

ONLINE AFFILIATE AGREEMENT

BY REGISTERING AND SIGNING UP TO THE AGODA PARTNER PROGRAM AS AFFILIATE PARTNER, THE AFFILIATE HEREBY HAS REVIEWED AND UNDERSTANDS, ACKNOWLEDGES AND ACCEPTS THE TERMS AND CONDITIONS OF THIS AFFILIATE AGREEMENT (THE "AGREEMENT").

BETWEEN:

1. AGODA COMPANY PTE. LTD., a company incorporated under the laws of Singapore and having its registered office at 30 Cecil Street, Prudential Tower # 19-08, Singapore 049712 ("Agoda"), and
2. THE AFFILIATE, whose details are set out in the Affiliate Partner Registration Form or have been submitted online (the "Affiliate").

(Agoda and the Affiliate are a "Party" to this Agreement and are collectively referred to as the "Parties")

WHEREAS:

- (i) Agoda operates an online accommodation reservation system (the "System") through which participating Accommodations (collectively the "Hotels", each a "Hotel") can make their rooms available for reservation, and through which visitors can make reservations at such Hotels (the "Service");
- (ii) Agoda maintains and exploits its own websites (the "Agoda Websites"), and also provides the Service and links to the Service on the websites of third parties;
- (iii) the Affiliate owns, controls, hosts and/or operates one or more Internet domains and websites;
- (iv) the Affiliate and Agoda wish that the Affiliate makes the Service (directly or indirectly) available to its customers and visitors of the Affiliate Website(s) and in such form and on such terms and conditions as set out in this Agreement.

NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In addition to terms defined elsewhere in this Agreement, the following definitions apply throughout this Agreement, unless the contrary intention appears:

"Accommodation" means any form of accommodation, including but not limited to hotels, motels, guest houses, bed & breakfasts, hostels, villa's, apartments (serviced or otherwise), lodges, inn, guest accommodation, resort, condominium, camping accommodation and any other (type of) accommodation or lodging provider (whether or not available on the Agoda Websites).

"Affiliate" means the Party of which the relevant (contact) details are set out in Affiliate Partner Registration Form.

"Affiliate Departures" has the meaning as set out in clause 5.1.4.

"Affiliate Group" means the Affiliate and the ultimate holding company of the Affiliate (including the group of companies or entities which are under the (direct or indirect) Control of (the ultimate holding company or shareholder(s) of) the Affiliate).

"Affiliate Partner Registration Form" means the online sign up and registration form to be completed by the Affiliate.

"Affiliate Website(s)" means the website(s) owned, controlled, hosted and operated by the Affiliate on which the Service shall be made available which URL's are set out in the Affiliate Partner Registration Form.

"Agency Transaction" means a Materialized Transaction in which Agoda is not the merchant of record for the booking, but whereby Agoda facilitates the reservation between Guest and Hotel and earns a commission from the hotel upon successful completion of the booking.

"Agoda Competitor" means any direct or indirect competitor of Agoda (excluding, for the avoidance of doubt, companies in the Agoda group of companies).

"Agoda Brands" means any term or keyword which is the same as or confusingly similar to (including any variations, translations, misspellings and singular/plural forms of) any of following term(s): Agoda, Booking, Bookings, Active Hotels, or Priceline, Rentalcars, KAYAK, Opentable, Buteeq, or Traveljigsaw (with or without any associated Internet domain names (with whatever (country code) top-level domain) (e.g. Agoda.com, Agoda.co.th, Booking.com, Booking.fr, www.rentalcars.com, ActiveHotels.com, priceline.co.uk, priceline.com, www.kayak.com, www.opentable.com, www.traveljigsaw.com, www.carhire3000.com, etc.).

"Agoda Data" means the Intellectual Property Rights of Agoda and the Content as provided to the Affiliate under this Agreement and such other information from time to time owned or used by Agoda or embodied or included in Agoda Websites or made available by Agoda to the Affiliate (e.g. rates and availability).

"Agoda Websites" means the website(s) of Agoda, including but not limited to agoda.com and all local or alternate versions thereof (with whatever top-level domain), as well as any variations thereof, including but not necessarily limited to the mobile website, mobile applications etc.

"Agreement" means this agreement.

"Black Hat" (also called spamdexing) means any attempt to redirect search results to particular target pages in a fashion or manner that is in violation of the Spamming Regulations. Black Hat SEO tactics include: keyword stuffing, cookie stuffing, hidden text and links, doorway and cloaked pages, link farming and blog comment spam.

"Clause" means a clause of this Agreement.

"Cloaking" means a Black Hat search engine optimization (SEO) technique in which the content presented to the search engine spider is different to that presented to the user's browser, with the purpose to deceive search engines so they display the page when it would not otherwise be displayed. Cloaking includes the doorway page technique and the Open Directory Project web directory.

"Commission" means the amount in USD (excluding taxes) that Agoda will pay to the Affiliate for each Materialized Transaction in accordance with this Agreement.

"Connections" means all links, landing pages and/or XML feeds and/or deeplinks and/or hyperlinks, created, hosted and maintained by Agoda.

"Content" means all (descriptive) information of Hotels available on the Agoda Website including but not limited to hotel information and descriptions, guest reviews, meta data, details of facilities and (cancellation/no show) policies and general terms of the Hotels (including any translations thereof) and photos, video, pictures, but excluding rates and availability (including any updates, modifications, replacements, additions or amendments).

"Control" means the possession of the power or the ability to (directly or indirectly, alone or in concert with others, whether through the ownership of voting securities or other ownership interests, a partnership or otherwise) (i) exercise or cause to exercise more than one-half of the voting rights in the shareholders' meeting of a company, (ii) appoint more than one-half of the ((non-)executive) directors or supervisory directors of a company, or (iii) direct or cause the direction of management relating to a company.

"Customer Data" means the Guest's personally identifiable information ("PII"), including but not limited to the Guest's name, address (including email address), credit card details and such other confidential and private information of a Guest.

"Double Serving" means multiple ads on the same results page of a search engine with the purpose to direct traffic to similar websites or pages with similar content.

"Effective Date" means the date on which the Service is made available to the Guests on the Affiliate Website(s).

"Guest" means a visitor of the Websites that completed a hotel reservation via the Service.

"Hotel" means any Accommodation available on or through the Agoda Websites.

"Hotel Brands" means any term or keyword which is the same as or confusingly similar to (including any variations, translations, misspellings and singular/plural forms of) any trademarks or trade name (whether registered or unregistered) belonging to or owned by any Hotel.

"Intellectual Property Right" means any patent, copyright, inventions, database rights, design right, registered design, trade mark, trade name, brand, logos, service mark, know-how, utility model, unregistered design or, where relevant, any application for any such right, know-how, trade or business name, domain name (with whatever (country code) top-level domain, e.g. .com,.net., co.th, .de, .fr, eu, co.uk., etc.) or other similar right or obligation whether registered or

unregistered or other industrial or intellectual property right subsisting in any territory or jurisdiction in the world.

"Link" means an embedded icon, object, graphic, or text within a web page or email that consists of a hypertext pointer to the URL address of Agoda on the Affiliate Website(s).

"Merchant Transaction" means a Materialized Transaction in which Agoda is the merchant of record, whereby Agoda collects funds directly from the Guest for the reservation.

