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Terms and Conditions

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# STANDARD TERMS AND CONDITIONS OF CONTRACT OF THE RENTAL AGENT

## 1. INTERPRETATIONS, IN THESE STANDARD TERMS AND CONDITIONS OF CONTRACT:

the headings to the clauses are for reference purposes only and shall not aid in the interpretation of the clauses to which they relate;

- 1.1 Unless the context clearly indicates a contrary intention, words importing one gender includes the other two genders, the singular includes the plural and vice-versa, and natural persons include created entities (corporate or incorporate) and vice-versa;
- 1.2 "Client" means the person / s named on the booking form (whether it be a provisional or confirmed booking form and who contracts with the Rental Agent on the terms and conditions hereunder. The client shall also include any agent who makes any booking of third party clients in respect of a booking. Such agent, as well as the persons named on the provisional and the confirmed booking form, shall be jointly and severally liable to the Rental Agent for the performance of their obligations in terms of these standard terms and conditions, as well as any contract / s made pursuant thereto;
- 1.3 "Premises" means the apartment or villa as indicated on the Rental Agreement, or as designated by the Rental Agent;
- 1.4 "Rental Agent" means the Company/ Close Corporation named on the booking form (whether it be a provisional or confirmed booking form);
- 1.5 "Services" means the provision of accommodation, transfers, transportation, booking of tours and excursions for the client in South Africa. Such services include, but shall not be limited to the procurement by the Rental Agent, acting solely as agent for the Client, with third party service providers, of hotel, lodge, backpackers' and bed and breakfast accommodation, National Park Reservations, car hire and transfer reservations, air charter reservations, the procurement of reservations with any air or land carriers, scheduled departure safari reservations, set departure tour

reservations, day tours, excursions and adventure activities reservations, and shall include any other services incidental to the a foregoing.

## 2. APPLICABILITY OF STANDARD TERMS AND CONDITIONS OF CONTRACT

All and any business or contracts undertaken or advice, information or services rendered by the Rental Agent, in connection with the services, whether gratuitous or not, is undertaken and provided in accordance with these standard terms and conditions of contract. There are no representations, warranties or conditions expressed or implied, statutory or otherwise, except those herein contained and no agreement, collateral hereto, shall be binding upon either party unless reduced to writing hereon or attached hereto and signed by the Client

## 3. THE RENTAL AGENT ACTING AS AGENT ONLY,

In terms of these standard terms and conditions, and any contract /s concluded pursuant hereto, the Rental Agent acts as agent only for and on behalf of the Client in procuring the services. As such, the Rental Agent shall procure the services for and behalf of the Client as agent for it with relevant third party service providers concerned. The Rental Agent shall, under no circumstances, be liable for the acts and omissions of the relevant third party suppliers concerned.

## 4. QUOTATIONS, PAYMENT AND CURRENCY FLUCTUATIONS

- 4.1 All quotations given by the Rental Agent in connection with the services to a Client shall be in writing and, unless otherwise agreed to in writing by a member of the Rental Agent, and shall be in the currency of South African Rand. Such quotations shall be inclusive of South African value added tax (where applicable). Acceptance of any quotation by a client shall be in writing. The Rental Agent reserves the right to amend and increase any quotation, even after acceptance by the

client, in the event of any adverse currency fluctuations, increases in Government or Statutory levies, increases levied by third party suppliers, such as airlines, providers of accommodation and transportation and other third party suppliers, in respect of the services.

- 4.2 Any revision in quotes will be commensurate with the change in the currency exchange rates or the increase in the amounts payable. In the event of the client disputing the quantum of such increase, it shall be referred forthwith to the accounting officer of The Rental Agent for determination, who, in such determination, shall act as expert and not as arbitrator, and whose decision shall be final and binding on the Rental Agent and the Client, and accordingly not subject to appeal.
- 4.3 All payments to be made by a Client to the Rental Agent shall be free of exchange, deduction or set-off or whatsoever nature. Payments shall be made by the client to the Rental Agent by way of cash, direct transfer, forex transfer or by credit card. The client shall provide the Rental Agent forthwith, upon making any payment, with written proof thereof in the form of a deposit slip, remittance advice or credit card authorization form. The relevant reference number for the booking shall at all times be reflected on the proof of payment.
- 4.4 Although the Rental Agent strives to ensure that all rates displayed on sites are correct and accurate, the Rental Agent reserves the right to request additional payments from Clients, should properties which have seasonal/ special event rates, charge such rates. Certain properties/ property groups, make rate changes at their discretion, and at short notice.

