



SE Queensland Holiday Homes Pty Ltd ACN 626 901 657
trading as Toowoomba Holiday Rentals ABN 72 626 901 657
74 Mackenzie Street, Mount Lofty QLD 4350
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SHORT TERM STAY TERMS AND CONDITIONS

BETWEEN: SE QUEENSLAND HOMES PTY LTD ACN 626 901 657 TRADING AS TOOWOOMBA HOLIDAY RENTALS ABN 72 626 901 657

of 74 Mackenzie Street, Mount Lofty QLD 4350

Email: megan@toowoombaholidayrentals.com.au

(THR)

AND: [INSERT NAME OF GUEST]

of [INSERT ADDRESS]

Email: [INSERT CLIENT EMAIL ADDRESS]

(Guest)

OPERATIVE PART

1. Definitions and Interpretation

1.1 The meanings of the terms used in this document are as follows:

- (1) **Agreement** means this short term stay terms and conditions, as validly varied from time-to-time;
- (2) **Agreement Date** means the date that the Guest makes the Booking;
- (3) **Booking** means a rental booking for the Property made by the Guest via the Booking Site;
- (4) **Booking Site** means the website or websites on which the Property is listed for rent by THR, from time-to-time (including, but not limited to the Site, Air BnB, Booking.com, HomeAway, Trip Advisor and Expedia);
- (5) **Business Day** means a day that is not a Saturday, Sunday or public holiday in Toowoomba;
- (6) **Check In Date** means the day that the Booking commences;
- (7) **Claims** means all demands, claims, proceedings, penalties, fines and liabilities (whether criminal or civil, in contract, tort or otherwise);
- (8) **Cleaning Fee** means the fee payable by the Guest, which is included in the Rent, for the Property to be cleaned during and/or at the end of the Booking, to be determined by THR from time-to-time;
- (9) **Deposit** means a part payment of the Rent in the amount determined by THR and/or the Booking Site, from time-to-time;
- (10) **Extra Person Fee** means the fee, which is included in the Rent, for additional Guests to stay at the Property for the duration of the Booking, to be determined by THR from time-to-time;
- (11) **GST** means goods and services tax as defined in the GST Law;
- (12) **GST Law** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (13) **Guest** means a person who makes a Booking to stay at the Property;
- (14) **Losses** means all losses including financial losses, consequential losses, damages, legal costs on an indemnity basis and other expenses of any nature whatsoever;
- (15) **Personal Information** has the same meaning as in the Privacy Law;
- (16) **Privacy Law** means the *Privacy Act 1988* (Cth) and associated regulations;
- (17) **Property** means the property owned by the Property Owner and rented by the Guest and their Related Parties for the duration of the Booking;
- (18) **Property Owner** means the legal owner of the Property;
- (19) **Related Parties** means all individuals who have been authorised by THR to stay at the Property for the duration of the Booking;
- (20) **Rent** means the total fees payable in relation to each Booking, including (but not limited to) the Cleaning Fee and/or the Extra Person Fee;
- (21) **Security Bond** means a monetary amount determined by THR, in their sole discretion, to be provided by the Guest in accordance with this Agreement;
- (22) **Sensitive Information** has the same meaning as in the Privacy Law; and
- (23) **Site** means the website owned and operated by THR; and

(24) **Term** means the period of time commencing on the date on which the Guest makes the Booking and ending on the last day of the Booking.

1.2 In this Agreement:

- (1) a singular word includes the plural and vice versa;
- (2) a word which suggests one gender includes all other genders;
- (3) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (4) (a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and
- (5) references to this or any other document include the document as varied or replaced, and despite any change in the identity of the parties;
- (6) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document includes any schedules or annexures;
- (7) a reference to a party means a party to this Agreement and includes the party's executors, administrators, successors and permitted assigns;
- (8) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (9) if any day on or by which a person must do something under this document is not a Business Day, then the person must:
 - (a) if it involves a payment other than a payment which is due on demand, make that payment on the preceding Business Day; and
 - (b) in all other cases, do that thing no later than the next Business Day;
- (10) a reference to 'month' means calendar month;
- (11) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it; and
- (12) headings are for convenience only and do not form part of this document or affect its interpretation.