"Materialized Transaction(s)" means the reservation by a visitor of the Affiliate Website(s) who, through the Connection, has made a reservation with a Hotel, and which reservation has resulted in the actual provision of accommodation, as confirmed to Agoda by the Hotel. Materialized Transactions will always be adjusted for amendments (e.g. shortened stays), chargebacks, credit card fraud, bad debt or otherwise. For the avoidance of doubt, cancellations, no-shows etc. can never be considered Materialized Transactions.

"Micro Site" means all white label versions of the primary website of Agoda, which are owned, created, hosted and maintained by Agoda. The Micro Site may be marked with a 'powered by Agoda' logo or equivalent.

"Paid Search" means any form of online advertising that ties the presentation of an ad to a specific keyword-based search request.

"Partner Center" has the meaning as set out in Clause 4.1.8.

"Price Comparison" means the comparison of hotel prices and/or availability made available from or by two or more online hotel booking platforms.

"Reselling" has the meaning as set out in Clause 4.1.7.

"SEM" means search engine marketing and includes any form of online marketing that seeks to promote websites by increasing their visibility in search engine result pages through the use of search engine optimization, paid placement, contextual advertising or paid inclusion.

"SEO" means search engine optimization and includes the process of (i) improving the volume or quality of traffic to a web site or a web page from search engines via "natural" or un-paid ("organic" or "algorithmic") search results, or (ii) realizing or creating an improved or better ranking in search engine results for a specific keyword or keywords.

"Similar Domain Name" has the meaning as set out in Clause 4.7.1.

"Spamming Regulations" means any policies, regulations, restrictions or obligations as from time to time prescribed, declared applicable or announced by Third Party Platforms which (i) prohibit or prevent Double Serving, Cloaking or any similar technique or method, or (ii) contain such further restrictions or regulations in respect of spamming or preserving a unique user experience.

"Third Party Platforms" means any (third party) search engine (marketing provider), meta-search engine, search engines spiders, travel search sites, price comparison sites, social networking

communities, browsers, content sharing and hosting services and multimedia blogging services or other (similar) channels or other forms of (traffic hosting) media, whether online or offline.

"Websites" means the website(s) of Agoda and its affiliated companies and affiliated partners (including the Affiliate Website(s)) on which the product and service of Agoda is available.

"XML" means an xml connection between the Agoda database and the Affiliate's database which can be provided by Agoda on terms to be agreed.

1.2 No Partnership

1.2.1 This Agreement is not intended, nor should anything herein or in any of the arrangements contemplated herein, be construed, to create a joint venture or the relationship of partners, partnership or principal and agent between or among the Parties. Unless the Parties agree otherwise in writing, none of them shall (i) enter into any contract or commitment with third parties as agent for or on behalf of the other Party, (ii) describe or present itself as such an agent or in any way hold itself out as being such an agent, or (iii) act on behalf of or represent the other Party in any manner, or for any purpose.

1.2.2 Unless agreed otherwise in writing by Agoda or save as set out otherwise in this Agreement, the Affiliate shall not publish anywhere on the Affiliate Website(s) any statement, either express or implied, that the website is part of, endorsed by, or an official website of Agoda.

2. SCOPE OF THIS AGREEMENT

2.1 Non-exclusivity

Subject to the terms and conditions of this Agreement, the Affiliate shall operate as a non-exclusive distributor (affiliate) of Agoda.

2.2 Service

2.2.1 For the term of this Agreement, Parties have agreed that the Service shall be made available by Agoda to the Affiliate as set out in Affiliate Partner Registration Form (i.e. Link, or Micro Site) and on the website(s) as set out in Affiliate Partner Registration Form (i.e. the Affiliate Website(s)).

2.2.2 When a booking is made by a visitor on or through the Affiliate Websites through the System, Agoda shall be responsible for the transmission of the relevant reservation details from the visitor who completed a booking to the Hotel (e.g. the date of arrival, number of nights, room type, guest name) and (sending of) the subsequent (email) confirmation and/or confirmation voucher to the Guest.

2.2.3 The Service shall include customer services to and for the benefit of the Guests. The Affiliate shall promptly refer and/or forward all customer service related issues and questions in respect of the Service, (the consummation of) the booking (including any amendment or cancellation of the booking), the Hotel and all other relevant (payment) issues, complaints and

questions directly to (the customer service center of) Agoda and not provide any further services in this respect.

2.2.4 The offer of the Service through Micro Site does not include the following features: temporary tests on Agoda (other than the "test hotel" made available for the Affiliate Website(s)), guest reviews and such other (new) features as Agoda at its sole discretion may determine.

2.3 Link or Micro Site

2.3.1 In the event that the Service is made available through the Link, the Affiliate shall at its own costs integrate and make the Link available at such prominent place(s), web-pages and in such place, size and form on the Affiliate Website(s) as instructed by Agoda or as mutually agreed upon by Parties.

2.3.2 In the event that the Service is made available through the Micro Site, the Affiliate shall at its own costs integrate and make the Connections and/or the Micro Site available at such prominent place(s), web-pages and in such place, size and form on the Affiliate Website(s) as instructed by Agoda or as mutually agreed upon by Parties.

3. LICENSE

3.1 Mutual license

3.1.1 Subject to Clause 4.4, Agoda hereby grants the Affiliate a non-exclusive, revocable, restricted, royalty free and worldwide right and license:

(a) to display such elements of the Agoda Data and such further information of the Hotels on the Affiliate Website(s), all as provided or made available by Agoda to the Affiliate;

(b) to promote and market the Service subject to the terms set out in this Agreement.

3.1.2 The Affiliate hereby grants Agoda a royalty free and worldwide right and license:

(a) to incorporate, integrate, include and display the Link, the Micro Site and/or the Connection (as applicable) on the Affiliate Website(s), and

(b) to make the Service available on the Affiliate Website(s).

3.2 No sublicense right and non-disclosure

3.2.1 Unless agreed otherwise in writing by Agoda, the Affiliate shall not (i) be entitled to sublicense the rights granted to it under Clause 3.1.1, or (ii) sublicense the Link or Connection to any third party, or (iii) hyperlink to the Agoda Website via or in collaboration with (the websites of) companies within the Affiliate Group and/or third parties.

3.2.2 Unless agreed otherwise by Agoda in writing or save as set out otherwise in this Agreement, the Affiliate shall not directly or indirectly be entitled to sell, use, transfer, (sub)license, communicate, disclose, make available, allow access to, divulge or otherwise disseminate the Agoda Data or the Content (i) to any third party, (ii) for price/availability

comparison purposes, sites, reviews or investigations, (iii) for any other purpose other than (generating Hotel reservations through) the Service, or (iv) otherwise.

4. COVENANTS AND UNDERTAKINGS

4.1 General covenants, undertakings and obligations

4.1.1 Subject to the terms of this Agreement, the Affiliate agrees to use commercially reasonable endeavors to (i) customize the Affiliate Website(s) and integrate the Link, Connections and/or the Micro Site in such a way as to generate as much traffic as possible to the Agoda Website or the Affiliate Website(s), and (ii) promote and market the Hotels and the option to book Hotels on the Affiliate Website(s) within its commercial and internal network and for this purpose shall make its distribution network and channels (e.g. its internet and intranet) available.

4.1.2 The Affiliate agrees not to take or omit to take any action which may affect Agoda's relationship with the Hotels available on the Agoda Websites. The Affiliate agrees not to cause or permit to be done anything which may cause Agoda to be excluded from the process of booking with any Hotel, moreover, the Affiliate shall not in a negative or detrimental way speak (i.e. badmouth) of or comment on (the business of) Agoda (or its staff) and shall not persuade, induce or attempt to induce any Hotel to terminate its contract with or reduce its dealings and business with Agoda.

