

Terms of Use

Please read these Terms of Use (“Terms of Use”) carefully. These Terms of Use are an agreement between you and Malibu Bungalows Club (“Malibu Bungalows Club,” “we” or “us”) governing your use of (including any access to) the Malibu Bungalows Club website, currently located at www.malibubungalowsclub.com (together with any successor site(s) thereto, the “Site”), the Malibu Bungalows Club applications currently” (together with any successor application(s) thereto, collectively the “App”) and the information, services, products, materials and programs offered through the Site and/or the App (collectively, together with the Site and the App, the “Online Services”) to you subject to these Terms of Use, which may be amended as described below. By accessing or using the Online Services, you agree to these Terms of Use. These Terms of Use hereby incorporate by this reference any additional terms and conditions with respect to the Online Services that are made available by Malibu Bungalows Club through the Online Services, or otherwise made available to you by Malibu Bungalows Club.

Notwithstanding the foregoing, the “Online Services” will be deemed to exclude Malibu Bungalows Club memberships, classes and training services, and other services that are not provided through the Site and/or the App (collectively, “Other Services”), the purchase and/or use of which may be subject to separate terms, conditions and/or policies provided by Malibu Bungalows Club, whether or not provided through the Site or the App (collectively, “Other Terms”). For example, memberships are subject to, among other things, the terms and conditions of our Membership Policies and Club Membership Agreement. For clarity, in the event of any dispute arising out of or related to any Other Service, the terms and conditions of the applicable Other Terms will govern with respect to such dispute.

THESE TERMS OF USE CONTAIN A MANDATORY ARBITRATION OF DISPUTES PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS, CLASS ACTIONS OR OTHER COURT PROCEEDINGS.

THESE TERMS OF USE ALSO CONTAIN LIMITATIONS OF LIABILITY, DISCLAIMERS OF WARRANTIES, AND INDEMNIFICATION PROVISIONS THAT MAY LIMIT YOUR RIGHTS PURSUANT TO APPLICABLE LAW.

IF YOU ARE AN INDIVIDUAL ACCESSING OR USING THE ONLINE SERVICES ON BEHALF OF, OR FOR THE BENEFIT OF, ANY COMPANY, CORPORATION, PARTNERSHIP, ORGANIZATION OR OTHER ENTITY WITH WHICH YOU ARE ASSOCIATED (AN “ORGANIZATION”), YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND SUCH ORGANIZATION TO THIS AGREEMENT; IF YOU DO NOT HAVE SUCH LEGAL AUTHORITY, SUCH ORGANIZATION WILL NOT ACCESS, USE OR OTHERWISE BENEFIT FROM THE SERVICE. References to “you” and “you’re” in these Terms of Use will refer to both the individual using the Online Services and any such Organization.

Changes to These Terms of Use

We may change these Terms of Use at any time, and we may notify you of such changes by any reasonable means, including by making the updated Terms of Use available through the Online Services. Any such changes will not apply to any dispute between you and us arising prior to the date on which we make available the updated Terms of Use incorporating such changes, or otherwise notify you of such changes. Your continued use of the Online Services following any changes to these Terms of Use indicates your agreement to the updated Terms of Use. Accordingly, we urge you to review any updated Terms of Use, and if you do not agree to such updated Terms of Use, do not access, or use the Online Services. The “Last modified” legend above indicates when these Terms of Use were last updated.

Children

By using (including any purchase of) any Online Service, you agree and warrant that you are 18 years old or older and are of legal age to enter into this agreement, or, if you are not, that you have obtained parental or guardian consent to enter into this agreement. We hereby notify you that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist you in limiting access to material that is harmful to minors. Information identifying current providers of parental control protections is available from https://en.wikipedia.org/wiki/Comparison_of_content-control_software_and_providers; please note that Malibu Bungalows Club does not endorse any of the products or services listed on such site.

Important Note Regarding Information Related to Health

CALL 911 OR GO TO YOUR NEAREST HOSPITAL EMERGENCY ROOM IN THE EVENT OF AN EMERGENCY SITUATION.

YOUR USE OF THE ONLINE SERVICES AND ANY INFORMATION PROVIDED IN CONNECTION WITH THE ONLINE SERVICES IS AT YOUR OWN RISK. THE ONLINE SERVICES MAY MAKE AVAILABLE INFORMATION REGARDING HEALTH ("HEALTH INFORMATION"). PRIOR TO PARTICIPATING IN ANY EXERCISE PROGRAM OR ACTIVITY, YOU SHOULD SEEK THE ADVICE OF YOUR PHYSICIAN OR OTHER QUALIFIED HEALTH PROFESSIONAL. YOU AGREE THAT YOU WILL NOT USE ANY HEALTH INFORMATION PROVIDED BY OUR ONLINE SERVICES TO DIAGNOSE, TREAT, CURE OR PREVENT ANY MEDICAL CONDITION. APPLICATION OR RELIANCE ON OF ANY HEALTH INFORMATION, INCLUDING ANY TECHNIQUES, IDEAS AND SUGGESTIONS ACCESSED THROUGH OUR ONLINE SERVICES, IS AT YOUR SOLE DISCRETION AND RISK.

