

## NOMAD – TERMS OF SERVICE

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Welcome to NOMAD Travel Groups.

These terms of service (“**Terms**”) govern the home exchange platform provided by NOMAD Services Inc. (“**NOMAD**,” “**we**,” or “**us**”), including the website located at wetravelnomad.com (“**Site**”), NOMAD’s mobile application (“**App**”), and the other offerings described below (collectively, the “**Services**”).

The Services are not intended for use by minors. By using the Services, you affirm that you are of legal age to enter into these Terms.

By accessing or registering to use any of the Services, you agree and acknowledge that you have read all of the terms and conditions of these Terms (including, the arbitration provision set forth in Section 11 below), you understand all of the terms and conditions of these Terms, and you agree to be legally bound by all of the terms and conditions of these Terms.

NOMAD reserves the right to change or modify any of the terms and conditions contained in these Terms (or any policy or guideline of NOMAD) at any time and in its sole discretion. If NOMAD makes any changes to these Terms, NOMAD will provide notice of such changes by revising the “**Last Updated**” date above and, in some cases, NOMAD may provide additional notice (such as by sending an email or other notification or by posting a notice on the Services). Any changes or modifications will be effective the earlier of 7 days after NOMAD provides notice that these Terms have been modified (the “**Notice Period**”) or when you otherwise accept the changed or modified Terms. If not accepted by you earlier, your continued use of any of the Services following the Notice Period will constitute your acceptance of such changes or modifications. You are advised to review these Terms whenever you access any of the Services and at least every 30 days to make sure that you understand the terms and conditions that apply to your use of the Services.

NOMAD offers the Services only as a services provider, including by facilitating communications between Hosts and Guests (each defined below). The relationship that Travel Group Members have with NOMAD is that of an independent individual or entity and not an employee, agent, joint venturer, or partner of NOMAD. You acknowledge and agree that NOMAD is not responsible for any act, omission, or representation made by any of its members (each a “**Travel Group Member**”), whether such representation is made by NOMAD on behalf of a Travel Group Member or by and between the Travel Group Members directly.

When using our Services, you will be subject to any additional posted terms, guidelines or rules which may be posted on the Services from time to time, as well as any NOMAD policies mentioned in these Terms (the “**Additional Terms**”). All Additional Terms are hereby incorporated by reference into these Terms.

### 1. SERVICES

NOMAD provides Travel Group Member the ability to experience different environments by facilitating home swapping within thoughtfully curated groups. When you are staying at another Travel Group Member’s home (a “**Home**”), you are a “**Guest**” and when a Guest is staying at your Home, you are a “**Host**.” Once you create an account and are assigned a Travel Group (see Section 5), you will have the ability to (a) browse availability, pictures and other information about the Homes in your Travel Group, as well as reserve available Homes; and (b) manage availability, pictures and other information about your Home.

#### Using the Services

Travel Group Members can use the Services to search availability within their Travel Group based on trip criteria, like available dates. When a Guest reserves a Home, the Guest is agreeing to pay certain Fees (as defined in Section 5), such as daily service fee and a cleaning fee. Hosts may optionally elect to purchase Guest Damage Protection Coverage as described below. When a Guest receives a booking confirmation, a legal contract for accommodation (a “**Reservation**”) is formed directly between the Host and the Guest. In addition to these Terms, to complete a Reservation, Guests will be required to agree to whatever terms and conditions for the accommodation the Host has included in the Reservation

(the “**Host Terms**”). These Terms and the Host Terms together form the legal contract for a Reservation. After the Reservation has been made, any change to the Reservation is subject to the Cancellation and Modification Policy below.

### **Communications**

We will facilitate communications between the Guest and the Host, acting as principal point of contact if there are any damages, issues or other incidents (“**Incident**”) with the Home, and providing general customer services. Guests can communicate with their us regarding their Reservation by accessing the Contact Us section of their profile within the Services.

### **Cancellation and Modification Policy**

Both Hosts and Guests can cancel or modify the Reservation at any time through the Services, subject to the following:

- If a Guest cancels 5 days or more before their stay, the cleaning fee and any paid service fees will be refunded to the Guest.
- If a Guest cancels less than 5 days before their stay or while staying at a Home (an “**Active Stay**”), the cleaning fee will be paid to the Host, and any paid service fees for unused days will be refunded to the Guest.
- If the Host cancels 5 days or more before the stay, the cleaning fee and any paid services fees will be refunded to the Guest. The Guest Damage Protection Coverage fees will not be refunded to the Host and the Host will not receive a cleaning payout.
- If the Host cancels less than 5 days before the stay or during an Active Stay, the cleaning fee and any paid services fees for unused days will be refunded to the Guest. However, the Host Protection Coverage fees will not be refunded to the Host and the Host will not receive a cleaning payout.

### **Travel Member Obligations, Generally**

As a Travel Group Member, you are responsible and liable for your own acts, omissions, and representations. All Travel Group Members must follow the policies in our Travel Group Member Code of Conduct. Violations of the Travel Member Code of Conduct may result in certain payments, fees and/or liabilities, so be sure to read it carefully and abide by it.

As noted above, by agreeing to a Reservation, Hosts and Guests are entering into a direct legal contract with one another, which incorporates these Terms and the Host Terms. The Host Terms contain certain Home-specific rules and obligations Guests are agreeing to with the Reservation, and may include terms regarding pets, parties traveling with Guest, gatherings, and other topics. NOMAD has no obligations with respect to the information provided by the Host about themselves or their Homes.

