

WEBSITE TERMS AND CONDITIONS OF USE

By accessing and using this Website or any Applications made available by the Provider in connection with this Website from time to time, however accessed, whether voluntarily or otherwise, you (“the User”) agree to be bound by the terms and conditions of use set out herein, as amended from time to time (“Terms”).

If the User does not wish to be bound by these Terms, the User is requested not to continue the use of this Website or on any Applications.

1. DEFINITIONS AND INTERPRETATION

- 1.1. “**Applicable Laws**” means, applicable information protection and other laws, rules and/or other regulations of general application, relevant to the treatment or Processing of Information, from time to time;
- 1.2. “**Applications**” shall mean any online application software that is provided by or is connected with the Provider that may be installed or downloaded from an online application store and accessed via a mobile device, including a smart phone or a tablet;
- 1.3. “**ECT Act**” means the Electronic Communications and Transaction Act No 25 of 2002, as amended;
- 1.4. “**Frame**” means to organise the website into different frames, with each frame displaying a different html document, severing the link between the content and the URL;
- 1.5. “**Member**” means a person who has registered on the Website or on an Application and in respect of whom an account has been created, for so long as that account remains active;
- 1.6. “**Provider**” means Latest Sightings (Pty) Ltd;(Registration Number 2013/110065/07), trading as Latest Sightings;
- 1.7. “**Website**” collectively means the collection of web pages (documents that are accessed through the internet), located at the domain name www.latestsightings.com and any Applications which may be offered by the Provider from time to time;
- 1.8. “**User**” means any person who accesses and/or uses the Website, whether as a Visitor or a Member;
- 1.9. “**Visitor**” means any person who is not a registered Member of the Provider but who browses the Website;
- 1.10. “**Site Content**” means textual, visual or aural content that is encountered as part of the User experience the website, including textual, visual or aural content encountered by the User from mobile applications;
- 1.11. Unless a contrary intention clearly appears words importing:

1.11.1. any one gender include the other two genders;

1.11.2. the singular include the plural and *vice versa*; and
natural persons include created entities (corporate or unincorporate) and the state and *vice versa*

1. AMENDMENT OF THESE TERMS

- 2.1. The Provider reserves the right to change, add to or remove from portions or the whole of these Terms or modify these Terms.

2.2. Any such amendments shall become effective upon the posting thereof on the Website, or such later date as may be reflected in the posting.

2.3. A prominent notice of any such amendments shall be displayed on the Website.

2.4. The User's continued use of this Website following the posting of any such amendments shall be considered notice of the User's acceptance of these Terms, including any amendments.

2.5. The User thus agrees to review these Terms regularly to ensure that he/she/it is familiar with the latest amendments.

2.6. The current version of these Terms shall apply each time you access or use the Website.

1. CONDITIONS OF ACCESS TO THE WEBSITE

3.1. Your use of, and access to, this Website shall always be subject to the Terms.

3.2. For the sake of clarity, your agreement to these Terms, extends to use of :

3.2.1. the Website;

3.2.2. any Applications; and

3.2.3. any third party website or mobile application licensed to the Provider.

3.3. The Website may be accessed, downloaded or installed utilising various gateways, portals, platforms or modes of access. The Provider shall not be responsible for any charges, inclusive of data charges, charged to a User by its cell phone provider.

1. ACCEPTANCE AND CONSENT

4.1. By accessing this Website, by whatever means, the User agrees to be bound by these Terms.

4.2. Upon installation or downloading of the Applications, the User may be required to accept the terms and conditions and/or end user license agreement (collectively referred to as "EULA") of a third party supplier or vendor. Whilst such EULA is independent of these Terms which the User is bound by, the User agrees that it is applicable to his/her/its use of the Applications.

1. DURATION OF THESE TERMS

5.1. These Terms shall remain binding on a User for so long as he/she has access to the Website by any means whatsoever and shall remain binding on a Member for the duration of his/her membership.

5.2. The Provider reserves the right to terminate the membership of a Member at any time and notwithstanding such termination, such Member shall remain bound by these Terms.

1. ACCESS DETAILS AND REGISTRATION AS A MEMBER

6.1. The User is required to register as a Member in order to contribute to the Site Contents.

6.2. Only persons over the age of 18 (eighteen) years old are eligible to be Members.

6.3. When the User enters his/her personal details as part of a registration process to become a Member, the User warrants that all information supplied is accurate and further warrants his/her identity.

6.4. The Provider reserves the right to verify the information provided by the User upon registration as a Member and to terminate such membership in the event that it transpires that the information submitted cannot be verified is incorrect or inaccurate.

