

## **GUESTBOOK REWARDS, INC.**

### **Terms of Use Agreement**

Welcome to the websites and online products and services of Guestbook Rewards, Inc. ("The Guestbook," "we," "our," or "us"). This page explains the terms by which you may use our online and/or mobile services, products, web site, browser add-on extension, and software provided on or in connection with our service (collectively the "Services"). By accessing or using the Services, you signify that you have read, understood, and agree to be bound by this Terms of Use Agreement ("Agreement") and to the collection and use of your information as set forth in our Privacy Policy at <http://theguestbook.com/assets/privacy.pdf> whether or not you are a registered user of our Service. The Guestbook reserves the right to make unilateral modifications to these terms and will provide notice of these changes as described below. This Agreement applies to all visitors, users (including, without limitation, Participating Properties and Members, each as defined below), and others who access the Services ("Users").

PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THIS AGREEMENT CONTAINS A MANDATORY INDIVIDUAL ARBITRATION AND CLASS ACTION/JURY TRIAL WAIVER PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

#### **1. Use of Our Service**

The Services allows Users who create an account with the Services ("Members") to earn and redeem loyalty reward points ("Loyalty Rewards") for incurring Eligible Guest Charges (as defined below) at lodging providers that are included in The Guestbook network ("Participating Property" or "Participating Properties") or by qualifying for additional promotional bonuses from The Guestbook or Participating Properties. Members may earn Loyalty Rewards as a guestroom occupant of a Participating Property (a "Guest") subject to the terms herein. If approved by The Guestbook separately in writing, a Member may also earn Loyalty Rewards as a travel arranger of a Guest (a "Booker"), as a planner or facilitator of a group or event at a Participating Property (a "Meeting Planner"), or as a person who influenced a User's decision to register for or use the Services ("Enroller", "Promoter", or "Hotel Agent"). Please inquire about these additional roles by emailing us at [contact@theguestbook.com](mailto:contact@theguestbook.com). Members who have an account with more than one service of The Guestbook will earn and redeem Loyalty Rewards as if the Member has a single account. We reserve the right to change the list of Participating Properties at any time without notice or liability to you. If The Guestbook learns that you have a future reservation at a Participating Property that withdraws from or is otherwise de-listed from the Services prior to your stay, then we may attempt to contact you via your primary e-mail address designated in your account profile to inform you of the change in status.

The Services also provide tools that locate and obtain deals, offers, and pricing, product and other information based on sites you visit in order to help you make informed purchasing decisions at attractive prices, offerings or conditions. When you use your browser to visit online travel agencies in order to view a lodging provider's offers, the Services enable your browser to automatically check that lodging provider's website and see if it is directly offering the lodging at

a lower price or with other attractive offerings or conditions. If the lodging is available on the lodging provider's website, the Services will notify you and provide you with a link to that website.

The Services also provides a place for Users to search for and make reservations at Participating Properties. When you make a reservation, you are entering into a contract with the respective provider via the Services, not with The Guestbook itself.

#### **A. Service Eligibility**

You may use the Services only if you can form a binding contract with The Guestbook, and only in compliance with this Agreement and all applicable local, state, national, and international laws, rules and regulations. Any use or access to the Services by anyone under 13 is strictly prohibited and in violation of this Agreement. The Services are not available to any Users previously removed from the Services by The Guestbook.

#### **B. The Services**

Subject to the terms and conditions of this Agreement, you are hereby granted a non-exclusive, limited, non-transferable, freely revocable license to use the Services as permitted by the features of the Services solely for your personal, non-commercial use. The Guestbook reserves all rights not expressly granted herein in the Services and The Guestbook Content (as defined below). The Guestbook may terminate this license at any time for any reason or no reason. In order for The Guestbook to provide you with the Services related to any downloadable browser extensions or apps, you hereby authorize The Guestbook to capture information from third party sites during your browsing sessions for the purposes of providing those Services when such information has been provided to or displayed for you.

#### **C. Accounts with The Guestbook**

Your account with The Guestbook gives you access to the Services and functionality that we may establish and maintain from time to time and in our sole discretion. We may maintain different types of accounts for different types of Users. If you open an account with The Guestbook on behalf of a company, organization, or other entity, then (a) "you" includes you and that entity, and (b) you represent and warrant that you are an authorized representative of the entity with the authority to bind the entity to this Agreement, and that you agree to this Agreement on the entity's behalf. By connecting to The Guestbook with a third-party service, you give us permission to access and use your information from that service as permitted by that service, and to store credentials for that service. If you have an account with more than one service of The Guestbook, we may share your information between your accounts in order to provide you with the Services.

