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## TERMS AND CONDITIONS OF USE

**IN TERMS OF SECTION 11 OF THE [ELECTRONIC COMMUNICATIONS AND TRANSACTIONS \(ECT\) ACT 25 OF 2002](#) AND THE COMMON LAW OF CONTRACT, THESE TERMS AND CONDITIONS ARE VALID, BINDING AND ENFORCEABLE AGAINST ALL PERSONS THAT ACCESS THE FAERIE KNOWE NEIGHBOURHOOD WATCH WEBSITES ("THE WEBSITE"), WEB PAGES OR ANY PART THEREOF.**

**IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS YOU MUST LEAVE THE WEBSITE(S) IMMEDIATELY AS FURTHER USE WILL AUTOMATICALLY BIND YOU TO THESE TERMS AND CONDITIONS.**

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### DEFINITIONS AND INTERPRETATION

- a) **"the Website"** means the Faerie Knowe Neighbourhood Watch websites collectively, including services available on and through the websites and furthermore including source code, meta tags, postings and any page, part or element thereof;
- b) **"Faerie Knowe Neighbourhood Watch"** includes the owner, operator, host and webmaster of the Website;
- c) **"User"** means any person who enters or uses the Website, notwithstanding the fact that such a person only visits the home page of the Website;
- d) References herein to the singular includes the plural and vice versa; and
- e) Hyperlinks herein to legal documents should be deemed part of these terms and conditions in terms of section 11(3) of the [ECT Act](#). The fact that some or all of the hyperlinks may, from time to time, be non-operational, shall not affect the validity and interpretation of these terms and conditions.

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### 1. GENERAL

Faerie Knowe Neighbourhood Watch is a neighbourhood watch website for Faerie Knowe, Cape Town, South Africa.

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### 2. ALLOWED USE AND LICENSE

- 2.1 Faerie Knowe Neighbourhood Watch licenses the User to view, download, and print the content of the Website, provided that such content is used for private, personal, educational, and/or non-commercial purposes only.
- 2.2 Content from the Website may not be used or exploited by Users for any commercial and non-private purposes without the prior written consent of Faerie Knowe Neighbourhood Watch.
- 2.3 Users may only access, browse and use the Website for legitimate personal or commercial purposes and may not use the Website or any Faerie Knowe Neighbourhood Watch services and/or products for:
  - 2.3.1 Harmful purposes;
  - 2.3.2 Illegal purposes;
  - 2.3.3 Disclosing, sharing or publishing material that may be offensive, defamatory, regulated, copyrighted, incorrect, untrue, prohibited, infringing or damaging to any person; and/or

- 2.3.4 The creation, storage and sending of unsolicited commercial communications.
- 2.4 The caching of the Website shall only be allowed if:
  - 2.4.1 The purpose of the caching is to make the onward transmission of the content from the Website more efficient;
  - 2.4.2 The cached content is not modified in any manner whatsoever;
  - 2.4.3 The cached content is updated at least every 12 (twelve) hours; and
  - 2.4.4 The cached content is removed or updated when so required by Faerie Knowe Neighbourhood Watch.
- 2.5 If any User uses content from the Website in breach of the provisions detailed herein:
  - 2.5.1 Faerie Knowe Neighbourhood Watch reserves the right to claim damages from the User;
  - 2.5.2 Faerie Knowe Neighbourhood Watch reserves the right to institute criminal proceedings against the User; and
  - 2.5.3 Faerie Knowe Neighbourhood Watch shall not be liable, in any manner whatsoever, for any damage, loss or liability that resulted from the use of such content by the User or any third party who obtained any content from the User.
- 2.6 Hyperlinks to the Website from any other source shall be directed at the home page of the Website. Links beyond the Faerie Knowe Neighbourhood Watch home page may only be used with Faerie Knowe Neighbourhood Watch's prior written consent.
- 2.7 Faerie Knowe Neighbourhood Watch shall not be liable, in any manner whatsoever, for any damage, loss or liability that resulted from the use of content, products or services available from the Website, if such content, products or services was accessed through a hyperlink not directed at the home page of the Website. Persons that wish to link to pages beyond the home page of the Website without Faerie Knowe Neighbourhood Watch's prior written consent shall do so at their own risk and indemnify Faerie Knowe Neighbourhood Watch against any loss, liability, or damage that may result from the use of such hyperlinks. Faerie Knowe Neighbourhood Watch's non-liability for deep linking is because deep links bypass these terms and conditions.
- 2.8 Users may quote small and reasonable amounts of content available from the Website and only if such a quote is placed in inverted commas and acknowledged.
- 2.9 No person may, without the prior written consent of Faerie Knowe Neighbourhood Watch, frame the Website in any manner whatsoever.
- 2.10 Apart from bona-fide search engine operators and use of the search facility provided on the Website by Users, no person may use or attempt to use any technology or applications (including web crawlers, robots or web spiders) to search, collect or copy content from the Website for any purpose whatsoever, without the prior written consent of the Faerie Knowe Neighbourhood Watch.
- 2.11 E-mail addresses, names, telephone numbers, and fax numbers published on the Website may not be incorporated into any database used for electronic marketing or similar purposes. No permission is given or should be implied that information on the Website may be used to communicate unsolicited communications to Faerie Knowe Neighbourhood Watch and all rights detailed in section 45 of the [ECT Act](#) are reserved.
- 2.12 All licenses and/or permissions granted in terms of this clause 2 are provided on a non-exclusive and non-transferable basis and may be terminated or cancelled by Faerie Knowe Neighbourhood Watch at any time without prior notice or reasons.

