

TERMS AND CONDITIONS



✉ ask@House.ME ☎ +27 21 300 1944

The use and access of the Website is at all times subject to these Terms and Conditions. By using the Website, you are deemed to have agreed to these Terms and Conditions, including the Privacy Policy or other policies and terms which may appear elsewhere on this Website.

Important Note:

Although we have taken every effort in making these Terms and Conditions understandable in plain language, we acknowledge that concepts and phrases may require additional clarity.

You are invited to discuss every aspect, item, phrase, word, concept, definition or any other aspect of these Terms and Conditions with our team or our legal advisors who will explain them to you.

Please read and consider these Terms and Conditions carefully as it constitutes a binding agreement once accepted. You will be requested to declare that you understand the content of these Terms and Conditions and more specifically the fact, nature and effect of clauses which have been highlighted in bold. Please note that acknowledging the clauses highlighted in bold will not affect the enforceability of any of the other clauses of these Terms and Conditions. Do not disregard any clauses not so emphasised as all clauses are binding and enforceable.

1. DEFINITIONS

Agreement means these Terms and Conditions provided for in this document, together with all appendices hereto;
Automatic Payment Mandate means a mandate permitting HouseME to debit the Lessee's bank account with the amount due by the Lessee in respect of the Rental and / or the DepositFREE™ and DepositFLEX™ products described below and requires a warrant from the Lessee as to their permission to authorise such mandate;

Business Day means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa;

Contractor means an independent contractor appointed by HouseME to assist HouseME in the rendering of certain Services contemplated in these Terms and Conditions;

Contractor User means a contractor who has concluded an agreement with HouseME for rendering certain Services in favour of Lessors and/or Lessees;

Deposit means a deposit payable by a Lessee User in terms of a Lease Agreement;

HouseME means HouseME Rental (Pty) Ltd, a private company with registration number 2016/317811/07;

Lessee means the person contracting with the Lessor through HouseME and shall include prospective Lessees;

Lessee User means any person using the Website in order to view, pay rent, offer to rent or benefit from the Services;

Lessor means the person or entity which lets the Property to the Lessee and may include a property manager, agent or portfolio manager duly authorised to conclude transactions in respect of immovable property owned by a Lessor, where applicable;

Lessor User means any person (including a property manager, agent or portfolio manager) using the Website in order to advertise property for letting purposes, or for any services related to lessors and the leasing of property provided by HouseME;

Lease Agreement means the property rental agreement between the Lessor and Lessee, attached hereto as **Appendix A**;

Loss means any loss, claim, damages, costs, liability, injury, fees and expenses incurred or suffered by a party, which losses may sound in money or otherwise;

Password means the unique identifier selected by the User for purposes of gaining secured access to the Website or to various features within the Website, chosen by the User;

Privacy Policy means the policy found on this Website and also attached hereto as **Appendix B**;

Property means the relevant property which is the subject of a Lease Agreement, the details of which shall be uploaded by the Lessor User on his HouseME account;



Rental means the rental amount payable by the Lessee to the Lessor in terms of a Lease Agreement;

Services means the services rendered by HouseME in favour of a Lessee User and / or a Lessor User as described more fully in these Terms and Conditions;

Terms and Conditions means these Terms and Conditions provided for in this document;

User means any person accessing any part of the Website or the Services, including but not limited to Lessor Users, Lessee Users and Contractor Users. Should a person no longer fulfil the definition of "User," this will not affect the liability of that person towards HouseME for breach of these Terms and Conditions;

User Account means an account created by a User on the Website;

User Information means any information furnished by the User to HouseME at any time, including but not limited to the information provided by the User when logging on to the Website, setting up a User Account, or information furnished to HouseME in any other form of communication between the User and HouseME;

Value Added Service means any optional service offered to the User by HouseME as described on the Website and as described in the terms and conditions relating to such Value Added Service, copies of which are available to the User on request; and

Website means the website located at the URL: www.House.ME and any sub-pages and any other means of connecting to HouseME servers and/or Services.

