

# TGCSA Online Application Form and Terms and Conditions for the 1-year Membership to the TGCSA Star Grading System

## 1. INTRODUCTION

The Tourism Grading Council is an administrative body of the South African Tourism Board, being a juristic person established in terms of the Tourism Act, 2014 (Act No. 3 of 2014)(as amended), in respect of Grading Services. In this regard Sections 28 and 29 of the Tourism Act, 2014, as amended from time to time, provides exclusivity to the Tourism Grading Council of South Africa (TGCSA) in awarding Star Gradings to Member Establishments with a view of ensuring a unified and consistent standard of quality in tourism in respect of Accommodation Establishments. As such, the TGCSA's Grading and Classification Scheme is a legislative scheme that is executed and enforced in accordance with the relevant Grading Criteria as may be published from time to time. The Grading and Classification Scheme is used to determine the Star Grading Awards of an Accommodation Establishment. This Agreement is intended to set out the terms and conditions an Accommodation Establishment would have to agree with the TGCSA in order to receive a Star Grading and Classification Scheme e.g. Caravan and Camping Establishment, Self-Catering Establishment, Bed and Breakfast Establishment, Guesthouse Establishment, Boutique Hotel Establishment, Hotel Establishment, Game Lodge Establishment etc.

## 2. DEFINITIONS

- 2.1. **Accommodation Establishment** means a privately or publicly owned land and/or permanent buildings or structure, furnished and fitted with furniture, appliances, décor, accessories and necessities in order to conduct the business of providing accommodation for travellers and/or guests and/or tourists within the Republic of South Africa against a consideration. Any legally recognised form of corporate or incorporated groups of Accommodation Establishment shall bear a corresponding meaning.
- 2.2. **Accommodation Type and Classification** means an Accommodation Establishment that can be generically typed and classified in accordance with generally accepted criteria set out in the Grading Criteria of the TGCSA Grading and Classification Scheme, e.g. Camping and Caravan Establishment, Self-Catering Unit, Bed and Breakfast Establishment, Guesthouse Establishment, Boutique Hotel Establishment, Hotel Establishment, Game Lodge Establishment, etc.
- 2.3. **Agreement** means the Terms and Condition of this agreement read together with these definitions, the introduction and the rules of the TGCSA Grading and Classification Scheme.
- 2.4. **Assessment** means a physical survey and investigation conducted by an Assessor in order to evaluate or estimate whether the nature and quality of an Accommodation Establishment adequately aligns to the particular rules and standards of the Grading and Classification Scheme in relation to such Star Grading Award as the Accommodation Establishment may have applied to subscribe to.
- 2.5. **Assessment Validity Period** means a period of 12 (twelve) months calculated to effective from the date that a Star Grading Award is granted by the TGCSA to an Accommodation Establishment. Subscription and Membership Period shall have a similar meaning.
- 2.6. **Assessor** shall mean an independent contractor who is duly accredited by the TGCSA, delivering services in line with his/her contractual obligations toward the TGCSA.
- 2.7. **Awards Committee** means the sub-committee of the South African Tourism Board charged with authority and oversight in the execution of the mandate set for the Tourism Grading Council of South Africa.
- 2.8. **Grading and Classification Scheme** a set of minimum standards, criteria and rules devised, implemented and managed by the Tourism Grading Council of South Africa, which have the specific objective of classifying, assessing and endorsing Accommodation Establishments by

means of Star Grading Awards and membership to that scheme within the Republic of South Africa. Grading and Classification in this agreement would therefore reference in the context to an act or fact relating to this scheme.