OUR ONLINE SERVICES, AND ANY HEALTH INFORMATION, (A) ARE NOT A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS OR TREATMENT; (B) SHOULD NOT BE CONSTRUED AS THE PROVISION OF ADVICE OR RECOMMENDATIONS; AND (C) SHOULD NOT BE RELIED UPON AS THE BASIS FOR ANY DECISION OR ACTION, INCLUDING THE DIAGNOSIS OR TREATMENT OF ANY MEDICAL CONDITION. WE ARE NOT RESPONSIBLE FOR THE ACCURACY OR RELIABILITY OF ANY HEALTH INFORMATION. HEALTH INFORMATION IS NOT EXHAUSTIVE AND SHOULD NOT BE CONSIDERED COMPLETE OR UP TO DATE. IT IS YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS AND USEFULNESS OF HEALTH INFORMATION. THE RELATIONSHIP BETWEEN YOU AND US IS NOT A PHYSICIAN-PATIENT OR SIMILAR RELATIONSHIP; ALWAYS SEEK THE ADVICE OF YOUR PHYSICIAN OR OTHER QUALIFIED HEALTH PROFESSIONAL WITH ANY QUESTIONS YOU MAY HAVE REGARDING A MEDICAL CONDITION, AND NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF ANY INFORMATION MADE AVAILABLE BY THE ONLINE SERVICES.

Information Submitted Through the Online Services

Your submission of information through the Online Services is governed by the Online Services' Privacy Policy. You agree to provide true, accurate, current, and complete information about yourself as prompted by our Online Services' registration form and to update that information to keep it accurate.

Permitted Use and Restrictions

Solely for so long as you are permitted by Malibu Bungalows Club to use the Online Services and subject to your compliance with the requirements and restrictions of these Terms of Use, you may, and you agree that you are only authorized to, access and use the Online Services solely for your own personal, non-commercial use or, if you are an Organization, solely for your own internal business use.

The App is licensed (not sold) to end users. Solely for so long as you are permitted by Malibu Bungalows Club to use the App and subject to your compliance with the requirements and restrictions of these Terms of Use, we hereby permit you, on a limited, non-exclusive, revocable, non-transferable, non-sublicensable basis, to install and use the App on a device that you own or control, solely for your own personal, non-commercial use, or, if you are an Organization, solely for your own internal business use. If you fail to comply with any of the terms or conditions of these Terms of Use, you must immediately cease using the App and delete the App from your device.

You agree that, absent our express prior written consent, you shall not duplicate, download, publish, modify, create derivative works, sell, rent, lease, loan, timeshare, distribute or otherwise exploit any portion of (or the use of) the Online Services except as specifically authorized herein. You also agree not to deep-link to the Site for any purpose, unless specifically authorized by us to do so. The content and software that are part of the Online Services are the property of Malibu Bungalows Club or our licensors and are protected by U.S. and international copyright laws. You also agree that, in connection with our Online Services, you will not:

- violate or solicit the violation of any applicable local, state, national or international law.
- infringe the rights of any third party, including but not limited to intellectual property rights and privacy or publicity rights.
- post, transmit or otherwise make available through or in connection with any Online Service 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; or (c) obscene, indecent, pornographic or otherwise objectionable.
- post, transmit or otherwise make available through or in connection with the Online 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.
- harvest or collect information about users of the Online Services.
- restrict or inhibit any other person from using the Online Services.
- reverse engineer, decompile or disassemble any portion of the Online Services, except to the extent such restriction is expressly prohibited by applicable law.
- remove any copyright, trademark, or other proprietary rights notice from the Online Services.
- frame or mirror any portion of the Online Services, or otherwise incorporate any portion of the Online Services into any product or service, without our express prior written consent.
- systematically download and store Online Services content; or
- interfere with or disrupt our Online Services or the servers or networks used to make the Online Services available; or violate any requirement, procedure or policy of such servers or networks.

Furthermore, you agree that you will not use any automated device or process, such as a “bot” or a “spider,” to copy or extract information or content from our Online Services, except, subject to compliance with any instructions posted in the robots.txt file located in the Site’s root directory, to use such information or content for purposes of listing our Online Services with a publicly available search engine or other publicly available service designed to direct users to the Site. We reserve the right to revoke such permission either generally or in specific cases, at any time and without notice.

You are responsible for obtaining, maintaining, and paying for all hardware and all telecommunications and other services needed for you to use the Online Services.

Changes to the Online Services

Malibu Bungalows Club may, without notice or liability, change, suspend or discontinue any aspect of the Online Services at any time. Malibu Bungalows Club may also, without notice or liability, impose limits on certain features and services of the Online Services, restrict your access to all or portions of the Online Services or charge, modify or waive any fees required to use any Online Service.