2. INTERPRETATION

- 2.1. The termination of this Agreement shall not affect those provisions which of necessity must continue to have effect after termination.
- 2.2. Words importing the singular shall include the plural and *vice versa* and words importing any one gender shall include the other genders and words importing persons shall include partnerships and bodies corporate.
- 2.3. The headings to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 2.4. If any provision is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding where such provision is contained, effect shall be given thereto as if such provision were a substantive provision in the body of the Agreement.
- 2.5. This Agreement shall be binding on and enforceable by the administrators, trustees, assigns or liquidators of the parties as fully and effectively as if they had signed this Agreement in the first instance and reference to any party shall be deemed to include such party's estate, heirs, executors, administrators, trustees, assigns or liquidators, as the case may be.
- 2.6. Where figures in this Agreement are described in both numerals and in words, words shall prevail in the event of any conflict between the two.
- 2.7. Should the day for the performance of any obligation in terms of this Agreement fall on a day which is not a Business Day, then such obligation shall be performed on the immediately following Business Day.
- 2.8. Any reference in this Agreement to legislation or subordinate legislation is to the same as amended and/or re-enacted from time to time.
- 2.9. Where any term is defined within the context of any particular clause in this Agreement, the term so defined shall, unless it appears clearly from the clause in question that such term has limited application to the relevant clause, bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that such term has not been defined in clause 1.
- 2.10. No provision herein shall be construed against or interpreted to the disadvantage of any party hereto by reason of such party having been or being deemed to have structured, drafted or introduced such provision.
- 2.11. The *eiusdem generis* rule shall not apply and whenever a term is followed by the word "including" which is then followed by specific examples, such examples shall not be construed so as to limit the meaning of that term.

PART I: USE OF WEBSITE

3. INTRODUCTION

- 3.1. These Terms and Conditions constitute an agreement between the User and HouseME. By using the Website, the User agrees that he has read and understood the Terms and Conditions set out herein and acknowledges that these Terms and Conditions, and amendments thereto from time to time, in their entirety shall bind the User.
- 3.2. This Agreement governs the User's use of the Website, regardless of the means by which the User has accessed the Website.
- 3.3. The User will be required to accept these Terms and Conditions before being able to make use of any of the functions on the Website and before HouseME will render any Services. The User's continued use of the Website shall be deemed to constitute his acceptance of these Terms and Conditions.
- 3.4. HouseME reserves the right to amend and update any of the terms of this Agreement, without the obligation to inform Users prior thereto and/or without the need to obtain their consent thereto. HouseME advises the User to check for updates to the Terms and Conditions on a regular basis, the obligation being on the User to ensure that he is aware of any alterations or amendments to the Terms and Conditions, all of which shall be immediately binding on the User.
- 3.5. The Lessee User and the Lessor User acknowledge that HouseME may render services in favour of both the Lessee User and the Lessor User from time to time. Neither the Lessor User or the Lessee User shall have a claim against HouseME as a result of any conflict which may arise in the performance of HouseME's services.

4. USE OF WEBSITE

- 4.1. The User shall not, and shall not assist any third party to:
 - 4.1.1. copy or reproduce all or any part of the Website, or create derivative works thereof without HouseME's written consent;
 - 4.1.2. alter, modify, disrupt, circumvent or adapt all or any part of the Website;
 - 4.1.3. use the Website or any part thereof for any illegal purpose;
 - 4.1.4. remove or tamper with any copyright notice attached to or contained within the Website; and/or
 - 4.1.5. without HouseME's written consent, carry out reverse engineering of the Website.
- 4.2. The User represents and warrants to HouseME that:
 - 4.2.1. all User Information provided to HouseME is true and accurate in every respect and the User will keep all such information up to date during the term of this Agreement;
 - 4.2.2. the User will only use the Website for his own purposes and not on behalf of any other person, other than in the case of direct family which must be brought to the attention of HouseME (by way of example, the User may in this case be the Lessee but not the person responsible for payment who may be a family member or direct relation) or in the case of the User being a property manager, agent or portfolio manager duly authorised to act on behalf of a Lessor;
 - 4.2.3. the User, and all payments initiated by or on behalf of the User, will comply with all laws, rules, and regulations in his use of the Website and in benefitting from the Services; and
 - 4.2.4. **the User will not use the Website, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the functionality of the Website and indemnifies HouseME against all such damages as may arise as a result of such conduct.**

5. FICA

- 5.1. HouseME is required in terms of the Financial Intelligence Centre Act, 38 of 2001 (as amended) ("FICA") to request certain information about the User and any persons related or associated to the User (including those responsible or standing surety for payments of the User and, upon receipt of reasonable written request from HouseME, those persons who are duly authorised agents or representatives of the User and / or Lessor) and to verify that information with relevant supporting documents.
- 5.2. If the User does not comply with such request or if the User fails and/or refuses to furnish the required FICA information or documents, HouseME shall be entitled to:
 - 5.2.1. refuse to render any Services in favour of the User; and/or
 - 5.2.2. close the User's Account.
- 5.3. If at any time HouseME suspects that the User's account does not comply with FICA requirements, HouseME may prevent transactions from being initiated or processed until the account is fully compliant.
- 5.4. **Should the User's Account not comply with the requirements in respect of FICA and HouseME incurs any liability as a result thereof, the User indemnifies and holds HouseME harmless against any Loss that may arise as a result of the User's failure to provide the documentation as requested by HouseME and as required in terms of FICA.**

6. PROTECTION OF PERSONAL INFORMATION

- 6.1. The User specifically agrees that HouseME shall be entitled to request and process the Personal Information of the User for such purposes so as to enable HouseME to perform the Services for which it has been appointed by the User. The User is required to read the Privacy Policy of HouseME and by its acceptance hereof agrees to the terms and conditions provided for therein.