- 2.9. **Monthly Property Approvals Exco Meeting** shall mean a committee meeting that considers and awards a Star Grading Awards to each Establishment as per the application submitted to it by the Assessors and as received by the committee for the relevant meeting.
- 2.10. **Grading Certificate** shall mean an official document issued by the TGCSA to Member Establishments reflecting the Accommodation Establishment Name, Accommodation Type and Classification and Star Grading Award for the duration of an Assessment Validity Period.
- 2.11. **Member Establishments** means an Accommodation Establishment who has received a Star Grading Award after entering into this Agreement.
- 2.12. **Membership Number** shall mean a 10 (ten) digit automated number assigned to each Establishment or Member Establishment, which shall be generated on Subscription date regardless of whether Assessment has taken place or not.
- 2.13. **Provincial Quality Assurance Specialist** shall mean a person appointed and accredited by the TGCSA for a specific province within the Republic of South Africa to conduct pre-screening of Accommodation or Member Establishments Assessed within his or her province before submission to the TGCSA's Monthly Property Approvals Exco Meeting and who is in the full-time employ of the TGCSA.
- 2.14. **Plaque** means a placard displaying TGCSA insignia and a Membership Number as well as the Accommodation Type or Classification of the Accommodation Establishment and the Star Grading Award received by the Member Establishment, which shall be imprinted on a plate, according to the design and specification of the TGCSA, and which shall be delivered to Member Establishment by courier at no charge unless the Member Establishment failed to provide correct details or avail itself to take receipt of the Plaque from the Courier at a specified, date, time and place. The TGCSA shall endeavour to deliver all Plaques to Member Establishment as soon as is reasonably practicable and Member Establishment indemnify and hold harmless the TGCSA for any delayed delivery and/or costs incurred over and above the normal and ordinary cost incurred by the TGCSA in order to secure a first and final delivery. The same delivery and cost implications would hold true for Grading Certificates.
- 2.15. **Star Grading Award** the granting of Stars to an Accommodation Establishment that has become a Member Establishment in accordance with this Agreement in increments of either 1 (one), 2 (two), 3 (three), 4 (four) or 5 (five) stars signifying the increment in assessed quality of the particular Member Establishment within its type and classification as determined by the application of the Grading and Classification Scheme of the TGCSA.
- 2.16. **Subscription** means the arrangement by Agreement for an Accommodation Establishment to become a member of the TGCSA's Grading and Classification Scheme and the granting of a Star Grading Award by the TGCSA to the Member Establishment for the duration of the Member Establishment's Assessment Validity Period, but always subject to full upfront payment of the Subscription Fee. Subscribe shall have a similar meaning depending on the context.
- 2.17. **Subscription Fee** means the specific, pre-determined monetary amount levied by the TGCSA against an Accommodation Establishment in order for that Accommodation Establishment to Subscribe to the Grading and Classification Scheme for an Assessment Validity Period.
- 2.18. **"Post Grading Assessment Audit"** means a mid-term, unannounced physical assessment audit visit and investigation conducted by any member of the TGCSA post approval and awarding of the Star Grading for the Accommodation Establishment, such visit shall take place after the Monthly Property Approvals Exco Meeting has taken place. The rationale for said visit is to evaluate and ensure that the quality standards of an

Accommodation Establishment continues to adequately align to the particular rules and standards of the Grading and Classification Scheme as per and/or in accordance with the Star Grading Award the Accommodation Establishment shall have been approved for.

