

*Updated on October 31, 2022*

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## **A. TERMS AND CONDITIONS**

THIRDHOME is owned and operated by 3RD HOME Limited, (“THIRDHOME”, or “we”). This Agreement describes the terms and conditions applicable to the services available on or through the THIRDHOME website (the “Site”) and details your responsibilities as well as the policies that govern your relationship with THIRDHOME, thereby limiting the liability of THIRDHOME and its affiliates (the “Terms and Conditions”) including, without limitation, all other suppliers that provide accommodations and/or services through THIRDHOME and this Site (the “Affiliates”).

## **B. AGREEMENT**

### **I. LEGALLY BINDING**

Before using any of the services available on the Site, please read this Agreement carefully. By accessing any area of this Site, all users agree to be legally bound without limitation, qualification, or change and to abide by these Terms and conditions, as well as any and all amendments thereto effective on the date such amendments post, which will constitute the agreement between THIRDHOME and its Members (this “Agreement”). THIRDHOME reserves the right, in its sole discretion, to amend, modify, or alter this Agreement at any time by posting amended terms on this Site. All Members understand, consent and agree to abide by these terms and conditions as a condition to Membership in THIRDHOME and, in doing so, agree to review these terms and conditions, and all amendments thereto, each time you Deposit and/or Reserve property with THIRDHOME. The amended terms shall be effective from and after the date that they are posted on the Site. If you do not agree with any part of this Agreement, you must terminate your Membership in THIRDHOME and discontinue use of this Site.

## **II. TRANSLATED VERSIONS**

THIRDHOME translates these Terms and Conditions to several languages for the benefit of its international Membership. To the extent that a discrepancy, inaccuracy, omission or delay in posting a translated version of these Terms and Conditions gives rise to an inconsistency between a translated version and the English version of the Terms and Conditions, the English version shall govern.

## **C. DEFINITIONS**

I. CLUB: The THIRDHOME Luxury Property and Travel Club and its active Members.

II. HOST MEMBER: The THIRDHOME Member owning an approved Residence, or a fraction thereof, that is being visited by a Guest member with a confirmed Reservation.

III. GUEST MEMBER: A THIRDHOME Member with a confirmed Reservation authorizing a stay at the Residence of a Host Member.

IV. ACTIVE MEMBER: A Member who has been admitted to the Club, is current as to all fees due and abides by the Club policies delineated in these Terms and Conditions.

V. OPERATIONAL SEASONAL CALENDAR: The classification of each stay by THIRDHOME as either Off Season, Non Peak, Peak or Super Peak for a home's geographic location, as shown in the THIRDHOME deposit calendar (the "Deposit Calendar"). The numbers of Keys offered varies by season as shown on the Deposit Calendar.

VI. SEASONALITY: The predictable annual change in seasons for a specific region that influences the demand for vacation travel to the region.

VII. CLUB DEMAND: The interest for a given Deposit based on the historical Reservation activity within the THIRDHOME Exchange.

VIII. KEYS: The currency used within the THIRDHOME Exchange system. Keys are earned by making Deposits of available Stays in a Member residence for the use of other Members or by purchasing Keys from THIRDHOME directly.

IX. TIMELESS KEYS: Keys that never expire.

X. SUPER PEAK STAYS: Stays that are highly coveted for travel in the Club and for which supply normally is well below demand. This will include holidays and special events in select geographies based on historical club Demand. Also, includes non-holiday stays in the most desired locations.

XI. PEAK STAYS: Stays that are considered the most attractive times for a given geography, such as the best snow periods for a popular ski destination.

XII. NON-PEAK STAYS: Stays for which there is less demand by contrast to Peak Stays for a given region. These stays are often referred to as "shoulder" weeks. These weeks are of interest to Members who have flexible travel plans and/or who prefer to travel to a region when it is less crowded than the season for Peak and Super Peak Stays.

XIII. OFF-SEASON STAYS: These are Stays that are relatively less desirable for travel to a specific region due to the area being excessively hot, lacking snow, in a rainy season, or outside a popular vacation time, etc. Typically, Deposits of Off-Season Stays do not earn Keys until they are booked by another Member.

XVI. BUSINESS DAY: Monday through Friday, not including traditional holidays.

XV. MONETARY CREDIT: A non-cash credit made by THIRDHOME to a Member in lieu of cash refund. The Monetary Credit has no cash value and is not transferrable. THIRDHOME, in its discretion, may restrict the application of Monetary Credits, in whole or in part, toward future fees.

XVI. DEPOSIT: A period of availability in a Member's Residence which has been allocated for Reservation as part of the THIRDHOME Exchange, or the act of making such a Deposit, irrespective of whether the Deposit qualifies for Keys at the time of allocation.

XVII. KEY EARNING DEPOSIT: A period of availability in a Host Member's Residence allocated for Reservation as part of the THIRDHOME Exchange which qualifies for Keys at the time of acceptance by THIRDHOME because the Deposit is not Off-Season and the Stay is deposited 90 days or more from its start date.

XVIII. KEYLESS: A Reservation of a THIRDHOME Residence for which no Keys are required of the Guest to secure the Reservation.

XIX. RESIDENCE: The foregoing term applies to the vacation home of a THIRDHOME Member and includes full or fractional ownership of a stand-alone home, condominium or apartment whether the Residence is a land-based dwelling, watercraft or aircraft.

XX. EXCHANGE. The system administered by THIRDDHOME through which Members of the Club Deposit and Reserve availability in their respective residences mutually, utilizing Keys.

XXI. RESERVATION, RESERVE or RESERVED: With respect to a Residence which has been deposited or offered by the Host Member, accepted by a Guest Member, and appears as a "Reservation" on the Guest and Host Members' website dashboard, the aforementioned terms shall apply to the following respectively: a period of availability in a Residence which has been secured by a Guest Member; the act of securing such availability; and the state of a Residence once its availability has been secured.