You may never use another User's account without permission. When creating your account, you must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. We encourage you to use "strong" passwords (passwords that use a combination of upper and lower case letters, numbers and symbols) with your account. You must notify The Guestbook immediately of any breach of security or unauthorized use of your account. The Guestbook will not be liable for any losses caused by any unauthorized use of your account.

You may control your User profile and how you interact with the Services by changing the settings in your account profile/settings pages. By providing The Guestbook your email address you consent to our using the email address to send you Service-related notices, including any notices required by law, in lieu of communication by postal mail. We may also use your email address to send you other messages, such as changes to features of the Services and special offers. If you do not want to receive certain email messages, you may opt out or change your preferences in your account profile/settings pages, as provided in our Privacy Policy <http://theguestbook.com/assets/privacy.pdf>. Opting out may prevent you from receiving certain email messages regarding the Services that may be of interest to you.

#### **D. Service Rules**

You agree not to engage in any of the following prohibited activities: (i) copying, distributing, or disclosing any part of the Services in any medium, including without limitation by any automated or non-automated “scraping”; (ii) using any automated system, including without limitation “robots,” “spiders,” “offline readers,” etc., to access the Services in a manner that sends more request messages to The Guestbook servers than a human can reasonably produce in the same period of time by using a conventional on-line web browser (except that The Guestbook grants the operators of public search engines revocable permission to use spiders to copy materials from our websites for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials); (iii) transmitting spam, chain letters, or other unsolicited email; (iv) attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Services; (v) taking any action that imposes, or may impose at our sole discretion an unreasonable or disproportionately large load on our infrastructure; (vi) uploading invalid data, viruses, worms, or other software agents through the Services; (vii) collecting or harvesting any personally identifiable information, including account names, from the Services; (viii) using the Services for any commercial solicitation purposes; (ix) impersonating another person or otherwise misrepresenting your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your identity; (x) interfering with the proper working of the Services; (xi) accessing any content on the Services through any technology or means other than those provided or authorized by the Services; or (xii) bypassing the measures we may use to prevent or restrict access to the Services, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Services or the content therein.

We may, without prior notice, change the Services; stop providing the Services or features of the Services, to you or to Users generally; or create usage limits for the Services. We may permanently or temporarily terminate or suspend your access to the Services without notice and liability for any reason, including if in our sole determination you violate any provision of this Agreement, or for no reason. Upon termination for any reason or no reason, you continue to be bound by this Agreement.

You are solely responsible for your interactions with other Users. We reserve the right, but have no obligation, to monitor disputes between you and other Users. The Guestbook shall have no liability for your interactions with other Users, or for any User’s action or inaction.

## **2. Our Proprietary Rights**

The Services and all materials therein or transferred thereby, including, without limitation, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, and music (“The Guestbook Content”), and all Intellectual Property Rights related thereto, are the exclusive property of The Guestbook and its licensors. Except as explicitly provided herein, nothing in this Agreement shall be deemed to create a license in or under any such Intellectual Property Rights, and you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any The Guestbook Content. Use of The Guestbook Content for any purpose not expressly permitted by this Agreement is strictly prohibited.

You may choose to or we may invite you to submit comments or ideas about the Services, including without limitation about how to improve the Services or our products (“Ideas”). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place The Guestbook under any fiduciary or other obligation, and that we are free to use the Idea without any additional compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, The Guestbook does not waive any rights to use similar or related ideas previously known to The Guestbook, or developed by its employees, or obtained from sources other than you.

## **3. Making Reservations**

The Services’ reservation search and purchasing tools are provided for Users to facilitate legitimate transactions with Participating Properties. Separate terms and conditions will apply to any reservations that you make. You agree to the terms or conditions associated with each Participating Property with whom you elect to deal including, but not limited to financial responsibility for and payment of all amounts when due and compliance with the Participating Property's rules and restrictions regarding availability and use of rates, services, or products.

You also agree that the Services shall only be used by you to make legitimate reservations for you or for another person for whom you are legally authorized to act. Any false, speculative, or fraudulent reservation or any reservation in anticipation of future demand is prohibited.