7. MY ACCOUNT FEATURE AND SECURITY

- 7.1. The Website provides the User with the opportunity to create a User Account which requires the User to furnish HouseME with User Information.
- 7.2. When the User uses the Website, HouseME may send the User's Information from the HouseME server to a merchant server or to the applicable third-party services provider for the purposes of providing those Services requested by the User.
- 7.3. To avoid unauthorised access of the User's Account, the User must choose a secure Password and refrain from sharing the same. HouseME will securely encrypt the User's Password. As long as the correct Password is entered (or if the User elects not to use a Password), the User shall be deemed to be and HouseME shall be entitled to presume that the User is the person giving instructions and/or making such payments using its User Account. The User will accordingly be liable for all actions initiated from his User Account.
- 7.4. The User remains solely responsible and liable for any access, use, misuse or disclosure of the User's Password, including where he has disclosed his password to any person and / or has authorised, permitted or allowed access to the Website on his behalf, and HouseME shall not be liable for any Loss arising from such access, use, misuse or disclosure.
- 7.5. If the User becomes aware of a property advertisement made via the Website which has not been authorised by him, or if the User discloses his Password to any person, or believes that there is the likelihood of any person using the Website by impersonating the User, the User should immediately inform HouseME by

emailing ask@House.ME. HouseME will, following receipt of the notification aforesaid, determine the appropriate course of action which may include *inter alia* disabling the advertisement feature and / or suspending the use of the User's account until the compromise has been rectified.

- 7.6 HouseME shall be entitled to refuse to act on any instruction including where HouseME believes an instruction: (i) was unclear; (ii) was not given by the User; (iii) might cause HouseME to breach a legal or other duty; (iv) if HouseME believes the Website is being used for an illegal purpose; or (v) may harm HouseME's reputation.
- 7.7 The User agrees to fully co-operate with HouseME, its agents, regulatory authorities and the police where the User or HouseME suspects that there has been a payment which has not been initiated by the User via the Website.

8. WEBSITE ADVERTISEMENTS

HouseME accepts no responsibility for third-party advertisements and links published on the Website. Should the User agree to purchase goods and/or services from any third party who advertises on the Website, it is done at the sole risk of the User. The use by the User of any third-party website shall be at the sole risk of the User and HouseME shall have no liability for any Loss suffered by the User as a result thereof.

9. SYSTEM COMPLAINTS

- 9.1 If the User wishes to make a complaint about the Website, the complaint can be sent to HouseME at the contact details set out in clause 27 (Contact Us).
- 9.2 HouseME's customer service staff will endeavour to acknowledge the complaint by return email within 2 (two) Business Days.
- 9.3 HouseME will then investigate the complaint and respond to the User, having had access to an officer with the authority to settle the complaint (including, where appropriate, an offer of redress). HouseME shall use its reasonable commercial efforts to resolve the complaint as quickly as is reasonably possible.
- 9.4 Where appropriate, the member of staff investigating the complaint will not be any staff member who was directly involved in the subject matter of the complaint.
- 9.5 Within 4 (four) weeks of having received a complaint, HouseME will send the User either a final response or a response which explains why HouseME is unable to resolve the complaint.

10. TERMINATION, SUSPENSION OF ACCESS

HouseME may suspend or terminate the User's access to the Website or to any features within the Website without notice where it is reasonable for HouseME to do so and specifically if:

- 10.1. for any reason HouseME elects to discontinue operation of the Website;
- 10.2. HouseME has reason to believe that the User has breached any of the terms of this Agreement;
- 10.3. the User's use of the Website has been improper or breaches the spirit of this Agreement in any way;
- 10.4. HouseME reasonably believes the Website may be at risk of fraud or misuse;
- 10.5. HouseME's information technology infrastructure has failed, is experiencing outages or requires emergency maintenance; or
- 10.6. HouseME has been ordered or recommended to do so by any security services, Court Order or a relevant regulatory authority.