XXII. THE RESERVE. A sub-set of the broader THIRDDHOME Exchange which is also administered by THIRDDHOME. Several unique terms and conditions apply to The Reserve; these can be found below at Section (E)(IV).

XXIII. EXCHANGE FEE. The fee charged to a Guest Member by THIRDDHOME each time a Stay is Reserved within the THIRDDHOME Exchange.

XXIV. LIMIT, LIMITED or LIMITATION. The foregoing terms shall refer to the state of a Member account when a Member fails to satisfy the annual Membership dues and/or the ThirdHome annual Deposit requirement. A Member with a Limited account will be able to Host a Guest Member and make Deposits. However, the Member will be unable to hold or reserve outbound stays as a Guest until the annual dues are paid and/or the Deposit requirement is satisfied and the Limitation is removed.

## **D. THIRDDHOME'S ROLE**

Members acknowledge that THIRDDHOME is in no way acting as an agent to any party, for any purpose, or as a real estate broker or agent for any property. Instead, THIRDDHOME provides a database of vacation homes for Members to view, as more fully described in Section E below. THIRDDHOME receives nominal fees for its web and customer services, pursuant to the fee schedules set forth herein.

## **E. THIRDDHOME EXCHANGE & THE RESERVE**

### **I. MEMBERSHIP-APPROVAL AND ACTIVATION**

By paying the initiation fees outlined below and as the owner of an accepted and activated

property, you then become an approved member of THIRDHOME. To become active, Members must make at least one Key Earning Deposit or Deposit a week that is Reserved by a Guest Member.

## II. KEYS

(1) As a Member, the ability to Reserve another Member's Residence is made possible through the acquisition and expenditure of Keys.

(2) To deposit availability in a Member's home, Members use the Deposit Calendar feature on their account. THIRDHOME, at its discretion, reserves the right to limit the volume of Deposits made and may, at its discretion, withdraw any Stay at a Member Residence for whatever reason.

(3) Once a stay is Deposited with THIRDHOME, it is mandatory that the Host Member blocks it out for Guest Member use. If a THIRDHOME Member Reserves a Deposit, the Host Member is obligated to honor the Reservation and must allow the Guest Member to stay at the property for the stated Reservation period.

(4) Once Deposited, all stays belong to the Club. Under no circumstances may a Host Member withdraw a stay that has been Reserved by another Member. If a THIRDHOME Member has not yet Reserved a specific stay, a Host Member may withdraw the stay for personal use or for conventional renting provided that there are a sufficient number of Keys in the Host Member account to return to the Club to cover the withdrawal. The withdrawal of a stay under these circumstances will be deemed a "Non-Honored" booking and, as such, may be subject to the restitution process outlined in Section (E)(5) below.

(5) For clarity, there are no time constraints on the ability to withdraw Deposits as long as Members adhere to the conditions set out in Sections (E)(II)(3)&(4) immediately above. If a particular Deposit has not been Reserved and a Host Member is unable to return the requisite number of Keys, THIRDHOME cannot return the Stay to the Member. In this instance, a Host Member may make additional Deposits in order to gain Keys to cover the Deposits they wish to withdraw.

(6) Once another THIRDHOME Member has Reserved a Deposit, Host Members are obligated to honor the Agreement as well as the terms and conditions set out in Section (G) below. An electronic confirmation will be provided to both Host and Guest Members when the Guest Member Reserves a Stay and the relevant fees are paid to THIRDHOME. When Reserved, the agreed number of Keys is automatically debited from the Guest Member's account.

(7) THIRDHOME reserves the right to increase or decrease the number of Keys Host Members receive for a particular Deposit as well as whether such Keys are earned upon Deposit, based upon a property reassessment, past member interest for a specific property or Stay, or a recalibration of the Operational Seasonal Calendar which THIRDHOME reserves the right to perform, from time to time, in its sole discretion. THIRDHOME also reserves the right to adjust the Key values at which stays are offered on the Exchange. THIRDHOME further reserves the right to modify its property valuation formula from time to time and accept properties where Key values fall outside of this range, in its sole discretion.

(8) Members are not permitted to Reserve their own property or Deposits. Moreover, THIRDHOME reserves the right, in its sole discretion to reverse any Reservation or Deposit that is intended to circumvent these Terms and Conditions.

(9) Except for Timeless Keys and any THIRDHOME promotional Keys that expire after a specified time, all Keys have a twenty-four (24) month lifespan beginning on the date the Deposited Stay commences. For example, if a Member Deposits a stay that begins on April 1 and receives Keys on the day of the Deposit, the Member has twenty-four (24) months from April 1 to spend the Keys before they expire. For clarity, Keys must be used to make a Reservation prior to expiring; however, the actual Reservation can occur at any point in the future. However, if the Keys used to make a Reservation expire thereafter and the Member cancels the Reservation, the Keys that expired subsequent to the Reservation do not revert to the Member account.

### III. SUBSTITUTE GUESTS AND RENTAL INCOME

(1) Members are permitted to let family members benefit from their Membership in the Club. However, Members agree to be wholly and solely responsible for the actions and conduct of their family members, guests and invitees while staying in another Member's home. In all cases, the primary guest must be 25 years of age or older when not accompanied by the Member. The Guest Member is responsible for (i) obtaining consent from the Host Member if the Guest Member will not be present during the Reservation period and (ii) notifying ThirdHome of the change and (iii) providing ThirdHome with a copy of the new primary guest's driver's license or similar state-issued ID and (iv) payment of any fees associated with the name change. Notification of the Host is to be done in the form of a written request by the Guest Member to the Host Member. Before the reservation is confirmed, under the substituted name, the Host Member must consent to the change and such consent may not be unreasonably withheld.