## 5. ITEMS NOT INCLUDED IN BOOKING

Certain items are not included in the cost of the booking. These costs are the responsibility of the Client including, but without limiting the generality of the a foregoing, the costs of insurances as referred to in clause 15 below, insurance cover for cancellation and curtailment, repatriation costs, medical expenses, emergency evacuation, gratuities

and beverages, optional meals and any optional excursion not reflected on the booking reservation. Furthermore, all costs with regard to any complying with any special requirements, as outlined in paragraph 6.2 below, shall be borne by the client.

## 6. BOOKING PROCEDURE

- 6.1 In order to secure a provisional booking for the services required by a Client, the Client shall complete in writing and dispatch to the Rental Agent a provisional booking reservation form (the "Rental Agreement") simultaneously, the Client shall pay the Rental Agent a non-refundable deposit of 50% (fifty percent) of the quoted cost for the services. In the event of the deposit not being paid aforesaid, the booking shall lapse.
- 6.2 Upon receipt by the Rental Agent of the balance of the monies due from the client, the provisional booking shall be confirmed. If balance of the monies due from the client is not received 30 days prior to arrival or the client cancels before making payment of the balance of the monies due for whatever reason then the provisional booking will be automatically cancelled and the deposit will be forfeited. In the event of the client wishing to amend his reservation in any way, the Rental Agent may elect, in its sole discretion and without obligation, to do so, in which event it shall be entitled to charge an amendment fee of 3%, three percent of the booking, which shall be payable by the Client in accordance with these standard terms and conditions.
- 6.3 The Client shall advise the Rental Agent in writing on the booking form of any special requests, needs or facilities required by him due to medical needs, requirements relating to disabilities, special dietary requirements and refrigeration for the storage of insulin and other medically prescribed drugs, and any other requirements incidental thereto. The costs of complying with such special requests, needs or facilities shall be borne by the Client and payable on demand.
- 6.4 The Rental Agent requires a damage

deposit pertaining to the property that has been booked.

The amount will be advised at time of quotation and must be paid directly to the supplier, prior to arrival.

In the event of damages, or costs being incurred due to breach of contract, clients will be informed in writing within 7 working days of their departure.

The damages will then be claimed against their invoice.

6.4.1 The property is accepted as including all furniture, fittings and accessories “voetstoots” and in the condition in which they are found, and shall be left in the same order and good condition, fair wear and tear excepted. The Owner and the Rental Agent takes no responsibility for the breakdown or malfunction of appliances during your stay, however, every effort will be made to repair any faulty appliances which are reported. The Client shall be responsible for any shortages, breakages during your occupancy. A full inventory of the contents of the house will be found in the house and should be checked on arrival. Any shortfall must be reported to the Rental Agent immediately, otherwise it will be assumed that the inventories are correct. The Clients are expected to leave the premises in the condition they found it on arrival.

6.5 Check in time is from 14:00 onwards. For an early morning arrival, Client is advised to book for the night before as your apartment may only be ready for occupation at 14:00 on the day of arrival. The arrival details and check in form must be faxed to the Rental Agent prior to the client's arrival on +27(0)87 1501538. Failure to do so will result in unnecessary delays for which the Rental Agent will not be liable.

6.6 Client must report any damages to the apartment within 24 hours of arrival, failing which the apartment will be deemed to have been in good order. The Rental Agent will endeavor to make good any damages reported by the client within 2

days of receipt of the report from the Client.

