

## BOSCHENDAL WEBSITE TERMS AND CONDITIONS OF USE

THESE TERMS AND CONDITIONS ARE BINDING AND ENFORCEABLE AGAINST ALL PERSONS THAT ACCESS THE BOSCHENDAL WEBSITE OR ANY PART THEREOF IN TERMS OF SECTION 11(3) OF THE ELECTRONIC COMMUNICATIONS AND TRANSACTIONS ACT, 25 OF 2002 (“ECT ACT”)

IF THE USER DOES NOT AGREE TO THE TERMS AND CONDITIONS, THE USER MUST LEAVE THE BOSCHENDAL WEBSITE IMMEDIATELY, AS FURTHER USE WILL BIND THE USER TO THESE TERMS AND CONDITIONS

### 1. Definitions

- 1.1 “**DGB**” means DGB (Proprietary) Limited, a private company incorporated in accordance with the laws of South Africa (Registration Number 1946/021311/07);
- 1.2 “**Boschendal Website**” means the Boschendal Wines website located at [www.boschendalwines.com](http://www.boschendalwines.com) and includes any portion thereof;
- 1.3 “**User**” means any person who access or use the Boschendal Website, which includes but is not limited to any page linked to the home page of the Boschendal Website
- 1.4 In this Agreement unless the context otherwise requires:
  - 1.4.1 the masculine gender includes neuter and vice versa; and
  - 1.4.2 the singular includes the plural and vice versa;
  - 1,4,3 the clause headings to these terms and conditions have been inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate;
  - 1.4.4 words and expressions defined in any sub-clause shall, for the purpose of the clause of which the sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

### .2. Purpose and content of the website

DGB uses the website to provide the User with information about its products (“**Product Information**”) and various downloads, such as e-cards, screensavers, wallpapers, photographs, product sheets and point of sale material and games (“**Downloads**”). The website is not interactive and is not used to sell DGB products or services or to facilitate discussion groups and the like..

### 3. Disclosures required in terms of Section 43 of the ECT Act

The Product Information and Downloads made available on the Boschendal Website is classified as “electronic transactions” in terms of the ECT Act and therefore DGB has the duty to disclose the following information:

- 3.1 **The full name and legal status of the website owner:** DGB (Proprietary) Limited  
(Registration Number 1946/021311/07);
- 3.2 **Physical address:** 724, 16<sup>th</sup> Road Randjespark, Midrand, 1685, South Africa
- 3.3 **Telephone number:** 27 11 653 1000
- 3.4 **Fax number:** 27 11 653 1101
- 3.5 **Website address:** [www.boschendalwines.com](http://www.boschendalwines.com) and [www.dgb.co.za](http://www.dgb.co.za).
- 3.6 **Email address:** [info@dgb.co.za](mailto:info@dgb.co.za)
- 3.7 **Membership of self-regulatory or accreditation bodies:** DGB is a founder member of the Association for Responsible Alcohol Use, details of which can be obtained from [www.ara.co.za](http://www.ara.co.za)
- 3.8 **Codes of Conduct to which DGB subscribes:**
  - 3.8.1 WIETA which can be viewed at <http://www.wieta.org.za>.
  - 3.8.2 ARA which can be viewed at <http://www.ara.co.za>.
- 3.9 **Physical Address of receipt of legal service:** 724, 16<sup>th</sup> Road Randjespark, Midrand, 1685, South Africa.
- 3.10 **Main Business:** DGB is an independent wine and spirit producer and distributor.
- 3.11 **Management:** Please refer to [www.dgb.co.za](http://www.dgb.co.za).
- 3.13 **Cooling off Period:** In terms of the operation of Section 42(1)(d) of the ECT Act, the cooling-off provisions of the ECT Act does not apply to this website.
- 3.14 **Alternative Dispute Resolution:** Subject to urgent and/or interim relief, all disputes regarding:
  - 3.14.1 access to the Boschendal Website;
  - 3.14.2 the inability to access the Boschendal Website;
  - 3.14.3 the services and content available from the Boschendal Website
  - 3,14.3 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 Johannesburg in English. The arbitration ruling shall be final and binding on the all the parties, with no further right of appeal and the unsuccessful party shall be liable for the costs of the successful party on the scale as between attorney and own client. The expedited rules of the Arbitration Foundation of South Africa may be downloaded from <http://www.arbitration.co.za>

**3.15. Complaints:** Users may lodge complaints concerning the Boschendal Website at [webmaster@dgb.co.za](mailto:webmaster@dgb.co.za).