(2) The Exchange is not a rental program and therefore Members are not permitted to

receive rental income for the use of Keys or Reservations made. Nor can a Member transfer, trade, sell or attempt to transfer, trade, or sell Reservations for value. THIRDHOME reserves the right to withhold any and all Exchange Fees paid in connection with any activity deemed to be in circumvention of these terms and conditions. **RECEIVING RENTAL INCOME, OR TRANSFERRING KEYS OR RESERVATIONS, AS WELL AS ANY ATTEMPT TO DO SO, IN CIRCUMVENTION OF THE TERMS AND CONDITIONS OF THE CLUB, WILL SUBJECT THE MEMBER TO FORFEITURE OF MEMBERSHIP, KEYS, CREDITS AND FUTURE RESERVATIONS HELD IN A MEMBER ACCOUNT.**

#### IV. THE RESERVE

(1) Eligibility. To be eligible for The Reserve a home typically needs to rent for \$25,000 and above in peak season, come with daily housekeeping services as well as access to the services of a private chef. THIRDHOME reserves the right to insist on some or all of the foregoing home features in determining eligibility, at the sole discretion of THIRDHOME. Addition to The Reserve requires that the Member provide proof of the foregoing services and home features as well as proof of rental rates (if the residence is periodically made available for rent). Further, Members of all homes featured on The Reserve must provide professional high-resolution photographs and videography. Members of The Reserve must indicate a willingness to trade peak weeks in their home with other Members. Access to The Reserve is by invitation only. Existing members who would like THIRDHOME to consider their home for The Reserve should contact their Relationship Manager.

(2) Keys and Fees. Key rates for stays in Reserve properties are determined based on a formula using the specific rental rate for the deposited week. Service fees outlined on the property page are paid separately in the manner determined by the Host. All Keys generated from Reserve deposits are on a "when booked" basis. Key rates for Reserve deposits in properties that do not rent out in the conventional way are determined through a comparative review and agreed with the Host prior to deposit. Exchange Fee rates for properties found on The Reserve are determined using a formula of currently 10% of the specific rental rate for that stay.

(3) Homes of The Reserve are only available for booking by the general Membership when Hosts with homes on The Reserve designate that their property is also available to the general Membership. Only Members of The Reserve can request stays in properties found on The Reserve.

All other terms and conditions of the Exchange also apply to The Reserve unless stated otherwise. Any and all references to THIRDHOME shall be deemed to include The Reserve

also, unless stated otherwise.

## **F . MEMBERSHIP-GENERALLY**

(I) The initiation fee to join the Club, which is specified in sub-section (IV) below, is determined by THIRDHOME in its sole discretion and is subject to change from time to time. THIRDHOME may, from time to time, waive the initiation fee for members of specific affiliated resorts or those that make qualifying deposits upon enrolling in the Club.

(II) All Members are responsible for the timely payment of THIRDHOME's annual Membership dues, specified in sub-section (IV) below, which are payable on January 1 of each calendar year. Failure to timely pay such dues will result in a Member account being Limited until the dues are paid, beginning January 1 of the calendar year in which the dues are owed. THIRDHOME may, from time to time in its sole discretion, modify the fees or dues charged for Membership initiation, its web and customer services, ongoing membership, membership tiers, Exchanges and/or create novel fees or dues.

(III) Members shall pay an Exchange Fee for each Stay Reserved. Exchange Fees shall be determined by THIRDHOME in its sole discretion and are subject to change from time to time. Exchange Fees which currently range from \$495 to \$1395 per Reservation are specified in sub-section (IV) below and are dictated by the number of Keys used for a particular Reservation.

(IV) Fees and Dues.

Initiation fee: \$2,500.00

Annual Membership Dues: \$295.00

Exchange Fees: 1 Key = \$495, 2 and 3 Keys = \$695, 4 and 5 Keys = \$795, 6 and 7 Keys = \$995, 8 to 15 Keys = \$1195, 16 or more Keys = \$1395. An up-charge of \$100.00 will be added to all Keyless bookings. For example, a THIRDHOME Reservation that otherwise warrants an Exchange Fee of \$495 will require an Exchange Fee of \$595 when Booked Keyless.

(V). Under no circumstances, will THIRDHOME refund any portion of a payment made toward a membership tier upgrade. However, in the case of a Force Majeure Event which impacts, part or all of, the period covered by a membership tier upgrade, THIRDHOME may elect, in its sole discretion, to extend the term of the membership tier period.



(VI) Any Monetary Credits provided to Members within the program may be used to offset initiation, membership and Exchange Fees, unless specifically noted otherwise, but such credits have no cash value and are not transferable. The application of any Monetary Credit towards a specific fee will be limited to 50% of the cost of the fee. By way of example, when a Member elects to apply a Monetary Credit toward an Exchange Fee of \$995; \$498 of the fee may be satisfied by way of a Monetary Credit. The remaining \$497 will be paid by credit card.

(VII) In certain cases, you have the ability to dispute charges with credit card companies ("chargebacks"). Before initiating a chargeback, we ask you first to call us to discuss any questions or concerns about our charges. We will work with you in attempting to resolve your concerns. By using our service and becoming a Member, you accept and agree to our terms and conditions. THIRDHOME retains the right to dispute any chargeback that is improper and recover any costs, including attorney's fees related to improper chargebacks. Additionally, in the event of an improper chargeback, we retain the right to cancel any Stay Reserved related to that improper chargeback. The following chargeback scenarios are improper and we retain the right to investigate and rebut any such chargeback claims:

- Chargebacks resulting from non-cancellable reservations, whether or not the Reservation is used.
- Chargebacks resulting from charges authorized by family, friends, associates or other third parties with direct access to your credit card. This does not include credit card fraud.
- Chargebacks arising from inconsistency or inaccuracy with regard to the supplier's product description.
- Chargebacks resulting from Force Majeure Events as defined in Section (H)(VII)(2) below or other circumstances that are beyond the control of THIRDHOME or the Host Member.
- Chargebacks resulting because you do not agree with the cancellation policy.

