



FW de Klerk
FOUNDATION

THE FW DE KLERK FOUNDATION
Upholding South Africa's National Accord

TERMS AND CONDITIONS OF USE

Last Updated: 19-06-2023

1. About the Foundation and Who We Are

- 1.1. The FW De Klerk Foundation (“**the Foundation**”) was founded in 1999 with the aim of promoting the South African Constitution, national unity, reconciliation and the accommodation of diversity, and the legacy of President FW De Klerk.
- 1.2. We have created these terms and conditions (“**Terms**”) to provide more information on our offering and to regulate your use and access of our platform, <https://fwdeklerk.org/> (“**Platform**”).

2. What We Offer through the Platform

- 2.1. Through our Platform, we offer access to the following:
 - 2.1.1. **Information on the Life, Presidency, and Legacy of President FW De Klerk**

Through the Platform, we offer access to a multitude of information and resources on the life and legacy of President FW De Klerk.
 - 2.1.2. **Information on our Foundational Goals, Charitable Initiatives, and Events**
 - 2.1.2.1. Under the “*Reconciliation and Unity in Diversity*” section of the Platform, you will gain access to a collection of information on President De Klerk and the Foundation’s work in furthering reconciliation in South Africa.
 - 2.1.2.2. You can gain access to speeches presented by President De Klerk, information on and a list of the charitable organisations supported by the Foundation, information on the FW De Klerk Goodwill Award as well as more information on how to join the Foundation’s Donor Support Programme.
 - 2.1.3. **Multimedia Content, including News, Events, and Articles**
 - 2.1.3.1. [Browse through and Listen to our podcast, The Constitution @ Work](#) - We host a podcast in which we discuss important topics affecting our country and our constitutional rights. Many podcast episodes include special guest speakers as friends of the Foundation to speak in detail on the topics close to them.
 - 2.1.3.2. [Hear more about and watch any of our Latest Events and Webinars](#) - Our Platform contains all the information you will need regarding future and past events (including conferences, lectures, and webinars) the Foundation hosts and/or supports. You can watch any event (including our podcast) on our YouTube channel [here](#).
 - 2.1.3.3. [Read News Articles](#) - We publish weekly news articles where we discuss topical issues affecting our country, constitution, and rights.

129 Hatfield Street, Gardens, Cape Town 8001 South Africa

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DW Steward (Chairman)

M Bakala, PS Basson, BC Bester, WAM Clewlow, E de Klerk, J de Klerk-Luttig, I Farlam, FM Mathebula, LG Mcwabeni, C Teichmann



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2.1.3.4. Download Publications – We write and publish various publications which you can either download directly from our Platform.

2.1.3.5. Subscribe to our Newsletter - We publish a weekly newsletter in which we provide communications on topical issues, participate in national debates on matters affecting our nation, and provide more information on events and media hosted by the Foundation. You are welcome to subscribe to our newsletter using the links and prompts available on the Platform.

2.1.4. Learn More about the Foundation and our Team

2.1.4.1. Our Team includes our Chairman, Board of Trustee and Staff and Advisors.

2.1.4.2. We offer an Intern Programme that interested graduates may apply for directly through the Platform.

2.1.4.3. We also publish any available positions currently offered by the Foundation that anyone interested can respond to.

2.1.4.4. You can also engage with us via social media, using the links provided on the Platform.

2.1.5. Donate to the Foundation

2.1.5.1. If you wish to work with the Foundation or support the Foundation to promote and defend the Constitution you are welcome to contribute to the Foundation. The Foundation is a registered Public Benefit Organisation and therefore donations are tax deductible and received in terms of section 18A the *Income Tax Act 58 of 1962*.

2.1.5.2. You can contact us at info@fwdeklerk.org or 021 930 362 for more information on donations.

2.1.6. Access our Archive and Library

Our archive includes all multimedia content published and shared by the Foundation, throughout the Foundation's history.

3. Processing Your Personal Information

3.1. We take the processing of your personal information very seriously and do so in accordance with the South African *Protection of Personal Information Act, 4 of 2013*, as amended ("**POPI**"). Please see our [privacy policy](#) for details on how we use and processes your personal information.