Termination; Violation of these Terms of Use

These Terms of Use are effective until terminated. Malibu Bungalows Club may terminate these Terms of Use at any time and without prior notice, for any or no reason. Upon any such termination, your right to use the Online Services will immediately cease, and Malibu Bungalows Club may, without liability to you or any third party, immediately deactivate or delete your Access Credentials and account, and all associated materials (including any of Your Submissions), without any obligation to preserve or provide any further access to such materials. Except with respect to the access and usage rights set forth in the first sentence of the section titled "Permitted Use and Restrictions" and the sections titled "Changes to These Terms of Use" and "Changes to the Online Services," the terms and conditions of these Terms of Use shall survive any termination of these Terms of Use.

Without limiting the foregoing, you understand and agree that, in Malibu Bungalows Club's sole discretion, and without prior notice, Malibu Bungalows Club may terminate your access to the Online Services, or exercise any other remedy available and remove any unauthorized user information, if Malibu Bungalows Club believes or suspects that any of your actions or inactions have violated or are inconsistent with these Terms of Use, violate the rights of Malibu Bungalows Club or any third party, or violate the law. You agree that monetary damages may not provide a sufficient remedy to Malibu Bungalows Club for violations of these Terms of Use, and you consent to injunctive or other equitable relief for such violations.

Copyright Policy

We may terminate the privileges of any user who engages in copyright infringement in connection with his or her use of the Online Services.

Representations by You

By accessing or using the Online Services, you represent, warrant and covenant that you are a resident of the United States and that all content, information, data, materials or other resources of any kind submitted to us through or in connection with the Online Services (each, a "Submission") by you (each, "Your Submission") are complete and accurate, do not violate any applicable law and do not plagiarize, violate or infringe upon the rights of any third party, including trade secret, copyright, trademark, trade dress, privacy, patent or other personal or proprietary rights.

Monitoring

We may (but have no obligation to) monitor, evaluate, or analyze Your Submissions and your access to or use of the Online Services. We may disclose Your Submissions, any information regarding Your Submissions, your access to and use of the Online Services, and the circumstances surrounding such Submissions, access, or use, to anyone for any reason or purpose. We may also alter or remove Your Submissions.

Accounts

You may need to register to use all or part of the Online Services. During the registration process you may be asked to select a unique username, password, or other information (“Access Credentials”) for access to certain portions of the Online Services. You are responsible for maintaining the confidentiality of your Access Credentials and account and are fully responsible for all activities that occur using your Access Credentials. By logging into any Online Service, you represent and warrant that: (a) you are the customer who registered for the applicable Online Services; (b) that you are using the applicable Online Services only for permitted purposes; (c) you are not, or are not acting on behalf of, a competitor of Malibu Bungalows Club; (d) you will immediately notify us of any unauthorized use of your Access Credentials or account or any other breach of security with respect to your Access Credentials or account; and (e) you will ensure that you exit from your account at the end of each session. Please notify The Malibu Bungalows Club with subject line “Web Account Misuse” of any potential unauthorized use(s) of your account or breach of security.

You also represent and warrant that: (a) you will not select or utilize a username of another person with intent to impersonate that person; and (ii) you will not select or utilize a username in which another person has rights if you do not have that person’s authorization to use such name. We may reject, or require that you change, any Access Credential that you provide to us in registering.

Without limiting the foregoing, if you are an Organization, (1) you acknowledge and agree that all of your employees using the Online Services (each, a “User”) will have the authority to act in your name and on your behalf with respect to such Users’ activities in connection with the Online Services; (2) you hereby authorize any and all transactions, submissions, instructions, authorizations and other acts initiated through the use of any Access Credentials; (3) you are responsible for each User’s acts and omissions in connection with their use of the Online Services; and (4) you will ensure that each User complies with these Terms of Use.

License Granted by You

Certain Online Services functionality may provide users with the ability to submit Submissions. For purposes of clarity, you retain ownership of Your Submissions. 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 Submissions, in any format or media now known or hereafter developed, and for any purpose (including promotional purposes, such as testimonials). IF YOU CHOOSE TO MAKE ANY OF YOUR PERSONALLY IDENTIFIABLE OR OTHER INFORMATION PUBLICLY AVAILABLE THROUGH THE ONLINE SERVICES, YOU DO SO AT YOUR OWN RISK. You represent and warrant that you have all rights necessary to grant the licenses granted in this section. You further irrevocably waive any “moral rights” or other rights with respect to attribution of authorship or integrity of materials regarding Your Submissions that you may have under any applicable law under any legal theory.

In addition, if you provide to us any ideas, proposals, suggestions, or other materials (“Feedback”), whether related to the Online Services or otherwise, such Feedback will be deemed Your Submission, and you hereby acknowledge and agree that your provision of such Feedback is gratuitous, unsolicited and without restriction, and does not place us under any fiduciary or other obligation. Any communication or materials you send to us will be treated as non-confidential and non-proprietary and may be disseminated or used by us for any purpose, including, but not limited to, developing, creating, manufacturing, or marketing products or services.