#### **4. Privacy**

All personal information transmitted to and from DGB by virtue of your use of the website is protected as provided for in our [privacy policy \[hyperlink\]](#). By accessing the website, the User agree that DGB may use your personal information in the manner set out in the privacy policy.

#### **5. Communications from DGB to the User**

The User hereby expressly agree that DGB may send the User electronic communications relating to our products from time to time, provided that the User will be given the opportunity to cancel his subscription to DGB's mailing list at any time upon written notification to DGB

#### **6. Copyright and intellectual property rights.**

6.1 All intellectual property on the Douglas Green Website, including but not limited to all trademarks, content, patents, trade names, logos, service marks, materials, texts, drawings, information, hyperlinks and data made available on the website, are property of or licenced to DGB (collectively "**DGB IP**"), and thus are protected by both South African and international intellectual property laws. Nothing contained on the website or in these terms should be construed as granting the User, any licence or right to use the DGB IP without the prior written permission of DGB.

6.2 Accordingly, by accessing the website and/or using any of the information, the User warrants that the DGB IP is provided solely for his private, individual consideration, and that the User will not, without the prior written consent of DGB, copy, reproduce, transmit, distribute, sell, publish or in any other way disseminate or unlawfully use the DGB IP.,.

#### **7. External links**

7.1 Hypertext links to external websites may be provided for the Users convenience. Such websites are, however, beyond the control of DGB and DGB does not endorse, approve of or make any representation regarding the content and any advice, opinions, products and services offered via such websites. Use or reliance on any external links is at the

Users own risk. When visiting external websites please refer to such sites' terms and conditions of use. No hypertext links of whatever nature shall be created to the website from any other website, without the appropriate hypertext link agreement being concluded with DGB.

7.2 DGB shall not be liable, in any manner whatsoever, for the access to or inability by the User to access the services and content available on or through such websites.

## **8. Interception of communications**

8.1 Subject to the provisions of the Regulation of Interception of Communications Act 70 of 2002, (“**RICA**”), the User expressly agrees to DGB's right to intercept, block, read, delete, disclose and use all communications sent or posted by the User to the Boschendal Website, DGB, its staff and employees.

8.2 The User agrees and acknowledges that the consent provided by the User in terms of these terms and conditions, satisfies the “writing” requirement as detained in the ECT Act and RICA.

## **9. Warranties and indemnification**

9.1 By accessing the website and accepting the pop-up "I am of legal drinking age", the User warrants in favour of DGB that the User:

9.1.1 is legally entitled to access the website and use the information presented on the website;

9.1.2 shall not use the website or any of the information for any purpose that is unlawful or contrary to these terms and conditions;

9.1.3 shall observe all laws that may regulate the use of the website in accordance with the laws and regulations of the relevant jurisdiction.

9.2 While DGB makes every effort to ensure that all the information on the website is reliable and all programs can be downloaded without any harm to the User the Boschendal website, the information and the downloads are provided "as is" and DGB makes no representations and provides no warranties or guarantees of whatever nature regarding the website, the information and/or the downloads. Without derogating from the foregoing, DGB does not make any warranties or representations that:

9.2.1, the content and services available on the Boschendal Website shall be true, accurate and free of errors;

9.2.2 the Boschendal Website meets the individual requirements and is compatible with the User's computer hardware and/or software;

9.2.3 the content, services and downloads shall be available at all times.

9.3 The User acknowledge that the Boschendal Website may be unavailable to circumstances due to periodic content updates, software updates and/or other factors beyond its reasonable control, which includes but is not limited to virus infections, unauthorized access by third parties, power failures and “acts of God”

## **10. Limitation of liability**

10.1 Subject to the provisions of sections 43 (5) and (6) of the ECT Act, DGB, its shareholders, directors, employees, suppliers, affiliates, agents and internet service providers, shall not be liable for any loss or damages of whatever nature and howsoever arising from:

10.1.1 any errors, omissions or corruption of the information and/or the downloads

10.1.2 any unavailability of the website or services for whatever reason including the failure or delay by any third party service providers to render any service necessary to ensure the availability of the website;

10.1.3 any virus or other illicit or malicious computer program that attaches itself to and infects, corrupts or destroys other programs or systems

10.1.4 any hypertext link to external websites; and/or

10.1.5 any interception or disclosure of any information by third parties.

