

# Terms of Use and Privacy Policy

Ebenezer Guest Lodge (Pty) Ltd trading as Bonne Esperance Guest House (“**Bonne Esperance Guest House**”/“**WE**”/“**US**”/“**OUR**”) operates the <https://www.bonneesperance.com> website.

This Privacy Policy is aimed at protecting the privacy of you, the authorised user of our Services, and to help you understand how we collect and use the information we obtain as a result of your use of our Services.

**BY USING THIS WEBSITE AND/OR APPLICATIONS, YOU UNCONDITIONALLY AND IRREVOCABLY CONFIRM YOUR ACCEPTANCE OF THIS PRIVACY POLICY.**

## **1. INTERPRETATION**

1.1 Words and expressions defined in this Privacy Policy shall have the same meaning herein unless otherwise expressly indicated.

1.2 In this Privacy Policy, unless the context otherwise indicates:

1.2.1 “**Companies Act**” means the Companies Act, No. 71 of 2008 and includes the regulations published under that Act, and any amendments to that Act and/or the regulations from time to time (if any);

1.2.2 “**Data**” means all data provided by you to us, including your Personal Information;

1.2.3 “**ECTA**” means Electronic Communications and Transactions Act 25 of 2002 and includes the regulations published under that Act, and any amendments to that Act and/or the regulations from time to time (if any);

1.2.4 “**Personal Information**” has the meaning assigned to that term in the POPI Act;

1.2.5 “**Processing**” has the meaning assigned to that term in the POPI Act;

1.2.6 “**Platforms**” means the <https://www.bonneesperance.com> website

1.2.7 “**POPI Act**” means Protection of Personal Information Act No. 4 of 2013 and includes the regulations published under that Act, and any amendments to that Act and/or the regulations from time to time (if any);

1.2.8 “**RSA**” means the Republic of South Africa;

1.2.9 “**Services**” means all the services offered via our Platforms; and

1.2.10 “**Terms and Conditions**” means the terms and conditions for use of our Services displayed on the applicable Platform.

## **2. PROCESSING OF DATA**

2.1 Categories of Data we collect:

In order to use our Services you may be required to provide us with the following Data:

2.1.1 Your full name;

2.1.2 ID number;

2.1.3 e-mail address;

2.1.4 Gender;

2.1.5 Food allergies;

2.1.6 Medicine allergies;

2.1.7 Next of kin’s name and

2.1.8 Contact details.

## 2.2 Why we Process your Data:

2.2.1 The reason we Process your Data is to –

2.2.1.1 Assist with booking a room;

2.2.1.2 Facilitate check-in and check-out procedures;

2.2.1.3 Provide information to you about the Services;

2.2.1.4 Conduct market research;

2.2.1.5 Compile statistical and/or data analyses;

2.2.1.6 Give effect to any communication received from you, which may include instructions, requests, queries, complaints and questions;

2.2.1.7 Update our records and/or your contact details;

2.2.1.8 Tailor our Platforms to accommodate current market trends and/or demands;

2.2.1.9 For the administrative, marketing (including direct marketing), planning, product or service development, quality control, survey and research purposes of Bonne Esperance Guest House, its affiliated companies, contractors, franchisees, and employees or service providers; and

2.2.1.10 Generally render our Services, as offered on our website.

## 2.3 Use of Personal Information for statistical purposes:

2.3.1 As permitted by ECTA, Bonne Esperance Guest House may use Personal Information collected to compile profiles for statistical purposes. No Personal Information contained in the profiles or statistics will be able to be linked to any specific user.

2.3.2 To this end, we anonymise and aggregate your Personal Information. We may share this anonymised Personal Information with our trusted partners to facilitate their related endeavours, which may prove to benefit you, by promoting your preferences.