### **3. TERMS OF CONDITIONS FOR THE ANNUAL MEMBERSHIP**

#### **PAID SUBSCRIPTION FEES**

- 3.1. The Accommodation Establishment agrees with the TGCSA to Subscribe to the Grading and Classification Scheme for a whole Assessment Validity Period.
- 3.2. Subscription entitles an Accommodation Establishment to membership of the Grading and Classification Scheme of the TGCSA only for the specific Assessment Validity Period and such Member Establishment subscribes and subjects itself to the rules, standards and procedures of the Grading and Classification System as may be published from time to time. Subscription entitles a Member Establishment to a Star Grading Award as determined in the sole discretion of the TGCSA, but always subjects to the terms and conditions of the applicable Grading and Classification Scheme.
- 3.3. Accommodation Establishments intending to utilize the National Department of Tourism's Grading Support Program funding are required to notify the TGCSA accordingly by completing and supplying the requisite documentation and information within 14 (fourteen) days of completion of this Agreement. Member Establishments intending to utilize the National Department of Tourism's Grading Support Program Funding are similarly required to notify the TGCSA, but within 100 (one hundred) days prior to the expiration of their Assessment Validity Period. All establishments should take heed that the TGCSA will cease to be in any position to apply Subscription Fee discounts should the funding from the National Department of Tourism Grading Support Program be depleted or become unavailable.
- 3.4. An Accommodation Establishment shall upon or as soon as reasonably practicable after the application and agreement to these terms and conditions be invoiced for the upfront payment of the Accommodation Establishment's Subscription Fee. A Member Establishment, on the other hand, shall be invoiced in anticipation of renewal of Subscription 90 (ninety) calendar days prior to the expiration of the Assessment Validity Period.
- 3.5. The Accommodation or Member Establishment shall have 30 (thirty) calendar days from date of notification to make payment of the full invoice price, regardless of any funding arrangement in accordance with 3.3 above. All paid Subscription Fees are non-refundable.
- 3.6. Subscription Fees will be paid at such place and by such means as the TGCSA may determine from time to time, whether or the invoice or by some other form of notice. Payment shall always be remitted against reference on the remittance to the TGCSA of the 10 (ten) Digit Invoice Number. Failure to reference the 10 (ten) Digit Invoice Number may result in delays in relation to the receipt of benefits from the Subscription.
- 3.7. Subscription Fees will be published from time to time by the TGCSA and will be calculated against the room or charge out rates of the Member Establishment effective for the Assessment Validity Period applicable. Any changes after payment of a Subscription Fee and/or Assessment during a current Assessment Validity Period may result in a recalculation of the Subscription Fee, which will also become due and payable within 30 (thirty) days from the date of invoice received from the TGCSA, whether or not that date follows a cancellation by the Member Establishment or not.
- 3.8. Failure by a Member Establishment to pay any invoice due and payable will result in the immediate cancellation of A Member Establishment's Subscription and membership. Re-instatement is only possible by means of new application for Subscription by a then

- erstwhile Member Establishment. Failure by an Accommodation Establishment to pay any invoice due and payable will not receive any benefit from a Subscription application.
- 3.9. Member Establishments wishing to cancel their Subscription to the Grading and Classification Scheme can only do so by providing the TGCSA with written notice of intention to cease Subscription to the Grading and Classification Scheme by way of such written notice be given to the TGCSA at least 90 (ninety) days prior to the expiration of the Member Establishment's Assessment Validity Period.
- 3.10. An Accommodation or Member Establishment requiring an Assessor to assist them with pre- grading consultation shall:
- i. Approach any Assessor of the establishment's choosing and make such agreement or arrangement with such Assessor as they may agree in regard to a pre- grading consultation.
  - ii. Notify the TGCSA within 7 (seven) days prior to the pre- grading consultation of the identity, date and payment arrangements it has made with the Assessor.
  - iii. Abide by the Star Grading Award determined by the TGCSA following formal Assessment, regardless of the outcome of a pre-grading consultation.
  - iv. Hold harmless and indemnify the TGCSA against any loss, harm, injury or damage, whether direct, indirect or consequential; the establishment, its employees or its affiliates may have suffered as a result of the pre- grading consultation.
- 3.11. As soon as reasonably practicable following payment of the Subscription Fee by an Accommodation or Member Establishment, an Assessor and the TGCSA will Assess Accommodation and Member Establishments in terms of the prevailing Grading and Classification Scheme applicable at the time of Assessment. The TGCSA will then grant a determined Star Grading Award to the Member Establishment which will remain in place for the Assessment Validity Period.