(VIII) Each Member with full (as opposed to partial or fractional) ownership in a residence on the Exchange is required to make one (1) Key Earning Deposit every 12 months. Each Member with a fractional or partial interest in a residence on the Exchange is required to make one (1) Key Earning Deposit every 24 months. However, Off-Season Stays and/or Deposits made within 90 days from the stay's start date, shall satisfy the requirement; provided that the stay is Reserved. Any Deposit that satisfies this requirement will reset the Member's Deposit requirement period to 12- or 24-months from the date that Keys are awarded for the underlying deposit. Any failure to satisfy the Deposit requirement, will result in a Member account being Limited.

## **G. HOST MEMBERS**

### **I. HOME REPRESENTATIONS**

(1) As a Host Member, you warrant that the representation of your home(s) on the Club website accurately depicts your property, facilities, services and amenities on offer through the description and photographs you provide to THIRDHOME. You likewise warrant and represent that all photographic images are current, and that they accurately portray your property's current condition. Moreover, you represent that you have the rights or the requisite consent to use the images in this manner. It is the policy of THIRDHOME, in appropriate circumstances, to terminate the accounts of Members or users who repeatedly post images that are the protected property of others or who are repeatedly charged with copyright infringement.

(2) The value of a Member's residence, Seasonality and Club Demand determine the number of Keys that a Host Member will receive when making a Deposit to the Exchange. Therefore, all Members agree to accurately represent the current value of any property submitted for approval. The value of any residence is defined as the current projected sales price for the property according to a qualified estimate based on recent comparable sales in the surrounding location.

(3) THIRDHOME retains the right to adjust a Member's property value should THIRDHOME determine the value of the property is over or under-represented in the Club based upon the factors set forth in subsection (2) immediately above. THIRDHOME retains the right to terminate a Membership as well as to revoke any Keys or fee credits in a Member account, in the event of a misrepresentation.

(4) The attractiveness and completeness of a Member's property page listing directly impacts the property's appeal to other Members. Accordingly, THIRDHOME reserves the right to request that a Member add or replace photographs or enhance their property profile details to enhance its appeal. Failure to do so can result in a temporary suspension of Club privileges or termination of Membership.

### **II. INDEMNIFICATION**

(1) Host Member agrees to indemnify and hold harmless the Guest Member, members of the Guest Member's family, and THIRDHOME against any and all claims, damages, costs and other expenses including attorney fees, arising out of, or otherwise related to, any

death, personal injury or illness arising out of the use of the property by Guest Member, Guest Member's family or invitees of Guest Member, unless caused by the gross negligence or intentional misconduct of the Guest Member.

### III. RENTAL INCOME

(1) The Exchange is not a rental program and therefore Members are not permitted to receive rental income for the use of Keys or Reservations made. Nor can a Member transfer, trade or sell Reservations for value. Receiving rental income, or transferring Keys or Reservations, in circumvention of the terms and conditions of the Club, subjects the Member to forfeiture of Membership, Keys and credits in a Member account. THIRDHOME reserves the right to withhold any and all Exchange Fees paid in connection with any activity deemed to be in circumvention of these terms and conditions.

(2) Host Members are not permitted to charge or require security deposits from a Guest Member in connection with a Reservation under any circumstances.

(3) THIRDHOME retains the right to terminate Membership and withhold any and all Keys if a Member obtains or attempts to obtain any form of rent or unauthorized charge not clearly stated in a property description on the THIRDHOME website.

### IV. PROPERTY SERVICES, FURNISHINGS AND HOST INSURANCE

(1) As a Host Member, you warrant and agree that, while hosting a Guest Reservation, all conventional services will be made available to the Guest Member including, but not limited to, HVAC, electricity, gas, water, indoor plumbing and that all conventional appliances provided in the home are in good working order.

(2) The Host Member agrees to make any necessary arrangements to provide the Guest Member with access to the normal amenities associated with the property. If extra services are available or required with an extra expense to the Guest Member, then Host Member agrees to notify THIRDHOME of these service charges, in order to be approved by THIRDHOME, in advance, and posted thereafter on the Host Member's property page. Host Members cannot under any circumstances charge Guest Members for services that have not been outlined on their property's description. Such action could result in the forfeiture of Membership, Keys and credits in a Member account.

(3) The Host Member warrants and represents that the property is appropriately furnished to the level outlined in the description for Guest Members to fully enjoy their vacation experience including linens, cooking utensils and customary supplies. Failure to furnish

appropriately could subject the Host Member to forfeiture of Membership, Keys and credits in a Member account.

(4) The Host Member is responsible for supplying the Guest Member with information adequate to operate the property's systems, such as, but not limited to, security systems or security measures, the HVAC system, entertainment systems and appliances.

(5) It is the responsibility of the Host Member to maintain the landscaping, pool, driveway and exterior, where appropriate.

(6) The Host Member warrants that the property will be offered clean and ready for occupancy by the Guest Member, upon arrival. In terms of the overall condition of the Host Residence, THIRDHOME maintains a clean property policy which is commensurate with four to five star hotel standards. There are no exceptions to this rule; failure to adhere to this policy subjects the Host Member to forfeiture of Membership, Keys and credits in a Member account, at the sole discretion of THIRDHOME. In terms of the sanitary standards of the Residence, THIRDHOME strongly recommends that each Host adopt the sanitization policies which are defined in the [VRMA Guidelines](#), where possible. The details of the VRMA Guidelines are [outlined here](#). The Host Member is also responsible for cleaning the property following the Guest Member's departure. If daily maid service or mid-stay cleaning services are offered, the cost for such services may be passed on to the Guest Member; provided that such costs are outlined on the property's description page prior to a Reservation.

(7) Guest Members are responsible for damages caused while occupying a Host Member's property.

(8) Notwithstanding the Guest obligation to be responsible for damages to the Host property as stated in sub section (7) immediately above, Host Member agrees to ensure the property is adequately covered by a current homeowners insurance policy, including coverage for any non-paying invitees staying in their home. Host Member agrees to provide proof of insurance to THIRDHOME and/or its coverage partner, upon request. However, THIRDHOME, through its coverage partner, provides robust property coverage to Members as they host as well as liability protection in limited circumstances. **NOTICE:** In the event that damage is discovered as a result of a THIRDHOME stay, contact your THIRDHOME Member Experience Associate within 10 days of checkout or before your next guest checks in, whichever is earlier, to initiate a claim for reimbursement. As part of your claim, gather evidence such as photos, videos, estimates, receipts or any other supporting materials and forward these on to THIRDHOME for claim processing purposes.