**You acknowledge and agree that provision of your Home to a Guest (when you are a Host), or any stay at a Host’s Home (when you are a Guest) may result in injuries, losses or damages, including, without limitation, personal injury or death, or damage to real or personal property. You assume all risks associated with using the Services, and to the maximum extent permitted by applicable law, waive any claims for said injuries, losses or damages against NOMAD. You acknowledge awareness of and hereby waive any rights and benefits afforded by California Civil Code Section 1542 (or any other equivalent or similar state statute), which provides: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”**

### **Guest Obligations**

As a Guest, in addition to being responsible for yourself, you are also responsible for anyone you invite into the Home, including their adherence to the Travel Member Code of Conduct and our Stay Policy. During any Active Stay and upon leaving a Home at the end of your stay, Guests must comply with all requirements in the Host Terms and our Stay Policy.

Without limiting the generality of the foregoing, Guests must leave the Home in the same condition as it was in when you arrived and leave the Home by the date and time agreed in the Reservation. If you do not leave the Home on the date and time designated in the Reservation, the Host may use any available legal remedies to make you leave.

### **Host Obligations**

NOMAD does not direct or control the accommodation provided by you as a Host, and you agree that you have sole and complete discretion whether and when to provide accommodation at your Home, and whether and what parts of your Home you wish to make private and/or to restrict access. You represent and warrant to NOMAD that you own or have all rights in your Home necessary to list your Home on the Service. As a Host, you agree to follow our anti-discrimination policy in Section 2. Hosts are responsible for providing NOMAD with accurate and complete information about the features of your Home. You must immediately update your Home's profile in the Services with any changes to information about your Home.

Hosts are solely responsible for understanding and complying with any laws, rules, regulations, and contracts with third parties that apply to their Home. In some places, providing accommodation at their Home may require licenses or permits, or be prohibited altogether. You are responsible for handling and using personal data of Guests and others in compliance with applicable privacy laws and these Terms. You should seek legal advice if you have questions about any such laws, rules, regulations or contracts.

### **Guest Protection Coverage; Damage**

There is no security deposit required for Reservations. For a small charge displayed on the Services, Hosts may purchase add-on Guest Damage Protection Coverage ("**Guest Damage Protection Coverage**") through our third-party Guest Damage Protection Coverage provider ("**Guest Damage Protection Coverage Provider**"). **We highly recommend purchasing the Guest Damage Protection Coverage to protect against potential costs and liabilities in connection with a Reservation.** Our Guest Damage Protection Coverage Provider will perform certain screening checks, and if approved, the Guest Damage Protection Coverage will provide the Host (depending on the issue) coverage for certain covered incidents as further described in our Host Protection Coverage Policy. NOMAD does not directly provide coverage for any incidents that happen during an Active Stay, including damage, injury, or death, but rather facilitates disputes that may be covered by the Guest Damage Protection Coverage through the Services. Our Guest Damage Protection Coverage Provider is an independent Third-Party Service Provider (as described in Section 7 below), and if you purchase the Guest Damage Protection Coverage, you are subject to all terms, policies and procedures required by the Guest Damage Protection Coverage Provider.

In the event that you are a Host and wish to report an Incident that may be covered by Guest Damage Protection Coverage, you must do so through the Services within the required timeframes in the Guest Damage Protection Coverage Policy, and in compliance with any other rules, processes and requirements in the Guest Damage Protection Coverage Policy or as otherwise provided to you by us or the Guest Damage Protection Coverage Provider.

NOMAD has no obligation or liability under these Terms with respect to any Incident, whether you have purchased the Guest Damage Protection Coverage or not. If you purchased the Guest Damage Protection Coverage, we will facilitate communications between you and the Guest Damage Protection Coverage Provider. NOMAD has no responsibility to pay for any costs or damages relating to any Incident, however if NOMAD does pay for any of the foregoing, we may also pursue any remedies we have available under applicable law, including seeking reimbursement from you, your insurance provider or referral of the matter to a collections agency, and/or pursuit of available causes of action and/or claims against you. Members agree to cooperate in good faith and provide any information NOMAD requests in connection with Incidents, Host complaints, Guest complaints, claims under insurance policies, or other claims related to your provision or use of the Services.

## **2. ANTI-DISCRIMINATION POLICY**

Discrimination has no place on the Services. NOMAD is committed to promoting diversity and inclusion in our community, based on trust and respect. We do not allow any unlawful discrimination or hate speech between Travel Group Members. By joining NOMAD, as a Host, you agree to welcome Guests from all backgrounds, regardless of ethnicity, color, religion, national origin, language, sexual orientation, gender identity, marital status, or disability. You agree to make every effort to be welcoming, accommodating, and inclusive to all Travel Group Members. We reserve the right to suspend or terminate the membership of any Travel Group Member who engages in conduct that is discriminatory, illegal, or non-compliant with NOMAD's core values. Some locations may have additional legal requirements that extend or limit civil rights protections. You agree to comply with all such legal requirements.

### **3. PRIVACY AND DATA**

For information about how we collect, use and share information about users of the Services, please see our Privacy Policy.

You acknowledge and agree that NOMAD may monitor, collect, use, host, and store anonymous and aggregate statistics regarding your use of the Services and/or any individuals/entities that interact with the Services (collectively, "**NOMAD Data**") for NOMAD's business purposes.

### **4. TRAVEL GROUP MEMBERSHIP**

Travel Group membership is a quick process – First, register with NOMAD (<https://wetravelnomad.com/>) to create an account and then complete our background check process.

#### **Accounts**

When registering for an account, you agree (a) to provide accurate, current, and complete information ("**Registration Data**"), and (b) to maintain and promptly update the Registration Data (and any other information you provide to NOMAD) in order to keep it accurate, current, and complete.