## **4. Earning Loyalty Rewards**

Subject to the terms and conditions of the “Loyalty Rewards Eligibility” Sections below, The Guestbook provides, through the Services, Loyalty Rewards to Members based on Eligible Guest Charges (as defined below) incurred at Participating Properties or based on other promotional bonuses offered by The Guestbook or Participating Properties. The Participating Properties and the terms and conditions governing each Participating Property rewards program may vary from time to time and are subject to change without notice. Loyalty Rewards are not considered earned by Members unless: (i) they are approved or validated by The Guestbook; (ii) the Member has expressed interest in utilizing their account, as determined by The Guestbook in its sole discretion (an “Activated Member”), at least once in the period of time commencing with their

original enrollment into the Services and ending 30 calendar days after completion of their first Eligible Stay (as defined below); and (iii) if applicable, the Loyalty Rewards have been funded by the issuing Participating Property (“Earned”).

Loyalty Rewards that are earned based upon a currency other than the currency selected in your account profile/settings for redemption of Loyalty Rewards will be converted by our third-party Loyalty Rewards conversion service (“Loyalty Rewards Converter”) to Loyalty Rewards based upon the currency selected in your account profile/settings. The Loyalty Rewards conversion will be made at the conversion rate chosen by the Loyalty Rewards Converter as of the date of the final Participating Property bill. By using the Services, all Members agree to the use of the Loyalty Rewards Converter. Each Member's Loyalty Rewards may be redeemed in only one (1) currency type at a time, and all Loyalty Rewards in the applicable account must be fully redeemed before a Member may change the redemption currency setting in the account profile/settings. Loyalty Rewards may be redeemed by Members through the Services as The Guestbook so determines.

If any Loyalty Rewards redeemed by you through the Services are subsequently determined to be ineligible or to have been redeemed in error, The Guestbook may recall such Loyalty Rewards upon notice to you, and you agree to return all applicable amounts of such Loyalty Rewards to The Guestbook within thirty (30) days of the receipt of such notice. Loyalty Rewards have no cash value.

## **5. Redeeming Loyalty Rewards**

The Guestbook provides Members with various Loyalty Reward redemption options as provided on the Services (as updated by The Guestbook from time to time). Loyalty Rewards may be either (a) redeemed after the Member Earns Loyalty Rewards for the first time (“Instant Rewards”), or (b) redeemed after the Member Earns Loyalty Rewards two or more times, in each case subject to certain eligibility and expiration rules as provided by The Guestbook (“Trip Rewards”). Each Member may redeem, through the Services, Loyalty Rewards within its account in accordance with the applicable account profile/settings. These settings may include, without limitation: (i) automatic redemption via a payment service chosen by the Member (which may be subject to a minimum or maximum threshold or specific amount); (ii) redemption options presented by the Services (as provided on the Services from time to time); (iii) redemption options offered by Participating Properties; or (iv) redemption options offered via third parties. Loyalty Rewards that have been transferred to a Member's third-party account at the direction of the Member but remain uncollected may be returned to the Member's account with The Guestbook according to the applicable third-party terms. The Guestbook reserves the right to withhold redemption or charge back to any Member's account any amounts otherwise due to us under this Agreement, or amounts due to any breach of this Agreement by the applicable Member, pending our reasonable investigation of such breach. To ensure proper redemption of Loyalty Rewards, each Member is solely responsible for providing to and maintaining with the Services accurate contact and other information associated with its account, which includes, without limitation, applicable tax information. If a Member cancels the Services prior to redeeming all remaining Loyalty Rewards, it will lose the ability and forfeit the right to redeem any remaining Loyalty Rewards balance in the account at the time of cancellation (unless required otherwise by applicable law). If we believe that we are obligated to obtain tax or other information from you, as a Member, and you do not provide this information to us after we have requested it, we may withhold

redemption of Loyalty Rewards you have requested be redeemed until you provide this information or otherwise satisfy us that you are not a person or entity from whom we are required to obtain such information. You acknowledge that any third-party fees related to returned or cancelled Loyalty Rewards redemptions that result from any incorrect or out-of-date contact or other information provided by you may be deducted from your future Loyalty Rewards redemptions. We may be required by law to treat the issuance or redemption of Loyalty Rewards as income to you and to report the value of the Loyalty Rewards to government entities. The valuation of the issuance or redemption of Loyalty Rewards for such reporting purposes will be at our sole discretion. You agree to pay all applicable taxes or charges imposed by any government entity in connection with your participation in the Services and to cooperate fully with us in any matters related to reporting and tax compliance. If you dispute any Loyalty Rewards redemption made hereunder, you must notify The Guestbook in writing within thirty (30) days of such redemption. Failure to so notify The Guestbook shall result in the waiver by you of any claim relating to such disputed Loyalty Rewards redemption. Loyalty Rewards redemptions shall be calculated solely based on records maintained by The Guestbook. No other measurements or statistics of any kind shall be accepted by The Guestbook or have any effect under this Agreement. We may deduct or withhold any taxes or other amounts from your Loyalty Rewards redemptions as required by law.