6.5. The User agrees that any of the following shall constitute a material breach of these Terms:

6.5.1. signing in as, or pretending to be another person;

6.5.2. gathering of information on other Members without their prior written consent;

6.5.3. utilising and interacting on the Website in a manner that is intended to harm, or could result in harm to the User or other Members of the Website, or wildlife; and

6.5.4. transmitting material that violates, or could potentially violate, the intellectual property rights or the privacy of others.

6.6. All Users who seek to become or have registered as Members on the Website, shall be solely responsible for the security and confidentiality of their access details (including their username and password).

6.7. The Member agrees not to disclose his/her access details to a third party for any reason whatsoever.

6.8. In the event that a Member suspects an unauthorised use of his/her account, the member agrees to notify the Provider immediately.

6.9. A Member shall be solely responsible for any and all activities emanating from his account, including interactions on the Website with other Members, and is only entitled to create 1 (one) account.

1. ELIGIBILITY FOR ACCESS TO THE WEBSITE AND WARRANTY

7.1. Only natural persons are permitted to register as Members and juristic entities, including trusts, are herewith precluded from registering as Members on the Website.

7.2. As set out in clause 11.3, by accessing the Website, the User warrants that he/she is above the age of 18 years old and thus has full capacity to be bound by these Terms.

7.3. The Provider reserves the right to terminate a Member's membership if it has reason to believe that the Member is below the age of 18 (eighteen) years old.

1. ALLOWED USE OF THE WEBSITE AND TERMS

8.1. The Provider authorises the User to view, download and print the content of the Website, provided that such contents are used for personal, educational and/or non-commercial purposes.

8.2. Site Content on the Website may not be used for any commercial or non-private use without the prior written consent of the Provider.

8.3. Users may only access and use the Website for lawful purposes.

8.4. Unauthorised and/or illegal use of the Website including, but not limited to, collecting usernames and/or email addresses of Members by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Website is prohibited and shall result in legal action being taken by the Provider against such User.

8.5. Commercial advertisements, affiliate links, and other forms of solicitation may be removed from Member profiles without notice and may result in termination of membership privileges.

8.6. Users are not allowed to copy, reproduce, reuse, retransmit, adapt, publish, frame, post, upload, modify, broadcast or distribute any Site Content in any way.

8.7. The following is a non-exhaustive list of prohibited conduct which the Member agrees not to engage in on the Website:

8.7.1. the posting of any images or information relating to rhinoceros;

8.7.2. conduct that is patently offensive and promotes racism, bigotry, hatred or physical harm of any kind against any group or individual;

8.7.3. conduct that harasses or advocates harassment of another person;

8.7.4. conduct or a post that exploits people in a sexual or violent manner;

8.7.5. contains nudity, violence, or offensive subject matter or contains a link to an adult website;

8.7.6. conduct or a post that promotes information that you know is false or misleading or promotes illegal activities or conduct that is abusive, threatening, obscene, defamatory or libellous;

8.7.7. conduct or a post that promotes an illegal or unauthorized copy of another person's copyrighted work, such as providing pirated computer programs or links to them, providing information to circumvent manufacture-installed copy-protect devices, or providing pirated music or links to pirated music files;

8.7.8. conduct or a post that involves the transmission of "junk mail," "chain letters," or unsolicited mass mailing, instant messaging, "spimming," or "spamming";

8.7.9. a post that contains restricted or password only access pages or hidden pages or images (those not linked to or from another accessible page);

8.7.10. a post that furthers or promotes any criminal activity or enterprise or provides instructional information about illegal activities including, but not limited, to making or buying illegal weapons, poaching of wildlife, illegal trading in wildlife, violating someone's privacy, or providing or creating computer viruses;

8.7.11. conduct that solicits passwords or personal identifying information for commercial or unlawful purposes from other Members;

8.7.12. a post that includes a photograph of another person that you have posted without that person's consent; and

8.7.13. for band and filmmaker profiles, uses sexually suggestive imagery or any other unfair, misleading or deceptive Site Content intended to draw traffic to the profile.

1. INTERNET COOKIES

9.1. The Website makes use of 'cookies'. A cookie is a small data file that is stored on the User's computer's hard drive by the User's web browser when you access a website.

9.2. The use of cookies allows the User to enjoy more seamless visits and more accurately measures the User's behaviour when using the Website.

9.3. The Provider may use session and persistent cookies.

9.3.1. A session cookie is temporary, and expires after the User ends a session and closes his/her web browser. The Provider uses session cookies to help customize the User's experience

on its Website, and maintain the User's signed-on status as the User navigates through the features available on the Website, and enables the use/navigation of the Website without having to re-enter information already submitted, recognizing past activities on all prior pages visited on the Website.

9.3.2. Persistent cookies remain on the User's hard drive after he/she has exited from the Website, until the User erases them or they expire. Persistent cookies will not contain any personal Information about the User, but allow the recognition of the User's selected preferences each time the Website is visited, in order to facilitate fast and convenient user identification processes, after registration. Persistent cookies may also collect a User's Usage Data in pseudonymized form for market research purposes and for application improvement purposes.