11. NO WARRANTY

- 11.1. The Website is provided by HouseME on an "as is" basis. HouseME makes no warranty or representation, whether express or implied, in relation to the satisfactory quality, fitness for purpose, completeness or accuracy of the service offered through the Website.
- 11.2. Whilst HouseME has taken reasonable measures to ensure the integrity of the Website, HouseME makes no warranty that the operation of the Website will be uninterrupted, timely, secure or error-free or that the same will be available by internet service providers, electricity suppliers, third party systems and third party maintenance providers, that defects will be corrected, that the software or the server that makes it available are free of viruses or bugs, or as to the full functionality, accuracy or reliability of the materials therein.

PART II: HOUSEME SERVICES, CHARGES AND LEASE AGREEMENT

12. DURATION AND MANDATE

- 12.1. The Lessor User, by his acceptance of the Terms and Conditions and registration of his User Account on the Website, hereby grants HouseME a mandate ("Mandate") to render the Services in respect of his Property in accordance with the provisions of this Agreement. For the avoidance of doubt, the Lessor may give the aforesaid mandate to HouseME in the Lessor's personal capacity or through a duly authorised agent or representative, each of which fall within the definition of "Lessor User" for purposes of these Terms and Conditions.
- 12.2. The Mandate shall commence on the date on which the Lessor User registers his account with the details of his Property on the Website under the "My Account" feature, and shall terminate when the Lessor User deletes his Property from his account, or on an earlier date as agreed between the parties in writing or as contemplated in these Terms and Conditions. Termination of the Mandate shall not terminate any obligations owed by either party at the time of termination.

13. SERVICES

- 13.1. HouseME offers two service packages to Lessor Users:
 - 13.1.1. Home Package: this package includes the marketing of the Property, the screening of Lessees and the collection of Rental.
 - 13.1.2. Assist Package: this package includes all services provided for in the Home Package, and including the taking of photographs of the Property for marketing purposes, scheduling and oversight of viewings, attendance of a HouseME representative at the incoming and outgoing inspections of the Property and such other services as are provided in the Assist Package terms and conditions (as amended from time to time),

(collectively "**the Packages**").
- 13.2. The User may wish to opt in for one or more Value Added Services which include the following:
 - 13.2.1. DepositFREE™: this is a product which enables Lessee Users to lease the Property without having to pay a security Deposit. The Lessor is still protected as if the Lessee User had paid a full security deposit.
 - 13.2.2. DepositFLEX™: this is a product which enables Lessee Users to pay a deposit in monthly instalments. The Lessor is still protected as if the Lessee User had paid a full security deposit.

- 13.2.3. Rental Guarantee: this product guarantees rental payments of Lessees for a period of 3 months, initiated by the clearing of the first month's rental paid by the Lessee. HouseME guarantees 2 months' rental as well as the security deposit, accordingly securing Lessors against non-paying Lessees for a total for 3 months.
- 13.2.4. Eviction Coverage: this product is offered by HouseME with the assistance of its partners, and provides the Lessor with peace of mind that proper legal process is followed for Lessees who require eviction from the Lessor's Property.
- 13.3. Should the User wish to opt in for a Value Added Service, he shall do so by selecting the relevant Value Added Service on the Website and/or in writing, via correspondence with HouseME. By doing so, the User agrees to be bound by the terms and conditions relating to such Value Added Service, including but not limited to agreement to the fees payable to HouseME in respect of the Value Added Service, and authorises HouseME to perform such Value Added Service in its favour. A copy of the applicable terms and conditions are available on request.
- 13.4. A User shall only be entitled to the benefit of the Value Added Services if that User has selected one of the Packages or, in respect of the DepositFREE™ or DepositFLEX™ product, if the User is a Lessee in respect of which one of the Packages has been selected.
- 13.5. HouseME may refer the User to third parties to render certain services in favour of the User, on request by the User, where HouseME does not have the infrastructure or expertise to render such services. HouseME shall not be liable for any conduct of such third party where the third party is appointed to render such services.