## **6. Guaranteeing Loyalty Rewards**

Certain Loyalty Rewards may be redeemed prior to being Earned as authorized by The Guestbook in writing, subject to the terms and conditions of this Section 6 (such Loyalty Rewards, “Guaranteed Loyalty Rewards”). In order to redeem Guaranteed Loyalty Rewards, you must provide us with a credit card, which will be held by our third-party credit card processing service, Stripe. By providing your credit card information, you agree to be bound by Stripe’s services agreement available at <https://stripe.com/us/legal>, and you authorize us to charge your credit card up to the amount necessary to cover any Guaranteed Loyalty Rewards you redeemed that remained un-Earned after completion of the applicable stay or cancellation of any portion thereof.

## **7. Maintaining Loyalty Rewards**

Loyalty Rewards that have not otherwise expired shall remain available for redemption as long as a Member has expressed interest in maintaining their account, as determined by The Guestbook in its sole discretion (an “Active Account”) at least once each calendar year beginning the calendar year following initial enrollment into the program. A Member will lose the ability and irrevocably forfeit the right to redeem any remaining Loyalty Rewards balance in its accounts at the time that such Member ceases to have an Active Account (unless required otherwise by applicable law).

## **8. Loyalty Rewards Eligibility**

In order to be eligible for redemption, Loyalty Rewards must be earned on Eligible Guest Charges, as provided below:

A. **Eligible Stay.** Loyalty Rewards may be earned for an “Eligible Stay,” defined as one (1) or more consecutive nights the applicable Guest spent in a Participating Property while you were enrolled in the Services, regardless of whether the Guest checked out and checked back in, and subject to Section 1 above, if (a) you were enrolled in the Services prior to the day of check-in for the Guest’s then-current stay, and (b) the applicable booking is an Eligible Booking (as defined below).

B. **Eligible Booking.** An “Eligible Booking,” is a Booking that: (i) was made via the Services and/or commissionable to The Guestbook; (ii) is not commissionable to a third party; and (iii) is not associated with wholesale rates, tour operator rates, crew room rates, employee rates, friends and family rates, club rates, certain negotiated corporate and group rates, certain override rates, manager specials, or rates that are billed to a master folio or master account. You acknowledge and agree that Eligible Bookings may be further defined or limited by each Participating Property subject to their individual reservations terms and conditions.

C. **Eligible Guest Bill.** An “Eligible Guest Bill” is a bill that is provided by you and received by The Guestbook via manual submission or enabled e-mail sync functionality within thirty (30) days after the date of check out and validated by The Guestbook to possess all of the following characteristics: (i) is fully complete as provided by the Participating Property (showing all fields, charges, pages, and totals); (ii) matches the Participating Property’s official copy on record, including any adjustments or corrections that were made subsequent to check out; (iii) is clearly legible without ambiguity; (iv) has no doctored fields or content; and (v) is associated in Participating Property’s records with an email address and name that has been registered with The Guestbook. In absence of an Eligible Guest Bill, The Guestbook may so determine to accept in its place a reservation confirmation or the digital equivalent of a reservation confirmation or guest bill as long as it is validated by The Guestbook to meet the same criteria.

D. **Eligible Guest Charges.** You may earn Loyalty Rewards as a Guest only when you incur Eligible Guest Charge(s), where “Eligible Guest Charge(s)” is defined as all accommodation-related charges that: (i) appear on an Eligible Guest Bill; (ii) were incurred during an Eligible Stay; and (iii) have been paid in full. Except as otherwise allowed by a Participating Property, the following do not constitute Eligible Guest Charges: (v) the room rate(s) if you were not a Member on the day prior to check-in; (w) the room rate(s) on stays of thirty one (31) or more consecutive nights (in which case the Guests will not be eligible for Loyalty Rewards on any of the room rate charges, including those during the first thirty (30) nights); or (x) any taxes, GST, VAT, or other tariffs; or (y) Master Bill charges; or (z) charges for more than three (3) rooms in total. You acknowledge and agree that Participating Properties may further define Eligible Guest Charges to include ancillary charges that are billed to the Eligible Guest Bill including, but not limited to, in-room dining, minibar, food and beverage outlets, spa and health club operations, and onsite recreational or entertainment concessions.