9.4. The User can object to the usage of cookies and to the collection of your pseudonymized Usage Data for market research by contacting the Provider as indicated in clause 22. However, objecting to the usage of cookies may impair the User's use of the Website.

1. INTELLECTUAL PROPERTY RIGHTS AND DOMAIN NAMES

10.1. All intellectual property on the Website, including but not limited to trademarks, domain names, patents, text, graphics, software, icons, hyperlinks, software, conservation research, design elements are the property of the Provider, the holding company, subsidiaries and its affiliated entities and are protected from infringement by domestic and international legislation.

10.2. All Site Content remains the sole property of the relevant content owner and is protected under all relevant copyright, trademark, patent and other applicable laws.

10.3. Nothing on the Website should be construed as granting any licence or right to distribute content without the express written consent of the Provider.

10.4. Subject to clause 10.5 hereunder, the Provider does not claim any ownership over any Site Content, whether written or visual, posted on the Website by a Member. Instead, the Member grants to the Provider a non-exclusive, fully paid, royalty-free and transferable, sub-licensable, worldwide license to use the Site Content posted by the User on the Website, subject to the privacy policy. Such license shall entitle the Provider to distribute the Site Contents posted by the Member outside of the Website on other website domains with the Provider's watermark thereon, subject to the Member being credited in such distribution. By agreeing to these Terms and the Member consents to the use of the Site Contents contributed by him/her. Such distribution permitted to website domains includes, but is not limited to, social networking platforms.

10.5. All blogs or text posts regarding any latest sightings, irrespective of the manner in which it is sent to the Provider, shall become the property of the Provider and shall be subject to copyright laws provided that the Member responsible for the blog or post shall be credited.

1. WARRANTIES BY THE MEMBER

The Member represents and warrants that:

- 11.1. he/she owns the Site Contents posted by him/her;
- 11.2. the posting of the Site Content by him/her does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person;
- 11.3. he/she is over the age of 18 (eighteen) years old and does have capacity to be bound by the Terms set out herein;
- 11.4. all information submitted by the Member to the Provider during the registration process is correct, accurate and current;
- 11.5. he/she will maintain the accuracy of such information;
- 11.6. his identity is correct and verifiable; and
- 11.7. his/her use of the Website does not violate any Applicable Law.

1. DISCLAIMER AND LIMITATION OF LIABILITY OF THE PROVIDER

12.1. The Website and all Site Content on the Website, are provided on an “as is” basis, and may include inaccuracies or typographical errors.

12.2. The Provider shall not be liable for the actions of Users of the Website.

12.3. The Provider does not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, or reliability of any Site Content or communications posted on the Website or endorse any opinions expressed on the Website.

12.4. The Provider, its holding company, subsidiaries, affiliates and agents will not be liable for any damage, or loss or liability of any nature incurred by whoever as a result of any action or omission, including but not limited to;

- 12.4.1. accessing the Website or any third party website;
- 12.4.2. the inability to access the Website or any third party website, for technological, telecommunications or any other reason;
- 12.4.3. any decisions made by the User based on the Site Content on the Website;
- 12.4.4. the use of the Website or any tools contained on the Website;

- 12.4.5. the submission by the User, or any third party, including a Supplier, of any Information relating to the User, or the Processing of any such Information by the Provider;
- 12.4.6. the use by any third party of the Website, using the User's website access details (username and password);
- 12.4.7. any claims for the infringement of intellectual property rights, libel, defamation to any material the User may send and/or upload (to the extent applicable) to the Website;
- 12.4.8. the User's breach of any provision of these Terms;
- 12.4.9. any claims, cost, loss, damage or expense, whether directly or indirectly, whether monetary or otherwise, which any person may suffer as a result of or in consequence of the use, dissemination, retention or other Processing of any Information relating to the User, Site Content and/or other material provided on the Website, in breach of any Applicable Law;
- 12.4.10. entering into any transaction with any third party as a result of or in consequence of the reliance of any information contained on the Website or any related site, in relation to the Provider; and
- 12.4.11. any viruses or other destructive elements that may corrupt the User's computer or system as a result of the use of the Website.

1. HYPERLINKS

- 13.1. Profiles created by Members may contain links to other websites, subject to the following conditions:
 - 13.1.1. the Member shall not remove or any advertisements, copyright notices or other notices which may be applicable to such other websites ;
 - 13.1.2. the link does not state or imply any sponsorship or endorsement of such site;
 - 13.1.3. the Member shall immediately cease providing any links to the site on written notice from us;
 - 13.1.4. the Member shall be solely responsible for the conduct of a due diligence into the presence of any copyright notices on the homepage of the website to which he/she wishes to create a link; and
 - 13.1.5. the Member shall post such link only within the forum, chat or message board section.