4.1.3 The Affiliate agrees not to communicate with any Hotel in respect of (consumed) bookings made through the System or for any customer service in respect of such bookings made through the System or consumed.

4.1.4 The Affiliate shall duly and diligently maintain and adjust the contents of the Affiliate Websites and shall keep the Affiliate Website(s) up-to-date and accurate. The Affiliate shall promptly correct any errors or omissions on the Affiliate Website(s) and in the information relating to the Hotels after becoming aware of such errors or being notified by Agoda.

4.1.5 The Affiliate shall not (a) programmatically evaluate and extract information (including guest reviews) from any part of the Agoda Website (e.g. screen scrape) or attempt to do so and shall not, by any means, including, but not limited to, mechanical, electronic, photocopying, recording or otherwise, copy, reproduce, modify, alter, adapt, disassemble, reverse engineer, scrape, or otherwise determine the source code of (or underlying ideas, algorithms, structure or organization of) the links or any content contained on or services provided by the Agoda Website or attempt to do so; (b) upload (i) any virus, Trojan horse, worm, time bomb, robot commands or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; (c) make any representations to visitors, to the general public or to any other party related in any way to the Company, the services, the links or the Agoda Website; (d) (attempt to) obtain credit or Commissions from Agoda by misrepresentation, making false statements, fraudulent behavior or any other scheme or trick to deceive Agoda; or (e) otherwise (attempt to) cause detriment to Agoda and the Agoda Website. Any violation of the aforesaid provisions will lead to the Affiliate being terminated from the program and to forfeiture of any outstanding payments due.

4.1.6 The Affiliate shall not make any static copy of the Content or any part of the Agoda Website (including guest reviews).

4.1.7 Under this Agreement, the Affiliate shall not profit from bookings or reservations in addition to receiving Commission from Agoda subject to the terms of conditions of this Agreement. The Affiliate (including its employee and person under its authorization) shall not make any bookings or reservations with any Hotel on the Agoda Website or the Affiliate Website with the purpose of reselling such booking or reservation to or for the benefit of a third party (the "Reselling"). For the avoidance of doubt, Agoda has sole discretion to deem any booking or reservation as Reselling where the payment of such booking or reservation is not directly from the person in whose name(s) such booking or reservation is made.

Reselling is considered a material breach of this Agreement. The Affiliate acknowledges that Reselling is contrary to the fundamental purpose of this Agreement. In the case of Reselling, Agoda reserves the right to reject bookings and/or cancel confirmed bookings without prior notifications or refund. Agoda may also immediately terminate the Affiliate's participation in the program at its sole discretion, without prejudice to other remedies as set out in this Agreement, including forfeiture of Commission and request for compensation.

4.1.8 Agoda will provide the Affiliate with a unique link to a secured affiliate partner website of Agoda (the "Partner Center"), user ID and password which allows the Affiliate to monitor the booking of accommodation through the Affiliate Website(s) and all relevant management information made available by Agoda online. The Affiliate shall safeguard and keep the user ID and password confidential and safely stored and not disclose it to any person other than those who need to have access to the Partner Center. The Affiliate shall immediately notify Agoda of any (suspected) security breach or improper use.

4.1.9 Any booking or reservation with any Hotel made by the Affiliate on the Agoda Website or the Affiliate Website are subject to Agoda Terms of Use which may be updated from time to time. For the avoidance of doubt, the Affiliate shall not use the Agoda Website or its contents for any commercial purpose except for the purpose of receiving Commission subject to the terms of conditions of this Agreement.

4.1.10 The Affiliate agrees and acknowledges that the restrictive covenants, undertakings, commitments, obligations and restrictions set out in this Clause 4 are reasonable and of material importance to Agoda, in particular for (i) its willingness to enter into this Agreement with the Affiliate and make the Service, the Content and the Agoda Intellectual Property Rights (directly or indirectly) available to the Affiliate, and (ii) the protection of goodwill, product, service and (market) reputation of Agoda. Furthermore, the Affiliate agrees and acknowledges that all covenants, undertakings, commitments, warranties, obligations and restrictions set out in this Clause 4 shall (a) be promptly, duly and diligently complied with by the Affiliate, and (b) also apply in respect of any person with access to the Partner Center through the user ID of the Affiliate, any person reasonably believed to be representing the Affiliate, and the companies within the Affiliate Group. The Affiliate shall procure, warrant and undertake that any person who has access to the Partner Center through the user ID of the Affiliate, any person reasonably believed to be representing the Affiliate, and the companies within the Affiliate Group shall

observe, adhere to, comply with and act in accordance with the terms and conditions set out in this Clause 4.

4.2 Goodwill, brand protection and traffic

4.2.1 In order to protect the product, service, brand and goodwill of Agoda, the Affiliate hereby covenants, undertakes and warrants that the Affiliate Website(s) (including all other websites (directly or indirectly) owned, controlled or hosted by the Affiliate or companies within the Affiliate Group) save for the Micro Site, is (and shall remain) sufficiently and substantially distinct and different from the Agoda Website (to be determined at Agoda sole discretion). The Affiliate hereby agrees and acknowledges that for the term of this Agreement and continuing thereafter:

(a) the look and feel of the Affiliate Website(s) (including all other websites (directly or indirectly) owned, controlled or hosted by the Affiliate) shall be distinctly and significantly different to the Agoda Website including in respect of the color scheme, the composition, the typefaces, the design and the layout (including the brand), the (click) buttons, boxes and banners and the available features (save for those features reasonably required for the performance of the Affiliate's obligations under this Agreement);

(b) any logo(s) used on the Affiliate Website(s) (including all other websites owned, controlled or hosted by the Affiliate) shall be distinctly different to the Agoda logo (save for any logo that may be provided by Agoda for use by the Affiliate under or pursuant to this Agreement);

(c) the Affiliate shall not in any way imitate or copy the Agoda Websites (in general or in respect of certain (new) features, pages, form, composition or aspects), and

(d) the Affiliate shall promptly comply at its own costs with any reasonable requests from Agoda to make such (further) changes, alterations or amendments to any aspect of the Affiliate Website(s) which is or can be regarded to be confusingly or significantly similar to any element of the Agoda Website.

4.2.1 The Affiliate must ensure a reasonable look-to-book ratio and avoid excessive low quality traffic, as reasonably determined by Agoda. If the Affiliate wishes to send traffic in excess of 10,000 daily visitors to Agoda, prior written approval by Agoda is required. If Affiliate sends excessive low quality traffic volumes to Agoda, Agoda may suspend the Affiliate at its sole discretion, without prejudice to other remedies as set out in this Agreement, including termination and forfeiture of Commission.

4.3 Intellectual Property Rights

4.3.1 The Affiliate acknowledges that Agoda and/or its licensors shall retain ownership of all rights, title and interest in and to all Intellectual Property Rights of Agoda or embodied in the Agoda Website, including (but not limited to) the Agoda logo, the Content and the Agoda Data. Nothing contained in this Agreement shall be deemed to transfer any such right, title or interest to the Affiliate in any way.