### 3. INTELLECTUAL PROPERTY RIGHTS

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- 3.1 All intellectual property on the Website, including but not limited to content, trademarks (or any confusingly similar trademarks), logos, pictures, video, downloads, domain names, patents, design elements, software, source code, meta tags, databases, text, graphics, icons and hyperlinks are the property of or licensed to Faerie Knowe Neighbourhood Watch and as such, are protected from infringement by domestic and international legislation and treaties. Subject to the rights licensed to the User in clause 2, all other rights to intellectual property on the Website are expressly reserved.
- 3.2 No person may use logos, icons, or trade marks from the Website as hyperlinks or other purposes without Faerie Knowe Neighbourhood Watch's prior written consent.

### 4. SOFTWARE AND EQUIPMENT

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It is the responsibility of the User to acquire and maintain, at his/her own expense, the necessary computer hardware, software, communication lines and Internet access accounts required to access the Internet and the Website and/or download content from the Website.

### 5. DISCLOSURES REQUIRED BY SECTION 43 OF THE ECT ACT

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*These terms and conditions as well as product and / or service specific terms and conditions govern the sale of goods and / or the provision of services from or through the Website.*

Access to the services, content, software and downloads available from the Website may be classified as "electronic transactions" as defined in terms of the [ECT Act](#) and therefore Users have the rights detailed in Chapter 7 of the [ECT Act](#) and Faerie Knowe Neighbourhood Watch has, amongst others, the duty to disclose the following information:

- 5.1 **The full name and legal status of the website owner:** Faerie Knowe Neighbourhood Watch. Community Safety Structure;
- 5.2 **Street address:** 5 Shetland Close, Capri Village, 7975, Cape Town South Africa;
- 5.3 **Postal address:** PO Box 2102, Sun Valley, 7985, Cape Town, South Africa;
- 5.4 **Physical address for receipt of legal service:** see 5.2 above;
- 5.5 **Telephone number:** +27 83 922 2195;
- 5.6 **Fax number:** +27 21 700 8705;
- 5.7 **Main business:** Faerie Knowe Neighbourhood Watch is a neighbourhood watch website for Faerie Knowe, Cape Town, South Africa.;
- 5.8 **The website address of the Website is:** <http://www.faerieknowewatch.co.za>
- 5.9 **The official e-mail address of the Website is:** [faerieknowewatch@gmail.com](mailto:faerieknowewatch@gmail.com)
- 5.10 **Alternative dispute resolution:** Subject to urgent and/or interim relief, all disputes regarding:
- 5.10.1 access to the Website;
- 5.10.2 the inability to access the Website;
- 5.10.3 the services and content available from the Website; or
- 5.10.4 these terms and conditions,

shall be referred to arbitration in terms of the expedited rules of the Arbitration Foundation of South Africa and such arbitration proceedings shall be conducted in Cape Town in English. The arbitration ruling shall be final and the unsuccessful party shall pay the costs of the successful party on a scale as between attorney and own client. The expedited rules of the Arbitration Foundation of South Africa may be downloaded from the following website: <http://www.arbitration.co.za>; and

- 5.11 Users may lodge complaints concerning the Website with Faerie Knowe Neighbourhood Watch at [faerieknowewatch@gmail.com](mailto:faerieknowewatch@gmail.com)

