents or communication of whatsoever nature, all and any addresses provided to this Establishment and furthermore undertake that all information that is provided by them will be accurate, correct and true. This Establishment may choose any one or more of the addresses provided by the User/client in their sole discretion for the purposes of court process, notice, or other documents or communication of whatsoever nature (including any e-mail addresses provided). The User/client agree to accept his/her provided e-mail address as one of their *domicilium citandi et executandi* addresses for all purposes. Users/clients may change their *domicilium citandi et executandi* by written notice to this Establishment.
- 14.3 Any notice to a party
- (a) sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to the postal address or the physical address specified above as its *domicilium citandi et executandi* shall be deemed to have been received on the 7th business day after posting if posted by prepaid registered post in the Republic of South Africa; and on the 10<sup>th</sup> business day after posting if posted by prepaid registered post internationally (unless the contrary is proved);

- (b) delivered by hand to a responsible person at its physical address specified above shall be deemed to have been received on the day of delivery; or
- (c) an e-mail (electronic mail) sent to the an e-mail address as specified above will be deemed posting (unless the contrary is proved by the addressee), and to have been received on the first business day after transmission.

14.4 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

#### **15. Other provisions:**

- 15.1 Construction, validity and performance under these Terms shall be governed in all respects by the laws of the Republic of South Africa.
- 15.2 These Terms constitutes the entire agreement and/or relationship between this Establishment and the User (this Establishment and the User combined known as the “parties”) who acknowledge there are no other oral or written understandings or agreements between them relating to the matter of these Terms. No amendment, cancellation or other modification of these Terms shall be valid or binding unless reduced to writing and signed by this Establishment.
- 15.3 Any provision of these terms and conditions which is or becomes unenforceable in any jurisdiction, whether due to invalidity, illegality, voidness, unlawfulness or for any reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto*. That provision shall be deemed severable from these Terms and shall not affect the validity, effect and enforceability of any remaining terms or provisions.
- 15.4 This Establishment reserves the right to pursue any and all legal remedies for any breach, failure or default in performance these Terms. If this Establishment however should fail, refuse or neglect to exercise or enforce any right or provision contained in these Terms, you agree that such failure, refusal or neglecting does not constitutes a waiver of such right or provision or of any other rights or provisions in these Terms or in accordance with any other law or legal right. Any indulgence, leniency or extension of time granted by this Establishment to anybody shall not be construed as a waiver or variation of any of our rights or remedies.
- 15.5 Great care is taken to keep any information provided on the Site or by this Establishment accurate, valid and current, but due to various reasons this Establishment does not guarantee the fitness for a particular purpose, merchantability, accuracy, completeness, validity or fitness for any other nature of the information supplied. This Establishment cannot be held responsible for errors, misprints, omissions or misinformation. No information or advice, whether it is given orally or in written form, virtually or physically, by any means of communication, virtual or actual, from this Site, the business, employees, owners, affiliates, officers, agents, partners, and representatives shall create any warranty not expressly stated in these Terms.
- 15.6 Any actions taken against this Establishment by a User is at that User’s sole risk.
- 15.7 Whenever a personal pronoun is used in these Terms, it is understood that such usage shall include singular and plural, masculine, feminine and neuter and refer in appropriate cases to natural persons as well as juristic persons.
- 15.8 The headings of the clauses are intended for convenience only and shall not affect the interpretation of these Terms.
- 15.9 These Terms cancels and supersedes the terms and conditions of all prior negotiations and agreements between the parties
- 15.10 The User acknowledges that he/she has entered into these Terms after making an independent investigation and that this Establishment has not made any representations or warranties other than as may be set out in these Terms.
- 15.11 The User may not use a false name or address, impersonate any person or entity, or otherwise mislead as to the origin of a card or any other content.
- 15.12 To make use of this Site or a service provided by this Establishment you must be over the age of 18 (eighteen) years. If you represent that you are of sufficient legal age to use this Site you (and/or

your parent/ legal guardian) will be bound by any legal obligations and liabilities that you may incur as a result of your use of this Site and/or any services provided. The User agrees to supervise all usage by minors of this Site or services under his/her name and/or account.