You are responsible for safeguarding the passwords you use to access the Services via your account, and you agree to be fully responsible for activities and transactions that relate to your account and password. You must notify NOMAD immediately if you suspect or learn of an unauthorized use of your account or password, and you may be held liable for losses incurred by NOMAD due to someone else using your account or password. NOMAD cannot and will not be liable for any loss or damage arising from your failure to comply with these obligations.

#### **Background Check**

Before becoming a member and being assigned a Travel Group, you must pass a background check powered by our third-party background check provider ("**Background Check Provider**"). This is an easy process and can be done from your computer or phone. After creating your account, you will be redirected to our Background Check Provider. The Background Check Provider will ask you for certain documentation, which may include images of your government-issued ID and a live capture of your face, among other things. You understand and agree that the Background Check Provider is a Third-Party Service Provider, subject to the terms in Section 7 below. In addition to the background check performed by our Background Check Provider, we will also verify the Home address you provide when you create your account. Once you have passed the background check and address check processes, we will assign you to a Travel Group.

#### **Travel Group Assignment**

Once you have created your account and passed the required checks described above, we will assign you to a Travel Group based on a variety of factors, including shared property and location interests. Once you are a member of a Travel Group, you can browse the Homes within your Travel Group. If you don't like what you see, you may leave your Travel Group at any time. Simply notify us via the "My Travel Group" section of your profile within the Services that you wish to be assigned to a different Travel Group or pause your membership and we will honor your request.

### **5. FEES AND PAYMENT TERMS**

When you submit a request to stay at a Travel Group Member's home, you must provide, via the Services, a valid credit card or debit card number ("**Payment Method**") to NOMAD's third-party payment processor. You represent and warrant that you (a) have the right to have fees charged to your Payment Method, and (b) agree to have certain fees charged to your Payment Method. These fees will be shown to you before being charged, and include any fees shown to you within the Services, including the then-current fees for (i) assignment to a Travel Group; (ii) a cleaning fee for each Home you reserve in an amount shown to you at the time of booking; (iii) and a service fee charged per day of booking (collectively, the "**Fees**"). Hosts are given the option to add-on optional Fee for Guest Damage Protection Coverage. As with other Fees, this optional Fee will be shown to you within the Services. Please note that this Fee may be increased if our Guest Damage Protection Coverage Provider flags you (as a Host) during the onboarding process. In the event that the Payment Method provided by you to NOMAD or its third-party payment processor is unable to cover the Fees, NOMAD may suspend your access to the Services and cancel your applicable Reservations. Certain Fees you pay go to the Host or a Third-Party Service Provider, with a portion retained by NOMAD as a service fee for provision of the Services. Your Travel Group assignment fee and daily service fees are retained by NOMAD. As noted above, NOMAD acts solely as a service provider facilitating Reservations, Active Stays and related communications between Hosts and Guests. To the extent we collect Fees (or a portion of Fees) destined for Hosts or Third-Party Service Providers, we do so solely on behalf of the applicable Host or Third-Party Service Provider.

## **6. INTERACTING WITH US AND MEMBERS OF YOUR TRAVEL GROUP VIA THE SERVICES**

### **Your Content**

Users of the Services may choose to, or for access to certain Services functionality, may be required to for upload, input or otherwise provide certain information, including text, photographs, images, or other information ("**User Content**") through or in connection with the Services. NOMAD has no control over and is not responsible for any use or misuse (including any distribution) by any third party of User Content. Your User Content may be visible to other Services users in accordance with the functionality of the Services. For example, images and descriptions of your Home that you provide through the Services will be visible to other Services users, including other members of your Travel Group. IF YOU CHOOSE TO MAKE ANY OF YOUR PERSONALLY IDENTIFIABLE OR OTHER INFORMATION PUBLICLY AVAILABLE THROUGH THE SERVICES, YOU DO SO AT YOUR OWN RISK.

### **Restrictions**

In connection with the Services, you must not do any of the below –

- Post, transmit, or otherwise make available through or in connection with the Services any materials that are or may be: (a) threatening, harassing, degrading, hateful or intimidating, or otherwise fail to respect the rights and dignity of others; (b) defamatory, libelous, fraudulent, or otherwise tortious; (c) obscene, indecent, pornographic or otherwise objectionable; or (d) protected by copyright, trademark, trade secret, right of publicity or privacy or any other proprietary right, without the express prior written consent of the applicable owner.
- Post, transmit, or otherwise make available through or in connection with the Services any virus, worm, Trojan horse, Easter egg, time bomb, spyware, or other computer code, file or program that is or is potentially harmful, or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software or equipment (each, a "**Virus**").
- Use the Services for any commercial purpose, or for any purpose that is fraudulent or otherwise tortious or unlawful.
- Harvest or collect information about users of the Services or their User Content.
- Reproduce, modify, adapt, translate, create derivative works of, sell, rent, lease, loan, timeshare, distribute or otherwise exploit any portion of (or any use of) the Services except as expressly authorized herein, without NOMAD's express prior written consent.
- Reverse engineer, decompile, or disassemble any portion of the Services, except where such restriction is expressly prohibited by applicable law.
- Remove any copyright, trademark, or other proprietary rights notice from the Services.
- Frame or mirror any portion of the Services, or otherwise incorporate any portion of the Services into any product or service, without NOMAD's express prior written consent.
- Systematically download and store Services content.