## 2.4 Tracking and cookies:

2.4.1 We may use Google Analytics and/or other tracking methods. Some of those methods may use “cookies”. A cookie is a small file, which asks for permission to be placed on the hard drive of your computer. Once you agree, the file is added and the cookie assists the web traffic analysis or your visits to a particular website. Cookies allow web applications to respond to you as an individual. The web application can tailor its operations to your needs, likes and dislikes by gathering and remembering information about your preferences. We use traffic log cookies to identify which pages are being used. This helps us analyse data about the webpage traffic and improve our Services in order to tailor them to our customers’ needs. We only use this information for statistical analysis purposes. In no way do cookies give us access to your computer or any information about you, other than the data you choose to share with us. You can choose to accept or decline cookies.

2.4.2 Most web browsers automatically accept cookies and you may modify your browser setting to decline cookies if you prefer. This may prevent you from taking full advantage of our Services. A relevant Google policy applies towards the use of Google Analytics;

## 2.5 Mobile device IDs:

If you are accessing either of the Bonne Esperance’s Platforms via a mobile device, Bonne Esperance uses mobile-device IDs (the unique identifier assigned to a device by the manufacturer), or Advertising IDs (for iOS 6 and later), instead of cookies, to recognize you. Bonne Esperance does this to store your preferences and track your use of Bonne Esperance’s Platforms. Unlike cookies, device IDs cannot be deleted, but Advertising IDs can be reset in “Settings” on your iPhone.

## 2.6 Third-party payment processor:

2.6.1 We may use a third-party payment processor to process payments made to us or third parties. In connection with the processing of such payments, we do not retain any personally identifiable information or any financial information such as credit-card numbers. Rather, all such information is provided directly to our third-party processor and the use of your Personal Information is governed by their privacy policy.

2.6.2 Bonne Esperance Guest House is not responsible for and gives no warranties or makes any representations in respect of the privacy policies or practices of linked or any third party or advertised web sites, including but not limited to its third-party payment processor.

## 2.7 How we collect your Data?

2.7.1 Bonne Esperance shall collect Data from among others, the following sources:

2.7.1.1 Our Platforms;

2.7.1.2 Our correspondence (in any form) with you;

2.7.1.3 When you connect with us via any social media platform (including but not limited to Facebook, LinkedIn, YouTube, Instagram and Twitter);

2.7.1.4 Any forms you complete for Bonne Esperance Guest House purposes; and

2.7.1.5 When you use and enjoy any of Bonne Esperance Guest House's Services that require you to make your Data available to us.

2.7.2 Bonne Esperance Guest House shall collect your Data directly from you, except to the extent that:

2.7.2.1 The Data is contained in or derived from a public record or has deliberately been made public by you; or

2.7.2.2 You consent to us collecting the Data from another source.

2.7.3 Accordingly, you appreciate that in order for Bonne Esperance Guest House to provide you with the Services, it is reasonably necessary for:

2.7.3.1 You to directly submit your Data to Bonne Esperance Guest House, as contemplated in 2.7.1 above; and

2.7.3.2 Bonne Esperance Guest House to obtain your Data indirectly in from the sources in clause 2.7.2 above, and

you hereby unconditionally and irrevocably consent to the collection of your Data in the manner contemplated in clause 2.7.3 above, and to us Processing such information in accordance with this Privacy Policy.

## 2.8 Where we store your Data:

The Personal Information that we collect from you may be stored in the RSA, may be disseminated to, and stored at a destination outside the RSA and/or by way of cloud storage.

## 2.9 To whom do we disseminate your Data?

2.9.1 Bonne Esperance Guest House may disseminate your Data to any of our affiliates, as that term is defined in the Companies Act, to our and their employees, to our third-party service providers and contractors, licensees and franchisees for the purposes specified in clause 3.

2.9.2 In addition to the above, Bonne Esperance Guest House may disseminate your Data to third parties (inside and/or outside the RSA) with whom we have commercial relationships, for business, marketing and related purposes.