Resources

The Online Services may make available information, data, materials, services, products, merchandise, functionality, or other resources (collectively, "Resources"), as well as references and links to such Resources. Resources may be made available by Malibu Bungalows Club or by third parties, and may be made available for any purpose, including for general information purposes. We make no representations as to the accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness, appropriateness or safety of any Resources, or any intellectual property rights therein. Resources, and the availability of Resources, are subject to change at any time without notice. We disclaim all liability and responsibility arising from any reliance placed on any Resources by you or any other user of the Online Services, or by anyone who may be informed of the content of any Resources. It is your responsibility to ascertain and obey all applicable local, state, federal and foreign laws regarding the use, possession, or acquisition of any Resources.

Transactions

We may make available the ability to purchase or otherwise obtain certain products or services through the Online Services (a "Transaction"). If you desire to engage in a Transaction, you may be asked to supply certain relevant information, such as your payment card number and its expiration date, your billing address, and your shipping information. YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT TO USE ANY PAYMENT CARD OR PAYMENT SERVICE THAT YOU SUBMIT IN CONNECTION WITH A TRANSACTION. By submitting such information, you grant to us the right to provide such information to third parties for purposes of facilitating Transactions. Verification of information may be required prior to the acknowledgment or completion of any Transaction. By making a Transaction, you represent that the applicable products or services will be used only in a lawful manner.

Malibu Bungalows Club reserves the right, including without prior notice, to limit the available quantity of or discontinue making available any product or service available through the Online Services (each, a "Product"); to impose conditions on the honoring of any coupon, discount, or similar promotion; to bar any user from making any Transaction; and to refuse to provide any user with any Product. We make no representations as to the accuracy, validity, timeliness, completeness or reliability of listings, descriptions, or images of Products (including any features, specifications and prices contained therein), and such information and the availability of any Product (including the validity of any price, coupon, or discount) is subject to change at any time without notice. Certain weights, measures and similar descriptions are approximate and are for convenience only. We make reasonable efforts to accurately display the attributes of Products, including the applicable colors, however the actual colors you see will depend on your device, software, and settings, and we cannot guarantee that your device will accurately display such colors.

Without limiting the foregoing, Malibu Bungalows Club reserves the right to revoke any offer and correct any errors, inaccuracies, or omissions, including after an order has been submitted (whether the order has been confirmed and your credit card charged). If an order is cancelled after you have been charged, Malibu Bungalows Club will issue a credit to your credit card account or bank account (for debit card transactions) in the amount of the charge (see your individual bank's policies as to when this amount will be credited to your account). Refunds and exchanges will be subject to Malibu Bungalows Club's applicable refund and exchange policies. You agree to pay all charges incurred by you or on your behalf through the Online Services, at the prices in effect when such charges are incurred, including any shipping and handling charges. In addition, you are responsible for any taxes applicable to your Transactions. The receipt of an e-mail order confirmation does not constitute our acceptance of an order or our confirmation of an offer to sell a product or service.

If applicable, Products will be shipped to an address designated by you, so long as such address is complete and complies with the shipping restrictions made available through the Online Services. All Transactions with respect to physical Products are made pursuant to a shipment contract and, as a result, risk of loss and title for such Products pass to you upon delivery of such Products to the carrier. You are responsible for filing any claims with carriers for damaged and/or lost shipments.

Subscription Services

Malibu Bungalows Club provides subscription services via their app: You must create an account by downloading, and then registering with, the App.

Paid Subscriptions:

Malibu Bungalows Club may offer subscription of one or more of the Subscriptions, for a specified trial period. The fees for your Paid Subscription(s) will be charged via the applicable app store provided at confirmation of purchase (see also Billing and Fees below).

Paid Subscription Terms:

The following terms are applicable. Malibu Bungalows Club may, at its sole discretion, change the features and services offered with monthly Subscription(s) at any time.

Billing and Fees

By making an in-app purchase for any Paid Subscription (an "In-App Purchase") via the applicable app store provider (e.g., Apple App Store, Google Play, etc.) (an "App Store Provider"), and providing your credit card or other payment method information, you authorize the App Store Provider to charge your credit card or other payment method for the Paid Subscription(s) at the then-current rate and any additional charges (including late charges and applicable federal, state, or local taxes). Billing for In-App Purchases will be handled by the App Store Provider according to their terms.

BY REGISTERING FOR THE PAID SUBSCRIPTIONS, YOU AFFIRMATIVELY CONSENT TO HAVE YOUR CREDIT CARD OR OTHER PAYMENT METHOD CHARGED ON A PERIODICALLY RECURRING BASIS (E.G. MONTHLY OR ANNUALLY), UNLESS YOU CANCEL YOUR SUBSCRIPTION BEFORE THE END OF YOUR CURRENT SUBSCRIPTION PERIOD. YOU MAY CANCEL YOUR SUBSCRIPTION BY FOLLOWING YOUR APP STORE PROVIDER'S INSTRUCTIONS (see also Cancellation below).