2. Agreement

- 2.1 All aspects of the Booking (including but not limited to the payment of Rent, the Guest and its Related Parties' conduct at the Property, cancellation of Bookings etc.) are governed by this Agreement.
- 2.2 Once the Guest makes the Booking via the Booking Site, they will be deemed to have agreed to be bound by this Agreement.
- 2.3 The Guest must and must ensure its Related Parties comply with all terms of this Agreement at all times during the Term. The Guest must ensure that their Related Parties are made aware of all the terms of this Agreement prior to the Check In Date.
- 2.4 The Guest acknowledges that any terms and conditions imposed by any of the Booking Sites (except the Site) do not form part of this Agreement and that the Guest has read, understood and agrees to be bound by the terms and conditions imposed by the Booking Sites. THR cannot be held liable for any Losses suffered by the Guest or any other party that arises directly or indirectly as a result of the Booking Sites.

3. Bookings and Rent

- 3.1 Bookings are to be made via the Booking Sites unless otherwise directed by THR.
- 3.2 Bookings will be confirmed once the Deposit has been:
 - (1) paid by the Guest in the manner and method as required by THR and/or the Booking Site, from time-to-time; and
 - (2) received by THR directly or via the Booking Site in cleared funds.
- 3.3 Payment of the Rent less the Deposit, will be collected at a time and in the method as determined by THR from time-to-time.
- 3.4 Notwithstanding clauses 3.2 and 3.3, THR reserves the right to require full payment of the Rent to confirm the Booking (either directly or via the Booking Site, whichever is applicable), in their sole discretion (including but not limited to Bookings that are made within fourteen (14) days of the Check In Date).
- 3.5 If Guests require any amendments to a Booking, they should notify THR (either directly or via the Booking Site, whichever is applicable) of the required amendments immediately. THR may allow the Guest to make amendments to the Booking and may impose a fee payable by the Guest for the amendments, in THR's sole discretion.
- 3.6 Cancellation fees and conditions will be imposed on Guests in accordance with the terms and conditions of the relevant Booking Site and/or as determined by THR from time-to-time.
- 3.7 Once a Booking is confirmed, the Guest will be required to provide the Security Bond to THR in the manner and method as determined by THR, from time-to-time. If required by THR, the Guest agrees to provide THR with valid credit card details to allow THR to preauthorise and/or charge the Security Bond in accordance with this Agreement.
- 3.8 THR may, in their sole discretion, retain all or part of the Security Bond in the following circumstances:
 - (1) any part of the Property and/or any item located in, on or around the Property has been broken, damaged or lost during the Booking and requires repair and/or replacement;

- (2) if the Property requires cleaning outside of the scope to which the Cleaning Fee relates in order to return the Property to the condition it was in on the Check In Date;
 - (3) excess towel or linen usage during the Booking requiring additional washing and/or dry cleaning; and/or
 - (4) if the Guest or any of its Related Parties breaches the terms of this Agreement in any way.
- 3.9 If the costs of attending to the instances described in clauses 3.8(1)-3.8(4) exceed the Security Bond amount, the Guest will be liable to pay the additional costs directly to THR as a liquidated debt required by THR, in their sole discretion.
- 3.10 THR reserves the right to refuse or revoke any Booking prior to the Check In Date, in THR's sole discretion, in which case the Guest will be provided with a full refund of any monies paid by the Guest at that point in time. For the avoidance of doubt, THR cannot be held responsible for any Losses incurred by the Guest and/or their Related Parties associated with refused or revoked Bookings.
- 3.11 If the Property Owner allows pets to stay at the Property, THR may, in their sole discretion, allow the Guest to have their or their Related Parties' pets stay at the Property for an additional fee as determined by THR from time-to-time.

4. Guest's Obligations

- 4.1 The Guest and all of its Related Parties staying at or visiting the Property during the Booking are required to comply with all reasonable requirements and directions of THR, including but not limited to:
- (1) making sure they are aware of and complying with all relevant body corporate rules and by-laws;
 - (2) outdoor noise is not permitted between the hours of 10:00pm and 7:00am;
 - (3) excessive noise and/or annoying behaviour is not permitted at any time;
 - (4) smoking is not permitted inside the Property;
 - (5) the Property is to be kept in a clean and tidy manner for the duration of the Booking;
 - (6) the occupants of the Property (comprising the Guest and its Related Parties) during the Booking must not exceed the number of occupants approved by THR at the time of making/confirming the Booking;
 - (7) the Property is not to be used for any sort of event and/or function which may breach any local authority's rules or regulations;
 - (8) all requirements relating to pets must be strictly adhered to, if the Property permits pets and pets will be staying at the Property during the Booking;
 - (9) only designated car parks must be used; and
 - (10) ensuring they do not engage in illegal and/or injurious conduct at any time.
- 4.2 If the Guest or any of its Related Parties breach any of the obligations contained in clause 4.1, without prejudice to THR's other legal rights, THR has the right to immediately evict the Guest or any of its Related Parties from the Property and the Guest will not be entitled to any refund.
- 4.3 The Guest must provide all relevant information required by THR in relation to the Booking (including but not limited to, name, phone number, address, details of other parties staying at the Property, details or documentation relating to pets staying at the Property etc.) upon request by THR.
- 4.4 The Guest warrants that they are over the age of twenty-one (21) years of age and THR reserves the right to refuse or revoke a Booking that has been made by anyone under the age of twenty-one (21) years of age.