14. LEASE AGREEMENT

- 14.1. In accepting this Agreement, the User acknowledges and agrees that the Lease Agreement in [Appendix A](#) shall form the Lease Agreement between the Lessor User and the Lessee User in order to benefit from the Services, subject to the further provisions of this clause 14.
- 14.2. **Notwithstanding the aforesaid, a Lessee User applying for a rental at the V&A Waterfront in either The Breakwater or Ports Edge acknowledges that a different lease to the one included in these Terms and Conditions will be used, a copy of which shall be furnished to the Lessee User on request. The User acknowledges that it is his responsibility to make the aforesaid request before agreeing to lease the relevant Property from the V&A Waterfront. A Lessee User agrees to be bound by the lease specific to the V&A Waterfront. In the event that there is a contradiction between the Terms and Conditions and the terms of the V&A Waterfront Lease (in the instance where the Lessee User leases Property from the V & A Waterfront) the provisions of the V & A Waterfront Lease will supersede these Terms and Conditions, provided that such supersession shall expire on the date of termination of the V & A Waterfront lease and shall only apply to the extent of such inconsistency.**
- 14.3. HouseME may agree to the Lessor User supplying his own lease agreement. In the event that the Lessor User wishes to use his own lease agreement, the lease agreement shall be sent to HouseME for review and HouseME shall be entitled to accept or reject the use of the Lessor User's lease agreement in its sole and absolute discretion, which acceptance or rejection will be communicated in writing. The use by the Lessor User of its own lease agreement may result in certain Value Added Services not being available to the Lessor.
- 14.4. The Lessor User and the Lessee User may request that certain amendments be made to the Lease Agreement, in which case such amendments will be communicated to HouseME and HouseME shall furnish the updated Lease Agreement to both the Lessee User and Lessor User.

- 14.5. The Lessee User by its acceptance of the Terms and Conditions and by renting or offering to rent a Property in respect of which HouseME is rendering Services, agrees to HouseME administering the Lease Agreement on the terms and conditions set out herein and elsewhere on the Website.
- 14.6. It is specifically recorded herein that a representative of HouseME may assist in the amendment and / or completion of a Lease Agreement. Any amendment or completion of a Lease Agreement shall only be effective once approved by HouseME's principal agent and agreed to between the Lessor User and Lessee User in writing. For the avoidance of doubt, any amendments will bind the Lessor and Lessee only on written acceptance of same by the Lessor and Lessee.
- 14.7. HouseME processes rental payments to Lessors' bank accounts on or by the 7th of each month for leases of which Lessees have paid.
 - 14.7.1. If the Lessor has taken out the Rental Guarantee product on the lease, payment will be made on or by the 7th of each month, regardless of Lessee collection status as per the product's terms and conditions.
 - 14.7.2. If the Lessor has not taken out the Rental Guarantee product on the lease and the Lessee has not paid before the 7th, payment of rental will be made within two days of receipt by HouseME of the rental in arrears.

15. HOUSEME FEES AND PAYMENT

- 15.1. The fees payable by the User to HouseME ("**Fees**") shall be determined taking into account the Services to be rendered by HouseME in favour of the User.
- 15.2. By accepting HouseME's Terms and Conditions, the User agrees to HouseME's fees for the Services, as provided for in this clause 15.
- 15.3. The Fees payable by Lessors or Tenants and the manner of payment for the Value Added Services shall be as set out in the terms and conditions of the applicable Value Added Service.

Fees Charged to the Lessor

- 15.4. The Fees payable by a Lessor ("**Lessor's Fees**") for the Packages shall be as follows –
 - 15.4.1. In respect of the Home Package, an amount equal to the higher of 3.5% of the total value of the executed Lease Agreement and R2,500 inclusive of VAT; and
 - 15.4.2. In respect of the Assist Package, the amount payable in respect of the Home Package plus a once-off fee of R4,900 inclusive of VAT. The Assist Package fee may be discounted where a Lessee renews its Lease Agreement, which discount shall be determined by HouseME in its sole discretion and communicated to the Landlord in writing.

The Home Package fee shall be equal to the higher of 2.5% of the total value of the executed Lease Agreement and R2,000 inclusive of VAT upon renewal. For clarity, this means that from the second Home Package going forward, Lessors obtain a discount of 1.0% for the same property.
- 15.5. The Lessor's Fees are calculated on the final Rental provided for in the Lease Agreement and not on the desired rental or the minimum rental determined by the Lessor.
- 15.6. For the avoidance of doubt, the Lessor User shall make payment to HouseME of the Fees in respect of the Home Package at the commencement of the Lease Agreement and in respect of each renewal period, the latter fee falling due on the date of commencement of the renewal period.
- 15.7. Lessor's Fees shall be deducted from the first months' Rental payable to the Lessor, and the first months' rental during any renewal period, if applicable. Should the Lessor's Fees exceed the first month's Rental as aforesaid, the Lessor User shall pay the shortfall amount to HouseME upon presentation of a HouseME tax invoice.