4.3.2 The Affiliate shall not disclose, integrate, include, use, combine, exploit, incorporate or otherwise make the Content and Agoda Data (or any part thereof) available (a) with its own content and/or the content of any Agoda Competitor (including the Hotels), or (b) to or for the benefit of (i) itself (save for enabling the Service and the System in accordance with the terms of this Agreement), or (ii) any Agoda Competitor (including the Hotels) (whether for the promotion of, marketing of, reference to, promotion of, advertising of or otherwise in the interest of or to such party), or (c) for any other purpose or in any other manner and/or on or through Third Party Platforms except as expressly provided for in this Agreement. The Affiliate shall not amend, alter, modify, distort, create derivative and/or new works based on and/or derived from the Content and the Content shall not include a (direct or indirect) link, reference, click-through or reference to (the website of) a Agoda Competitor (including the Hotels).

4.3.3 The Affiliate shall (and shall procure that the companies within the Affiliate Group shall) not (directly or indirectly) register, acquire, use, purchase or obtain Internet domain name which incorporates any word or words which are identical, or confusingly or substantially similar to "Agoda" or any variations, translations or misspellings thereof, included as part of the address.

4.3.4 By entering into this Agreement, Agoda does not (explicitly or tacitly) waive or forfeit any of its rights to which it is entitled by any law, contract or otherwise (now or in the future) in respect of the Agoda Intellectual Property Rights vis-à-vis the Affiliate or other third parties.

4.4 Promotion and marketing

4.4.1 During the term of the Agreement, the Affiliate agrees and warrants that it shall not (and shall procure that companies within the Affiliate Group shall not) conduct, undertake, use, perform or exercise (or have or authorize third parties (to) conduct, undertake, use, perform or exercise) (a) Paid Search, SEM or SEO activities, (b) any activity to unfairly influence the results of Third Party Platforms, or (c) any other form of online targeted advertising (whether directly, indirectly, or via or through Third Party Platforms) in respect of:

(i) the Service;

(ii) the Agoda Website;

(iii) the Content;

(iv) the Agoda Data;

(v) the Agoda Brands;

(vi) the Hotel Brands (unless the owner of such Hotel Brand has given its prior written consent to the Affiliate for the use of that specific Hotel Brand), or

(vii) the Affiliate Website to the extent that the Paid Search, SEM, SEO or other online targeted advertising activities are related to (a) the offer, booking or reservation of Accommodation (whether through the Service or otherwise), or (b) information in respect of Accommodation.

Clause 4.4.1 in respect of paragraph (i) up to and including (v) shall survive termination of this Agreement.

4.4.2 The Affiliate shall not use, exploit or otherwise employ, directly or indirectly, any Third Party Platforms, to seek to avoid or circumvent its covenants, obligations or restrictions under this Agreement or those restrictions or covenants of which the Affiliate could reasonably expect that any such actions fall under the scope of this Agreement.

4.4.3 The Affiliate shall not exploit or use the Content for any purpose or in any manner and/or on or through Third Party Platforms except as expressly provided for in this Agreement.

4.4.4 During the term of this Agreement (and continuing thereafter in respect of the Agoda Brands and the Agoda Data) the Affiliate shall immediately comply with any request made by Agoda to adhere to and comply with this Clause 4.4, failing which Agoda can terminate with immediate effect and without prejudice to its legal and contractual remedies.

4.5 No Double Serving or Cloaking

4.5.1 The Affiliate Websites shall not be (directly or indirectly) linked to the Agoda Websites due to Double Serving or any similar technique or method or such other restrictions as set out in any Spamming Regulations.

4.5.2 In the event that the Service is made available through the Link or the Micro Site, the Affiliate shall not make the Service (directly or indirectly) available through or use for this purpose travel search sites or price comparison sites, unless agreed otherwise in writing by Agoda.

4.5.3 The Affiliate shall not (directly or indirectly) make the Affiliate Website(s), the Content or the Service available or present the Content, to the Third Party Platforms with the intention or purpose of or by (trying to) mislead(ing), deceive (deceiving), trick(ing) or fool(ing) human editors, computer search engine spiders, web-crawlers or (meta) search engines (including any similar tools or engines) of Third Party Platforms in order to give the Affiliate Website(s) a higher ranking or display when it would not otherwise be displayed or higher ranked if it would not have been using Cloaking or any similar technique or method.

4.5.4 The Affiliate covenants, undertakes and warrants to promptly adhere to, observe and comply with the Spamming Regulations (and all reasonable requests made by Agoda in this respect) in order to avoid any breach by Agoda or the Affiliate Website(s) of such policies due to or in respect of the Affiliate Website(s). For the avoidance of doubt, the Affiliate cannot enforce any rights in this respect towards or vis-à-vis Agoda and hereby waives any (right of) defense or claims against Agoda in this respect.

4.6 Non-solicitation

4.6.1 The Affiliate agrees not to contact, solicit or accept any Hotel (i) as its business partner for bookings or reservation (directly or indirectly) on or through the Affiliate Website(s), (ii) for sale of advertisement space or other (online) advertisement or marketing purposes (whether through banners, click-through, (text) links, pop-ups or otherwise) on the Affiliate Website(s), or (iii) for any other reason.

4.7 Similar domain names

4.7.1 In the event that the Affiliate has or uses a domain name (confusingly) similar to the Agoda Brands (the "Similar Domain Name") for the Affiliate Website(s) (to be determined at Agoda discretion) or in the event that the Affiliate wishes to register, acquire, use, purchase or obtain a Similar Domain Name (subject to Agoda prior written approval), the following applies. The Affiliate shall (and shall procure that the companies which it Controls shall) not, directly or indirectly:

(a) bid on or purchase internet placement rights for the Similar Domain Name or any part or similarities thereof in any manner in any of its advertising, including but not limited to, internet and web advertising.

(b) include the Similar Domain Name or any part thereof, or similar variations, translations or misspellings, in the meta tags of any web site code. This includes the meta title, meta keywords or meta description.

(c) purchase, obtain or use, directly or indirectly, any keywords from Third Party Platforms so as to redirect traffic to the Similar Domain Name, and

(d) purchase the Similar Domain Name or any part thereof, or any variations, translations or misspellings thereof, for use in text links, banner ads, pop-up ads or any other type of ad that could be associated with a keyword campaign.

4.7.2 In respect of Similar Domain Names other than the Affiliate Website, Parties have agreed that (i) all such Similar Domain Names shall be directly linked to the Affiliate Website through or via a direct re-direct and not actively be available or online for whatever purpose, and (ii) the Affiliate (nor any of the Affiliated Group) shall not in any way (online or offline) market, promote, dispose, sell, offer, advertise, (sub)license, make available, allow access to, refer to, publish or distribute the Similar Domain Names.

4.8 Price Comparison

4.8.1 In the event that the Affiliate offers Price Comparison on a relevant Affiliate Website(s) as set out in the Affiliate Partner Registration Form, the Affiliate shall for that relevant Affiliate Website(s) solely be granted access to the rate(s) and availability data of relevant Hotels as made available on the Agoda Website (collectively, the "Rates and Availability Data") pursuant to a direct connection to the Agoda web-servers (i.e. via a XML connection). The Rates and Availability Data will be made available in accordance with such further terms and conditions as made available by Agoda.

4.8.2 The Rates and Availability Data does not include and the Affiliate shall not be entitled to use, copy, refer to or include on its websites where the Price Comparison is available, the Agoda Data and Content from Agoda Website or web servers or a third party (website) with whom Agoda has a contractual relationship to provide the Content.