5. No Representations

- 5.1 The Guest and each Related Party acknowledges and agrees that THR and the Property Owner:
- (1) expressly makes no representations as to:
 - (a) the suitability of the Property for the use of the Guest and/or any of their Related Parties (including pets); and/or
 - (b) the availability of the Property;
 - (2) will take all reasonable steps to ensure that the information relating to the Property contained on the Booking Sites is true and correct, however, will not be responsible for any inconsistencies relating to information provided on the Booking Sites or otherwise in relation to the Property;
 - (3) cannot be held responsible, in any way whatsoever, for the Booking Sites' advertisements of the Property on their own sites or other websites; and
 - (4) acts as a letting agent only and cannot be held responsible in any way for the repair and condition of the Property.

6. Compliance with Privacy Laws

- 6.1 THR agrees to take all reasonable steps required to protect personal information in THR's possession or control against misuse, interference, loss and unauthorised use, access, modification or disclosure.
- 6.2 THR warrants that THR complies with privacy laws in relation to the use, storage, transfer and other dealings with personal information obtained pursuant to or in any way connected with this Agreement.

7. Indemnity

- 7.1 The Guest and its Related Parties acknowledge that they are responsible for their personal belongings or any personal property (including any pets) located at, in or around the Property at all times during the Booking and THR and the Property Owner take no responsibility for the loss or damage of any such personal property.

- 7.2 To the full extent permitted by law, the Guest and its Related Parties must release, indemnify and hold THR and the Property Owner harmless (as the case may be) from and against all Claims and Losses arising from loss, damage, liability, or third party losses, by reason of or arising out of or in relation to this Agreement or the Property whatsoever (including any termination of the Agreement), except any Claim or Loss directly resulting from THR's negligence or breach of this Agreement.
- 7.3 To the full extent permitted by law, THR excludes all representations, warranties or terms (whether express or implied) other than those expressly set out in this Agreement.
- 7.4 THR's total aggregate liability for all Claims and Losses relating to this Agreement is limited to the Rent payable under the terms of this Agreement.
- 7.5 Either party's liability for any Claim relating to this Agreement will be reduced to the extent to which the other party contributed to the damage arising from the Claim.
- 7.6 The Guest and its Related Parties agree to indemnify THR and the Property Owner fully against all Claims and Losses which THR or the Property Owner may incur as a result of any breach of this Agreement by the Guest and/or its Related Parties.
- 7.7 This Agreement is to be read subject to any legislation which prohibits or restricts the exclusion, restriction or modification of any implied warranties, guarantees, conditions or obligations. If such legislation applies, to the extent possible, THR limits its liability in respect of any claim to, at THR's option:
- (1) providing the Guest with a booking that is the same as or similar to the Booking; or
 - (2) the repayment of the Rent.

8. Default and Termination

- 8.1 Either party may terminate this Agreement by written notice to the other if any of the following events has occurred in respect of the other party:
- (1) a material breach of this Agreement has occurred which is not remediable or if capable of remedy, where the other party fails to remedy within 14 days of written notice; or
 - (2) an insolvency event occurs, other than an internal reconstruction with notice to the other party;
- at which time the Booking will be cancelled and, in the event of THR's default under this clause only, any monies paid by the Guest will be refunded in full.
- 8.2 If this Agreement is terminated or expires for any reason, then, in addition and without prejudice to any other rights or remedies available:
- (1) the parties are immediately released from their obligations under this Agreement, except those obligations that, by their nature, survive termination;
 - (2) each party retains the claims it has against the other;
 - (3) the Guest must immediately pay all outstanding monies owed (if any) to THR without off-set (including any off-set for any alleged claim).
- 8.3 If this Agreement is terminated by any party for another party's breach of an essential term, or repudiation of this Agreement, the party is entitled to utilise any remedy available to that party at law, as well as recover from the breaching party:
- (1) their legal, accounting and other costs and disbursements which are reasonably incurred; and
 - (2) damages in respect of the loss or damage suffered by the party.