Subscription Rate Changes

Malibu Bungalows Club may change the applicable subscription rate from time to time. If we do, you will be provided advance notice by your App Store Provider of any change in the subscription rate(s). If you do not agree with the new subscription rate, you may cancel your subscription prior to the new subscription rate taking effect. If you continue to use any Paid Subscription(s) after the subscription rate has gone into effect, you will be charged the new rate until you cancel or the rate changes.

Cancellation

You may cancel any Paid Subscription by following your App Store Provider's instructions. If you cancel your Paid Subscription before the end of your subscription period, Malibu Bungalows Club will not be able to return any portion of the subscription fee provided and you will be entitled to continue accessing the applicable Paid Subscription features until the end of your subscription period. Malibu Bungalows Club reserves the right to terminate your access to the Paid Subscription(s), at any time, without notice.

No Commercial Use

This Online Services may not be used by you for any commercial purposes such as to conduct sales of merchandise or services of any kind. You must obtain Malibu Bungalows Club's prior written consent to make commercial offers of any kind through the Online Services, whether by advertising, solicitations, links, or any other form of communication. Malibu Bungalows Club will investigate and take appropriate legal action against anyone who violates this provision, including without limitation, removing the offending communication from the Online Services, and barring such violators from use of the Online Services.

Links and Search Results

The Online Services may make available access to Resources made available by third parties, including Submissions ("Third Party Resources"), or allow for the routing or transmission of such Third-Party Resources, including via links to sites operated by third parties throughout the World Wide Web. By using such functionality, you are directing us to access, route and transmit to you the applicable Third-Party Resources. Malibu Bungalows Club has no control over, does not endorse, is not affiliated with and is not responsible for any Third-Party Resources (and the availability of any Third-Party Resources through the Online Services does not imply such control, endorsement, affiliation, or responsibility), including the accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness or safety of Third-Party Resources, or any intellectual property rights therein. Certain Third-Party Resources may, among other things, be inaccurate, misleading, or deceptive. Malibu Bungalows Club does not make any guarantee, representation, or warranty with respect to any Third-Party Resources, including with respect to whether any Third-Party Resources are accurate, legal and/or inoffensive, or whether they contain viruses or may otherwise impact your computer. By using the Online Services to search for or link to any Third-Party Resources, you agree and understand that you may not make any claim against Malibu Bungalows Club for any damages or losses whatsoever resulting from your use of the Online Services to obtain search results or to link to Third Party Resources. If you have a problem with a link from the Online Services, you may notify us, with the subject line "Broken Links." We have no obligation to monitor Third Party Resources, and we may block or disable access to any Third-Party Resources (in whole or part) through the Online Services at any time.

YOUR USE OF THIRD-PARTY RESOURCES IS AT YOUR OWN RISK AND IS SUBJECT TO ANY ADDITIONAL TERMS, CONDITIONS AND POLICIES APPLICABLE TO SUCH THIRD-PARTY RESOURCES (SUCH AS TERMS OF USE OR PRIVACY POLICIES OF THE PROVIDERS OF SUCH THIRD-PARTY RESOURCES).

Intellectual Property

You acknowledge that all content and materials available on or through the Online Services are protected by national and international copyrights, trademarks, service marks, patents, patent registration rights, trade secrets, know-how or other proprietary rights and laws and are owned by Malibu Bungalows Club or our licensors. You may only use the Online Services, or their contents as expressly permitted in these Terms of Use and for no other purpose. Malibu Bungalows Club, our licensors or associates retain exclusive ownership of all data, material, and other information regarding your use of the Online Services. Except as expressly provided in these Terms of Use or as we may otherwise expressly authorize in advance in writing, you shall have no right to, and you agree not to (directly or indirectly), own, use, sell, license, sublicense, assign, rent, lease, loan, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, translate, improve, edit or create any new or derivative works from the Online Services, or any content or materials available through the Online Services (including software), in whole or in part. Systematic retrieval of data or other content from the Online Services to create or compile, directly or indirectly, a collection,

compilation, database, or directory without our written permission is prohibited. You shall have no rights to the proprietary software and related documentation, if any, provided to you by or on behalf of Malibu Bungalows Club to access the Online Services.

The trade names, trademarks, service marks and logos displayed through the Online Services are the property of Malibu Bungalows Club and/or other third parties. Except when referring to Malibu Bungalows Club and/or its products and services, you may not use our trade names, trademarks, service marks or logos (including the marks listed below)—or any trade name, trademark, service mark or logo confusingly similar thereto. Nothing contained in the Online Services should be construed as granting any license or right to use any trade names, trademarks, service marks or logos without the express prior written consent of the applicable owner.