2.9.3 Notwithstanding the above, Bonne Esperance Guest House shall disseminate your Data to the relevant third parties concerned should one of the following occasions transpire:

2.9.3.1 If Bonne Esperance Guest House is legally obligated in terms of statute to disseminate your Data;

2.9.3.2 If Bonne Esperance Guest House reasonably believes in good faith that the dissemination of the Data is reasonably necessary to protect the property and/or rights of Bonne Esperance Guest House, third parties and/or the public at large; and/or

2.9.3.3 If you furnish Bonne Esperance Guest House with express consent to disseminate your Data to an identifiable and authorised entity and/or person.

2.9.4 In respect of clauses 2.9.1 and 2.9.2 above, Bonne Esperance Guest House acknowledges and accepts that in terms of section 21(1) of the POPI Act, we must conclude a written contract with the entity and/or person processing the Personal Information on our behalf (the “operator”). Such written contract shall ensure that the operator that processes the Personal Information shall establish and maintain the security measures referred to in section 19 of the POPI Act.

2.9.5 You hereby acknowledge that if you send us a request (for example via a support e-mail or via our feedback mechanisms), we reserve the right to publish it on our Platforms, which shall enable us to convey our response and/or clarify an issue to you, clients and potential clients.

#### 2.10 What happens if you refuse to provide us with Data?

2.10.1 If you do not provide us with the Data that we request, some or all of the following may happen:

2.10.1.1 We may not be able to provide our Services to you at the standard at which we usually deliver, or at all; and/or

2.10.1.2 We may be unable to tailor our Platforms to reflect popular trends and demands and accordingly we may fail to provide you with the experience you require.

2.10.2 Should you fail to provide us with any mandatory Data that we request in order for us to effectively render our Services, we reserve the right to discontinue providing you with our Services.

#### 2.11 Processing of Personal Information:

Bonne Esperance Guest House undertakes to process the Personal Information in accordance with the POPI Act.

### **3 PROTECTION OF YOUR DATA**

3.1 Bonne Esperance Guest House shall take reasonable precautions to protect your Data from unauthorized use and disclosure. In this regard, Bonne Esperance Guest House undertakes not to sell, rent or lease your Data to unauthorised third parties for their independent use, without your consent.

3.2 Bonne Esperance Guest House shall take reasonable technical, administrative and physical measures to protect Data contained in Bonne Esperance Guest House’s database against misuse, loss, damage, unauthorised alteration and/or destruction, unlawful access and Processing (the “**Risks**”).

3.3 Bonne Esperance Guest House is aware of the Risks and has put appropriate safeguards in place to mitigate the identified Risks. Bonne Esperance Guest House regularly verifies that the safeguards are effectively implemented and ensures that the safeguards are reasonably continually updated in response to new risks or deficiencies in previously implemented safeguards.

3.4 Keep in mind however, that no method of transmission over the internet, or method of electronic storage is 100% secure. Therefore, while Bonne Esperance Guest House shall strive to use commercially acceptable means to protect your Personal Information, Bonne Esperance Guest House cannot guarantee its absolute security.

3.5 Accordingly, Bonne Esperance Guest House provides no guarantees that the Platforms will be free of observance by third parties, viruses or any other contaminating or destructive properties and you hereby accept sole risk and responsibility in respect of the use of the Platforms.

3.6 Bonne Esperance Guest House cannot enforce or control the security of the computers, electronic devices, or electronic communication method that you may utilize to send e-mails and submit Data to Bonne Esperance Guest House over the internet.

3.7 You are responsible for ensuring that the computers, electronic devices and electronic communication methods that you utilize will provide adequate security for communicating with Bonne Esperance Guest House.

3.8 Bonne Esperance Guest House shall not be held liable for unauthorised access or distribution of your password. It is your responsibility to choose secure passwords and to keep them safe. Bonne Esperance Guest House cannot be held responsible for Data that is compromised due to an insecure or stolen or breached password. If you are authenticating with Bonne Esperance Guest House via a third party, those passwords must also be secured at your own risk.

#### **4 DIRECT MARKETING**

4.1 Bonne Esperance Guest House may send you direct marketing communications and information about our Services and/or properties similar in nature to those in which you initially displayed an interest.