3.2. By entering your personal information on the Platform or providing it to us in any way, you warrant that the person using the Platform is you, you have the legal authority to act on behalf of a corporate entity and/or you have the lawful right to provide us with such information.

4. Intellectual Property Protection

4.1. Platform layout, content, material, information, data, software, icons, text, graphics, images, sound clips, advertisements, video clips, user interface design and layout, trade names, logos, trademarks, designs, copyright and/or service marks (whether

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registered or un-registered), together with the underlying software code (“**the intellectual property**”) are owned (or co-owned or licenced, as the case may be) by the Foundation, its affiliates and/or partners, whether directly or indirectly, and as such, are protected from infringement by domestic and international legislation and treaties.

- 4.2. Subject to the rights afforded to you in these terms, all other rights to all intellectual property and content on the Platform are expressly reserved. **You may not copy, download, print, modify, alter, publish, broadcast, distribute, sell or transfer any intellectual property, multi-media content, graphics or other material on the Platform or the underlying software code whether in whole or in part, without the written consent of the Foundation first being granted (through a content use-license or otherwise), which consent may be refused at the discretion of the Foundation.** No modification of any intellectual property or graphics is permitted. Should you breach these provisions, the Foundation and/or the rightful intellectual property rights owner may launch legal proceedings against you for a breach of contract, resulting in (amongst other things) a claim of damages being brought against you.
- 4.3. The Foundation reserves the right to make improvements or changes to the intellectual property, information, artwork, graphics, and other materials on the Platform or to suspend or terminate the Platform, at any time without notice; provided that any transactions or functions already concluded through the Platform, will not be affected by such suspension or termination (as the case may be).
- 4.4. Where any of the Platform intellectual property has been licensed to the Foundation or belongs to any third party all rights of use will also be subject to any terms and conditions which that licensor or third party imposes from time to time, and you agree to comply with such third-party terms and conditions.
- 4.5. Subject to adherence to the Terms, the Foundation grants you a personal, non-exclusive, non-assignable and non-transferable license to use and display all content and information contained on the Platform on any machine which you are the primary user. However, nothing contained on the Platform or in these Terms should be construed as granting any licence or right to use any intellectual property without the prior written permission of the Foundation.
- 4.6. Please email us if you have any questions on intellectual property.

5. Your Responsibilities and Warranties

- 5.1. By using our Platform, you warrant that:
 - 5.1.1. you have read and agreed to these Terms and will use the Platform and Services in accordance with them;
 - 5.1.2. all information you provide to the Platform and/or the Foundation is true and accurate in every respect, understanding that any false information supplied may constitute a criminal offence;
 - 5.1.3. you understand and agree that you take all responsibility for the decisions you make via the Platform and/or Services;
 - 5.1.4. you are above the age of 18 (eighteen) years old and have the legal capacity to understand, agree with and be bound with these Terms. If you are under the age of 18 (eighteen), your parent/guardian must consent to your use and shall be responsible for any of our actions taken on the Platform;

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- 5.1.5. you lawfully possess and submit all information to the Platform and/or the Foundation for the use of it or the Services;
 - 5.1.6. you will not send any unsolicited electronic messages or use any software, routine or device to interfere or attempt to interfere electronically or manually with the operation or functionality of the Platform including but not limited to uploading or making available files containing corrupt data or viruses via whatever means or deface, alter or interfere with the front end 'look and feel' of the Platform or the underlying software code;
 - 5.1.7. you will not infringe the intellectual property or other rights of any third party or the Platform;
 - 5.1.8. you will not use the Platform for any commercial purpose other than as expressly provided for by the Foundation herein;
 - 5.1.9. you will not use the Platform to breach any applicable law or regulation or perform or encourage any illegal activity; and/or
 - 5.1.10. you will not facilitate or assist any third party to do any of the above,
failing which, your failure will automatically be deemed to be a material breach of these Terms, allowing the Foundation to use its full spectrum of rights available to it against the infringing party, including reporting you to the authorities, denying you access to or use of any Service, or the Platform and/or claiming contractual (including consequential) damages from you.
- 5.2. The Platform is only available on compatible devices connected to the internet. It is your responsibility to obtain these devices and any connectivity necessary to use the Platform.
 - 5.3. Without prejudice to any of our other rights (whether at law or otherwise), we reserve the right to deny you access to the Platform or the Services where we believe (in our reasonable discretion) that you are in breach of any of these Terms.
 - 5.4. We do not guarantee that the Platform, or any portion thereof, will function on any particular hardware or device.