## 6. WEBSITE DISCUSSIONS AND CONTRIBUTIONS

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- a) **"Discriminatory"** means offensive, untrue or provocative material based on race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth;
- b) **"Pornographic"** means all the content and actions, simulated or real, graphic or written detailed in Schedules 1, 2, 6, 7 and 11 of the Films and Publications Act 65 of 1996 (to download the Act click here: <http://www.acts.co.za/films-and-publications-act-1996/index.html>);
- c) **"Illegal Content"** means material that is Pornographic, Discriminatory, oppressive, racist, hate speech, sexist, defamatory against any User or third party, offensive to any User or group, a violation of a User's or a third party's privacy, identity or personality, copyright infringement, advice and / or guidelines on the circumvention of any technical security measures and / or digital rights management technologies, malicious codes such as viruses and Trojan horses, and content containing any Personal Information of third parties without their express consent and includes hyperlinks or other directions to such content; and
- d) **"Personal Information"** means Personal Information as defined in the Promotion of Access to Information Act (click here to download the Act: <https://www.acts.co.za/promotion-of-access-to-information-act-2000/index.html>).
- 6.1 Users may take part in discussions and post announcements to a discussion forum ("the Forum") available on the Website;
- 6.2 Participation on the website is subject to [registration](#).
- 6.3 In order to protect the website and its Users from legal prosecution, civil liability, and to maintain an environment that encourages debate and discussion, inappropriate material and Illegal Content may not be posted to the website;
- 6.4 Faerie Knowe Neighbourhood Watch reserves the right, in its sole and absolute discretion, to amend, edit and remove any User postings;
- 6.5 Users hereby license Faerie Knowe Neighbourhood Watch to publish, use, sub-license, distribute, amend, update and store material posted to the Forum;
- 6.6 Faerie Knowe Neighbourhood Watch shall not be liable for any damage, loss, liability and/or harm incurred by any person if such where such any damage, loss, liability and/or harm resulted from a User's posting to the Forum;
- 6.7 Faerie Knowe Neighbourhood Watch does monitor postings and discussions on the website and / or does enforce editorial control over any material available on or through the website;
- 6.8 A User posts material to the website entirely at their own risk and hereby indemnify and hold Faerie Knowe Neighbourhood Watch harmless against any damage, loss, liability and/or harm incurred or suffered by Faerie Knowe Neighbourhood Watch if such damage, loss, liability and/or harm resulted from material posted to the website by such User;
- 6.9 Users waive all moral rights that may attach to material posted to the website; and

- 6.10 Faerie Knowe Neighbourhood Watch shall remove material from the website and disclose the identity of Users who posted material if:
  - 6.10.1 A third party requests the removal of such material and reasonably substantiate and / or prove the illegal, infringing or incorrect nature of such material; and
  - 6.10.2 The third party request to remove material is reduced to writing and delivered to Faerie Knowe Neighbourhood Watch.

## **7. CHANGES AND AMENDMENTS**

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- 7.1 Changes to the terms and conditions will be advertised on our [Facebook page](#).
- 7.2 Faerie Knowe Neighbourhood Watch reserves the right, in its sole and absolute discretion, to do any of the following, at any time without prior notice or justification:
  - 7.2.1 change the content and/or services available from the Website;
  - 7.2.2 discontinue any aspect of the Website or service(s) available from the Website; and/or
  - 7.2.3 change the software and hardware required to access and use the Website.

## **8. PRIVACY**

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- 8.1 Faerie Knowe Neighbourhood Watch shall take all reasonable steps to protect the personal information of Users and for the purpose of this clause, "personal information" shall be defined as detailed in the Promotion of Access to Information Act 2 of 2000 (PAIA).
- 8.2 Faerie Knowe Neighbourhood Watch may electronically collect, store and use the following personal information of Users:
  - 8.2.1 name and surname;
  - 8.2.2 area code;
  - 8.2.3 street address;
  - 8.2.4 postal address;
  - 8.2.5 title;
  - 8.2.6 contact numbers;
  - 8.2.7 non-personal browsing habits and click patterns;
  - 8.2.8 e-mail address; and / or
  - 8.2.9 IP address.
- 8.3 Faerie Knowe Neighbourhood Watch collects, stores and uses the abovementioned information for the following purposes:
  - 8.3.1 Communicate requested information to the User;
  - 8.3.2 Provide services to the User as requested by the User;
  - 8.3.3 Authenticate the User;