#### **TGCSA ASSESSMENT OF MEMBER ESTABLISHMENT**

- 3.12. Accommodation and Member Establishments retain the right to elect an Assessor to conduct an Assessment at an agreed date and time at the property of the Accommodation or Member Establishment subject to Assessment, but not later than 4 (four) months following payment of the Subscription Fee by the Accommodation Establishment or 4 (four) months following the expiration of a Member Establishment's Assessment Validity Period.
- 3.13. The TGCSA retain the right to appoint an Assessor to conduct the Assessment in the event that the Accommodation or Member Establishment cannot agree, conduct and submit an Assessment of the property within 4 months of either the payment of the Subscription Fee, or expiration of the Assessment Validity Period.
- 3.14. The Accommodation or Member Establishment shall place its property and facilities on and at the property at the availability of the TGCSA and Assessor in order to complete the Assessment or any subsequent audits of the Assessment during the Assessment Validity Period and no expense and including at least:
- i. 1(one) room usual accommodation for visitors and/or tourists at the Accommodation or Member Establishment;
  - ii. 1 (one) local/regional phone call of no more than 5 (five) minutes;
  - iii. 1 (one) breakfast which should include a full course including tea/coffee and 1 (one) beverage, which may be taken either in restaurant or as room service, as per menu and if provided at the facilities;
  - iv. 1 (one) lunch or dinner meal, which should include a full course including tea/coffee and 1 (one) beverage, which may be taken either in restaurant or as room service, as per menu and if provided at the facilities; yet

- v. Any item or service utilized by the Assessor and invoiced by the Accommodation or Member Establishment over and above the aforementioned facilities, services and/or goods will be due and payable by the Assessor on check – out.
- 3.15. Assessments conducted by the Assessor will then be verified and pre-approved by a Provincial Quality Assurance Specialist. The Provincial Quality Assurance Specialist retains the right to review Assessments by any Assessor of an Accommodation or Member Establishment before submitting a pre- approval for consideration by the TGCSA Monthly Property Approval Exco Meeting.
- 3.16. An Accommodation or Member Establishment has the right to apply upon motivation for a dispensation or grace period to comply with the requirements of the Grading and Classification Scheme in respect of a particular Star Grading Award sought, but the TGCSA in its sole discretion retains the right to either outright approve or reject such an application.
- 3.17. Following pre–approval by a Provincial Assessor, the Assessment of an Accommodation or Member Establishment shall be submitted to the TGCSA Monthly Property Approval Exco Meeting for verification, certification and granting of Star Grading Award to the Accommodation or Member Establishment in the sole discretion of the TGCSA Monthly Property Approval Exco Meeting.
- 3.18. The Accommodation Establishment hereby agrees that the TGCSA that is empowered to dispatch anyone of its members to visit the Accommodation Establishment for the sole purpose of conduct a Post Grading Assessment Audit.

#### **DISPUTE RESOLUTION PROCESS**

- 3.19. The Member Establishment, should they dispute a Star Grading Award recommended by the Assessor, acknowledges its rights to appeal by lodging an official dispute letter in writing, within 30 days, to the Awards Committee who will then review the assessment in full and on merit. The dispute letter will be addressed to the Chief Quality Assurance Officer.
- 3.20. The Member Establishment agrees to pay a fee equivalent to the grading fee payable as published from time to time, to the TGCSA for reviewing the recommendation/decision of the Assessor.
- 3.21. Any other disputes in terms of this Agreement shall be dealt with in accordance with the common and statutory law provisions of the Republic of South Africa.

#### **MEMBER ESTABLISHMENT OBLIGATIONS**

- 3.22. The Accommodation or Member Establishment agrees to:
  - 3.22.1. Subscribe to the Grading and Classification Scheme in order to obtain a Star Grading Award following a proper Assessment Procedure.
  - 3.22.2. Apply to have itself Star Graded and thereafter to be Assessed, for the duration of the Subscription Period. Assistance from Assessors to be used at its own discretion.
  - 3.22.3. Pay all relevant fees, i.e. Subscription Fees timeously and in terms of this Agreement.
  - 3.22.4. Remove the Star Grading Plaque and return same to the TGCSA if and when requested to do so by the TGCSA as the ownership of all TGCSA collateral legally rests with the TGCSA;
  - 3.22.5. Maintain the quality of its Accommodation Establishment, its services and facilities, in order to remain fully compliant with the Grading and Classification Scheme to which it Subscribed and the Star Grading Award which it was granted by the TGCSA.