6. Links and Messages

- 6.1. Data Messages between You and the Foundation
 - 6.1.1. Data messages, including email messages, you send to us will be considered as received only when we acknowledge or respond to these messages.
 - 6.1.2. Data messages we send to you will be regarded as received when the data message enters your email sever inbox and is capable of being retrieved and processed by you.
 - 6.1.3. We reserve the right not to respond to any email or other data message that contains obscene, threatening, defamatory or otherwise illegal, unlawful, or inappropriate content, and to take appropriate action against the sender of such email or data message if necessary.
 - 6.1.4. Messages sent over the internet cannot be guaranteed to be completely secure as they can be intercepted, lost, or corrupted. We are therefore not responsible for the accuracy or safety of any message sent by email or over the internet.

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6.2. Hyperlinks, Deep Links, Framing

- 6.2.1. The Platform may include links to other websites ("**other sites**"). The Foundation does not own or endorse these other sites and is not responsible for the information, material, products, or services contained on or accessible through these other sites. Any hyperlinks do not imply any endorsement, agreement on or support of the content of these other sites.
- 6.2.2. The Foundation does not own the content on any other site which may be shown on the Platform. Should the owner of any content showcased on the Platform want the content to be removed, please contact us at info@fwdeklerk.org to request the removal of such content.
- 6.2.3. Your access and use of the other sites remain solely at your own risk and on the terms set by the operator of any other site.

6.3. Advertising And Sponsorships on the Platform

- 6.3.1. The Platform may contain advertising and sponsorship. Advertisers and sponsors are responsible for ensuring that material displayed on the Platform complies with all applicable laws and regulations. Displayed advertising does not indicate any endorsement, agreement on or support of the content or products of these advertisements by the Foundation.
- 6.3.2. The Trustees for the time being of the Foundation, its employees, partners, affiliates, and agents accordingly exclude, to the maximum extent permitted in law, any responsibility or liability for any error or inaccuracy appearing in advertising or sponsorship material.

7. **Disclaimers, Indemnities and Warranties**

7.1. Disclaimers

- 7.1.1. **The Platform, including any intellectual property appearing therein, are provided "as is" and "as available". The Foundation makes no representations or warranties, express or implied, including but not limited to warranties as to the accuracy, correctness, or suitability of either the Platform or the information contained therein.**
- 7.1.2. **The Trustees for the time being of the Foundation, its employees, and contractors, accept no liability whatsoever for any loss, whether direct or indirect, consequential, or arising from information made available on (or by means of) the Platform.**
- 7.1.3. **The Trustees for the time being of the Foundation, its employees, contractors, and affiliates, accept no liability whatsoever for any costs, expenses, fines or damages, including but not limited to direct or indirect loss or damages, including any economic loss, physical harm, death, injury, consequential loss, loss of profits or any form of punitive damages, resulting from your access to, or use of, the Platform in any manner.**
- 7.1.4. Users from locations outside of South Africa, please note that the Foundation complies with all South African laws. Should foreign law be applicable to your use of the Platform in any way, you warrant that you are always acting in accordance with same foreign law and indemnify the Foundation from any

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liability it may acquire by virtue of its supply of the Platform and/or Services in accordance with South African law.

7.1.5. The Foundation takes reasonable security measures to ensure the safety and integrity of the Platform and to exclude viruses, unlawful monitoring and/or access from the Platform. However, the Foundation does not warrant or represent that your access to the Platform will be uninterrupted or error-free or that any information, data, content, software, or other material accessible through the Platform will be free of bugs, viruses, worms, trojan horses or other harmful components. Your access to and use of the Platform remains solely at your own risk and you should take precautions accordingly.