- 8.3.4 Provide the User with access to restricted pages on this website; and
- 8.3.5 Compile non-personal statistical information about browsing habits, click-patterns, and access to the Website.
- 8.4 Information detailed above is collected either electronically by using cookies or is provided voluntarily by the User. Users may determine cookie use independently through their browser settings.
- 8.5 Faerie Knowe Neighbourhood Watch may collect, maintain, save, compile, share, disclose and sell any information collected from users, subject to the following provisions:
  - 8.5.1 Faerie Knowe Neighbourhood Watch shall not disclose personal information from Users unless the User consents thereto;
  - 8.5.2 Faerie Knowe Neighbourhood Watch shall disclose personal information without the User's consent only through due legal process; and
  - 8.5.3 Faerie Knowe Neighbourhood Watch may compile, use and share any information that does not relate to any specific individual.
- 8.6 Faerie Knowe Neighbourhood Watch own and retain all rights to non-personal statistical information collected and compiled by Faerie Knowe Neighbourhood Watch.

## **9. HYPERLINKS TO THIRD PARTY SITES**

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- 9.1 Faerie Knowe Neighbourhood Watch may provide hyperlinks to websites not controlled by Faerie Knowe Neighbourhood Watch ("target sites") and such hyperlinks do not imply any endorsement, agreement on or support of the content, products, and/or services of such target sites.
- 9.2 Faerie Knowe Neighbourhood Watch does not editorially control the content, products and/or services on target sites and shall not be liable, in any manner whatsoever, for the access to, inability to access and or use, or content available on or through target sites.

## **10. SECURITY**

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- 10.1 Faerie Knowe Neighbourhood Watch shall take all reasonable steps to secure the content of the Website and the information provided by and collected from Users from unauthorised access and/or disclosure. However, Faerie Knowe Neighbourhood Watch do not make any warranties or representations that content shall be 100% safe or secure.
- 10.2 Subject to the provisions of sections 43(5) and 43(6) of the [ECT Act](#), if applicable, Faerie Knowe Neighbourhood Watch is under no legal duty to encrypt any content or communications from and to Users and is also under no legal duty to provide digital authentication of any pages on the Website.
- 10.3 Users may not deliver or attempt to deliver, whether on purpose or negligently, any damaging code, such as computer viruses, robots or spy ware, to the Website or the server and computer network that support the Website.
- 10.4 Notwithstanding criminal prosecution, any person who delivers or attempts to deliver any damaging code to the Website, whether on purpose or negligently, shall, without any limitation, indemnify and hold Faerie Knowe Neighbourhood Watch harmless against any and all liabilities, damages, risks and losses that Faerie Knowe Neighbourhood Watch and its partners / affiliates may suffer as a result of such delivery, attempt or damaging code.
- 10.5 Users may not develop, distribute, or use any device or programme designed to breach or overcome the security measures of the restricted pages, products and services on the Website and Faerie Knowe Neighbourhood Watch reserves the right to claim damages from

any and all persons involved, directly and indirectly, in the development, use and distribution of such devices or programmes.

- 10.6 Users who commit any of the offences detailed in sections 85 to 88 of the [ECT Act](#) shall, notwithstanding criminal prosecution, be liable for all resulting liabilities, losses, destruction or damages suffered and/or incurred by Faerie Knowe Neighbourhood Watch and its partners / affiliates due to or related to these illegal actions.

## **11. DISCLAIMER AND LIMITATION OF LIABILITY**

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- 11.1 Subject to the provisions of sections 43(5) and 43(6) of the [ECT Act](#), if applicable, and as far as allowed by law, Faerie Knowe Neighbourhood Watch (including its owners, employees, suppliers, Internet service providers, partners, affiliates and agents) shall not be liable for any damage, loss or liability of any nature incurred by whomever and resulting from:
- 11.1.1 access to the Website;
  - 11.1.2 access to websites linked to the Website;
  - 11.1.3 inability to access the Website;
  - 11.1.4 inability to access websites linked to the Website;
  - 11.1.5 content available on the Website;
  - 11.1.6 content posted to the Website by Users;
  - 11.1.7 services available from the Website;
  - 11.1.8 products available from the Website;
  - 11.1.9 downloads and use of content from the Website; and/or
  - 11.1.10 any other reason not directly related to Faerie Knowe Neighbourhood Watch gross negligence.
- 11.2 The Faerie Knowe Neighbourhood Watch website is supplied on an "as is" basis and has not been compiled to meet the User's individual requirements. It is the responsibility of the User to satisfy him or herself, prior to entering into this agreement with Faerie Knowe Neighbourhood Watch, that the content available from and through the Website meet the User's individual requirements and is compatible with the User's computer hardware and/or software.
- 11.3 Information, ideas and opinions expressed on the Website should not be regarded as professional advice or the official opinion of Faerie Knowe Neighbourhood Watch and Users are encouraged to consult professional advice before taking any course of action related to the information, ideas or opinions expressed on the Website.
- 11.4 Faerie Knowe Neighbourhood Watch does not make any warranties or representation that content and services available from the Website shall in all cases be true, correct or free from any errors. Faerie Knowe Neighbourhood Watch shall take all reasonable steps to ensure the quality and accuracy of content available from the Website.
- 11.5 Faerie Knowe Neighbourhood Watch does not make any warranties or representations that the Website shall be available at all times. Users acknowledge that the Website may be unavailable due to updates or other causes beyond the reasonable control of Faerie Knowe Neighbourhood Watch, including, but not limited to virus infection, unauthorised access (hacking), power failure or other "acts of God."
- 11.6 Faerie Knowe Neighbourhood Watch shall not be liable for any damage, loss, risk, liability or danger resulting from the advertising of any products or services, the review of any