- 15.13 Unauthorized attempts to upload or change information on this service are strictly prohibited and may be punishable under law.
- 15.14 The User agrees to be financially responsible for all of his/her use of this Site or services provided (as well as for use of his/her account or name by others, including without limitation any person under the age of eighteen years of age). You agree that the use of this Site or services provided shall be used only for legitimate reasons.
- 15.15 All Users shall be completely responsible for all charges, fees, duties, taxes, liabilities and assessments arising out of the use of this Site or the services offered by this Establishment.
- 15.16 The fact that this document may not be signed by either of the parties will not *per se* invalidate these provisions or render them unenforceable. To render these provisions applicable and enforceable it will be sufficient that the Guest is aware hereof and thereafter make use of this Establishment and/or any services provided by this Establishment.
- 15.17 In the event that the User/client is a corporation, company or other legal entity, by his/her signature hereto, the duly authorised representative of such legal entity agrees that he/she shall be bound as surety and co-principal debtor *in solidum* in favour of this Establishment for all the debts of the client, under renunciation of all the legal exceptions, which he/she declares to know and understand.
- 15.18 Fees are payable against delivery of this Establishment's statements of account (interim or otherwise). If any amounts are agreed to be payable by way of installments then if any one installment is not paid on due date the full balance of the amount then owed by the client to this Establishment will become due and payable.
- 15.19 Interest on payments overdue for more than 30 days will be due and payable and calculated monthly at a rate of 15% per annum.
- 15.20 Notwithstanding any other provisions contained herein, the maximum liability of this Establishment for any event or condition for which a Guest may institute a claim is limited to the value of one day's accommodation.
- 15.21 Guests agree that this Establishment may, from time to time communicate with Guests.
- 15.22 The Guest acknowledges that he/she has entered into these Terms after making an independent investigation and that this Establishment has not made any representations or warranties other than as may be set out in these Terms.
- 15.23 We have made every effort to display accurately the colours and decor of the Establishment that appear on the Site. However, as the actual colours you see will depend on your monitor, settings, browser, operating system etc. we cannot guarantee that your monitor's display of any colour, graphics, etc. will be accurate.

## **16. Financial responsibility:**

- 16.1 All Guests understand that overuse or abuse of the reservation facilities of this Site may result in them being denied access to such facilities, at the sole discretion of this Establishment. For any reservations or other services for which fees may be charged, Guests agree to abide by these Terms as well as, that payment of all amounts shall be paid by them when due and that they shall comply with all rules and restrictions regarding rates and charges (as well as in respect of the availability of products or services).
- 16.2 All Guests shall be completely responsible for all charges, fees, duties, taxes, liabilities and assessments arising out of the use of this Site or the services or facilities offered by this Establishment and used by them.

## **17. Internet:**

- 17.1 This Establishment reserves the right to provide internet services on an "as is" basis for activities such as the active use of e-mail, instant messaging, browsing the World Wide Web and accessing

corporate Intranets. When this right is exercised we will endeavor to provide uninterrupted access, however we cannot guarantee that the service will be available at all times, in full and/or in all parts of the Establishment. We reserve the right to modify or temporarily suspend the service or any part of it without prior notice. This Establishment will not be liable for the accuracy, completeness or relevance of any information obtained through our service from the Internet.

- 17.2 Guests are responsible to maintain their own security whilst dealing with the Internet or their corporate Intranet. Guests are responsible to maintain the confidentiality of their passwords and all activities that occur under their username and password and Guests will personally be liable for any losses, damage and costs incurred by this Establishment or other Guests or third parties due to the loss, misuse and/or disclosure of any Guest's usernames and passwords.
- 17.3 High volume data transfers, especially sustained high volume data transfers, are not permitted. Hosting a web server or any other server by use of our service is prohibited.
- 17.4 It is prohibited to try or to access someone else's account, sending unsolicited or bulk e-mail, to collect other people's personal data and interfere with other network users. Reselling this service to a third party is prohibited.
- 17.5 This Establishment reserves the right to suspend the service to a Guest if we believe that usage of the service is unreasonably excessive or being used for criminal or illegal activities.
- 17.6 As this Establishment might provide or offer certain information, services or facilities to you via the Internet, this Establishment makes no representations, nor gives any warranties or guarantees of any nature as to the availability of any communications network or systems of any third party on whom you or this Establishment rely to provide any of the services or facilities. This Establishment has no control over any third party's communication network or systems that it might rely upon.