4.8.3 In the event that the Affiliate offers Price Comparison, the Affiliate shall ensure that the room rates made available by all Agoda Competitors (including all Accommodation providers

or booking or reservation center, intermediate or agent (collectively the "Third Party Providers")) on the Affiliate Website are accurate, correct and not misleading or deceiving compared to the actual rate(s) as made available on the website(s) of the Third Party Providers.

4.8.4 Agoda shall be treated at least as favorable on the Price Comparison website of the Affiliate (in respect of ranking, display and conversion opportunities) as the best converting (x) Agoda Competitors, (y) Hotels or (z) any booking or reservation center, agent or intermediate of or managed, owned or controlled by a Agoda Competitor or Hotels, available on the Price Comparison website of the Affiliate.

4.9 Burden of proof, compliance, injunctive relief and further remedies

4.9.1 Parties agree and acknowledge that in the event of an (alleged or threatening) infringement or breach by the Affiliate of its obligations under this Clause 4, the burden of proof is carried by the Affiliate. In other words, Agoda carries the benefit of assumption and the Affiliate needs to provide and deliver sufficient and satisfactory evidence (i.e. conclusive and irrefutable) in order to defend or reject a claim.

4.9.2 In the event that a Agoda Website, campaign or advertisement is linked to the Affiliate Website(s) or the Affiliate's campaign or advertisement (or vice-versa) or in the event of a (threatening) breach of the Spamming Regulations by the Affiliate, the Affiliate shall (i) promptly notify Agoda of such (threatening) breach after becoming aware of such breach, and (ii) upon first request of Agoda promptly implement, comply with and abide by all of the terms, restrictions and prohibitions set out in this Agreement or requested by Agoda. The Affiliate shall promptly contact each Third Party Platform or third party agency, and revise the Affiliate Website(s) and all ad copy, titles, descriptions, keywords, URL's, text links, advertisements, including all meta tags (meta titles, meta keywords and meta descriptions) to comply with the terms of this Agreement or as requested by Agoda.

4.9.3 The Affiliate agrees and acknowledges that pending any compliance or implementation of the reasonable requests made by Agoda or in the event that the Affiliate does not promptly comply with or adhere to all such requests of Agoda under or pursuant to this Clause 4, Agoda shall be entitled to postpone or suspend its obligations under this Agreement (including the offer of the Service, System and the Agoda Data) or immediately terminate this Agreement, without prejudice to Agoda's rights under this Agreement or otherwise.

4.9.4 In the event of a breach of the covenants, undertakings, restrictions, obligations and/or warranties set out under this Clause 4 by or attributable to the Affiliate, Agoda shall be entitled to exercise the following actions and rights, notwithstanding the remedies and actions for specific performance, damage compensation or injunctive or equitable relief available by law or contract:

(a) suspension of its (payment) obligations under or termination of this Agreement with immediate effect without prior notice to the Affiliate and without prejudice to Agoda's rights under this Agreement or otherwise;

(b) Agoda shall be entitled to reduce the Commission to 0% for all bookings made and/or each Materialised Transaction during the term that the Affiliate breaches the relevant

obligations set out in Clause 4 or has not remedied its breach of the relevant obligations as set out in Clause 4 in full;

(c) Agoda reserves the right to demand the Affiliate to return the Commission paid by Agoda under this Agreement; and

(d) in the event of the use of a Similar Domain Name (or ownership or registration by the Affiliate of a website with a (confusingly) similar domain name as owned or used by Agoda) and a repeated and/or material breach of Clause 4, the Affiliate shall transfer, assign and register the Similar Domain Name (including the website(s) with a (confusingly) similar domain name) to and in the name of Agoda through a domain name registrar company of Agoda's choice to be completed within 20 business days after the occurrence of a breach. In the event the Affiliate does not (cooperate with and effectuate the) set over, assignment and transfer (of) the relevant domain names, the Affiliate hereby irrevocably and unconditionally authorizes, empowers and gives a power of attorney to and in favor of Agoda to sign and/or execute all documents that are necessary or useful in relation to or required for the assignment, registration, set over and transfer of the domain names to and in the name of Agoda.

5. COMMISSION

5.1 Agoda will pay the Affiliate a Commission, being a percentage of the net booking value generated by Materialized Transactions (either Merchant Transactions or Agency Transactions).

5.1.1 The Commission for Merchant Transactions or Agency Transactions will be paid in accordance with the following formula:

$$\text{Commission Paid} = (\text{BV} - \text{T}) * \text{ACP}$$

BV = booking Value (what the Guest paid to Agoda)

T = taxes (including service charges, taxes, city taxes, etc.)

ACP = Affiliate Commission Percentage

5.1.2 [Not Used]

5.1.3 The Affiliate Commission Percentage or ACP will be determined by agreement in writing between the parties (hereafter, the "Custom ACP Agreement"), but in the absence of a Custom ACP Agreement, will be based on the scale listed in this Agreement below and on the Partner Center or communicated otherwise (hereafter the "Default ACP Agreement").

5.1.4 Both the Default ACP Agreement and any Custom ACP Agreement shall be based on the number of Materialized Transactions (Agency Transactions or Merchant Transactions) that can be directly attributed to the Affiliate's marketing efforts ("Affiliate Departures"), in a manner determined at the sole discretion of Agoda.

Agoda will make commercially reasonable efforts to ensure that all Affiliate Departures are tracked, reported and paid. However, Agoda's records will be final and the Affiliate shall have no recourse for any lost revenue or damages in the event that Agoda fails to accurately track or

report Affiliate Departures, except in the case of gross misconduct or fraudulent behavior by Agoda. Except in these latter cases, the Affiliate's sole recourse shall be to terminate this Agreement and end its participation in the program.

5.2 Default ACP Agreement

5.2.1 The following scale shall be used to calculate the ACP in the absence of a Custom ACP Agreement.

Number of Affiliate Departures (per month)	Affiliate Commission Percentage
1 – 50	4%
51 – 100	4.5%
101 – 200	5%
201 – 1000	6%
1001 +	7%

Agoda reserves the right to change or alter the Default ACP Agreement by posting a notice on Agoda's website. The notice must be posted at least 15 days before the change is effective. Agoda has no responsibility to ensure that communications about changes in the program are received by the Affiliate. In case of disagreement, the Affiliate's sole recourse shall be to end its participation in the program.

5.3 Calculation and Payment of the Commission

5.3.1 The Commission will be calculated for each calendar month, in US Dollars (USD), based on the month's departures. The Affiliate and Agoda agree that any adjustments to reservations that Agoda is notified about after the end of the month or after payments have been made to the Affiliate shall be adjusted accordingly in the next month's payment. Such adjustments whether positive (extended stays) or negative (including but not limited to early check-outs, cancellations, chargebacks, amendments or otherwise) should accurately reflect the value of the reservations.

5.3.2 With respect to Merchant Transactions, the Affiliate shall be paid by the 15th of the month following the departure date. If the Affiliate requires payment by International Money Transfer (TT) a US\$10 bank charge will be deducted from the payment to cover the cost of the International Money Transfer. Agoda can currently make local payments in certain selected jurisdictions, please contact us for more details. The Affiliate may request extended holding periods for commission payments to avoid excessive bank charges. These requests will be handled on a case by case basis and at the sole discretion of Agoda. The minimum payment amount is set at US\$200 with any outstanding balances being accrued.

5.3.3 With respect to Agency Transactions, Affiliates shall be paid 60 days after the end of the month in which the Guest has departed, unless the amount of Commission due to the Affiliate at that time is less than US\$200, in which event Agoda will be entitled to postpone payment until the month when such amount is due.