9. Notices

- 9.1 Any notice given under this Agreement must be in writing and signed by the party or their solicitor and delivered to the respective address or email address for that party specified on page 1 of this Agreement or any other address more recently notified by one party to the other in writing.

10. Electronic Contract and Disclosure

- 10.1 If this Agreement is signed by any person using an electronic signature, the parties agree:
- (1) to enter into this Agreement in electronic form; and
 - (2) consent to either or both parties signing the Agreement using an electronic signature.
- 10.2 The Client consents to THR's use of electronic communication to give any notice or information required by law to be given to the Client and which was given before the Client signed this Agreement.

11. Jurisdiction

- 11.1 This Agreement will be governed by and constructed in accordance with the laws of Queensland and the parties submit to the exclusive jurisdiction of Queensland courts and any courts which have jurisdiction to hear appeals from any of those courts.

12. No Assignment

- 12.1 No party to this Agreement may assign their rights or obligations under this Agreement without first obtaining the consent of all other parties, which may be withheld in any party's sole discretion.
- 12.2 Notwithstanding clause 12.1, THR may appoint sub-contractors or agents to perform all or part of any Services under this Agreement, in their sole discretion.

13. No waiver

- 13.1 The failure of a party to require full or partial performance of a provision of this Agreement does not affect the right of that party to require performance subsequently.
- 13.2 A right under this Agreement may only be waived in writing signed by the party granting the waiver and is effective only to the extent specifically set out in that waiver.

14. Variation

- 14.1 THR may vary the terms of this Agreement by giving seven (7) days written notice to the Guest prior to the Check-In Date. The Guest must give notice terminating this Agreement within seven (7) days of receipt of the notice from THR, otherwise, the Guest will be deemed to have agreed to the variation.

15. Entire Agreement

- 15.1 This Agreement (and any documents executed in connection with it) is the entire agreement of the parties about its subject matter and supersedes all other representations, arrangements or agreements. Other than as expressly set out in this Agreement, no party has relied on any representation made by or on behalf of the other.

16. Severability

- 16.1 This Agreement will, so far as possible, be interpreted and construed so as not to be invalid, illegal or unenforceable in any respect, but if a provision, on its true interpretation or construction is held to be illegal, invalid or unenforceable:
- (1) that provision will, so far as possible, be read down to the extent that it may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation; or
 - (2) if the provision or part of it cannot effectively be read down, that provision or part of it will be deemed to be void and severable and the remaining provisions of this Agreement will not in any way be affected or impaired and will continue notwithstanding that illegality, invalidity or unenforceability.

17. Joint and Several Liability

- 17.1 If a party to this Agreement consists of more than one person, or a term is used in this Agreement to refer to more than one party:
- (1) an obligation of those parties is a joint obligation of all of them and a several obligation of each of them;
 - (2) a right given to those parties is a right given jointly and severally to each of them, and if exercised by one of them, is deemed to be exercised jointly; and
 - (3) a representation, warranty or undertaking made by those parties is made by each of them.

18. Counterparts

- 18.1 This Agreement may be signed or executed in a number of counterparts, with the same effect as if the signatures to or execution of each counterpart were on the same instrument. This Agreement may also be executed by an exchange of facsimile or electronic transmissions of signed counterparts of this Agreement.

Acceptance by Client

By signing this Agreement, the Guest hereby acknowledges and agrees that:

- (a) they have read and agree to the terms and conditions which form part of this Agreement;
- (b) they have made their Related Parties aware of the terms and conditions which form part of this Agreement, including making them aware that they are bound by them;
- (c) THR may vary the terms and conditions in accordance with the terms and conditions of this Agreement; and
- (d) any information provided by the Guest is true and accurate to the best of the Guest's knowledge and belief and the Guest agrees to immediately notify THR if any of the information changes.

The person signing below warrants to THR (and understands that THR will rely upon this representation) that they are authorised to complete this Agreement on behalf of the Guest.

Signed _____

Signed _____

Name _____

Name _____

Date ____/____/____

Date ____/____/____