## V. SURVEILLANCE DEVICES

Host Members are required to disclose to the Guest, the presence of all surveillance devices on the property whether such devices are operational or not. THIRDHOME prohibits the use of any surveillance devices inside the living areas of the residence within which the Guest Member could reasonably be expected to occupy. In addition, Host Members should ensure that the use of surveillance equipment is consistent with applicable local laws and regulations. Failure to disclose the existence of all surveillance devices to Guest Members could subject the Host Member to forfeiture of Membership, Keys and credits in a Member account.

## VI. RIGHT TO INSPECTION

Host Member acknowledges and consents to a periodic practice whereby THIRDHOME occasionally grants Keys to and arranges for employees, directors, board members, partners, quality control inspectors and other individuals associated with the company to stay at Member property. This practice benefits all Members and allows THIRDHOME to maintain the highest industry standards. Any such associated individuals are obligated to abide by these terms and conditions as they occupy a Member residence.

## VII. HOST CANCELLATION POLICY

(1) Host Members are not permitted to cancel Reservations made at their property for any reason. If a Host Member chooses not to honor a booking, a refund of all Keys will be made to the Guest Member from the Host Member account. In this instance, by way of restitution, the Host Member is also responsible for the refund of the Exchange Fee to the Guest Member via THIRDHOME, as well as for any costs incurred by the Guest Member in relation to the Reservation. Failure to pay such costs, upon demand, may subject a Host Member to forfeiture of their Membership and any Keys earned. Further, the Host Member agrees to be financially responsible for all consequential costs sustained by a Guest Member resulting from the failure or refusal of the Host to make a home available to a Guest Member with a confirmed Reservation. Such costs explicitly include, but are not limited to, air travel cancellation fees or change fees, and/or the cost to secure alternate equivalent accommodations at the destination on those dates.

(2) In connection herewith, the Host Member consents to the entry of a judgment in an amount equal to the damages, costs and expenses set forth in the Sub-Section immediately above and that the appropriate venue for the entry of the aforementioned consent judgment will be the state courts of Tennessee or the Federal Circuit Courts for Davidson County, Tennessee, in Nashville Tennessee. In connection with the enforcement

of such a consent judgment, the Host Member also agrees to be responsible for THIRDHOME's litigation costs and expenses, including but not limited to attorneys' fees. In connection with the aforementioned litigation, the Member waives any objection to the jurisdiction, or venue, of the State Courts of Tennessee, and consents to said courts for the adjudication of the claims set forth herein.

#### VIII. REQUEST A WEEK

The THIRDHOME Request a Week feature allows Guest Members to inquire as to the availability at specific properties that are not currently Deposited on the site. The Request a Week button resides on the property page of each Host residence. Guest Members may request a week at any property. Host Members are under no obligation to accept a request for a week not previously Deposited.

#### IX. HOST COMMUNICATION

As a Host Member, you agree to allow the Guest Member to contact you directly via email, phone or other method of communication regarding all Reservations.

## **H. GUEST MEMBERS**

#### I. PROPERTY RESPONSIBILITIES

(1) Guest Members are required to leave the Host Residence in the condition it was found at the beginning of the Stay. However, the cleaning of items such as linens, floors and bathrooms are the responsibility of the Host Member. Further, the Guest Member is required to be responsible with property resources and utilities such as, but not limited to, HVAC systems, electricity and water, especially in island homes where water, electricity and other resources may be limited.

(2) Guest Members are fully responsible for the activities and actions of those who use the Host Member's property during the dates of the Reservation including, family members, guests and invitees.

#### II. INDEMNIFICATION AND GUEST LIABILITY

(1) Guest Member agrees to indemnify and hold harmless the Host Member, members of the Host Member's family, and THIRDHOME against any and all claims, damages, costs and

other expenses including attorney fees, arising out of, or otherwise related to, any death, personal injury, illness or property damage arising out of the use of the property by Guest Member, Guest Member's family or invitees of Guest Member (as described in Section E(II)(8)) , unless caused by the gross negligence or intentional misconduct of the Host Member.

(2) Guest Members acknowledge that they are responsible for all damages caused by a Guest, a family member as well as a Member's guest or invitee, and that the existence of any applicable coverage does not relieve, dismiss or otherwise release a Guest Member from financial responsibility for damages caused, as enumerated herein.

(3) THIRDHOME reserves the right to seek compensation for any and all payments made as a result of a Guest Member's failure to compensate the Host for damages. Moreover, THIRDHOME reserves the right to terminate Membership as well as to forfeit Keys and credits in a Member account, as a result of any Guest Member's failure to reimburse a Host for damages. Guest Members are liable to THIRDHOME for attorney fees and court costs in the event that THIRDHOME is forced to bring a cause of action in order to recapture payments made to reimburse a Host for damages.

### III. DISCLOSURES

The Guest Member is required to accurately report, in advance, the number of people to occupy the property (whether family or invitees) and agrees not to exceed the property's capacity as stated on the property listing page without the express permission of the host. If at any time, before or during a Reservation, the Guest Member's party exceeds such capacity, the Host Member shall have the right to cancel the Reservation and the Guest Member shall seek alternative accommodations; the costs for which shall be the responsibility of the Guest Member.

### IV. PETS

(1) Pets are not permitted unless the property description specifically allows for pets. Guest Members must receive a confirmation stating that pets are permitted before bringing a pet inside the Host Residence. Upon receipt thereof, the Host Member is to be notified by a Guest Member of the Guest Member's intention to include any and all pets as part of the Stay, as well as the breed of such pets. Any violation of this policy could result in the forfeiture of Membership, Keys and credits in a Member account. The Guest is responsible for ensuring that the property is free of any and all pet waste when pets are permitted by the Host.