- Circumvent or attempt to circumvent any technological protection measures intended to restrict access to or use of any portion of the Services or the functionality of the Services.
- Build a competitive product or service or copy any features or functions of the Services or any of NOMAD's other products or services.
- Use any robot, spider, site search/retrieval application, or other manual or automatic device to retrieve, index, "scrape," "data mine," or otherwise gather Services content or reproduce or circumvent the navigational structure or presentation of the Services, without NOMAD's express prior written consent. Notwithstanding the foregoing, and subject to compliance with any instructions posted in the robots.txt file located in the Site's root directory, NOMAD grants to the operators of public search engines permission to use spiders to copy materials from the Site for the sole purpose of (and solely to the extent necessary for) creating publicly available, searchable indices of such materials, but not caches or archives of such materials. NOMAD reserves the right to revoke such permission either generally or in specific cases, at any time and without notice.

### **License**

For purposes of clarity, you retain ownership of your User Content. You hereby grant to us a worldwide, royalty-free, fully paid-up, non-exclusive, perpetual, irrevocable, transferable and fully sublicensable (through multiple tiers) license, without additional consideration to you or any third party, to reproduce, distribute, perform and display (publicly or otherwise), create derivative works of, adapt, modify and otherwise use, analyze and exploit your User Content, in any format or media now known or hereafter developed, and for any purpose (including promotional purposes, such as testimonials).

In addition, if you provide to us any ideas, proposals, suggestions, or other materials ("**Feedback**"), whether related to the Services or otherwise, such Feedback will be deemed User Content, and you hereby acknowledge and agree that such Feedback is not confidential, and that your provision of such Feedback is gratuitous, unsolicited and without restriction, and does not place NOMAD under any fiduciary or other obligation.

You represent and warrant that you have all rights necessary to grant the licenses granted in this section, and that your User Content, and your provision thereof through and in connection with the Site or App, are complete and accurate, and are not fraudulent, tortious, or otherwise in violation of any applicable law or any right of any third party. You further irrevocably waive any "moral rights" or other rights with respect to attribution of authorship or integrity of materials regarding your User Content that you may have under any applicable law under any legal theory.

### **Monitoring**

We may (but have no obligation to) monitor, evaluate, alter, or remove User Content before or after it appears on the Services, or analyze your access to or use of the Services. We may disclose information regarding your access to and use of the Services, and the circumstances surrounding such access and use, to anyone for any reason or purpose.

## **7. THIRD PARTY SERVICE PROVIDERS, MATERIALS AND LINKS**

### **Third-Party Service Providers**

Certain functionality of the Services may be enabled by services of a third-party services provider (each a "**Third-Party Service Provider**"), and such services, "**Third-Party Services**"). Our Background Check Provider and Host Protection Coverage Providers are examples of Third-Party Service Providers. We do not control Third-Party Services or Third-Party Service Providers, and your use of Third-Party Services is subject to the terms of service, privacy policy and other terms and policies of the applicable Third-Party Service Provider. We make no claim or representation that use of Third-Party Services will be uninterrupted or error-free, and we have no responsibility for the acts or omissions of Third-Party Service Providers. Third-Party Service Providers are not parties to these Terms and have no obligations to you with respect to our Services except as agreed between you and the Third-Party Service Provider.

### **Third-Party Materials and Links**

Certain Services functionality may make available access to information, products, services, and other materials made available by third parties (including Third-Party Service Providers), including User Content ("**Third-Party Materials**"), or allow for the routing or transmission of such Third-Party Materials, including via links. By using such functionality, you are

directing us to access, route, and transmit to you the applicable Third-Party Materials. We neither control nor endorse, nor are we responsible for, any Third-Party Materials, including the accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness, or safety of Third-Party Materials, or any intellectual property rights therein. Certain Third-Party Materials may, among other things, be inaccurate, misleading, or deceptive. Nothing in these Terms will be deemed to be a representation or warranty by Company with respect to any Third-Party Materials. We have no obligation to monitor Third-Party Materials, and we may block or disable access to any Third-Party Materials (in whole or part) through the Services at any time. In addition, the availability of any Third-Party Materials through the Services does not imply our endorsement of, or our affiliation with, any provider of such Third-Party Materials, nor does such availability create any legal relationship between you and any such provider.

## **8. DISCLAIMER**

THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND. NOMAD DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) ARISING FROM OR RELATED TO THESE TERMS, THE SERVICES, THE THIRD-PARTY INFRASTRUCTURE (AS DEFINED BELOW), AND THIRD-PARTY TRADEMARKS, WHETHER ALLEGED TO ARISE BY OPERATION OF LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PURPOSE, NON-INFRINGEMENT, AND CONDITION OF TITLE. NOMAD WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF NOMAD. WE ARE NOT AN INSURER, RENTAL AGENCY, HOUSING PROVIDER OR ANYTHING OTHER THAN A SERVICE PROVIDER, AND EXPRESSLY DISCLAIM ANY LIABILITIES RELATED TO THE FOREGOING CLASSIFICATIONS.

## **9. INDEMNIFICATION**

You agree, at your sole expense, to defend, indemnify, and hold NOMAD (and its directors, officers, employees, consultants and agents) harmless from and against any and all actual or threatened suits, actions, proceedings (at law or in equity), claims, damages, payments, deficiencies, fines, judgments, settlements, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees, costs, penalties, interest and disbursements) for (a) any actual or alleged breach of any of your obligations under these Terms or the Host Terms, or (b) any death, injury, property damage caused by, arising out of, resulting from, attributable to or in any way incidental to your use of any of the Services.