Fees Payable by the Lessee

- 15.8. The Lessee User shall make payment to HouseME of a once-off rental administration fee simultaneously with payment of the first month's Rental, as invoiced. **This fee is charged for each lease processed including renewals, and the Lessee is liable for this fee upon signing of the Lease. This fee is R350.**
- 15.9. HouseME shall charge a deposit administration fee per month, deductible from the interest accruing on the Lessee User's deposit.
- 15.10. In addition to the aforesaid charges, the Lessee User shall be liable to make payment to HouseME of the following fees -
 - 15.10.1. A R350 (including VAT) administration fee where the Lessee terminates a Lease Agreement prior to the intended termination date thereof for any reason, but excluding where such termination arises as a result of the Lessor's breach of the Lease Agreement; and
 - 15.10.2. An amount equal to HouseME's discount on the Fees paid by the Lessor to HouseME where the Lessee terminates the Lease Agreement. The aforesaid discount is only offered to Lessors where –
 - 15.10.2.1. the Lease Agreement is terminated 3 months or more before the agreed expiration of the Lease Agreement;
 - 15.10.2.2. such termination is not as a result of the Lessor's breach,

and is generally in an amount equal to 25% of the fees paid by the Lessor to HouseME.

Fees Payable for change in services, mediation and dispute resolution

- 15.11. The following shall be payable by the initiating party (either the Lessee or the Lessor) who requests-
 - 15.11.1. Lease amendments (including rental relief requests) within the lease duration: R350 (including VAT);
 - 15.11.2. Removal of a product within the lease duration: R150 (including VAT);
 - 15.11.3. Dispute resolution between leasing parties: R500 (including VAT) charged to party defending the alleged breach in contract. This fee is reversed and charged to the party who alleges the breach, should the allegation be found baseless;
 - 15.11.4. Deposit pay-out mediation: R250 (including VAT) charged to both parties.

16. PLACEME® TOOL

- 16.1. The Website permits Lessees to place offers on a Property from the date of listing of that Property, by stating what Rental they are willing to pay in respect of the Property. This functionality shall remain active until such time as an offer has been accepted by the Lessor concerned or the Property has been rented through other means.
- 16.2. Any offer made by a Lessee is irrevocable and shall be binding on the Lessee. The Lessor shall not be required to accept any offer, and acceptance shall be in the Lessor's sole discretion.
- 16.3. HouseME shall be entitled to request documentation to verify the eligibility of the Lessee who has made the offer, including identification documents, Lessor references, bank statements, proof of employment and any other documentation as HouseME may deem relevant for purposes of verification. The Lessee shall provide HouseME with such information as has been requested as soon as possible after receipt of such request.
- 16.4. The Lessor shall provide HouseME with an indication of his desired Rental. HouseME shall, in order of priority, process offers made in respect of the Property where such offer is above the rental required by the Lessor, and then proceed to offers below that amount, unless otherwise determined in writing by the Lessor.

- 16.5. HouseME shall provide regular reports to the Lessor regarding the quantum of offers received, whether Lessee verification procedures have been performed, the outcome thereof and such other material information as may from time to time be applicable.
- 16.6. Once a favourable offer has been made by a Lessee and the verification process has been completed and is successful, HouseME will present the Lessee's details to the Lessor for approval, along with the Lease Agreement. Should the Lessor wish to proceed in executing the Lease Agreement, HouseME shall notify the Lessee and the parties shall proceed to sign the Lease Agreement. Notwithstanding, the Lessee shall be required to make payment of the Deposit in respect of the Lease Agreement, or must have signed up for DepositFREE™ or DepositFLEX™, to secure the Property, within 48 hours of receipt of the aforesaid notification from HouseME. Should the Lessee fail to make payment, or sign up for DepositFREE™ or DepositFLEX™, as the case may be, the Lease Agreement shall not be effective and HouseME shall seek another Lessee.
- 16.7. HouseME shall, in its sole discretion, be entitled to reject a Lessee's offer and suspend access by the Lessee of the Website or any part thereof if HouseME in its sole and absolute discretion determines that a Lessee is abusing the PlaceME® functionality.
- 16.8. If the Rental exceeds the desired rental communicated to HouseME by the Lessor, HouseME shall be entitled to retain 50% of the excess amount (in addition to the fees set out in clause 15.4) which shall be deducted from the Rental payments of the Lessee for the full term of the Lease Agreement. For the avoidance of doubt, the aforesaid principle applies on the full Rental payable, and not on the Lessor's desired minimum rental.

17. WARRANTY OF AUTHORITY

- 17.1. The Lessor User warrants and represents to HouseME that:
 - 17.1.1. He has represented the Property accurately, and there are no material defects, other than those disclosed in the disclosure schedule attached to the Lease Agreement, which would be reasonably likely to result in the Property not being in a fit and hospitable state on the date on which it is advertised to be ready for occupation;
 - 17.1.2. He has registered his Property on his account in good faith with the intention of letting the Property to a Lessee; and
 - 17.1.3. He is the registered owner of, or is authorised to let, the Property.
- 17.2. A User who is a property manager, agent or portfolio manager warrants that he is duly authorised to act on behalf of a Lessor and shall provide written proof of such authorisation should HouseME request same.