(2) Per the Americans With Disabilities Act (the "ADA"), the owners of private residences are not required to make accommodations for service animals. Guest Members must have the permission of any Host Member before a service animal is permitted at the Host property.

#### V. OCCUPANCY AND OTHER USE RESTRICTIONS

(1) THIRDHOME maintains a strict No Smoking Policy for all properties. No exceptions. The No Smoking Policy extends to, and includes in and around the home, and prohibits the discarding of all tobacco products at, on, or anywhere near the premises.

(2) As a Guest Member, you agree to allow the Host Member to contact you directly via email, phone or other method of communication regarding all Reservations.

(3) Guest Member agrees not to contact another THIRDHOME Member, until prompted to do so by way of a THIRDHOME Reservation confirmation. Once an Exchange is Reserved through THIRDHOME, THIRDHOME will then provide both Host and Guest Members with reciprocal contact information and any other necessary information to arrange the Stay. It is the responsibility of all Members to keep their respective contact information up to date, at all times.

#### VI. ARRIVAL AND DEPARTURE POLICIES

(1) Regarding the check-in and check-out times outlined in the confirmation agreement, Guest Member agrees to check-in to the property on or after the stated check-in time and check-out on or before the stated check-out time, unless alternative arrangements have been made in advance with the Host Member.

(2) On the departure date, Guest Member will immediately return any keys or security codes to the Host Member as requested to do so by the Host Member.

(3) Following any stay, Members agree to provide feedback to THIRDHOME via the THIRDHOME website. The Guest Member should provide details about the property and their experience and the Host Member should provide comments on the Guest. This way, Members will have more information about the properties prior to booking an Exchange. Feedback will contribute towards a Member's rating which is a combined score from comments Members receive from being both Host and Guest Members. Members' ratings are closely monitored; if a Member's ratings fall to concerning levels, Members risk having their Membership privileges rescinded at THIRDHOME's sole discretion. THIRDHOME reserves the right to post all feedback given about Members and their properties on the THIRDHOME site for the benefit of all members.



## VII. GUEST CANCELLATION POLICY

(1) Generally, Guest Members are not entitled to a refund of either Exchange Fees or Keys if a Guest cancels a Reservation, except when circumstances arise and travel to a specific region becomes prohibited or impractical due to a governmental restriction or a Force Majeure occurrence as described in Sub Section (2) below. In the event that a Guest Member does wish to postpone or cancel a Reservation, it is the Guest's responsibility to notify the Host Member and THIRDHOME. **NOTICE:** THIRDHOME policy requires that the Guest and Host first attempt to identify an alternate future date that is agreeable to both parties before a cancellation is processed according to sub- sections (3) and (4) below.

(2) Notwithstanding the above general policies, travel conditions are subject to change without notice. In the event that, unforeseen circumstances arise after a Reservation is made and travel to a specific region becomes prohibited or impractical due to a governmental restriction or a Force Majeure occurrence, a request to postpone or cancel may be initiated by the Guest or Host Member. THIRDHOME assumes no liability for, any loss, damage, delay, or cancellation resulting in whole or in part from a Force Majeure Event. Force Majeure Events shall include, but are not limited to, acts of God, labor stoppage and acts or threats of terrorism, riots or civil commissions or disturbances, and any other acts of a similar nature, sabotage, war, insurrection, fire, volcanic eruption, hurricane, environmental pollution or contamination, earthquake, flood, tropical storms, quarantine restrictions, government health advisories, epidemics, pandemics, widespread disease or infection, government seizures, refusal or cancellation or suspension or delay of any government authority or any license, permit or authorization, damages to the Host Member's Residence or any other unforeseen circumstances or any other factors unforeseen by THIRDHOME and/or the Host Member that impacts negatively on, or hampers, their ability to fulfill any of its contractual conditions.. The declared travel restrictions of governmental entities such as the [U.S. Department of State-Bureau of Consular Affairs](#), or any similar foreign agency, will be instructive, though not determinative, as to whether this policy applies. THIRDHOME encourages its Members to consult the appropriate state departments of the regions from and to which they are traveling before Reserving travel.

(3) When requesting to postpone or cancel a Reservation for reasons described in sub-section (2) immediately above, the Guest must notify the Host and THIRDHOME no earlier than 90 days prior to, or up to 14 days before the Reservation start date for this policy to be applied. In the event that unforeseen circumstances arise, within the 14-day notice period, and travel to a specific region becomes prohibited or impractical due to a governmental restriction or a Force Majeure occurrence, THIRDHOME may consider

waiving the 14-day notice requirement.

(4) Upon notice of a request to postpone, the Host and Guest are encouraged to identify an alternate future date that is agreeable to both parties. In the event that agreement on a future date is not possible, THIRDHOME will then do the following: allow the Host to withdraw the Deposit or make a Deposit of an alternate week; withdraw the Keys from the Host account if an alternate week is not deposited by the Host; and credit back all Keys and the Exchange Fee via a monetary credit to the Guest's account for future use. Any other affected travel reservations or travel expenses incurred, as a result of the cancellation, are the responsibility of the Guest. THIRDHOME will not be responsible for rebooking or reimbursing a Guest for any such travel expenses. The aforementioned policy contained in this Section VII will be applied at the sole discretion of THIRDHOME.

## VIII. REQUEST A WEEK

The THIRDHOME Request a Week feature allows Guest Members to inquire as to the availability at specific properties that are not currently Deposited on the site. The Request a Week button resides on the property page of each Host Residence. Guest Members may request a week at any property. Host Members are under no obligation to accept a request for a week not previously Deposited.