## **10. LIMITATION OF LIABILITY**

IN NO EVENT WILL NOMAD BE LIABLE FOR ANY LOSS OF PROFITS OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING FROM OR RELATED TO THESE TERMS, THE SERVICES, THE THIRD-PARTY INFRASTRUCTURE, AND THIRD-PARTY TRADEMARKS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

NOMAD'S ENTIRE LIABILITY TO YOU AND ANY OTHER INDIVIDUAL OR ENTITY, ARISING FROM OR RELATED TO THESE TERMS, THE SERVICES, THE THIRD-PARTY INFRASTRUCTURE, AND THIRD-PARTY TRADEMARKS, WILL NOT EXCEED THE GREATER OF (A) THE FEES ACTUALLY PAID BY YOU TO NOMAD (IF ANY) DURING THE SIX-MONTH PERIOD PRIOR TO THE EVENTS GIVING RISE TO THE FIRST CLAIMS AGAINST US; OR (B) ONE-HUNDRED US DOLLARS. FURTHER, NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THESE TERMS, NOMAD WILL NOT BE LIABLE FOR ANY DISCLOSURE OF, UNAUTHORIZED USE OF AND/OR UNAUTHORIZED ACCESS TO ANY DATA OR OTHER INFORMATION.

MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION. THIS SECTION 9 WILL BE GIVEN FULL EFFECT EVEN IF ANY REMEDY SPECIFIED IN THESE TERMS IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. THE LIMITATIONS IN THIS SECTION MAY BE LIMITED OR UNENFORCEABLE UNDER APPLICABLE LAW. IF SO, THEY ARE DEEMED TO STILL APPLY TO THE EXTENT NOT LIMITED AND ENFORCEABLE.

## **11. DISPUTE RESOLUTION, ARBITRATION, CLASS ACTION WAIVER**

You agree to resolve certain disputes with NOMAD through binding arbitration (“**Arbitration Agreement**”). Arbitration means that an arbitrator, and not a judge or a jury, will decide the dispute. The parties expressly waive the right to bring or participate in any kind of class, collective, or mass action, private attorney general action, or any other representative action. This Arbitration Agreement supersedes all prior versions.

**11.1. Covered Disputes.** You and NOMAD agree that any dispute or claim between you and NOMAD arising out of or relating to these Terms or the Services (a “**Dispute**”), including any related software, hardware, integrations, advertising or marketing communications, your account, or any aspects of your relationship or transactions with NOMAD, will be resolved by binding arbitration, rather than in court. For purposes of this Arbitration Agreement, a Dispute will also include disputes that arose or involve facts occurring before the existence of these or any prior versions of these Terms as well as claims that may arise after the termination of these Terms. **LAWSUITS AND ARBITRATIONS MAY BE FILED, WHICH COULD AFFECT YOU. YOUR AGREEMENT TO THIS ARBITRATION AGREEMENT COULD AFFECT YOUR PARTICIPATION IN THOSE ACTIONS.**

**11.2. Exceptions to Arbitration.** This Arbitration Agreement will not require arbitration of the following types of claims brought by either you or NOMAD: (i) small claims court actions, if the requirements of the court are met and the claims are only on an individual basis; and (ii) claims pertaining to intellectual property rights, including trademarks, trade dress, domain names, trade secrets, copyrights, and patents.

**11.3. Informal Dispute Resolution First.** We want to address any Disputes without needing arbitration. If you have a Dispute with NOMAD, prior to initiating arbitration, you agree to email an individualized request (“**Pre-Arbitration Demand**”) to [customerservice@wetravelnomad.com](mailto:customerservice@wetravelnomad.com) so that we can work together to resolve the Dispute. A Pre-Arbitration Demand is only valid when it pertains to, and is on behalf of, a single individual. A Pre-Arbitration Demand brought on behalf of multiple individuals is invalid as to all. The Pre-Arbitration Demand must include: (i) your name, telephone number, mailing address, and email address associated with your account; (ii) the name, telephone number, mailing address and email address of your counsel, if any; (iii) a description of your Dispute; and (iv) your signature. Likewise, if NOMAD has a Dispute with you, NOMAD will send an email with its individualized Pre-Arbitration Demand, including the requirements listed above, to the email address associated with your NOMAD account. If the Dispute is not resolved within sixty (60) calendar days of when either you or NOMAD submitted a Pre-Arbitration Demand, an arbitration can be brought. If you or NOMAD have a Dispute involving claims under the exception to arbitration in Section 11.2, then this Section 11.3 does not apply to such Dispute. You agree that compliance with this Section 11.3 is a condition precedent to commencing arbitration, and that the arbitrator will dismiss any arbitration filed without fully and completely complying with these informal dispute resolution procedures.

**11.4. Arbitration Procedure.** If, after completing the informal dispute resolution process set out in Section 11.3, either you or NOMAD wishes to initiate arbitration, the initiating party must serve the other party with a demand for arbitration. Any demand for arbitration by you will be sent to the NOMAD email address in Section 11.3. NOMAD will send any arbitration demand to the email address associated with your NOMAD account or to your counsel, if any. You and NOMAD agree that the Federal Arbitration Act (“**FAA**”) governs this Arbitration Agreement. If the FAA cannot apply for whatever reason, then the state laws governing arbitration procedures where you reside apply.

The applicable arbitration provider depends on where you live. If you are a California resident, the arbitration will be administered by ADR Services, Inc. (“**ADR Services**”) under its Arbitration Rules, available at <https://www.adrservices.com/services-2/arbitration-rules>. If you are not a California resident, the arbitration will be administered by National Arbitration and Mediation (“**NAM**”) under its operative Comprehensive Dispute Resolution Rules and Procedures, available at <https://www.namadr.com/resources/rules-fees-forms>. These Terms will govern to the extent it conflicts with the arbitration provider’s rules. If the applicable arbitration provider is not available to arbitrate, the parties will select an alternative arbitration provider. If the parties cannot agree on an appropriate alternative arbitration provider, then the parties will ask a court of competent jurisdiction to appoint an arbitrator pursuant to 9 U.S.C. § 5. To the extent there is a dispute over which arbitration provider has jurisdiction, a NAM arbitrator will be appointed to resolve that dispute.