5.4 Agoda will on request send a notification of any outstanding balance due to the Affiliate. Agoda will send these notices to the contact details that are held on file or

communicated. It is the responsibility of the Affiliate to ensure these details are correct and up to date.

5.5 The Affiliate is responsible for ensuring the accuracy of the bank information maintained in Agoda's profile. If the bank account number is provided incorrectly, an additional processing fee will be levied by the banks. Agoda will deduct this processing fee from the next Commission payment. In the case that the bank account provided by the Affiliate is closed or frozen or not able to receive/reflect payments for reasons not attributable to Agoda, Agoda's payment obligation under this Agreement shall be released as long as Agoda's records show the payment has been made.

5.6 The Commission specified shall be the sole compensation that the Affiliate is entitled to receive under this Agreement. The Affiliate is, for example, not entitled to any other benefits, including but not necessarily limited to referral fees, rewards points, gift cards or loyalty program initiatives. It is Agoda's responsibility to verify accuracy of the Commission payments prior to payment and it is the Affiliate's responsibility to verify all Commission payments upon receipt and promptly raise alleged errors. No claims for overpayment or underpayment can be made by either party ninety (90) calendar days after the payment due date. All orders are subject to acceptance by Agoda in accordance with its policies at the time of the booking request. Agoda's policies are subject to change without notice.

5.7 Agoda will make commercially reasonable efforts to keep an audit of all transactions subject to this Agreement. Agoda will provide the Affiliate with an account summary, which will track the number of clicks to Agoda's sites, booking requests, and confirmed, and departed bookings submitted by users whose intent is to utilize the service and who are referred by the Affiliate (Affiliate Departures). The Affiliate will also have access to payment reports, which will display projected earnings and payment history. Should Agoda fail to keep accurate records or audit, the Affiliate's sole recourse shall be to terminate this Agreement and end its participation in the program.

6. REPRESENTATIONS AND WARRANTIES

6.1 Affiliate warranties

The Affiliate hereby represents and warrants to Agoda that for the term of this Agreement:

(i) the Affiliate has all necessary rights, title to, power and authority to own, operate and use the Affiliate Website(s) (including the relevant domain name(s)) and to include the Link, the Micro Site or the Connection (as applicable) on the Affiliate Website(s);

(ii) the Affiliate Website(s) shall not (a) engage in Black Hat tactics, violate Spamming Regulations, public policy and morals, or (b) contain or display any inappropriate, improper or unlawful content, reference, material, information, links or banners (e.g. in respect of pornography, racism and the like), defamatory statements, elements which violate the privacy of third parties or are abusive, offensive or obscene, (c) copy or resemble the design, domain names (including sub-domains), look and feel of, or create the impression that it is part of the Agoda Website or any of Agoda's affiliates' or subsidiaries' websites; (d) advocate discrimination based on race, sex, religion, nationality, disability, sexual orientation or age; (e)

promote or engage in illegal activities; (f) violate intellectual property rights of third parties; (g) contain or promote deceptive information or promote gambling; or (h) otherwise be of an inappropriate nature. Any violation of the aforesaid provisions may lead to the Affiliate being terminated forthwith from the program and to forfeiture of any outstanding payments due.

(iii) Affiliate shall not use any predatory advertising methods designed to generate traffic away from any website owned or operated by Agoda or any of its related companies, including, without limitation, www.agoda.com (and all local versions thereof with whatever top-level domain), www.priceline.com, www.rentalcars.com (and all local versions thereof with whatever top-level domain), www.booking.com, www.kayak.com, www.rentalcars.com, www.opentable.com (and all local versions thereof with whatever top-level domain) as well as any other websites Agoda may notify from time to time. In addition, Affiliate shall prohibit websites that Affiliate controls from such predatory advertising methods. Predatory advertising is defined as any method that creates or overlays links or banners on websites, spawns browser windows, or any method invented to generate traffic from a website without that website owner's, knowledge, permission, and participation. Examples include, but are not limited to, keyword parsing browser plugins such as Text Enhance, TopText and +Surf, banner replacement technology such as Gator, browser spawning technology that is not website dependent, as well as using Agoda Marks in search engine advertisement texts (e.g. Google AdWords, Yahoo! Search Marketing,...) or equivalent and in general any other methods which could misleadingly lead potential customers to believe that they will be directed to an Agoda Website. Any violation of the aforesaid provisions may lead to the Affiliate being terminated forthwith from the program and to forfeiture of any outstanding payments due.

(iv) the Affiliate holds and has complied with all permits, licenses and other governmental authorizations necessary for conducting, carrying out and continuing its operations and business, and

(v) the Affiliate is an independent contractor for all purposes, and will be responsible and liable for its own taxes, social contributions and all other tax related matters.

6.2 Parties warranties and undertakings

6.2.1 Each Party represents and warrants to the other Party that for the term of this Agreement:

(i) it has the full corporate power and authority to enter into and perform its obligations under this Agreement;

(ii) it has taken all corporate action required by it to authorize the execution and performance of this Agreement;

(iii) this Agreement constitutes legal valid and binding obligations of that Party in accordance with its terms.

6.2.2 Each Party shall use its commercially reasonable efforts to protect and safeguard its Website(s).

6.2.3 Affiliate represents and warrants that it will not make or offer to make any payment, gift or transfer of anything of value: (i) to or for the use or benefit of any government official or government employee (including employees of government-owned entities or corporations); or (ii) to any political party (including its officials or candidates); (iii) to any commercial party, person or entity; or (iv) to an intermediary for payment to any of the foregoing, in order to induce the recipient to do or omit to do an act in violation of the lawful duty of such recipient, to obtain or retain business or to secure any improper advantage; or to induce the improper performance of a relevant function or activity with regard to any activities on Agoda's behalf or for Agoda's interests as contemplated by this Agreement. Breach of this provision by the Affiliate entitles Agoda to terminate this Agreement with immediate effect.

6.2.4 For the purpose of determining compliance with clause 6.2.3 set forth above, Agoda shall have the right, at its expense, to conduct a site inspection and audit of all the relevant accounting and sales books, records, agreements, facilities, computer systems, contracts and documents of Affiliate, during regular business hours at Affiliate's offices and in such a manner as not to interfere unreasonably with Affiliate's normal business activities. Such audits shall not be conducted hereunder more frequently than two times every twelve (12) months.

6.3 Disclaimer

6.3.1 Except as otherwise expressly provided in this Agreement, neither Party makes any representation or warranty, express or implied, in connection with the subject matter of this Agreement and hereby disclaims any and all implied warranties, including all implied warranties of merchantability or fitness for a particular purpose regarding such subject matter. Agoda provides the Service on an "as is" and "as available" basis and does not guarantee uptime.

6.3.2 Each Party acknowledges the difficulties inherent to the use of the Internet, in particular, varying speeds and congestion in the network can cause interruptions and difficulties in accessing a Website. Each Party excludes any and all liability in respect of the other Party which is related to any (temporary (scheduled or unscheduled) and/or partial or wholly) breakdown or downtime (for maintenance, updates or otherwise) of the Websites, the Partner Center, the System and/or the Service.