10.2 The User shall use the Boschendal Website at his own risk.

## **11. Removals, correction and amendments to the content**

11.1 DGB undertakes to remove and/or correct and/or amend such content or any part thereof reported by the User, which are proven by the User on reasonable grounds to be untrue, defamatory, inaccurate, illegal or harmful

11.2 Notwithstanding anything to the contrary, DGB expressly reserves the right, in its sole and absolute discretion to:

11.2.1 amend or replace these terms and conditions in its entirety;

11.2.2 change the content and/or services and/or downloads available from the Boschendal Website;

11.2.3 change any hardware or software required to gain access and use of the Boschendal Website;

11.2.3 discontinue any part or services of the Boschendal Website, without any prior notice to Users or any other third party.

## 12. Breach

If any User uses the content from the Boschendal Website in breach of these terms and conditions, then DGB shall have the right to:

- 12.1 claim damages from the User;
- 12.2 institute criminal proceedings;
- 12.3 exercise any other right granted to it in term of South African law.

## 13. General

- 13.1 These terms and conditions constitute the entire agreement between DGB and the User and take precedence over any disclaimers and/or legal notices attached to any communications, unless expressly excluded.
- 13.2 DGB shall not be bound to any undertakings, representations, warranties, promises or the like not recorded in these terms and conditions.
- 13.3 Any failure by DGB to exercise or enforce any right or provision shall in no way constitute a waiver of such right or provision.
- 13.4 DGB and the User agree that:
  - 13.4.1 the User shall be bound to these terms and conditions and such agreement is concluded in Johannesburg, South Africa at the time the User enters the Douglas Green Website for the first time;
  - 13.4.2 data messages (as defined in the ECT Act) ("**Data Messages**") addressed by the User to DGB shall only be deemed to be received if and when responded to;
  - 13.4.3 Data Messages addressed to the User by DGB to the User shall be deemed to be received by the User as set out in Section 23(b) of the ECT Act;
  - 13.4.4 Data Messages addressed to the User by the User to DGB shall be deemed to have been created and sent by the User from within the geographical boundaries of South Africa;
  - 13.4.5 electronic signatures, encryption and/or authentication is not required for valid electronic communications between the User and DGB;
  - 13.4.6 the User warrants and agrees that Data Messages that are sent to DGB from a computer, IP address or mobile device normally used by or owned by User, was sent and/or authorized by the User personally, unless the contrary is proved.

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## PRIVACY POLICY

1. DGB shall take all reasonable steps to protect the “Personal Information” of Users. Personal Information for purposes of this privacy policy, shall be ascribed the meaning as set out in the ECT Act.
2. DGB may electronically collect, collate process, store and use the following information of Users:
  - 2.1 full name and surnames;
  - 2.2 personal and work contact details;
  - 2.3 email address;
  - 2.4 IP address;
  - 2.5 non-personal browsing habits and click patterns;
3. DGB collect, collate, process, store and use the information in 2 above, for the following purposes (“**Disclosed Purposes**”):
  - 3.1 compile non-personal statistical information about browsing patterns, click patterns and access to the Tall Horse Website;
  - 3.2 communicate requested information to the User;
  - 3.3 registration and/or authentication of Users;
  - 3.4 compile a database of potential clients;
4. Information referred to above is either provided voluntarily by the User, through electronic surveys, the registration process or electronically by using cookies Users may determine cookie use independently from their browser settings.
5. DGB may collect, collate, process, store, disclose and sell any information collected from the User, subject to the following provisions:
  - 5.1 DGB shall not disclose any Personal Information of a User, without their prior consent, unless required or permitted by law;
  - 5.2 DGB shall not use the Personal Information of a User, for any other purpose than the Disclosed Purposes, unless User gives their express prior written consent;
  - 5.3 DGB may compile, use and share any information that does not relate to any specific individual User.
6. DGB shall own and retain all rights to non-personal statistical information collected and compiled by DGB.