Arbitration hearings will take place through videoconferencing by default, unless you and NOMAD agree upon another location in writing. A single arbitrator will be appointed. The arbitrator may award damages, declaratory or injunctive relief, and recoverable costs. Any arbitration award may be enforced (such as through a judgment) in any court with jurisdiction. An arbitration award will have no preclusive effect in another arbitration or court proceeding involving NOMAD and a different individual. The arbitrator will have the exclusive authority to resolve all threshold arbitrability issues, including whether these Terms are applicable, unconscionable, or enforceable, as well as any defense to arbitration. However, a court has exclusive authority to rule on the Mass Action Waiver in Section 11.6, including any claim that the section is unenforceable, illegal, void or voidable, or that it has been breached.

If a request to proceed in small claims court (see Section 11.2), is made after an arbitration has been initiated, but before an arbitrator has been appointed, such arbitration will be administratively closed. Any controversy over the small claims court's jurisdiction will be determined by the small claims court. If you or NOMAD challenges the small claims court election in your Dispute, and a court of competent jurisdiction determines that the small claims court election is unenforceable, then such election will be severed from this Arbitration Agreement as to your Dispute. However, such court determination will have no preclusive effect in another arbitration or court proceeding involving NOMAD and a different individual.

**11.5. Jury Trial Waiver.** You and NOMAD hereby waive any constitutional and statutory rights to sue in court and have a trial in front of a judge or a jury. You and NOMAD are instead electing that all Disputes will be resolved by arbitration under this Arbitration Agreement, except as specified in Section 11.2 above. Court review of an arbitration award is subject to very limited review. Discovery may be limited in arbitration, and procedures are more streamlined than in court.

**11.6. Mass Action Waiver.** You and NOMAD agree that, except as specified in Section 11.7 below, each of us may bring claims against the other only on an individual basis and not on a class, collective, representative, or mass action basis, and the parties hereby waive all rights to have any Dispute be brought, heard, administered, resolved, or arbitrated on a class, collective, representative, or mass action basis. Subject to this Arbitration Agreement, the arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by the party's individual claim. Notwithstanding anything to the contrary in this Arbitration Agreement, if a court decides by means of a final decision, not subject to any further appeal or recourse, that the limitations of this Section 11.6 are invalid or unenforceable as to a particular claim or request for relief (such as a request for public injunctive relief), you and NOMAD agree that that particular claim or request for relief (and only that particular claim or request for relief) will be severed from the arbitration and will be pursued in the state or federal courts located in Denver County, State of Colorado. This subsection does not prevent you or NOMAD from participating in a class-wide settlement of claims.

**11.7. Bellwether Arbitrations.** To increase the efficiency of administration and resolution of arbitrations, you and NOMAD agree that if there are 50 or more individual arbitration demands of a substantially similar nature brought against either party by or with the assistance of the same law firm, group of law firms, or organizations within a 180-day period ("**Mass Filing**"), the parties will select 16 individual arbitration demands (8 per side) for arbitration to proceed ("**Bellwether Arbitrations**"). Only those 16 arbitration demands will be filed with the arbitration provider, and the parties will hold in abeyance, and not file, the non-Bellwether Arbitrations. NOMAD will pay the arbitration provider's costs for the 16 Bellwether Arbitrations. The statutes of limitation, including the requirement to file within 1 year in Section 11.10 below, will remain tolled when non-Bellwether arbitration demands are held in abeyance. While the Bellwether Arbitrations are adjudicated, no other demand for arbitration that is part of the Mass Filing may be processed, administered, or adjudicated, and no filing or other administrative costs for such a demand for arbitration will be due from either party to the arbitration provider. If, contrary to this provision, a party prematurely files non-Bellwether Arbitrations with the arbitration provider, the parties agree that the arbitration provider will hold those demands in abeyance.

All parties agree that arbitration demands are of a "substantially similar nature" if they arise out of or relate to the same event or factual scenario and raise the same or similar legal issues and seek the same or similar relief. Any party may request that the arbitration provider appoint a sole standing administrative arbitrator ("**Administrative Arbitrator**") to

determine threshold questions such as (i) whether the Bellwether Arbitration process is applicable or enforceable, (ii) whether particular demand(s) are part of a Mass Filing, and (iii) whether demands within a Mass Filing were filed in accordance with these Terms, including Section 11.3. In an effort to expedite resolution of any such dispute by the Administrative Arbitrator, the parties agree that the Administrative Arbitrator may set forth such procedures as are necessary to resolve any disputes promptly. The Administrative Arbitrator's costs will be paid by NOMAD.

The parties will work in good faith with the arbitrator to complete each Bellwether Arbitration within 120 calendar days of its initial pre-hearing conference. The parties agree that the Bellwether Arbitration process is designed to achieve an overall faster, more efficient, and less costly mechanism for resolving Mass Filings, including the claims of individuals who are not selected for a Bellwether Arbitration.