6.7 Check out time is 11:00 on the day of departure. Late check out may result in penalty fees as there are usually more guests arriving the day the client leaves. The client shall upon departure hand over all keys (including remote controls) to the Rental Agent or its appointed agent. Any lost keys or keys not returned will result in lock and keys being replaced at the clients cost and will be deducted from the security and breakages deposit referred to in clause 6.4 above.

6.8 The Client confirms that he has read and understood the description of the premises that he has chosen as displayed on the website <http://www.myleisuregroup.com> whichever is applicable.

6.9 The Rental Agent reserves the right to substitute the applicable apartment with another similar or higher quality apartment should the chosen apartment not be lettable for any reason whatsoever.

## 7. CANCELLATIONS AND REFUNDS

7.1 Cancellations of confirmed bookings for whatever reason may only take place according to the procedure outlined in this clause. All requests for cancellations shall be made by the client in writing to the Rental Agent and shall only be effective on the date of actual receipt by the Rental Agent. The following cancellation fees shall be applicable and shall be calculated by reference to funds received at that point.

- Should the booking be cancelled 31 days or more prior to the check in date, a cancellation fee of 20% of the deposit will be charged.

If we are able to secure another booking for the dates you booked, the remainder of the deposit will be refunded less any nights that weren't booked.

- Should the booking be cancelled 30 days or less prior to the check in date, 100% of the funds paid will be charged.

7.2 Any cancellations made, in terms of these terms and conditions shall be subject to the following deductions and administrative charges: Refunds to credit

cards: the relevant cancellation fee, less a 5% credit card surcharge and an administrative charge. Direct bank deposits: the relevant cancellation fee, less actual bank charges debited by The Rental Agent's bankers, less an administrative charge. Forex transfers: the relevant cancellation fee, less actual bank charges debited by the Rental Agent's bankers, less an administrative charge. Cash payments: the relevant administration charges, less actual bank charges debited by the Rental Agent's bankers, less an administrative charge.

## 8. RIGHT OF RETENTION

Until such time as the Rental Agent has received payment in full for the services as set out in the confirmed booking reservation, all documentation, including without limited the generality thereof, airline tickets, vouchers for accommodation, excursions, meals and transportation (all of which hereinafter referred to as "the documents" ) will not be issued or handed over to the client. The provisions of this clause shall entitle the Rental Agent so as to give it a right of retention or lien in respect of the documents.

## 9. ALTERATIONS TO ITINERARIES

- 9.1 The Rental Agent has the right at any time, and in its sole discretion, to amend or cancel any of the services or the remainder thereof, or to make any alteration in route, accommodation, transportation arrangements in the event of the services or any part thereof rendered impossible, illegal or inadvisable due to force majeure , the definition of which including war, strike, civil strife, riot, industrial dispute, natural or nuclear disaster, fire, adverse weather conditions, governmental interference or any other external circumstances beyond the Rental Agent's control.
- 9.2 The Rental Agent reserves the right to substitute the applicable apartment with another similar or higher quality apartment should the chosen apartment not be lettable for any reason whatsoever.
- 9.3 Any extra costs and expenses occasioned as a result of an alteration to or

cancellation of itineraries as provided for in clause 9.1 above shall be payable by the Client on demand by the Rental Agent.

- 9.4 If the supplier has their own cancellation policy then it will override My Leisure Group cancellation policy. The suppliers cancellation policy can be requested at any time.

## 10. CLEANING SERVICES

- 10.1 The Client may arrange in writing with the Rental Agent for any additional cleaning services.
- 10.2 Client must ensure that all bed linen and towels which need to be changed must be placed in the bath for collection.
- 10.3 In the event of a disruption of the cleaning services the Rental Agent will endeavor to find a replacement cleaner within a reasonable time.

## 11. INTERNET ACCESS

- 11.1 Telephone / Internet connections is for the account of the Client and is paid via pre paid vouchers / alternatively the Client will be billed by the Rental Agent or its duly appointed agent on receipt of the billing information from the relevant service provider, such charges to be added to the Clients final account.
- 11.2 Internet usage is strictly for email and web surfing, no downloads are permitted. Bandwidth will be capped at 1 Gigabyte unless an alternative arrangement is made with the Rental Agent or its duly appointed agent, in writing.