- 3.22.6. Maintain the quality of Accommodation Establishment so as to continuously comply with the Star Grading Status awarded to it by the TGCSA.
- 3.22.7. Provide all customers/consumers with the TGCSA's consumer feedback, telephone number and website address and to encourage customer to give feedback to the TGCSA.
- 3.22.8. Notify the TGCSA should there be any changes to itself which may in any way whatsoever affect its current Star Grading Award;
- 3.22.9. To display its valid Plaque at the main entrance to the public of the Member Establishment. To display its valid Grading Certificate for the Assessment Validity Period in the main reception and entrance hall of the Member Establishment.
- 3.22.10. The Accommodation Establishment hereby agrees that any member of the TGCSA shall visit the Accommodation Establishment to conduct Post Grading Assessment Audit.

### **MEMBER ESTABLISHMENT WARRANTIES AND GUARANTEES**

- 3.23. The Member Establishment warrants and guarantees that:
  - 3.23.1. It shall pay all invoices received from the TGCSA in terms of this agreement, within 30 days of date of invoice.
  - 3.23.2. It acknowledges and recognises that the TGCSA is (notwithstanding any independent enquiries it may make) dependent on and will rely on the veracity of the information conveyed to it (whether orally or in writing) and in particular as contained in any application for Membership furnished to the TGCSA.
  - 3.23.3. that it has a positive duty and obligation to disclose to the TGCSA all and any information of any nature whatsoever that may influence the TGCSA in its Assessment process and the awarding Star Grading to the Member Establishment.
  - 3.23.4. all information submitted to the TGCSA in applying for a Membership or a renewal thereof is complete, correct and accurate in every respect and that it is not in any way misleading whether inadvertently or not and that all information furnished is accurate and complete, it having been checked as to authenticity, integrity and is current and is to the best of the Member Establishment's knowledge correct and complete having made all proper and reasonable enquiries in all respects and has not been improperly and/or unlawfully obtained and/or presented.
  - 3.23.5. that it shall not act in concert (both actively or passively) with the Assessor or any other party to mislead or to participate in conduct which is likely to mislead the TGCSA or which conduct may cause damages, prejudice or harm - whether the extent of such damages, prejudice or harm can be quantified or not.
  - 3.23.6. it has not accepted, offered or agreed to accept or give or offered any gratuity/incentive/bribe to any person in order to influence such person to act in a manner which amounts to the illegal or dishonest exercise or performance of any duty, power or discretion;
  - 3.23.7. it has not committed any act, matter or thing which constitutes improper and/or unlawful and/or immoral conduct in general and in particular any conduct constitutes or may constitute corrupt activities within the ambit of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004, as amended.

### **TGCSA LIABILITY**

- 3.24. The TGCSA shall, under no circumstances, be responsible for any damages, direct or indirect, consequential or otherwise (including without limitation, loss of revenue, loss of consumers, loss of goodwill or profits) that the Member Establishment may suffer or is caused to suffer arising out of or in connection with this Agreement toward the Member Establishment.
- 3.25. Notwithstanding the above the TGCSA shall never be liable to the Member Establishment for an amount in excess of Subscription Fee paid by the Member Establishment to the TGCSA for a Subscription Period.
- 3.26. The Member Establishment shall indemnify the TGCSA against all claims for compensation (including any expenses arising from or in respect of such claims) arising out of or in connection with the failure by the Member Establishment to maintain the Accommodation Establishment in accordance with its Star Grading Status for the duration of the Subscription Period and for failure to maintain or comply with the provisions of this Agreement.

### **TERMINATION AND/OR CANCELLATION**

- 3.27. On termination or cancellation of this Agreement the Member Establishment shall be obliged to, at its own cost, immediately cease utilising the Grading Certificate and Plaque, additionally remove such Grading Certificate and Plaque from its premises, together with desisting and ceasing publication of representations to the public and other entities of whatsoever nature disclosing its Star Grading Award on whatsoever platform or means that may carry that publication, including all marketing collateral which may include, but not limited to their Website, Brochures, Leaflets, Adverts, etc.