7. INDEMNIFICATION AND LIABILITY

7.1 Indemnification

The Affiliate shall be liable towards, and compensate, indemnify and hold Agoda harmless for and against any direct damages, losses (excluding any loss of production, loss of profit, loss of revenue, loss of contract, loss of or damage to goodwill or reputation, loss of claim or any special, indirect or consequential losses and/or damages), liabilities, obligations, costs, claims, claims of any kind, interest, penalties, legal proceedings and expenses (including, without limitation, reasonable attorneys' fees and expenses) actually paid, suffered or incurred by Agoda pursuant to:

(i) a breach of this Agreement by the Affiliate, or

(ii) any claim from any third party based on any (alleged) infringement of the third party's Intellectual Property Right by the Affiliate.

7.2 Maximum liability

7.2.1 Save as otherwise provided for in this Agreement, the maximum liability of a Party for all claims made against such Party by the other Party under or in connection with this Agreement in a year shall not exceed the aggregate commission received or paid by such Party in the preceding 6 months or USD 50,000 (whichever is higher), unless in the event of fraud or willful misconduct of Indemnifying Party, in which event the limitation of liability is not applicable for such liable Party.

7.3 Third Party Claim

In the event of a third party claim, the indemnified Party shall promptly notify the other Party and Parties shall act in good faith and use their commercially reasonable efforts to consult, cooperate and assist each other in the defense and/or settlement of such claim, whereas the indemnifying Party shall be entitled to take over a claim and assume the defense and settlement (in consultation and agreement with the indemnified Party and with due observance of both Parties' interests), and neither Party shall make any admission, file any papers, consent to the entry of any judgment or enter into any compromise or settlement without the prior written consent of the other Party (which shall not unreasonably be withheld, delayed or conditioned).

7.4 Waiver of consequential damages etc.

In no event shall any Party be liable to the other Party for any loss of production, loss of profit, loss of revenue, loss of contract, loss of or damage to goodwill or reputation, loss of claim or any indirect, special, punitive, incidental or consequential damages or losses whether such damages are alleged as a result of a breach of contract, tort or otherwise. All such damages and losses are hereby expressly waived and disclaimed.

7.5 Liquidated Damages

Without prejudice to what is set out elsewhere in this Agreement, both the Affiliate and Agoda agree that it may be impracticable and difficult to ascertain the amount of actual damages caused by material breach of the intellectual property and confidentiality provisions set forth in clauses 4 and 10 of this Agreement. Therefore, the parties agree that, in the event it is established that the Affiliate has violated such provisions, the Affiliate shall pay to Agoda, as liquidated damages, twenty-five thousand United States dollars (25,000 USD) for each breach. The Affiliate and Agoda further agree that this liquidated damages provision represents reasonable compensation for the initial loss which would be incurred by Agoda due to any such breach. The Affiliate also agrees that nothing in this provision is intended to limit Agoda's right to obtain injunctive and other relief as may be appropriate. This provision is also without prejudice to Agoda's right to claim additional and/or cumulative damages for a breach of this (in case the damage demonstrably exceeds the liquidated damages amount) or any other provision of this Agreement.

8. TERM, TERMINATION AND SUSPENSION

8.1 Term, termination and suspension

8.1.1 Unless agreed otherwise, this Agreement shall commence on the date hereof for indefinite period of time.

8.1.2 Each Party may terminate this Agreement with immediate effect at any time and for any reason, by written notice to the other Party.

8.1.3 Each Party may terminate this Agreement or suspend this Agreement in respect of the other Party, with immediate effect and without a notice of default being required in case of:

- (a) a material breach by the other Party of any term of this Agreement;
- (b) (filing of a request for) bankruptcy or suspension of payment (or similar action) in respect of the other Party, or
- (c) a (direct or indirect) change of Control in respect of the other Party.

8.1.4 Agoda reserves the right to terminate this Agreement without notice in the case that no Materialized Transactions have occurred in a period of 6 consecutive months.

8.1.5 Upon termination of this Agreement Agoda shall continue to pay to the Affiliate any outstanding Commission in accordance with Article 5 for a period of 3 months after the termination date, on the condition that Agoda has the correct contact and banking details for the Affiliate during that period. Should the Affiliate fail to claim any unpaid Commission within that 3 month period, such failure shall constitute an effective waiver of the Affiliate's right to claim such Commission. Without prejudice to what is set out elsewhere in this Agreement in relation to Commission reduction, suspension or forfeiture, any outstanding Commission will be forfeited in case Affiliate has committed willful misconduct, gross negligence, fraud or a material breach of this Agreement.

8.1.6 Upon termination and save as set out otherwise, this Agreement shall absolutely and entirely terminate and cease to have effect without prejudice to a Party's rights and remedies in respect of an indemnification or a breach by the other Party of this Agreement. Clause 4.1.2, 4.1.5, 4.1.6, 4.1.7, 4.2, 4.3, 4.4.1, 4.9.4(c), 9, 10, 11 and 12 shall survive termination of this Agreement.

8.1.7 Immediately upon the termination taking effect, Affiliate will remove any and all links to the Agoda Websites, all Agoda-related content, links, banners, logos, and other references to Agoda.

9. BOOKS, RECORDS AND AUDIT RIGHT

9.1 Books and records

9.1.1 The systems, books and records of Agoda (including Extranet, faxes and/or emails) shall be considered conclusive evidence in respect of the amount of the Commission due to the Affiliate under this Agreement.

9.2 Audit right

9.2.1 If Agoda in good faith has reason to believe that the Affiliate has breached its obligations in respect of Clause 4, Agoda may audit such records and books (of account) of the Affiliate for the purpose of verification, review, and investigation (as applicable) of the obligations of the Affiliate under Clause 4, in accordance with the following:

- (a) Parties shall promptly appoint an independent certified auditor (the "Auditor"), reasonably acceptable to both Parties, who will be permitted to conduct an audit in respect of (the method and calculation) of the commission (to be) paid to the Sub-Affiliate(s).
- (b) Parties shall provide the Auditor with all such information, data, co-operation, assistance and access to books and records of account, documents, files and papers and information stored electronically as the Auditor may reasonably request for the purpose of completing the scope of his/her assignment in a timely manner.
- (c) The Auditor will provide both Parties with a copy of his/her report (the "Report") which Report shall provide for the results and finding of the audit.
- (d) Audits will be conducted on business days during regular business hours.
- (e) Agoda shall bear the costs and expenses of the Auditor unless the Auditor determines otherwise on the basis of reasonableness and fairness.

10. CONFIDENTIALITY

10.1 Confidential Information

Parties understand and agree that in the performance of this Agreement, each Party may have access to or may be exposed to, directly or indirectly, confidential and sensitive information of the other Party (the "Confidential Information"). Confidential Information includes Customer Data, transaction volume, marketing and business plans, business, financial, technical and operational information, usage statistics, ranking data, information in respect of rate, product and availability parity, pricing policies, conversion data and volume of click-throughs, and other related statistics, personal data of Guests, any software or information regarding software provided or used by Agoda in connection with this Agreement, the terms of this Agreement and such other non-public information that either a disclosing Party designates as being private or confidential or of which a receiving Party should reasonably know that it should be treated as private and confidential.

10.2 Protect and safeguard Confidential Information

Each Party agrees that: (a) all Confidential Information shall remain the exclusive property of the disclosing Party and receiving Party shall not use any Confidential Information for any purpose except in furtherance of this Agreement, (b) it shall maintain, and shall use prudent methods to cause its employees, officers, representatives, contracting parties and agents (the "Permitted Persons") to maintain, the confidentiality and secrecy of the Confidential Information, (c) it shall disclose Confidential Information only to those Permitted Persons and who need to know such information in furtherance of this Agreement, (d) it shall not, and shall use prudent methods to ensure that Permitted Persons do not (i) copy, publish, transmit, reproduce, divulge, disclose or

make the Confidential Information available to any third party, or (ii) use or store it in an unprotected retrieval system or data base (other than pursuant to the terms hereof), and (e) it shall return or destroy all ((hard and soft) copies of) Confidential Information upon written request of the other Party.