## 12. FAIR USAGE POLICY

Included in the cost of booking is the charge for the use and consumption by the Client of all electricity and water consumed upon the Premises. Clients are kindly requested to use electricity and water sparingly and only according to their needs. In the unlikely event that a Client uses and consumes a disproportionate amount of electricity and water then the Rental Agent has the sole discretion to deduct any amount which it thinks fit, from the security and breakages deposit referred to in clause 6.3 above.

## 13. SUNDRY DUTIES OF THE CLIENT

### 13.1 The Client shall;

- a. keep the Premises clean, tidy, and habitable;
- b. not use the Premises or allow them to be used, in whole or part, for any purpose other than that of a private dwelling;
- c. take all reasonable measures to protect the Premises and all parts thereof (including all fixtures, fittings, appurtenances, appliances and keys) from abuse, damage, destruction, and theft;
- d. not place or leave any article or other thing in or about any passage, lift, stairway, pathway, parking garage, or other common part of the Building so as to cause a nuisance or obstruction;
- e. not bring into the Premises or the Building any article which, by reason of its weight or other characteristics, is liable to cause damage to the Building or the Premises;
- f. not contravene any of the conditions of title of the Property or any of the laws, rules or regulations affecting owners, clients or occupiers of the Property or the Building;
- g. not cause or commit any nuisance on the Property or cause any annoyance or discomfort to other clients or occupiers of the Building, including but not limited to loud noise after 09:30 pm;
- h. not leave refuse or allow it to accumulate in or about the Premises except in the refuse bins provided;
- i. refrain from interfering with the electrical, plumbing, or gas installations or systems serving the Premises or the Building, except as may be necessary to enable the Rental Agent or its duly appointed agent to carry out its obligations of maintenance and repair in terms of this agreement;
- j. not allow more than the specified persons as per the booking form to reside in the Premises at the same time;
- k. not keep any live animals or birds on

the Premises except with the prior written consent of the the Rental Agent;

- l. not hang washing in any visible place in or about the Premises, or do or display anything else which causes the Premises or the Building to appear unsightly;
- m. use the bathroom facilities for the specific purposes for which they are intended to be used.
- n. take all reasonable measures to prevent blockages and obstructions from occurring in the drains, sewerage pipes and water pipes serving the Premises; and
- o. ensure that all lights and appliances are not left on unnecessarily and switched off when leaving the premises. Client is reminded that Cape Town is a energy saving conscious city.
- p. not redecorate the premises unless written permission to do so is received from the Rental Agent or its duly appointed agent.
- q. ensure that all doors and windows are closed and or secured at all times, and that all furniture including but not limited to outdoor chairs and umbrellas are secured and fastened, as Cape Town is a windy city.
- r. not use any tobacco products or allow any other person to use tobacco products in or around the Premises. No cigarette stubs may be discarded in the Premises or on the communal property and stairs, nor be thrown from the Premises' windows onto the surrounding Premises.

13.2 The Rental Agent may further in its sole discretion cancel or terminate a client's booking for the services or any remaining part thereof in the event of any illness or the illegal or incompatible behaviour of the client, with but not limited to the aforesaid who shall, in those circumstances, not be entitled to any refund. Any extra costs occasioned by such cancellation or termination as provided for in this sub-clause shall be

payable by the client on demand.

#### **14. ASSIGNMENT AND SUBLETTING**

The Client shall not be entitled to; a) cede or assign all or any of the rights and obligations of the client under this agreement;

- a. to sublet the Premises in whole or part; or
- b. to give up possession of the Premises to any third party.

#### **15. INSURANCE**

15.1 The Client shall be responsible for arranging and effecting adequate insurance cover to ensure that he carries comprehensive travel and medical insurance cover in order to cover himself, his dependants and / or travelling companions for the duration of the booking for which he has reserved. This insurance cover should include cover in respect of, but not limited to, as a minimum, the following eventualities: any expenses associated with cancellation or curtailment of a booking reservation; emergency evacuation and medical expenses; personal injury, repatriation expenses; damage / theft / loss of personal baggage, money and goods.