7.2. Indemnities

7.2.1. **You indemnify and hold the Trustees for the time being of the Foundation, its employees, and contractors harmless from any demand, action or application or other proceedings, including for attorneys' fees and related costs such as tracing fees, made by any third party, and arising out of or in connection with your use of the Platform in any way.**

7.2.2. **You agree to indemnify, defend, and hold the Trustees for the time being of the Foundation harmless from any direct or indirect liability, loss, harm, injury, death, claim and expense (including reasonable legal fees) related to your breach of these Terms.**

7.3. This clause will survive termination of this agreement.

8. **Dispute Resolution**

8.1. Negotiation - Should any dispute, disagreement or claim arise between you and the Foundation concerning the Platform, you agree that we shall endeavour to resolve the dispute amicably, by negotiation, and with the best interests of both of us in mind.

8.2. Mediation - Should we fail to resolve such dispute in the aforesaid manner or within such further period as we may agree to in within our negotiations, we will approach an independent industry expert who shall mediate the discussion between us, for the purposes of finding a mutually beneficial solution.

8.3. Arbitration - If the dispute is still not resolved after such mediation, the parties will commence and be party to binding and confidential arbitration in terms of the expedited rules of the Arbitration Foundation of Southern Africa ("**AFSA**"), with an arbitrator selected by the Foundation. Arbitration proceedings shall be conducted in Cape Town in English.

8.4. Jurisdiction - Notwithstanding the above, both parties' consent to the non-exclusive jurisdiction of the High Court of South Africa, even in the event where the quantum in the dispute may be less than the monetary jurisdiction of that court. Either party may also always use the dispute resolution services of any applicable legislative tribunal or ombud, as provided for in applicable legislation.

8.5. No publication - The parties both agree that in no circumstance will either party publicise the dispute on any social media or other public platform. Both parties understand that any publicity of this nature can cause serious damage to the other party, which damage may result in a financial claim against the infringing party.



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9. Notices to the Foundation

- 9.1. Each of the parties chooses their service address for the purposes of the giving of any notice, the serving of any process and for any other purposes arising from these Terms as being:
- 9.1.1. in the case of the Foundation at info@fwdeklerk.org; or
- 9.1.2. the email address you provide the Foundation when engaging with us.
- 9.2. Each of the parties will be entitled from time to time, by written notice to the other to vary its service address to any other address which is not a post office box or poste restante, provided that the change will become effective only 14 (fourteen) days after service of the notice in question.
- 9.3. Notwithstanding the above, any notice given in writing in English, and received by the party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause.

10. Legal Terms

10.1. Accepting These Terms

- 10.1.1. By accessing or using <https://fwdeklerk.org/> or any of its related platforms, owned and maintained by the Trustees for the time being of the FW De Klerk Foundation, a trust and non-profit organisation registered and operating in accordance with the laws of South Africa, you agree that you have read, understood and agree to be bound to the terms and conditions contained herein. All rights in and to the content of the Platform remain at all times expressly reserved by the Foundation.
- 10.1.2. **Please read these terms carefully before accessing or using the Platform. the Foundation will assume you have read and understood these terms should you continue to access or make use of the Platform.**
- 10.1.3. The terms "user", "you", "user" and "your" are used interchangeably in these Terms and refer to all persons accessing the Platform for any reason whatsoever. Accordingly, the terms "us", "our" or "we" refers to the Foundation or its possession.

10.2. Terminating Your Use of the Platform

- 10.2.1. **IN ADDITION TO ITS OTHER RIGHTS HEREIN, THE FOUNDATION RESERVES THE RIGHT TO TERMINATE AND CANCEL YOUR USE OF THE PLATFORM IF YOU BREACH ANY OF THESE TERMS, OR FOR ANY OTHER REASON IN ITS SOLE DISCRETION PROVIDED THAT THE FOUNDATION GIVES REASONABLE NOTICE TO YOU.**
- 10.2.2. You may terminate your use of the Platform at any time. Termination may however be subject to any additional conditions which you may be subject to by virtue of another agreement we have entered into. Further, any termination will not affect any existing obligation that that you may have at the time of termination.