products or service, any product or service endorsement or any comments on products and services submitted by Users.

## **12. REMOVAL AND CORRECTION OF CONTENT**

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Users are encouraged to report untrue, inaccurate, defamatory, illegal, infringing, and/or harmful content available from the Website to Faerie Knowe Neighbourhood Watch and Faerie Knowe Neighbourhood Watch undertakes to correct and/or remove such content or any part thereof if the person reporting such content provided reasonable grounds to prove the alleged nature of the content.

## **13. INTERCEPTION OF COMMUNICATIONS**

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- 13.1 Subject to the provisions of the Regulation of Interception of Communications (RIC) Act 70 of 2002, the User agrees to Faerie Knowe Neighbourhood Watch right to intercept, block, filter, read, delete, disclose and use all communications (including all "data messages" as defined in the [ECT Act](#)) send or posted by the User to the Website, its staff and employees. The RIC Act may be downloaded from: <https://www.acts.co.za/regulation-of-interception-of-communications-and-provision-of-communication-related-information-act-2002/index.html>.
- 13.2 The User agrees and acknowledges that the consent provided by the User in clause 14.1 satisfies the "writing" requirement as detailed in the [ECT Act](#) and the RIC Act.

## **14. ENTIRE AGREEMENT AND SEVERABILITY**

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- 14.1 These terms and conditions constitute the entire agreement between Faerie Knowe Neighbourhood Watch and the User and shall take precedent over any disclaimers and/or legal notices attached to any communications and/or postings received by Faerie Knowe Neighbourhood Watch from the User.
- 14.2 Any failure by Faerie Knowe Neighbourhood Watch to exercise or enforce any right or provision shall in no way constitute a waiver of such right or provision.
- 14.3 In the event that any term or condition detailed herein is found unenforceable or invalid for any reason, such term(s) or condition(s) shall be severable from the remaining terms and conditions. The remaining terms and conditions shall remain enforceable and applicable.

## **16. AGREEMENT IN TERMS OF SECTION 21 OF THE ECT ACT**

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The User and Faerie Knowe Neighbourhood Watch agree that:

- 16.1 the User shall be bound to these term and conditions and such agreement is concluded in Cape Town (South Africa) at the time the User enters the Website for the first time;
- 16.2 data messages (as defined in the [ECT Act](#)) addressed by the User to Faerie Knowe Neighbourhood Watch shall only be deemed to have been received if and when responded to;
- 16.3 data messages (as defined in the [ECT Act](#)) addressed to the User by Faerie Knowe Neighbourhood Watch shall be deemed to be received by the User as detailed in section 23(b) of the [ECT Act](#);



- 16.4 data messages (as defined in the [ECT Act](#)) addressed by the User to Faerie Knowe Neighbourhood Watch shall be deemed to have been created and sent by the User from within the geographical boundaries of South Africa;
- 16.5 electronic signatures, encryption and/or authentication is not required for valid electronic communications between the User and the Faerie Knowe Neighbourhood Watch; and
- 16.6 the User agrees and warrants that data messages that are sent to Faerie Knowe Neighbourhood Watch from a computer, IP address, or mobile device normally used by or owned by the User, was sent and/or authorised by the User personally.

## **17. LEGAL COSTS**

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Faerie Knowe Neighbourhood Watch shall not be liable for costs incurred by Users to obtain professional advice relating to these terms and conditions.

**END**