PART III: CONTRACTORS

18. APPLICABILITY OF TERMS AND CONDITIONS

- 18.1. These Terms and Conditions shall bind all Contractors appointed by HouseME to render certain Services in favour of HouseME and/or other Users, insofar as these provisions are applicable to such Contractors.
- 18.2. The Contractors acknowledge that the Terms and Conditions shall apply notwithstanding the fact that there are additional terms and conditions on the Website which may apply specifically to them, for example the HouseME Helper terms and conditions. To the extent of any inconsistency, the specific terms and conditions applicable to the Contractors contained on the Website shall override the provisions of these Terms and Conditions.
- 18.3. The Contractors undertake to familiarise themselves with the terms set out herein and agree to be bound hereto.

PART IV: INTELLECTUAL PROPERTY, LIMITATION OF LIABILITY AND INDEMNITY

19. INTELLECTUAL PROPERTY

- 19.1. HouseME grants the User a non-exclusive, non-transferable right to use the HouseME Website, including the copyright and all Intellectual Property rights to the content herein, in accordance with this Agreement.
- 19.2. For purposes of this clause, "Intellectual Property" means all specifications, operating instructions, compilations, lists, databases, systems, operations, processes, methodologies, technologies, algorithms, techniques, methods, designs, circuit layouts plans, reports, data, works of authorship, video recordings, audio recordings, photographs, models, samples, substances, trade secrets, formulae, know-how, show-how, confidential information, concepts and ideas of any nature (including of a technical, scientific, engineering, commercial, strategic, financial, marketing or organisational nature), inventions, discoveries, drawings, notes, manuals, documentation, training materials, trademarks, service marks, logos, slogans, trade names, domain names and brand names, regardless of whether Intellectual Property rights actually exist in any such items, and any other tangible or intangible items in which rights to such Intellectual Property rights may exist, and includes all of HouseME's rights to the Intellectual Property in any of the foregoing.
- 19.3. All rights, title, and interest (of whatsoever nature and howsoever arising) worldwide, in any Intellectual Property which prior to the Effective Date was used by HouseME in providing access to the Website and/or providing the Services and Value Added Services, shall remain vested in HouseME.
- 19.4. The User hereby acknowledges that by using the Website he obtains no rights in the software, trademarks or content related to the Website and he may only use the same in complete accordance with this Agreement.
- 19.5. The User specifically acknowledges that the Intellectual Property is licensed to HouseME by its holding company, HouseME (Pty) Ltd. This clause accordingly operates as a *stipulatio alteri* in favour of HouseME (Pty) Ltd which shall be entitled to enforce its rights in and to the Intellectual Property at any time.

20. LIMITATION OF LIABILITY

- 20.1. HouseME shall not be responsible for the content of any linked sites and shall not be liable for any Loss suffered by the User arising from, or in any way connected with, the User's interaction and/or transaction with any third-party website accessed via the Website.
- 20.2. HouseME shall not be liable to the User, whether in contract or delict, for:
 - 20.2.1. any Losses incurred by the User which are not reasonably foreseeable;
 - 20.2.2. any Losses incurred by the User as a result of the User's use of the Website; or
 - 20.2.3. special, indirect or consequential damage or Loss of any kind whatsoever, arising under or in connection with this Agreement.
- 20.3. No party shall be liable for any delay in or failure to perform any obligations arising from these terms as a result of events beyond such party's reasonable control, or which cannot reasonably be avoided or overcome, while such events persist.
- 20.4. If an offer using the PlaceME[®] tool is not initiated by a User and is accepted as the successful offer and any payment is made in the name of the Lessee as a result of such success ("Unauthorised Offer"), HouseME agrees to refund the full amount of such payment at the User's request, provided that:
 - 20.4.1. the Unauthorised Offer did not arise from the User's election not to use a Password to access the Website or features of the Website; and
 - 20.4.2. the Unauthorised Offer did not arise from the User's failure to create, protect and/or keep a sufficiently secure Password; and

- 20.4.3. the User has notified HouseME without undue delay of any loss of his Password or any other event that could reasonably be expected to have compromised the security of his account after the User has gained knowledge of such event; and
 - 20.4.4. the User has not intentionally or negligently compromised the security of his account and/or the Website; and
 - 20.4.5. the User disputes and brings the Unauthorised Offer to HouseME's attention within 5 calendar days from the date on which the Unauthorised Offer occurred.
- 20.5. The onus shall rest on the User to establish the aforementioned circumstances.
- 20.6. HouseME shall not be liable for any claims in terms of the Rental Guarantee –
- 20.6.1. whilst there is a legal dispute of substance which exists between the Lessee and Lessor (the existence of which shall be determined in HouseME's reasonable discretion); and
 - 20.6.2. where either Lessor or Lessee has notified HouseME in writing that such dispute exists between them and provided documentary evidence of same; or
 - 20.6.3. where the Lessee has applied for a Court Order to stop HouseME from paying the Lessor because the Lessor is in material breach of the Lease Agreement.