The following are registered and unregistered trademarks and/or service marks owned by Malibu Bungalows Club in the United States and other countries: Malibu Bungalows Club, Malibu Bungalows (Corporate Logo), Malibu Bungalows Club (All-in-One Logo). The foregoing is a non-exhaustive list of those registered and unregistered trademarks or service marks in which Malibu Bungalows Club claims rights, and Malibu Bungalows Club reserves the right to amend this list, as necessary and appropriate. The omission of any registered and/or unregistered trademark or service mark from the foregoing list shall not constitute a waiver of any intellectual property rights owned by Malibu Bungalows Club, and Malibu Bungalows expressly reserves all such rights.

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 through the Online Services infringe your copyright, you (or your agent) may send to Malibu Bungalows Club a written notice by mail, e-mail, or fax, requesting that Malibu Bungalows Club remove such material or block access to it. If you believe in good faith that someone has wrongly submitted to us a notice of copyright infringement involving content that you made available through the Online Services, the DMCA permits you to send to Malibu Bungalows Club a counter-notice. Notices and counter-notices must meet the then-current statutory requirements imposed by the DMCA (see www.copyright.gov for details), which, with respect to notices of alleged infringement, currently include, among other requirements, the following:

- A description of the copyrighted work that you allege is being infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works.
- A description of the allegedly infringing material and information sufficient to permit us to locate the material.
- Information reasonably sufficient to permit us to contact you, such as an address, telephone number and, if available, an electronic mail address.
- A statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- A statement by you that the information in the notification is accurate and that you have the authority to enforce the copyrights that are claimed to be infringed.

Notices and counter-notices must be sent in writing to our DMCA agent as follows:

NAME: Malibu Bungalows Club
ADDRESS: P O Box 8219 Calabasas, CA 91372
EMAIL: clubmgrmalibubungalow@gmail.com

You can also reach our DMCA agent at the following phone number:

We suggest that you consult your legal advisor before filing a DMCA notice or counter-notice. You may have equivalent rights under other applicable laws.

DISCLAIMER OF WARRANTIES

YOU EXPRESSLY AGREE THAT, OTHER THAN TO THE EXTENT THAT ANY WARRANTY IS INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER APPLICABLE LAW (IN PARTICULAR, YOU EXPRESSLY AGREE THAT THE FOLLOWING DISCLAIMER OF WARRANTIES PROVISIONS ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS IS PERMITTED BY THE LAW OF THE STATE OF NEW JERSEY AND THAT IF ANY PORTION THEREOF IS HELD INVALID, YOU AGREE THAT THE BALANCE SHALL, NOTWITHSTANDING, CONTINUE IN FULL FORCE AND EFFECT), (A) THE ONLINE SERVICES AND ALL MATERIALS, RESOURCES, INFORMATION, SOFTWARE, THIRD PARTY RESOURCES, PRODUCTS AND SERVICES INCLUDED IN OR AVAILABLE THROUGH THE ONLINE SERVICES (COLLECTIVELY, TOGETHER WITH THE ONLINE SERVICES, THE "OFFERING") ARE PROVIDED "AS IS," "WHERE IS" AND "AS AVAILABLE" FOR YOUR USE. THE OFFERING IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE; AND (B) NONE OF Malibu Bungalows Club, ITS SUBSIDIARIES OR ITS AFFILIATES, NOR THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, REPRESENTATIVES, LICENSORS, SUPPLIERS OR SERVICE PROVIDERS, NOR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS (COLLECTIVELY, "Malibu Bungalows Club PARTIES"), MAKE ANY WARRANTY THAT THE CONTENT OF THE ONLINE SERVICES IS ACCURATE, RELIABLE OR CORRECT; THAT THE ONLINE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION OR THAT ACCESS THERETO WILL BE UNINTERRUPTED; THAT THE ONLINE SERVICES ARE SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; THAT THE ONLINE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR THAT YOU WILL ACHIEVE SUCCESSFUL RESULTS FROM FOLLOWING ANY INSTRUCTIONS, DIRECTIONS OR RECOMMENDATIONS AVAILABLE THROUGH THE ONLINE SERVICES. ALL DISCLAIMERS OF ANY KIND IN THESE TERMS OF USE (INCLUDING IN THIS SECTION AND ELSEWHERE IN THESE TERMS OF USE) ARE MADE ON BEHALF OF BOTH Malibu Bungalows Club AND THE OTHER Malibu Bungalows Club PARTIES.

Third parties may make unauthorized alterations to the Online Services. If you become aware of any such alteration, contact us with a description of such alteration and its location on the Online Services.

LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL ANY Malibu Bungalows Club PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND THAT ARISE OUT OF OR ARE RELATED TO THE OFFERING OR THESE TERMS OF USE, INCLUDING DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE ONLINE SERVICES, RESOURCES, PRODUCTS, THIRD PARTY RESOURCES OR FROM INFORMATION MADE AVAILABLE THROUGH THE ONLINE SERVICES OR ANY VIRUS THAT MAY BE TRANSMITTED IN CONNECTION THEREWITH. THE FOREGOING LIMITATION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER BASIS, EVEN IF WE HAVE BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGE.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE SECTION TITLED "TRANSACTIONS," YOUR SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE OFFERING IS TO STOP USING THE ONLINE SERVICES. THE MAXIMUM LIABILITY OF ALL Malibu Bungalows Club PARTIES, IN THE AGGREGATE, FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO THE OFFERING OR

THESE TERMS OF USE, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER BASIS (EVEN IF WE HAVE BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGE), SHALL BE THE GREATER OF (A) THE TOTAL AMOUNT, IF ANY, PAID BY YOU TO Malibu Bungalows Club SOLELY TO USE THE ONLINE SERVICES; AND (B) TEN U.S. DOLLARS (\$10).

ALL LIMITATIONS OF LIABILITY OF ANY KIND IN THESE TERMS OF USE (INCLUDING IN THIS SECTION AND ELSEWHERE IN THESE TERMS OF USE) ARE MADE ON BEHALF OF BOTH Malibu Bungalows Club AND THE OTHER Malibu Bungalows Club PARTIES.

IF ANY LAW THAT APPLIES TO YOU DOES NOT ALLOW ANY EXCLUSION OR LIMITATION OF CERTAIN DAMAGES AS SET FORTH ABOVE, TO THE EXTENT REQUIRED BY SUCH APPLICABLE LAW, THE APPLICABLE EXCLUSION OR LIMITATION SHALL NOT APPLY TO YOU (AND YOU MAY HAVE CERTAIN ADDITIONAL RIGHTS) AND OUR LIABILITY TO YOU ARISING OUT OF OR RELATING TO THE OFFERING OR THESE TERMS OF USE SHALL BE LIMITED TO THE EXTENT PERMITTED BY SUCH APPLICABLE LAW. IN PARTICULAR, YOU EXPRESSLY AGREE THAT THE FOREGOING LIMITATION OF LIABILITY PROVISIONS ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS IS PERMITTED BY THE LAW OF THE STATE OF NEW JERSEY AND THAT IF ANY PORTION THEREOF IS HELD INVALID, YOU AGREE THAT THE BALANCE SHALL, NOTWITHSTANDING, CONTINUE IN FULL FORCE AND EFFECT.

Indemnification

Except to the extent prohibited under applicable law, you agree to defend, indemnify and hold harmless Malibu Bungalows Club and the other Malibu Bungalows Club Parties from and against all claims, liabilities, damages, judgments, awards, losses, costs, expenses and fees (including attorneys' fees) arising out of or relating to (a) your use of, or activities in connection with, the Online Services (including Your Submissions); or (b) any violation or alleged violation of these Terms of Use by you. IN PARTICULAR, YOU EXPRESSLY AGREE THAT THE FOREGOING INDEMNIFICATION PROVISIONS ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS IS PERMITTED BY THE LAW OF THE STATE OF NEW JERSEY AND THAT IF ANY PORTION THEREOF IS HELD INVALID, YOU AGREE THAT THE BALANCE SHALL, NOTWITHSTANDING, CONTINUE IN FULL FORCE AND EFFECT.

Governing Law

These Terms of Use, your use of the Online Services, all transactions through the Online Services and any claims arising out of or relating to the Online Services (whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory), shall be governed by the laws of the United States (including the Federal Arbitration Act) and the State of California without regard to California's conflict of law provisions that would require the application of the laws of another jurisdiction

Arbitration of Disputes

EXCEPT FOR DISPUTES THAT QUALIFY FOR SMALL CLAIMS COURT, ALL DISPUTES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ONLINE SERVICES (EACH, A "DISPUTE"), WHETHER BASED IN CONTRACT, TORT, STATUTE, FRAUD, MISREPRESENTATION OR ANY OTHER LEGAL THEORY, WILL BE RESOLVED THROUGH FINAL AND BINDING ARBITRATION BEFORE A NEUTRAL ARBITRATOR INSTEAD OF IN A COURT BY A JUDGE OR JURY AND YOU AGREE THAT, WITH RESPECT TO ANY DISPUTE, (A) Malibu Bungalows Club AND YOU ARE EACH WAIVING THE RIGHT TO A COURT ACTION AND A TRIAL BY A JURY; (B) ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS; (C) CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED; AND (D) YOU ARE GIVING UP THE ABILITY TO PARTICIPATE IN A CLASS ACTION. The arbitration will be administered by the American Arbitration Association (the "AAA") under its Consumer Arbitration Rules (currently available online