## 9. **Privacy**

We care about the privacy of our Users. You understand that by using the Services you consent to the collection, use and disclosure of your personally identifiable information and aggregate data as set forth in our Privacy Policy at <http://theguestbook.com/assets/privacy.pdf>, and to have

your personally identifiable information collected, used, transferred to and processed in the United States.

## **10. Security**

The Guestbook uses commercially reasonable physical, managerial, and technical safeguards to preserve the integrity and security of your personal information and implement your privacy settings. However, we cannot guarantee that unauthorized third parties will never be able to defeat our security measures or use your personal information for improper purposes. You acknowledge that you provide your personal information at your own risk.

## **11. Third-Party Links**

The Services may contain links to third-party websites, advertisers, services, special offers, or other events or activities that are not owned or controlled by The Guestbook. The Guestbook does not endorse or assume any responsibility for any such third-party sites, information, materials, products, or services. If you access a third party website from the Services, you do so at your own risk, and you understand that this Agreement and The Guestbook' Privacy Policy do not apply to your use of such sites. You expressly relieve The Guestbook from any and all liability arising from your use of any third-party website, service, or content. Additionally, your dealings with or participation in promotions of advertisers found on the Services, including payment and delivery of goods, and any other terms (such as warranties) are solely between you and such advertisers. You agree that The Guestbook shall not be responsible for any loss or damage of any sort relating to your dealings with such advertisers.

## **12. Indemnity**

You agree to defend, indemnify and hold harmless The Guestbook and its subsidiaries, agents, licensors, managers, and other affiliated companies, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Services, including any data or content transmitted or received by the Services on your behalf; (ii) your violation of any term of this Agreement, including without limitation your breach of any of the representations and warranties above; (iii) your violation of any third-party right, including without limitation any right of privacy or Intellectual Property Rights; (iv) your violation of any applicable law, rule or regulation; or (v) any other party's access and use of the Services with your unique username, password or other appropriate security code.

## **13. No Warranty**

THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SERVICES IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE GUESTBOOK OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, THE GUESTBOOK, ITS SUBSIDIARIES, ITS AFFILIATES, AND ITS LICENSORS DO NOT WARRANT THAT



THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICES WILL MEET YOUR REQUIREMENTS; THAT THE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR YOUR USE OF THE SERVICES.

THE GUESTBOOK DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICES OR ANY HYPERLINKED WEBSITE OR SERVICE, INCLUDING WITHOUT LIMITATION ANY RESERVATIONS MADE THROUGH THE SERVICES, AND THE GUESTBOOK WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

FEDERAL LAW, SOME STATES, PROVINCES AND OTHER JURISDICTIONS DO NOT ALLOW EXCLUSIONS AND LIMITATIONS OF CERTAIN IMPLIED WARRANTIES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

#### **14. Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE GUESTBOOK, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THIS SERVICE. UNDER NO CIRCUMSTANCES WILL THE GUESTBOOK BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE GUESTBOOK ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF OUR SERVICE; (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICES; (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICE BY ANY THIRD PARTY; (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICES; AND/OR (VII) USER-PROVIDED CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY. IN NO EVENT SHALL THE GUESTBOOK, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT YOU PAID TO THE GUESTBOOK HEREUNDER OR \$100.00, WHICHEVER IS GREATER.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF THE GUESTBOOK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE. THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

The Services are controlled and operated from facilities in the United States. The Guestbook makes no representations that the Services are appropriate or available for use in other locations. Those who access or use the Services from other jurisdictions do so at their own volition and are entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. You may not use the Services if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government. Unless otherwise explicitly stated, all materials found on the Services are solely directed to individuals, companies, or other entities located in the United States.

All data on the Services' servers are subject to deletion, alteration or transfer. NOTWITHSTANDING ANY VALUE ATTRIBUTED TO SUCH DATA BY YOU OR ANY THIRD PARTY, YOU UNDERSTAND AND AGREE THAT ANY DATA, ACCOUNT HISTORY AND ACCOUNT CONTENT RESIDING ON THE GUESTBOOK' SERVERS, MAY BE DELETED, ALTERED, MOVED OR TRANSFERRED AT ANY TIME FOR ANY REASON IN THE GUESTBOOK' SOLE DISCRETION, WITH OR WITHOUT NOTICE AND WITH NO LIABILITY OF ANY KIND. THE GUESTBOOK DOES NOT PROVIDE OR GUARANTEE, AND EXPRESSLY DISCLAIMS, ANY VALUE, CASH OR OTHERWISE, ATTRIBUTED TO ANY DATA RESIDING ON THE GUESTBOOK' SERVERS.