Following resolution of the Bellwether Arbitrations, the parties agree to engage in a global mediation of all remaining arbitration demands comprising the Mass Filing ("**Global Mediation**"). The Global Mediation will be administered by the arbitration provider administering the Bellwether Arbitrations. If the parties are unable to resolve the remaining demands for arbitration comprising the Mass Filing within 30 calendar days following the mediation, the remaining demands for arbitration comprising the Mass Filing will be filed and administered by the arbitration provider on an individual basis pursuant to the arbitration provider's rules, unless the parties mutually agree otherwise in writing. Any party may request that the arbitration provider appoint an Administrative Arbitrator to determine threshold questions regarding the newly filed demands.

The parties agree to cooperate in good faith with the arbitration provider to implement the Bellwether Arbitration process, including the payment of filing and administrative costs for the Bellwether Arbitrations, deferring any filing costs associated with the non-Bellwether Arbitration Mass Filings until the Bellwether Arbitrations and subsequent Global Mediation have concluded, and cooperate on any steps to minimize the time and costs of arbitration, which may include: (i) the appointment of a discovery special master to assist the arbitrator in the resolution of discovery disputes; and (ii) the adoption of an expedited calendar of the arbitration proceedings. This Bellwether Arbitration provision will in no way be interpreted as authorizing a class, collective, or mass action of any kind, or an arbitration involving joint or consolidated claims under any circumstances, except as expressly set forth in this provision. The statutes of limitation applicable to each arbitration demand within a Mass Filing, including the requirement to file within 1 year in Section 11.10 below, will remain tolled from the time a party makes a Pre-Arbitration Demand to the time when that party files the arbitration demand with the arbitration provider.

**11.8. Settlement Offers and Offers of Judgment.** At least 10 calendar days before the date set for the arbitration hearing, you or NOMAD may serve a written offer of judgment upon the other party to allow judgment on specified terms. If the offer is accepted, the offer with proof of acceptance will be submitted to the arbitration provider, who will enter judgment accordingly. If the offer is not accepted prior to the arbitration hearing or within 30 calendar days after it is made, whichever occurs first, it will be deemed withdrawn, and cannot be given as evidence in the arbitration. If an offer made by one party is not accepted by the other party, and the other party fails to obtain a more favorable award, the other party will not recover their post-offer costs and will pay the offering party's costs from the time of the offer (which, solely for purposes of offers of judgment, may include reasonable attorneys' fees to the extent they are recoverable by statute, in an amount not to exceed the damages awarded).

The parties agree that any disputes with respect to settlement offer(s) or offer(s) of judgment in a Mass Filing are to be resolved by a single arbitrator to the extent such offers contain the same material terms. For arbitrations involving represented parties, the represented parties' attorneys agree to communicate individual settlement offer(s) or offer(s) of judgment to each and every arbitration claimant or respondent to whom such offers are extended.

**11.9. Arbitration Costs.** Except as provided for in a Mass Filing (see Section 11.7), your responsibility to pay any filing, administrative, and arbitrator costs will be solely as set forth in the applicable arbitration provider's rules. If you have a gross monthly income of less than 300% of the federal poverty guidelines, you may be entitled to a waiver of certain arbitration costs.

**11.10. Requirement to File Within One Year.** To the extent permitted by applicable law, and notwithstanding any other statute of limitations, any claim or cause of action under these Terms (with the exception of disputes under Section 11.2(ii)) must be filed within 1 year after such claim or cause of action arose, or else that claim or cause of action will be permanently barred. The statute of limitations and any arbitration cost deadlines will be tolled while the parties engage in the informal dispute resolution process required by Section 11.3 above.

**11.11. Opt-Out.** You may reject this Arbitration Agreement and opt out of arbitration by sending an email to customerservice@wetravelnomad.com within 30 calendar days after the date you created your account. Your opt-out notice must be individualized and must be sent from the email address associated with your individual account. An opt-out notice that purports to opt out multiple parties will be invalid as to all such parties. No individual (or their agent or representative) may effectuate an opt out on behalf of other individuals. Your notice to opt-out must include your first and last name, address, the email address associated with your account, and an unequivocal statement that you decline this Arbitration Agreement. If you do decide to opt out, that opt out will apply to this Arbitration Agreement, and neither party will have the right to compel the other to arbitrate any Dispute. However, all other parts of this Arbitration Agreement will continue to apply to you, and opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may enter into in the future with us.

**11.12. Severability.** Except as provided in Section 11.6 above, if any provision of this Arbitration Agreement is found to be illegal or unenforceable, then that provision will be severed; however, the remaining provisions will still apply and will be interpreted to achieve the closest possible intent to the original intent of this section, inclusive of the severed provision.

## 12. COPYRIGHT INFRINGEMENT CLAIMS

THE DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998 (THE “DMCA”) PROVIDES RECOURSE FOR COPYRIGHT OWNERS WHO BELIEVE THAT MATERIAL APPEARING ON THE INTERNET INFRINGES THEIR RIGHTS UNDER U.S. COPYRIGHT LAW. IF YOU BELIEVE IN GOOD FAITH THAT MATERIALS AVAILABLE ON THE SITE INFRINGE YOUR COPYRIGHT, YOU (OR YOUR AGENT) MAY SEND TO COMPANY A WRITTEN NOTICE BY MAIL OR E-MAIL, REQUESTING THAT COMPANY REMOVE SUCH MATERIAL OR BLOCK ACCESS TO IT. IF YOU BELIEVE IN GOOD FAITH THAT SOMEONE HAS WRONGLY FILED A NOTICE OF COPYRIGHT INFRINGEMENT AGAINST YOU, THE DMCA PERMITS YOU TO SEND TO COMPANY A COUNTER-NOTICE. NOTICES AND COUNTER-NOTICES MUST MEET THE THEN-CURRENT STATUTORY REQUIREMENTS IMPOSED BY THE DMCA. SEE [HTTP://WWW.COPYRIGHT.GOV/](http://www.copyright.gov/) FOR DETAILS. NOTICES AND COUNTER-NOTICES MUST BE SENT IN WRITING TO NOMAD’S COPYRIGHT AGENT AS FOLLOWS: BY MAIL TO 251 LITTLE FALLS DRIVE, WILMINGTON, DE 19808; OR BY E-MAIL TO CUSTOMERSERVICE@WETRAVELNOMAD.COM.