## **I. MEMBER CONDUCT**

THIRDHOME reserves the right to terminate Membership for any conduct by a Host Member or Guest Member that is deemed detrimental to the reputation and character of THIRDHOME. Such conduct may include, but is not limited to; inappropriate, violent or abusive behavior toward individuals, Members, employees of THIRDHOME, and employees of THIRDHOME partners, whether relating to a THIRDHOME Reservation or not, as well as the willful removal, damage, defacement or destruction of any property during a THIRDHOME Stay. A terminated Membership will result in the immediate cancelation of all future Reservations, and forfeiture of all Membership benefits including; Keys, tier benefits, monetary credits and access to the Member section of the THIRDHOME website.

## **J. THE THIRDHOME WEBSITE**

### **I. OWNERSHIP**

(1) The THIRDHOME website is owned, controlled and operated by 3RD HOME Limited. Any

reproduction of the site, without the expressed written permission of THIRDHOME is strictly prohibited and punishable at law. All content on the website, including, but not limited to text, images, illustrations, audio clips, and video clips, is protected by copyright, trademark, service mark, and/or other intellectual property laws (which are governed by U.S. law and worldwide copyright laws, as well as treaty provisions, privacy and publicity laws, as well as communication regulations and statutes, where applicable), and are owned and controlled by 3RD HOME Limited, or its affiliates, or its third party content providers, merchants, sponsors and licensors (collectively "Providers"). All such providers have licensed their content or the right to market their products and/or services to 3RD HOME Limited, for use on said website.

(2) Any photos or descriptions submitted by a Member become the property of 3RD HOME Limited. All Members represent and warrant that the information posted, including any photographs, is posted by the Member and that the Member is the exclusive author of the information and the exclusive owner of the photographs or that the Member has been granted written permission authorizing the use of such images. In doing so, the Member assigns THIRDHOME, with full title guarantee, all copyrights with respect to any information and photographs posted, and any additional information sent to THIRDHOME at any time in connection with Member use of the service. As a Member, you agree to indemnify and hold harmless THIRDHOME, and take full financial responsibility, for any fines levied on THIRDHOME, or any costs incurred by THIRDHOME, as a result of the images placed on the site. Further, all Members agree to immediately reimburse THIRDHOME for the damages incurred as a result of the unauthorized placement of such images.

## II. CONTENT USE

(1) Content on this website or any website owned, operated, licensed or controlled by THIRDHOME is solely for the personal, non-commercial use.

(2) Members are permitted to use the website to create and modify property profiles as well as to make Deposits and Reservations. Member use of the website is not authorized for any other purpose, including without limitation, making speculative, false or fraudulent Exchanges.

(3) Members may print a copy of the content and/or information contained on the website, but only for their personal, non-commercial use. Under no circumstances may a Member copy, reproduce, republish, upload, post, transmit, distribute, and/or exploit the content or information found on the website in any way (including by e-mail or other electronic means) for a commercial use or purpose, without the prior written consent of 3RD HOME Limited.

(4) The name THIRDHOME and its logo are registered trademarks of 3RD HOME Limited. Any use, without the express written permission of 3RD HOME Limited, is strictly prohibited and punishable by law.

(5) Members, absolutely and without condition, waive any and all rights to be identified as an author of THIRDHOME's website information, or the owner of any photograph(s) posted therein, and any similar rights are equally waived, in any and all jurisdictions, domestic or abroad.

(6) Other Members may not post copyrighted information, which has copyright protection, whether or not it is identified as copyrighted. Except for that information which is in the public domain or for which you have been given express written permission, Members will not copy, modify, publish, transmit, distribute, perform, display, or sell any such proprietary information. By posting information, photographs or content on the service, you automatically represent and warrant that you have, free of charge, an irrevocable, perpetual, non-exclusive, royalty-free, fully-paid, worldwide license to use, copy, perform, display, promote, publish and distribute such information, content and photographs and to prepare derivative works of, or incorporate into other works, such information and content, and to grant and authorize sub-licenses of the foregoing.

### III. DIGITAL MILLENNIUM COPYRIGHT ACT ("DMCA") NOTICES

#### (1) NOTICE

THIRDHOME respects the intellectual property rights of others. Per the DMCA, THIRDHOME will respond expeditiously to claims of copyright infringement on its website if submitted to THIRDHOME's Copyright Agent as described below. Upon receipt of notice alleging copyright infringement, THIRDHOME will take whatever action it deems appropriate within its discretion, including removal of the allegedly infringing materials and termination of access for repeat infringers of copyright protected content.

If you believe that your intellectual property rights have been violated by THIRDHOME or by a third party who has uploaded materials to our website, please provide the following information to the designated Copyright Agent listed below:

(a) A description of the copyrighted work or other intellectual property that you claim has been infringed;

(b) A description of where the material that you claim is infringing is located on the Site;

(c) An address, telephone number, and email address where THIRDHOME can contact you and, if different, an email address where the alleged infringing party, if not THIRDHOME can contact you;

(d) A statement that you have a good-faith belief that the use is not authorized by the copyright owner or other intellectual property rights owner, by its agent, or by law;

(e) A statement by you, under penalty of perjury, that the information contained in your notice is accurate and that you are the owner of the copyright or intellectual property or that you are authorized to act on the owner's behalf; and

(f) Your electronic or physical signature.

THIRDHOME may request additional information before removing any allegedly infringing material. In the event that THIRDHOME removes the allegedly infringing materials, THIRDHOME will immediately notify the person responsible for posting such materials that THIRDHOME removed or disabled access to the materials. THIRDHOME may also provide the responsible person with your email address so that the person may respond to your allegations.

Pursuant to 17 U.S.C. 512(c), THIRDHOME's designated Copyright Agent is as follows:

Stu Grimson, 615-454-2329 [stu.grimson@thirdhome.com](mailto:stu.grimson@thirdhome.com)

## (2) COUNTER-NOTICE

If material that you have posted to our Site has been taken down, you may file a counter-notification that contains the following details:

(a) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;

(b) A statement, under penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material in question;

(c) Your name, address and telephone number;

(d) A statement that you consent to federal district court jurisdiction in Davidson County,

Tennessee, and that you will accept service of process from the person who provided notification in compliance with section 512(c)(1)(C) of the DMCA, or an agent of such person.