**15. Governing Law, Arbitration, and Class Action/Jury Trial Waiver**

A. **Governing Law.** You agree that: (i) the Services shall be deemed solely based in California; and (ii) the Services shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. This Agreement shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16). The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. You agree to submit to the personal jurisdiction of the federal and state courts located in Los Angeles County, California for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a our copyrights, trademarks, trade secrets,

patents, or other intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. You agree that Los Angeles County, California is the proper forum for any appeals of an arbitration award or for trial court proceedings in the event that the arbitration provision below is found to be unenforceable.

**B. Arbitration.** READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM THE GUESTBOOK. For any dispute with The Guestbook, you agree to first contact us at [contact@theguestbook.com](mailto:contact@theguestbook.com) and attempt to resolve the dispute with us informally. In the unlikely event that The Guestbook has not been able to resolve a dispute it has with you after sixty (60) days, we each agree to resolve any claim, dispute, or controversy (excluding any claims for injunctive or other equitable relief as provided below) arising out of or in connection with or relating to this Agreement, or the breach or alleged breach thereof (collectively, "Claims"), by binding arbitration by JAMS, Inc. ("JAMS"), under the Optional Expedited Arbitration Procedures then in effect for JAMS, except as provided herein. JAMS may be contacted at [www.jamsadr.com](http://www.jamsadr.com). The arbitration will be conducted in Los Angeles County, California, unless you and The Guestbook agree otherwise. If you are a Participating Property or otherwise using the Services for commercial purposes, each party will be responsible for paying any JAMS filing, administrative and arbitrator fees in accordance with JAMS rules, and the award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses. If you are an individual using the Services for personal use: (i) JAMS may require you to pay a fee for the initiation of your case, unless you apply for and successfully obtain a fee waiver from JAMS; (ii) the award rendered by the arbitrator may include your costs of arbitration, your reasonable attorney's fees, and your reasonable costs for expert and other witnesses; and (iii) you may sue in a small claims court of competent jurisdiction without first engaging in arbitration, but this does not absolve you of your commitment to engage in the informal dispute resolution process. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Section shall be deemed as preventing The Guestbook from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, Intellectual Property Rights or other proprietary rights.

**C. Class Action/Jury Trial Waiver.** WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED THE SERVICES FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND THE GUESTBOOK ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND.

## 16. General

A. **Assignment.** This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by The Guestbook without restriction. Any attempted transfer or assignment in violation hereof shall be null and void.

B. **Notification Procedures and Changes to the Agreement.** The Guestbook may provide notifications, whether such notifications are required by law or are for marketing or other business related purposes, to you via email notice, written or hard copy notice, or through posting of such notice on our website, as determined by The Guestbook in our sole discretion. The Guestbook reserves the right to determine the form and means of providing notifications to our Users, provided that you may opt out of certain means of notification as described in this Agreement. The Guestbook is not responsible for any automatic filtering you or your network provider may apply to email notifications we send to the email address you provide us. The Guestbook may, in its sole discretion, modify or update this Agreement from time to time, and so you should review this page periodically. When we change the Agreement in a material manner, we will update the 'last modified' date at the bottom of this page. Your continued use of the Services after any such change constitutes your acceptance of the new Terms of Use. If you do not agree to any of these terms or any future Terms of Use, do not use or access (or continue to access) the Services.

C. **Entire Agreement/Severability.** This Agreement, together with any amendments and any additional agreements you may enter into with The Guestbook in connection with the Services (including, without limitation, any Participating Property Service Provider Agreement), shall constitute the entire agreement between you and The Guestbook concerning the Services. If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Agreement, which shall remain in full force and effect, except that in the event of unenforceability of the universal Class Action/Jury Trial Waiver, the entire arbitration agreement shall be unenforceable.

D. **No Waiver.** No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and The Guestbook' failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.

E. **Contact.** Please contact us [contact@theguestbook.com](mailto:contact@theguestbook.com) with any questions regarding this Agreement.

This Agreement was last modified on May 5<sup>th</sup>, 2017.