### **SALE OR TRANSFER**

- 3.28. Should the Member Establishment transfer or in any way alienate its Accommodation Establishment or, in the case of a company or close corporation, to transfer or alienate its controlling interest in its company or close corporation - as the case may be – to another person or institution, the Member Establishment undertakes to inform the TGCSA promptly and in writing within the requisite Three Months prior to the next anniversary month, of its intention in this regard in order to enable the TGCSA to terminate this Agreement.
- 3.29. The Member Establishment further grants the TGCSA or its representatives whether it be the Assessor or any parties nominated by the TGCSA the right to access its facilities to remove the TGCSA owned plaque.
- 3.30. The Member Establishment shall not cede, transfer, assign or grant to any third party, any right, privilege, duty or obligation of the Member Establishment or otherwise transfer this Agreement, or a Star Grading Award received in terms hereof to any other third party.

### **CESSION AND/OR ASSIGNMENT**

- 3.31. In the event of the Member Establishment selling its business, the Member Establishment shall inform the buyer and ensure that the Terms and Conditions of the 1-Year Membership are part of the Purchase Agreements. The same applies to a buyer of a Member Establishment to ensure that the purchaser has disclosed all its obligations in terms of the sale of the Member Establishment.

- 3.32. The Member Establishment shall not cede, transfer, assign or grant to any third party, any right, privilege, duty or obligation of the Member Establishment or otherwise transfer this Agreement, or a Star Grading Award received in terms hereof to any other third party save for the provisions below.

### **PROTECTION OF PERSONAL INFORMATION**

- 3.33. TGCSA are required by legislation to process some of the Member Establishment information (including personal information). Without such information we will be unable to start or continue to provide the services.
- 3.34. You consent to and authorise us, our representatives and contracted third-party service providers, to process your information.
- 3.35. We undertake to only process your information as required by this Agreement and as permitted by law, and we will keep your personal information confidential, secure and only for as long as required by this Agreement.
- 3.36. For further information on how we process and protect your personal information, please visit our Data Protection and Privacy Policy on ([T&C's document](#)).

### **GENERAL**

- 3.37. Any notice required by this Agreement shall be affected in writing in the English Language. Any notice required shall be transmitted by the one party to the other by means of electronic mail or registered mail or by posting the notification by hand to the address chosen by either party in terms of this Agreement.
- 3.38. The TGCSA can be notified at 90 Protea Road, Chislehurst, Sandton, 2194 or [feedback@tourismgrading.co.za](mailto:feedback@tourismgrading.co.za). The Member Establishment shall be notified at the relevant contact details disclosed in the subsequent application form. The contact details shall constitute domicilium citandi et executandi for the purposes of this Agreement.
- 3.39. Any breach of warranties, guarantees and/or Member Establishment obligations in accordance with this agreement shall be deemed a material breach of contract. The Member Establishment will have 14 days within which to rectify its breach once notified of said breach by the TGCSA. The TGCSA shall be entitled to claim full recourse in accordance with the laws of the Republic of South Africa against a Member Establishment that is in breach of this agreement. It is specifically noted, for New applicant Accommodation Establishments, that the 14day period mentioned above, may be applied as a cooling-off period in favour of the New applicant Accommodation Establishment if New applicant Accommodation Establishment informs the TGCSA accordingly in writing via e-mail to [feedback@tourismgrading.co.za](mailto:feedback@tourismgrading.co.za).
- 3.40. No variation, indulgence, amendment or waiver in terms of this Agreement shall be effective unless in writing in the English language and signed by both parties.

### **DECLARATION**

*I (on behalf of the business applying for grading, being duly authorised) acknowledge that I have read and agree to abide by this TGCSA Schedule of Conditions, agree to have the business's contact details listed on the TGCSA website, agree to notify TGCSA of any relevant change in the business or any factor that may affect grading criteria, agree to receive correspondence from TGCSA or TGCSA assessors, and agree that TGCSA cannot be held liable for any consequences resulting from my grading; and I personally and the business hold harmless and indemnify TGCSA, its management, staff and members accordingly.*