(e) Your physical or electronic signature.

(f) You also acknowledge and agree that upon receipt of a notice of a claim of copyright infringement, we may temporarily or permanently remove the identified materials from our site without liability to you or any other party. Repeat infringers will be terminated and barred from using the Site.

## **K. WAIVERS AND DISCLAIMERS APPLICABLE TO THIRDHOME**

(1) Under no circumstances will THIRDHOME, its employees, officers, directors, advisory board members, agents or affiliated companies (i.e., any sponsors, affiliates, partners, real estate developers, home owners associations, real estate sales and marketing companies or other individuals that have a business relationship with THIRDHOME) be liable to Host Members, Guest Members, or any family members or other guests regardless of the form or nature of the claim or action, whether under the Exchange agreement, in warranty, in contract, in negligence, strict liability or otherwise, for an amount that exceeds the Exchange Fee paid by a Member. Accordingly, both Host Member and Guest Member waive any such claim or right and agree to the aforementioned monetary limitation, as a condition to Membership.

(2) Under no circumstances will THIRDHOME, its employees, officers, directors, contractors, agents or affiliated companies (i.e., any sponsors, affiliates, partners, real estate developers, home owners associations, real estate sales and marketing companies or other individuals that have a business relationship with THIRDHOME) be liable to Host Members, Guest Members, or any family members, invitees or guests for any special, indirect, incidental, consequential or punitive damages. Accordingly, both Host Member and Guest Member waive any such claims or rights and agree to such, as a condition to Membership.

## **L. WARRANTIES, ARBITRATION AND CHOICE OF LAW**

(1) All THIRDHOME Members acknowledge that the warranties and representations provided by them herein are material warranties and representations and constitute a

material foundation upon which THIRDDHOME operates its Exchange Program. Accordingly, the failure by the Member to honor or comply with such warranties and representations shall constitute a material breach of their obligations under the Exchange Program. In like manner, the remaining duties and obligations set forth herein, and agreed to by all Members, constitute material provisions of the Exchange Program. Accordingly, failure to honor any such provisions by a Host Member or a Guest Member shall likewise constitute a material breach of this Agreement and shall subject a Member to forfeiture of their Membership, Keys and credits for fees in the Member account.

(2) By using this Site, you, any third-party, and THIRDDHOME agree that any claim against THIRDDHOME, including those that pertain to the applicability or validity of this arbitration provision, shall be resolved exclusively by final and binding arbitration pursuant to the applicable rules and procedures of the American Arbitration Association (“AAA”) before a single arbitrator. All claims filed or brought contrary to this Section shall be considered improperly filed and void.

If you elect to submit a complaint for arbitration, you must first send, by certified mail, a written notice of dispute (the “Notice”) addressed to: THIRDDHOME Legal Counsel, Ste 260, 5200 Maryland Way, Brentwood TN 37027. The Notice must (i) describe the nature of and a clear basis for the claim; and (ii) set forth the specific relief sought. If THIRDDHOME and you, or THIRDDHOME and any third-party, do not reach an agreement to resolve the claim within 60 days after the Notice is received, you, or the third-party, may initiate an arbitration proceeding.

(3) The laws of the State of Tennessee shall govern any dispute arising from or relating to the provisions contained in these terms and conditions as well as your relationship with THIRDDHOME. In the event that any legal tribunal rules that jurisdiction is proper in a law court, you further agree that exclusive jurisdiction for the cause of action shall lay in the state courts of Tennessee or the federal district courts in Nashville, Davidson County, Tennessee and that any legal action relating to this Agreement must be brought in those courts.

The costs associated with the defense of any claim brought against THIRDDHOME, within which THIRDDHOME prevails, shall be the responsibility of the party that initiated the dispute, including, but not limited to, attorneys’ fees and court costs.

## **M. NOTICE: RITZ-CARLTON DESTINATION CLUB MEMBERS**

(1) The Ritz-Carlton Development Company, Inc., The Ritz-Carlton Management Company, LLC, The Cobalt Travel Company L.L.C., and The Lion & Crown Travel Co., LLC, and their respective officers, directors, partners, and all affiliates, subsidiaries and parent companies, make no warranty, express or implied, as to the condition, capacity, performance or any other aspect of the activities, events, or services provided by the 3RD HOME Limited or the THIRDHOME Exchange Program (“THIRDHOME”). No inquiry has been made into the activities or events, or the qualifications or the quality of services offered by THIRDHOME.

(2) The Ritz-Carlton Development Company, Inc., The Ritz-Carlton Management Company, LLC, The Cobalt Travel Company L.L.C., and The Lion & Crown Travel Co., LLC and their respective affiliates are not liable for any damage to, loss of, or theft of personal property left at any property or for any bodily injury or property damage, or any other matters, that occurs through the use of or related to the THIRDHOME Exchange Program.

(3) Any THIRDHOME Membership benefits specifically afforded to The Ritz-Carlton Destination Club Members are contingent upon their continued membership with The Ritz-Carlton Destination Club and one or more of The Ritz-Carlton Destination Club locations.

## **N. MEMBER MARKETING AND PRIVACY POLICY**

(1) In joining THIRDHOME, you authorize the company to use your contact information, including but not limited to, your mobile phone number, primary phone number, primary address, secondary address, email address, etc. to contact you for marketing and informational purposes. As a Member, you may opt-out of THIRDHOME marketing messages and materials by contacting the Member Experience Team.

(2) Please review the [THIRDHOME Privacy Policy](#) which governs your use of the Site (the “Privacy Policy”). By using this Site, you affirm that the terms of the Privacy Policy are reasonable and satisfactory and that you agree to be bound by them. Further, Member use of this site indicates your consent to the use of your personal information by THIRDHOME and/or its Affiliates in accordance with the terms of this Privacy Policy and that of our Affiliates. THIRDHOME will not be responsible for any damages resulting from a lapse in compliance with the Privacy Policy.