10.3. Business Information

- 10.3.1. Site owner: The Trustees for the time being of the



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- | | |
|---|---|
| 10.3.2. Company type: | Non-Profit Organisation |
| 10.3.3. Reference Number: | IT 1863/99 |
| 10.3.4. Description of main business: | Philanthropic Foundation |
| 10.3.5. Telephone number: | +27 (0) 21 930 3622 |
| 10.3.6. E-mail address: | info@fwdeklerk.org |
| 10.3.7. Platform address/name: | https://fwdeklerk.org/ |
| 10.3.8. Physical address: | 129 Hatfield Street, Gardens, 8001. |
| 10.3.9. Postal address: | 129 Hatfield Street, Gardens, 8001. |
| 10.3.10. Membership of any association: | NO |

10.4. Interpretation of Terms

- 10.4.1. Governing Law - Access and/or use of the Platform, and the operation of these Terms (including any transaction concluded pursuant thereto) shall be governed by and construed in accordance with the laws of the Republic of South Africa only.
- 10.4.2. Relationship Between the Parties - The relationship of the parties, *inter se*, shall be governed by these Terms and nothing contained herein shall be deemed to constitute a partnership, joint venture, employer/employee agreement, agency agreement, or the like between them. No party shall by the reasons of the actions of the other party incur any personal liability as co-partner to any third party.
- 10.4.3. Force Majeure - If either party is prevented, whether in whole or in part, or delayed from performing any of its duties, functions or obligations under these Terms, whether timeously or at all, due to an event out of their control (which for the purposes hereof shall mean war, political riots, civil commotions, electrical load-shedding or surges, legal prohibitions or restrictions, epidemics, pandemics, governmental lockdowns, fire, floods or other similar natural disasters), then such failure shall not constitute a breach under these Terms, and the obligation to perform shall be suspended to the extent and during the continuance of such prevention provided that the parties shall use their reasonable commercial endeavours to minimise any delay occasioned
- 10.4.4. Change Without Notice - The Platform and these Terms are subject to change without notice. These Terms are updated or amended from time to time and will be effective once we upload the amended Terms to the Platform. Your continued access or use of the Platform constitutes your acceptance to be bound by these Terms, as amended. It is your responsibility to read these Terms periodically to ensure you are aware of any changes.
- 10.4.5. Entire Agreement - This document contains the entire agreement between the parties in relation to the subject matter hereof. Save as contemplated above, no alteration, cancellation, variation of, or addition hereto will be of any force or effect unless reduced to writing and signed by all the parties to these Terms or their duly authorised representatives.

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- 10.4.6. No Indulgency - No indulgence, leniency or extension of time granted by the Foundation shall constitute a waiver of any of the Foundation's rights under these Terms and, accordingly, the Foundation shall not be precluded as a consequence of having granted such indulgence, from exercising any rights against the user which may have arisen in the past or which might arise in the future.
- 10.4.7. Importation of Words - Words importing the singular will include the plural and vice versa. Words importing one gender will include the other genders, and words importing persons will include partnerships, trusts and bodies corporate, and vice versa.
- 10.4.8. Headings - The headings to the paragraphs in the Terms are inserted for reference purposes only and will not affect the interpretation of any of the provisions to which they relate.
- 10.4.9. Legal Costs - In the event of a breach of these Terms, you shall be liable for all legal costs (on the scale as between attorney and user) (including collection commission) which may be incurred by the Foundation in relation to the breach.
- 10.4.10. Severability - Each sentence, paragraph, term, clause and provision of these Terms and any portion thereof shall be considered severable and if, for any reason, any such sentence, paragraph, term, clause or provision is held to be invalid, contrary to, or in conflict with any applicable present or future law or regulation or in terms of a final, binding judgment issued by any court, it shall to that extent be deemed not to form part hereof and shall not impair the operation of, or have any effect upon such other sentence, paragraph, term, clause or provision hereof as may otherwise remain valid or intelligible, which shall continue to be given full force and effect and bind the parties hereto.
- 10.4.11. Prohibited Terms - No term or condition of these Terms is intended to breach any peremptory provisions of any consumer protection legislation and any regulations thereto ("**Prohibited Provision**"). Any breach of any such Prohibited Provision shall be governed by the provisions of clause 10.4.11.