#### **18. Guest Warranties:**

- 18.1 All Guests hereby agree to provide all reasonable information that is requested by this Establishment (including identity or passport number, e-mail address and physical address) and furthermore undertake that all information that is provided by them will be accurate, correct and true.
- 18.2 Guests agree that all instructions, consents, commitments, reservations, bookings and any other communications which purport to originate from them and which are sent to this Establishment by way of the Internet and which may (as a result of interception, equipment malfunction, the distortion of communication links or any other reason whatsoever) be different from the details actually sent or given, or may not have been given by you at all, shall be deemed to have been given by you in the form actually received by this Establishment and you will be bound by such details with no liability of whatever nature attaching to this Establishment in regard thereto.
- 18.3 All Guests acknowledge and agree that this Establishment shall be entitled to establish the authenticity of any communication transmitted to it (including via the Internet) that purports to originate from you. All Guests warrant that every instruction and all information given by you to this Establishment shall be accurate, true and correct.
- 18.4 All Guests waive any rights they may have or obtain against this Establishment arising directly or indirectly from any loss or damage of whatsoever nature which you may suffer as a result of the fact that this Establishment acts on your instructions or instructions purported to originate from you.
- 18.5 All Guests agree to and hereby indemnify this Establishment against all and any claims, liabilities, losses, costs, fines, damages and expenses incurred (whether directly or indirectly) by them, arising as a result of the fact that this Establishment has acted on your instructions or instructions which purport to originate from you.

#### **19. Loss or Damage to Establishment Property:**

- 19.1 The Guest retains personal liability for any loss or damages caused by the Guest (or their invitees/visitors/children etc.) to the property and Premises of this Establishment (excluding normal wear and tear).
- 19.2 The Guests shall keep the Premises and its contents in good order and condition as they were on the date of arrival and shall return the Premises and the contents in the same good order and

condition on the date of departure and all costs incurred in repairing any damage to the Premises or the contents shall be borne by the Guest.

## **20. Parking and Access:**

- 20.1 Parking is limited to one vehicle per room/unit unless the Guest obtains prior written permission from this Establishment. Parking is entirely at the Guest's own risk. This Establishment shall incur no liability for any theft, loss or damage to or of any vehicle (nor its contents).
- 20.2 Visitors/invitees of Guests may only park as instructed by the staff on duty. Vehicles of Guests or their visitors/invitees that park in a driveway or in such a manner that it causes an obstruction or occupies a Guest parking will be removed at the Guest's cost.
- 20.3 One set of keys is provided per room/unit. The cost of replacement keys shall be added to the Guest's account in case of loss for any reason, including if it is stolen whilst in the possession (wide interpretation) of the Guest.
- 20.4 Upon check out rooms must be locked and keys handed in at reception, unless otherwise instructed.
- 20.5 This Establishment accepts no responsibility for any loss or damage to any property of Guests or their visitors/invitees and Guests or their visitors/invitees retain final responsibility and liability for the safety and security of their vehicles, property and persons.

## **21. Smoking:**

- 21.1 You may assume that this is a NON SMOKING Establishment. Smoking indoors is strictly prohibited in our rooms, units, common areas and all enclosed public areas, unless clearly indicated otherwise.
- 21.2 Guests found to be smoking in their rooms will be liable to pay at least an additional night's accommodation. No exception will be made under any circumstances.

## **22. Entertainment:**

- 22.1. Guests may entertain one or two visitors by prior arrangement and approval of this Establishment. Guests who wish to entertain must however make their own prior arrangements for food, snacks, etc.
- 22.2 Entertainment activities must be conducted in such a manner as not to cause disturbance to other Guests staying at the Establishment and as a courtesy to other Guests all activities must end and visitors must leave the Establishment Premises by 21:30, unless prior written consent has been obtained from the Establishment.

## **23. Conditions of Residence:**

- 23.1 Although we have taken care to provide a safe and secure environment, Guests stay entirely at own risk and the Establishment will not accept liability for losses or damages to any person and/or property. Keep rooms locked at all times and place valuables in the safe. Upon Check out please leave the room locked and hand the keys in at reception, unless otherwise instructed.
- 23.2 The Guest hereby agrees on behalf of himself and the members of his party that it is a condition of his/her/their occupation of the Establishment that the Establishment, its landlord, employees, servants and/or agents shall not be responsible for any injury or death of any person or the loss or destruction of or damage to any property upon the Premises, whether arising from fire, theft or any other cause and by whomsoever caused or arising from the negligence (gross or otherwise) or wrongful act of any person in the employment of the Establishment.
- 23.3 The Guest agrees that after his departure, the this Establishment may retain goods left behind by him and/or his party and authorises the Establishment after giving two month's notice to the address registered by the Guest of its attention to do so, to sell same, privately or publicly, at the Establishment's discretion at such price as the Establishment may determine and offset proceeds of such sale against possible indebtedness of the Guest or to hold such proceeds or part thereof for a

period of one year pending any claims by the Guest for those proceeds failing which they shall be deemed to have been forfeited to the Establishment.