at <https://www.adr.org/aaa/ShowProperty?nodeId=/UCM/ADRSTAGE2021425&revision=latestreleased>), as amended by these Terms of Use. The arbitrator will conduct hearings, if any, by teleconference or videoconference, rather than by personal appearances, unless the arbitrator determines upon request by you or by us that an in-person hearing is appropriate. Any in-person appearances will be held at a location which is reasonably convenient to both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, such determination should be made by the AAA or by the arbitrator. The arbitrator's decision will follow the terms of these Terms of Use and will be final and binding. The arbitrator will have authority to award temporary, interim, or permanent injunctive relief or relief providing for specific performance of these Terms of Use, but only to the extent necessary to provide relief warranted by the individual claim before the arbitrator. The award rendered by the arbitrator may be confirmed and enforced in any court having jurisdiction thereof. Notwithstanding any of the foregoing, nothing in these Terms of Use will preclude you from bringing issues to the attention of federal, state, or local agencies and, if applicable law allows, they can seek relief against us for you.

International Use

The Online Services are controlled or operated (or both) from the United States and are not intended to subject Malibu Bungalows Club to any non-U.S. jurisdiction or law. By choosing to access the Online Services from any location other than the United States, you accept full responsibility for compliance with all laws that are applicable. Malibu Bungalows Club makes no representation that materials available through the Online Services are appropriate or available for use in locations outside the United States and accessing them from territories where their contents are illegal is prohibited. We may limit the availability of the Online Services at any time, in whole or in part, to any person, geographic area or jurisdiction that we choose.

You may not use, export or re-export any materials from this Online Services in violation of any applicable laws or regulations, including, but not limited to, any United States export laws and regulations, and you represent, warrant and covenant that you are not (a) located in, or a resident or a national of, any country subject to a U.S. government embargo or other restriction, or that has been designated by the U.S. government as a "terrorist supporting" country; or (b) on any of the U.S. government lists of restricted end users.

Contact Information, Notices.

Our Online Services are offered by Malibu Bungalows Club, located at PO Box 2409, Carlsbad, CA 92018, and you can call us at (800) 432-6348 if you have any questions or complaints about the Online Services. If you are a California resident, you may have this same information emailed to you by sending a letter to the foregoing address with your email address and a request for this information. 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.

Except as explicitly stated otherwise in these Terms of Use, any notices in connection with these Terms of Use shall be given, in the case of notices to Malibu Bungalows Club, by postal mail to Malibu Bungalows Club, Attn: Legal Department, PO Box 2409, Carlsbad, CA 92018, or, in the case of notices to you, by posting to the Site, by making available through the App or by email (including in each case via links) or by postal mail to the email or postal mail address, respectively, you provide to Malibu Bungalows Club during the registration process.

Miscellaneous

These Terms of Use constitutes the entire agreement between Malibu Bungalows Club and you with respect to the Online Services and supersedes all prior or contemporaneous communications and proposals between us with respect to the Online Services. For clarity, nothing in these Terms of Use amends or modifies, or has any effect upon, the terms and conditions of any separate agreement that you may have entered with Malibu Bungalows Club. If any provision of these Terms of Use is determined to be invalid or unenforceable, all other provisions shall remain in full force and effect. Section titles in these Terms of Use are for convenience and do not define, limit, or extend any provision of these Terms of Use. These Terms of Use do not, and shall not be construed to, create any partnership, joint venture, employer-employee, agency or franchisor-franchisee relationship between you and Malibu Bungalows Club. You may not assign, transfer, or sublicense any or all your rights or obligations under these Terms of Use without our express prior written consent. We may assign, transfer or sublicense any or all our rights or obligations under these Terms of Use without restriction. No waiver by either party of any breach or default under these Terms of Use will be deemed to be a waiver of any preceding or subsequent breach or default. All terms defined in the singular shall have the same meanings when used in the plural, where appropriate and unless otherwise specified. Any use of the term “including” or variations thereof in these Terms of Use shall be construed as if followed by the phrase “without limitation.” Without limitation, a printed version of these Terms of Use and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms of Use to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. Malibu Bungalows Club will not be responsible for any failure to fulfill any obligation due to any cause beyond its control.

Apple-Specific Terms

In addition to the foregoing terms and conditions, and notwithstanding anything to the contrary in these Terms of Use, the following provisions in this section 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 of Use and does not own and is not responsible for the App or the content thereof. 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 any third-party product liability claims, claims that the App fails to conform to any applicable legal or regulatory requirement, claims arising under consumer protection or similar legislation, and claims with respect to intellectual property infringement. Any inquiries or complaints relating to the App, including those pertaining to intellectual property rights, must be directed to Malibu Bungalows Club in accordance with the “Contact Information; Notices” section above. 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, and as permitted by the Usage Rules set forth in Apple’s App Store Terms of Service. 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 of Use and, upon your acceptance of the terms and conditions of these Terms of Use, will have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against you as a third-party beneficiary thereof; notwithstanding the foregoing, Malibu Bungalows Club’s right to enter into, rescind or terminate any variation, waiver or settlement under these Terms of Use is not subject to the consent of any third party.