4.2 These communications may be sent in various forms, including e-mail, SMS and phone calls. If you indicate a preference of communication, we will endeavour to use that method whenever practical to do so.

4.3 If you do not wish to receive our direct marketing, you may simply opt out by sending an e-mail of your intention to opt-out to [stay@bonneesperance.com](mailto:stay@bonneesperance.com) and Bonne Esperance Guest House shall remove and delete your Personal Information from our mailing list.

#### **5 UPDATING YOUR DATA**

5.1 You shall ensure that the Personal Information is complete, accurate, not misleading and updated where necessary from time to time.

5.2 In the event that you wish to update or amend the Data that you have submitted to us, you may e-mail the amended Data to [stay@bonneesperance.com](mailto:stay@bonneesperance.com) and Bonne Esperance Guest House shall update your Data and our mailing list accordingly.

#### **6 RETENTION OF DATA**

The period for which Oude Werf will retain your Data will depend on: the purposes for which the Data was collected, whether you have requested deletion of the Data, applicable limitation periods stipulated in POPI or other legislation, whether any legal or regulatory obligations require the retention of the Data and good practice or our business interests. We will not retain Data about you for longer than is necessary to fulfil the purposes for which the Data was collected.

#### **7 AMENDMENTS TO THIS PRIVACY POLICY**

7.1 Subject to clause 7.2, Bonne Esperance Guest House reserves the right to change and/or amend this Privacy Policy in any manner at any time without prior notice.

7.2 In the event that Bonne Esperance Guest House makes material changes and/or amendments to this Privacy Policy, Bonne Esperance Guest House will place a prominent notice on its Platform to advise you to inspect and inform yourself of the updated Privacy Policy.

7.3 The most recent version of this Privacy Policy will govern the respective rights and obligations between you and Bonne Esperance Guest House regarding its subject matter.

## **8 INTELLECTUAL PROPERTIES**

Any and all intellectual property, howsoever constituted, in respect of the Platforms is the sole and exclusive property of Bonne Esperance Guest House, and you irrevocably and unconditionally undertake in favour of Bonne Esperance Guest House that you shall not, under any circumstances whatsoever, infringe our rights to such intellectual property or challenge or dispute Bonne Esperance Guest House's right to such intellectual property.

## **9 LINKS TO OTHER WEBSITES**

9.1 The Platforms may contain links to other websites. Bonne Esperance Guest House is not responsible for the privacy practices of these websites and you are obliged to familiarise yourself with the terms and conditions and privacy policies of these other websites.

9.2 Should you share our Platform or Bonne Esperance Guest House content on any social media platform such as Facebook, Instagram, Twitter and LinkedIn, your activity may be visible to third parties depending on the privacy settings chosen by you on the applicable social media platforms.

9.3 For the avoidance of doubt, this Privacy Policy only applies to Bonne Esperance Guest House Platforms and we are not responsible for the use by such third parties of your Data.

## **10 OTHER:**

Any questions, queries, comments or complaints concerning this Privacy Policy and/or your Personal Information may be directed to: [stay@bonneesperance.com](mailto:stay@bonneesperance.com).

## **11 SEVERABILITY**

All terms and provisions of this Privacy Policy are deemed to be independent of each other and accordingly, if any term is found to be invalid, unlawful or unenforceable, such term or provision shall be deemed to be pro non scripto and the remainder of the Privacy Policy shall continue to be of full force and effect

## **12 APPLICABLE LAW**

The Terms and Conditions shall be governed by the laws of the Republic of South Africa. The user hereby consents to the exclusive jurisdiction of the courts of South Africa in respect to any disputes arising out of or in connection with this website, or these terms and conditions or any matter related to or in connection therewith.

## **13 CESSION**

13.1 You hereby irrevocably and unconditionally consent to Bonne Esperance Guest House providing all your Personal Information to its successor in title for the purpose of carrying on the business of Bonne Esperance Guest House.

13.2 You may not cede any of your rights under this Privacy Policy to any other person.