- 23.4 Every person included in the booking must have travel insurance in force for the entire duration of the Guests occupation of the Premises.
- 23.5 The Guest who makes a booking thereby warrants his/her authority on behalf of all persons included in the booking to agree that all such persons shall be informed of these Terms and agree to be bound by these Terms.
- 23.6 The Guest shall notify this Establishment within three (3) hours after the date of arrival of any defects in the Premises and shall, if the Guest has not notified this Establishment as aforesaid, be deemed to have acknowledged that the Premises were received in good order and condition.
- 23.7. The Guest shall use his best endeavours to keep the pool, garden, yard and grounds in good order and condition. The Guest shall keep the Premises in a clean, tidy and sanitary condition.
- 23.8 The Guest shall not cede any of its rights or delegate any of its obligations under these Terms. The Guest shall not sub-let, permit anyone else to occupy or part with any possessions of the Premises or part thereof.
- 23.9 The Guest shall not do anything or permit anything to be done in or on the entire Premises which is illegal, criminal and/or may be or may become a nuisance or annoyance to or in any way interfere with the comfort of neighbours.
- 23.10 The Guest shall not be entitled to keep or to bring onto the Premises any pets without the prior written consent of this Establishment.
- 23.11 Guests shall not be entitled to make any duplicates of any keys in respect of the Premises without the prior written consent of this Establishment and shall, upon departure, forthwith deliver all keys (including remote controls) to this Establishment.
- 23.12 This Establishment shall at any time have reasonable access to the Premises (including rooms/units) for the purpose of inspecting the Premises or for showing prospective Guests the Premises or for repair and maintenance purposes to the Premises or for any other reasonable purpose. This Establishment shall exercise its rights in terms hereof with the least possible inconvenience to other Guests.
- 23.13 Any servicing and/or cleaning needing to be done on the Premises outside of the scope of the normal servicing and/or cleaning of the Premises will be for the Guests account.
- 23.14 The Guest undertakes to pay to this Establishment an amount equal to any claim made against this Establishment by anyone for any loss, damage or injury suffered in or on the Premises in consequence of any act or omission by the Guest or any persons under the Guests control.
- 23.15 If any items are damaged during your stay, you will be responsible for the replacement cost of the item. Upon arrival please report any items which appear to be broken within three (3) hours.
- 23.16 The Guest/client in whose name the booking is made undertakes liability for all costs including costs incurred by his/her visitors or invitees. This Establishment however also reserves the right to hold any Guest liable for any damages or losses caused by themselves or their visitors or invitees.
- 23.17 All bookings are subject to these Terms (and not only bookings made via the Site). Additional costs incurred during the stay at this Establishment will be invoiced and payable prior to departure.

#### **24. Breach / Failure to comply with these Terms:**

##### 24.1 Should the Guest:

24.1.1 fail to pay any amount due on the due date; and/or

24.1.2 fail to comply with any of these Terms and Conditions,

this Establishment shall be entitled to cancel any agreements with such Guest; and/or immediately recover the total amount due (including costs incurred by this Establishment in so doing) from the Guest and/or deny the Guest access to this Establishment and/or follow any other remedy available to it.

- 24.2 Should this Establishment institute action against the Guest pursuant to a failure by the Guest to comply with these Terms, then without prejudice to any other rights which this Establishment may have, this Establishment shall be entitled to recover all legal costs incurred by it including attorney

and own client charges, tracing fees and such collection commission as this Establishment is obliged to pay to its attorney from the Guest.

**25. Dissatisfaction with these Terms and Conditions:**

25.1 If you are dissatisfied with this Site or with any terms, conditions, rules, policies, guidelines or practices of this Establishment, your sole and exclusive remedy is to discontinue using this Site and/or any services offered. We would however appreciate any feedback regarding this Site and/or these Terms and Conditions and/or any services and everyone is therefore invited to send comments to this Establishment' e-mail address (as provided with our contact details on this Site).

***IMPORTANT – BY CONTINUING TO USE THIS WEBSITE AND OR ANY SERVICES OF THIS ESTABLISHMENT, YOU ARE INDICATING YOUR AGREEMENT TO BE BOUND BY THE TERMS AND CONDITIONS OF USE AS SET OUT ABOVE.***

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