15.2 Under no circumstances shall the Rental Agent, its representatives, employees or members be responsible for any costs, losses incurred or suffered by a client, his dependants or travelling companions with regard to, but not limited to, the above eventualities. Clients will be charged direct for any emergency evacuation, repatriation and medical expenses be the relevant service providers and shall be obliged to settle such charges payable to the relevant service providers concerned.

#### **16. VACCINATIONS & HEALTH**

16.1 It is the Client's responsibility to be aware of malaria, yellow fever and other potential diseases when travelling to Africa. The client must take all necessary vaccinations and precautions, as are required in the prevention of

these diseases, which are endemic to certain regions of Africa. The client shall therefore prior to embarking for the services for which he is booked attend at his medical practitioner or a travel clinic to obtain the necessary vaccinations, medication and advice. The Rental Agent does not accept any responsibility whatsoever for any client being refused entry to any country due to incorrect or incomplete health documentation or vaccinations.

16.2 Clients should be medically fit, in good health and able to embark upon a trip. If the Client has any pre-existing medical condition or illness, they must declare the true nature of such condition at the time of booking and make arrangements for the provision of any drugs or other cause of treatment, which may be required during their trip.

#### **17. PASSPORTS, VISAS AND MEDICAL REQUIREMENTS**

The Client shall ensure that prior to embarking on the travels his passport and visas, and those of his dependants and travelling companions are valid for the countries to be visited. Such responsibility shall also extend to vaccinations and other medical certificates, and all other travel documents, including traveller's cheques where applicable. The Rental Agent does not accept any responsibility for changes in medical requirements or regulations for visas or any particular visa requirements. Should the Client be refused entry to any country, due to incorrect or incomplete documentation or failure to comply with that country's medical requirements, The Rental Agent shall not be liable for any costs of whatsoever nature occasioned thereby.

#### **18. DISCLAIMER OF LIABILITY**

18.1 The Rental Agent shall not be liable to the client for any claim of whatsoever:- nature in connection with the provision of the services ( whether in contract or delict ) and whether for damages for personal injury or to property , howsoever arising, including, but without limiting the generality of the aforesaid:-

any act or omission of The Rental Agent or any agent or servant of or contractor to The Rental Agent, whether or not negligent, or otherwise actionable at law, and including (without limiting the generality of the foregoing) any act or omission of any cleaner, maintenance person, handyman, artisan, labourer, workman, watchman, guard, or commissionaire;

- a. the condition or state of repair at any time of the Property, the Building, or any part of the Property or the Building;
- b. any failure or suspension of, or any interruption in, the supply of water, electricity, gas, air-conditioning, heating, or any other amenity or service to the Premises, the Building, or the Property (including, without generality being limited, any cleaning service), whatever the cause;
- c. any breakdown of, or interruption in the operation of, any machinery, plant, equipment, installation or system situated in or on, or serving, the Property, the Building, or the Premises, and including (but without limiting the generality of the foregoing) any lift, escalator, geyser, boiler, burglar alarm, or security installation or system, again regardless of cause;
- d. any interruption of or interference with the enjoyment or beneficial occupation of the Premises or any of the common parts of the Property or the Building caused by any building operations or other works to or in the Building or elsewhere on or about the Property, or on adjacent properties whether carried out by the The Rental Agent or by anybody else; or
- e. any other event or circumstance whatever occurring, or failing to occur, upon, in, or about the Property, the Building, or the Premises, whether or not the The Rental Agent could otherwise have been held liable for such occurrence or failure,

18.2 Notwithstanding anything to the contrary

contained in these standard terms and conditions of contract, The Rental Agent shall under no circumstances whatever, be liable for any indirect or consequential loss / losses, howsoever caused or suffered by the Client.