13.2. The Provider is not responsible for the content, accuracy or opinions expressed on such websites, and such websites are in no way investigated, monitored or checked for accuracy or completeness by the Provider.

13.3. A Member accesses such third party sites at its own risk and volition.

1. SECURITY AND PRIVACY

14.1. Although the Provider acknowledges that a 100% secure online environment is unattainable, the Provider is committed to taking reasonable security measures to safeguard the content of its website.

14.2. The Member's privacy is very important to the Provider. Any information provided to the Provider is therefore stored on a secure server.

14.3. The Provider may use the Member's registration information to contact him/her about promotions and special offers. Users are entitled, at any stage, to opt out of this service, by clicking on the "opt out" option on the email correspondence, by emailing the Provider on contact@latestsightings.com.

14.4. The Provider does not sell or rent personal information about the Member (such as name, address, email address, telephone or fax number) to third parties. The Provider does, however, reserve the right to disclose aggregated information regarding its Users and usage of the Website (such as User demographics and traffic patterns) to, amongst others, advertisers and suppliers.

14.5. The Provider may disclose personal information in response to a specific request by a law enforcement agency, subpoena, court order, or as required by law.

14.6. In no event shall the Provider, its lawful agents and representatives referred to in the Website, or suppliers be liable for any damages of whatsoever nature, whether for bodily, moral or material injury (including, without limiting, indirect, punitive, incidental and consequential damages, loss of profits, expenses, costs, damage resulting from lost data or business interruption) resulting from the use or inability to use the Website, whether based on warranty, contractual or extra contractual liability, any other legal matters, and whether or not the Provider, its lawful agents, employees and representatives is advised of the possibility of such damages.

1. REMOVAL AND CORRECTION OF SITE CONTENT

15.1. Users should report any untrue, inaccurate, illegal and/or harmful Site Content appearing on the Website. The Provider undertakes to correct and/or remove any offending Site Content as soon as reasonably possible after it becomes aware thereof.

15.2. The Provider reserves the right to edit, remove or refuse to post any Information or comments submitted by Users, which, in the sole discretion of the Provider, can be regarded, in its absolute discretion, as being inappropriate.

15.3. If a User has any comments about the Website, or believes that there is any untrue, inaccurate, illegal, infringing or harmful content on the Website, or would like to provide the Provider with any other feedback, please contact or email the Provider as at clause 22 (*Contact Details*) .

15.4. While it is important to the Provider to ensure that the Site Content is correct and up-to-date, the Provider cannot, and does not provide any warranties in respect of such content and, notwithstanding clause 14 (*Security and Privacy*), the User acknowledges that the Provider is not responsible for any inaccuracies or errors contained in such information and provides no warranty that the information on the Website is complete.

1. ENTIRE AGREEMENT

16.1. These Terms constitute the whole agreement between the User and the Provider in relation to the use of the Website, and shall take precedence over any disclaimer and/or legal notices attached to any communications and/or postings received by the Provider from the User (if any).

16.2. Any failure by the Provider to exercise and/or enforce any rights or provisions of these Terms shall not constitute a waiver, and the Providers' rights in respect thereof shall be reserved.

16.3. No amendment of these Terms or any provision or term hereof or of any other conditions contained on the Website, shall be binding unless made by and recorded in writing by the Provider.

16.4. To the extent permissible by law the Provider shall not be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.

1. APPLICABLE LAW

17.1. The Website is hosted, controlled and operated from South Africa, and any use thereof, regardless of the location of any User, from time to time, shall be governed by the laws of South Africa.

17.2. This Website has been designed and is intended for use by any person and accordingly any electronic communications sent to the Provider are deemed to have been created and sent by a User, in accordance with the prevailing laws of South Africa, from time to time, to be processed in accordance with the Applicable Laws.

1. JURISDICTION

The South Gauteng High Court, Johannesburg shall have jurisdiction with regard to any legal proceedings whatever arising in terms of these Terms.

1. LEGAL COSTS

The Provider shall not be liable for legal costs and expenses incurred by the User to obtain professional advice relating to these Terms.

1. BREACH

Should the User breach any provision of these Terms, the Provider shall be entitled, without prejudice to its rights in terms of these Terms or at law, to claim damages from the User, commence criminal proceedings and/or obtain an interdict against the User, as appropriate.

1. SEVERABILITY

If for any reason any of the provisions contained herein are found to be void or unenforceable it will be severed to the extent that it is void or unenforceable and the remaining provisions will continue in full force and effect.

1. CONTACT DETAILS

In the event that you need to contact Provider for purposes related to these Terms, please use the following:

Email: contact@latestsightings.com

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