We suggest that you consult your legal advisor before filing a DMCA notice or counter-notice.

## 13. TERMINATION

These Terms are effective until terminated. NOMAD may terminate or suspend your use of the Services at any time and without prior notice, for any or no reason, including if NOMAD believes that you have violated or acted inconsistently with the letter or spirit of these Terms. Upon any such termination or suspension, your right to use the Services will immediately cease, and NOMAD may, without liability to you or any third party, immediately deactivate or delete your username, password and account, and all associated materials, without any obligation to provide any further access to such materials. Sections 1 (solely with respect to NOMAD disclaimers and your waivers and releases), 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 survive any expiration or termination of these Terms.

## 14. MISCELLANEOUS

### Assignment

You may not assign, delegate, or transfer (by sale, merger, operation of law, or otherwise) these Terms or any right, title, interest, or obligation hereunder without the prior written consent of NOMAD. Any attempted or purported assignment, delegation, or transfer in violation of the foregoing will be null and void and without effect. NOMAD may assign these Terms without your prior written consent. These Terms will be binding and inure to the benefit of such assignees, transferees, and other successors in the interest of the parties in the event of an assignment or other transfer made consistent with the provisions of these Terms.

## **Intellectual Property**

We and our suppliers own the Services, which are protected by proprietary rights and laws. All trade names, trademarks, service marks and logos used in connection with the Services not owned by us are the property of their respective owners. You may not use our trade names, trademarks, service marks, or logos in connection with any product or service that is not ours, or in any manner that is likely to cause confusion. Nothing contained on the Services should be construed as granting, by implication, estoppel or otherwise, any right or license to use any trade names, trademarks, service marks, or logos without the express prior written consent of the owner. Any unauthorized use of such materials may violate laws and regulations governing intellectual property.

## **Third-Party Infrastructure**

Notwithstanding any terms to the contrary in these Terms, you acknowledge and agree that NOMAD uses a third-party hosting infrastructure in connection with the Services ("**Third-Party Infrastructure**"), the provider(s) of the Third-Party Infrastructure disclaim and make no representation or warranty with respect to such Third-Party Infrastructure, and NOMAD assumes no liability for any claim that may arise with respect to such Third-Party Infrastructure.

## **Electronic Communications**

You agree that we may communicate with you electronically regarding your use of any of the Service and that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including, but not limited to, that the communications be in writing. To withdraw your consent from receiving electronic notice, please notify us as set forth below (see the "Information or Complaints" section below).

## **Severability**

If any provision of these Terms is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other provisions of these Terms will nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by these Terms is not affected in any manner adverse to any party. Upon such determination that any provision is invalid, illegal, or incapable of being enforced, the parties will negotiate in good faith to modify these Terms so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled.

## **Entire Agreement & Precedence**

These Terms (together with all terms incorporated into these Terms by reference) set forth the entire agreement and understanding of the parties relating to the subject matter of these Terms and supersedes all prior agreements or understanding with respect to such subject matter and all past dealing or industry custom.

## **15. APPLE-SPECIFIC TERMS**

In addition to your agreement with the foregoing terms and conditions, and notwithstanding anything to the contrary herein, the following provisions apply with respect to your use of any version of the App compatible with the iOS operating system of Apple Inc. ("**Apple**"). Apple is not a party to these Terms and does not own and is not responsible for the App. Apple is not providing any warranty for the App except, if applicable, to refund the purchase price for it. Apple is not responsible for maintenance or other support services for the App and will not be responsible for any other claims, losses, liabilities, damages, costs, or expenses with respect to the App, including (a) any third-party product liability claims,

(b) claims that the App fails to conform to any applicable legal or regulatory requirement, (c) claims arising under consumer protection or similar legislation, and (d) claims with respect to intellectual property infringement. Any inquiries or complaints relating to the use of the App, including those pertaining to intellectual property rights, must be directed to NOMAD in accordance with the "Information or Complaints" section below. The license you have been granted herein is limited to a non-transferable license to use the App on an Apple-branded product that runs Apple's iOS operating system and is owned or controlled by you, or as otherwise permitted by the Usage Rules set forth in Apple's App Store Terms of Service, except that the App may also be accessed and used by other accounts associated with you via Apple's Family Sharing or volume purchasing programs. In addition, you must comply with the terms of any third-party agreement applicable to you when using the App, such as your wireless data service agreement. Apple and Apple's

subsidiaries are third-party beneficiaries of these Terms and, upon your acceptance of the terms and conditions of these Terms, will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary thereof; notwithstanding the foregoing, NOMAD's right to enter into, rescind or terminate any variation, waiver or settlement under these Terms is not subject to the consent of any third-party.

#### **16. INFORMATION OR COMPLAINTS**

If you have a question or complaint regarding the Services, please send an e-mail to [customerservice@wetravelnomad.com](mailto:customerservice@wetravelnomad.com). You may also contact us by writing to 251 Little Falls Drive, Wilmington, DE 19808. Please note that e-mail communications will not necessarily be secure; accordingly, you should not include credit card information or other sensitive information in your e-mail correspondence with us. California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by mail at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.