## 19. AIR TRAVEL

- 19.1 The Rental Agent cannot be held responsible should airlines discontinue flights on certain routings or change scheduled timetables resulting in missed connections. Should an amendment in routing or itinerary be necessary, any additional costs incurred will be borne by the client and shall be payable to The Rental Agent on demand.
- 19.2 Due to recent international events, many airlines / airports have extended the check in times of both domestic and international flights. The Rental Agent cannot be held responsible for any delays or circumstances that may result in a client missing their flight or subsequent transfers. Throughout the entire booking process, it is the responsibility of the client to ensure that enough time has been calculated in order not to miss connecting flights and transfers.

## 20. POLICY

- 20.1 A child of 12 years and older will automatically be regarded as an adult and charged the full adult rate for all services provided unless otherwise agreed in writing by the Rental Agent.
- 20.2 Certain suppliers offer a discounted rate to children under 12 years old, however rates will be advised according to the itinerary requested at the time of booking.
- 20.3 Certain accommodation establishments refuse permission to children under the age of 12 years. Acceptance of children is therefore subject to the availability of family units and specific conditions implemented by the supplier.
- 20.4 Suppliers, which allow children under 12, may have restrictions regarding activities, in which children may partake. This is at the discretion of the supplier and needs to be confirmed

with the Rental Agent at the time of booking. The Rental Agent cannot be held liable for any changes to the suppliers' child policy.

## **21. DEFAULT BY CLIENT AND RECOVERY OF ATTORNEY AND OWN CLIENT COSTS**

- 21.1 Overdue amounts due by the client to the Rental Agent shall bear interest at the prime rate of interest charged from time to time by any authorised banking institution of South Africa, plus 3 percentage points thereon, which rate may be proved by a certificate from any duly authorized official of the said bank, and shall constitute prima facie proof of the contents thereof. Such certificate may be used for the purpose of provisional sentence or summary judgment in any legal proceedings.
- 21.2 A certificate by any duly authorized employee of the Rental Agent or by any of its members shall be prima facie proof as to the outstanding amount due and payable by the client to it in terms hereof. Such certificate may be used by The Rental Agent for the purposes of provisional sentence or summary judgment in any legal proceedings.
- 21.3 In the event of the Rental Agent incurring any legal costs pursuant to any breach by the Client of any of its obligations, the client shall be liable for and pay the Rental Agent's costs thereby incurred, on the scale as between attorney and own client.

## **22. APPLICABLE LAW**

These standard terms and conditions and all agreements entered into between the Rental Agent and the client pursuant thereto, and on the terms thereof shall be governed by and construed according to the laws of the Republic of South Africa, irrespective of the place where the agreement / s where entered into.

## **23. JURISDICTION**

- 22.1 Subject to the provisions of clause 23.3 below, any legal proceedings arising out of or in connection with

these standard terms and conditions, or any agreement entered into pursuant thereto, shall be instituted in the Cape of Good Hope Provincial Division of the High Court of South Africa, which shall have exclusive jurisdiction to hear and determine such legal proceedings.

- 23.2 To the extent as may be necessary, the client hereby consents and submits to the jurisdiction of the said court, as referred to in clause 23.1 above.
- 23.3 Notwithstanding the provisions of clause 22.1 above, the Rental Agent shall have the discretion to institute legal proceedings against a client in any Magistrate's Court having jurisdiction in terms of Act no. 32 of 1944, as amended, notwithstanding that the amount claimed in such proceedings would otherwise exceed the monetary jurisdiction of the said Court.

## **24. VARIATION OF THESE STANDARD TERMS AND CONDITIONS OF CONTRACT**

No variation or alteration of these standard terms and conditions of contract shall be binding on the Rental Agent unless embodied in a written document signed by a member of the Rental Agent. Any purported variation or alteration of these standard terms and conditions of contract otherwise than as set out above shall be of no force or effect, whether such purported variation is written or oral, or a combination of both.

## **NON-WAIVER**

No extension of time or relaxation of any of the provisions of these standard terms and conditions of contract shall operate as an estoppel against the Rental Agent in respect of its rights herein, nor shall it operate so as to preclude the Rental Agent thereafter from exercising its rights strictly in accordance with these standard terms and conditions.



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