21. INDEMNITY

- 21.1. The User indemnifies HouseME, its directors, holding Company, associated entities, employees, agents and assigns ("Indemnified Party") and holds the Indemnified Parties harmless against any Losses which HouseME or the User may suffer as a result of the User's use of the Website, the User's non-disclosure or incorrect disclosure of relevant and/or material information to HouseME, the User's conduct with the Lessor and/or Lessee, as the case may be, the User's failure to adhere to any agreement which arises out of the provision of the Services by HouseME, the User's breach of any law in relation to the Services offered by HouseME and/or any claim against an Indemnified Party arising as a result of the User's negligent and / or intentional conduct, howsoever such Loss arises.
- 21.2. The User shall pay the Indemnified Party immediately on written demand the quantum of such Loss, as provided for in written demand issued by the Indemnified Party and substantiated by documentary and other proof.
- 21.3. A certificate reflecting the indebtedness of the User to the Indemnified Party, signed by the Indemnified Party or an authorised representative of the Indemnified Party shall be valid and binding upon the User and be *prima facie* proof of the said indebtedness; and shall entitle the Indemnified Party or its assigns to obtain judgment, including summary judgment, against the User in the amount thereof, together with interest and legal costs in any court of competent jurisdiction.
- 21.4. The User waives the benefit of the exceptions *non causae debiti, non numeratae pecuniae, and excussionis*.
- 21.5. This clause shall constitute a *stipulatio alteri* in favour of those Indemnified Parties which are not parties to this Agreement, the benefit of which can be accepted by the relevant Indemnified Party at any time in writing.

PART V: GENERAL

22. BREACH

Should a party ("**Defaulting Party**") commit any breach of this Agreement and fail to remedy such breach within a period of 7 days after receipt of written notice from the other party ("**Aggrieved Party**") requiring it to remedy such breach, then the Aggrieved Party shall forthwith be entitled but not obliged, without prejudice to any other rights or remedies which the Aggrieved Party may have in law, including the right to claim damages, to cancel this Agreement in terms of clause 10, or to claim immediate performance and/or payment of such obligations.

23. DISPUTES

All disputes arising out of these Terms and Conditions shall be determined in accordance with the provisions of the Property Practitioners Act, 22 of 2019. Until such time as the Property Practitioners Act, 22 of 2019 is in force, all disputes shall be determined in accordance with the Estate Agency Affairs Act, 1976.

24. LANGUAGE, NOTICES

- 24.1. All communications between the User and HouseME shall be in writing and shall be in English.
- 24.2. By using the Website and accepting the terms of this Agreement, the User agrees to receive all notices from HouseME electronically, including but not limited to notices relating to amendments or changes to this Agreement or any applicable policies, disclosures, notices, payment information, statements, responses to claims and other User communications that HouseME may be required by law to provide to the User from time to time ("**Communications**").
- 24.3. Communications may be posted to the Website and/or sent by e-mail to the e-mail address listed in the User's Information. All Communications will be deemed to be in writing and received or accessed by the User on such day on which it was sent unless the contrary is proved. The User is responsible for printing, storing and maintaining his own records of Communications, including a copy of this Agreement.
- 24.4. All Communications to HouseME shall be sent in writing to the following email address: ask@House.ME.

25. GOVERNING LAW

This Agreement shall be governed by the law of the Republic of South Africa.

26. GENERAL

- 26.1. No party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein or agreed to between the parties in writing.
- 26.2. No amendment or consensual cancellation of this Agreement or any provision or term thereof, and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 26.3. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement shall operate as an estoppel against any party in respect of its rights under this Agreement, nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with this Agreement.
- 26.4. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.
- 26.5. Any provision in this Agreement which is or may become illegal, invalid or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be treated as *pro non scripto* and severed from the remainder of this Agreement, without invalidating or affecting the remaining provisions of this Agreement.

27. CONTACT US

Registered Name:	HouseME Rental (Pty) Ltd
Registration Number:	2016/317811/07
Directors:	Benjamin Shaw, Kyle Bradley and Paul Malakou
Email:	ask@House.ME



Address:

UNIT 503, TOUCHSTONE HOUSE, 7 BREE STREET, CAPE TOWN, WESTERN
CAPE, 8001