10.3 Permitted disclosure

Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it (i) is or becomes part of the public domain through no act or omission on the part of the receiving Party, (ii) was possessed by the receiving Party prior to the date of this Agreement, (iii) is disclosed to the receiving Party by a third party having no obligation of confidentiality with respect thereto, or (iv) is required to be disclosed pursuant to law, court order, subpoena or governmental authority. Agoda is entitled to disclose this Agreement in confidence to its affiliated companies.

10.4 Customer Data

Parties shall use commercially reasonable efforts to safeguard the confidentiality and privacy of Customer Data and to protect it from unauthorized use or release. Parties agree to comply with applicable laws on the processing of personal data and the protection of privacy. The Parties will at all times use reasonable and appropriate security measures to prevent corruption of and unauthorized access to Customer Data. Such measures will include, among other things, data encryption and channel encryption. Where relevant, the Affiliate must notify Agoda of any security breach as promptly as possible (not later than 1 day after discovering the breach). Each Party shall have a privacy policy accessible to customers that describes the manner in which it protects and uses Customer Data.

10.5 Announcements

Neither Party shall create, publish, distribute, or permit any written materials, which makes reference to the other Party without first submitting to the other Party such material and receiving prior written consent from the non-submitting party. This consent shall not to be unreasonably withheld or delayed.

11. MISCELLANEOUS

11.1 Notices

11.1.1 All notices and communications to Agoda must be in English, in writing, and sent by internationally recognized overnight air courier to the address set out in this Agreement. Notices are deemed delivered and received one business day after the date of delivery by a recognized overnight air courier. Copies may be sent by email to Agoda for reference.

If to Agoda:

Agoda Company Pte. Ltd., at the address first stated above
Attn. Manager Distribution
Email: partners@agoda.com

With a copy to: Legal Department
c/o Agoda Services Co., Ltd.
999/9 Rama I Road
The Offices at Central World, 6th, 7th + 27th floors
Patumwan, Bangkok 10330, Thailand
Email: legal@agoda.com

If to the Affiliate:

As advised by Affiliate or stated on the Affiliate Partner Registration Form.

Any notice or communication to be provided to the Affiliate under this Agreement shall and can also validly be sent to the email address as provided by the affiliate in the Affiliate Partner Registration Form or in Agoda's profile.

11.1.2 The Affiliate shall clearly include in all correspondence (e.g. in the reference or subject line) its assigned Affiliate ID number, failing which it shall be solely responsible for possible delays.

11.2 Covenant and undertaking

11.2.1 Each Party shall, at its own costs and expenses, use all reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable under applicable law or upon reasonable request of Agoda, and execute and deliver such instruments of assignment, transfer, deeds, documents and other papers, as may be reasonably required to carry out the provisions of this Agreement or perform under or in accordance with the Agreement.

11.3 Whole Agreement

11.3.1 This Agreement (including the Affiliate Partner Registration Form, schedules, annexes and appendixes, which form an integral part of this Agreement) constitutes the entire agreement and understanding of the Parties with respect to its subject matter and replaces and supersedes all prior agreements, arrangements, ((non) binding) offers, undertakings or statements regarding such subject matter.

11.4 Assignment and third party beneficiary

11.4.1 Neither Party shall be entitled to assign, transfer, encumber any of its rights and/or the obligations under this Agreement without the prior written consent of the other Party, provided that Agoda may assign, transfer, encumber any of its rights and/or the obligations under this Agreement (in whole or in part or from time to time) to an affiliated company without the prior written consent of the Affiliate.

11.4.2 This Agreement is concluded for the benefit of the Parties and their respective successors and permitted assigns, and nothing herein is intended to or shall implicitly confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement, except to the extent explicitly stated otherwise in this Agreement.

11.5 Partial invalidity

11.5.1 If any provision of this Agreement is or becomes invalid or non-binding, the Parties shall remain bound by all other provisions hereof. In that event, the Parties shall replace the invalid or non-binding provision by provisions that are valid and binding and that have, to the greatest extent possible, a similar effect as the invalid or non-binding provision, given the contents and purpose of this Agreement.

11.6 Version, Amendments and Translation

11.6.1 Unless agreed otherwise, Agoda reserves the right to modify any of the terms and conditions contained in this Agreement, other than the Default ACP Agreement or Custom ACP Agreement, at any time and at Agoda's sole discretion, by posting a change notice or a new Agreement on the Partner Center on the first of any month. Modifications will take effect on the first of the following month. IF ANY MODIFICATION IS UNACCEPTABLE TO THE AFFILIATE, THE AFFILIATE'S ONLY RECOURSE IS TO NEGOTIATE AN INDIVIDUAL AMENDMENT OR TO TERMINATE THE AGREEMENT. IT IS THE AFFILIATE'S RESPONSIBILITY TO CHECK THE WEBSITE AFTER THE 1ST OF ANY MONTH FOR CHANGES IN THE PROGRAM OR AGREEMENT. IF THE AFFILIATE CANNOT LOCATE THE AGREEMENT ON THE PARTNER CENTER, IT IS THE AFFILIATE'S RESPONSIBILITY TO NOTIFY AGODA AND AGODA SHALL HAVE 15 DAYS TO PROVIDE A COPY TO THE AFFILIATE. CONTINUING PARTICIPATION IN THE PROGRAM, FOLLOWING POSTING OF A CHANGE NOTICE OR NEW AGREEMENT ON THE PARTNER CENTER, WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE. SHOULD AGODA STOP PROVIDING THE SERVICES TO ALL AFFILIATES, THIS AGREEMENT SHALL IMMEDIATELY TERMINATE WITH OR WITHOUT NOTICE TO THE AFFILIATES.

11.6.2 The original English version of this Agreement may have been translated into other languages. The translated version of this Agreement is a courtesy and office translation for information purposes only and the Affiliate cannot derive any rights from the translated version. In the event of a dispute about the contents or interpretation of these terms and conditions of this Agreement or in the event of a conflict, ambiguity, inconsistency or discrepancy between the English version and any other language version of this Agreement, the English language version shall apply and prevail and be conclusive and binding. The English version shall be used in legal proceedings.

11.7 Execution, performance and effect

11.7.1 The Agreement only enters into force and effect upon written confirmation of acceptance and approval of the Affiliate by Agoda. By registering and signing up to the Agoda partner program as affiliate partner, the Affiliate agrees, acknowledges and accepts the terms and conditions of this Agreement, including the provisions related to modifications to this Agreement.

11.8 Force Majeure

11.8.1 Neither Party shall have any liability or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances (force majeure events) beyond the control of the Party whose performance is being affected, including but not limited to natural disasters, governmental or regulatory actions or restrictions, sanctions, embargoes, hostilities of any kind, wars, civil wars, terrorist acts, riots, insurrections, nuclear incidents, EMP, essential utilities failure, etc. A force majeure event shall not prevent the

Parties from exercising their right to terminate this Agreement in accordance with the relevant provisions set out herein.

11.9 Independent Investigation

THE AGREEMENT HAS BEEN READ AND ALL THE TERMS AND CONDITIONS HAVE BEEN AGREED TO BY THE AFFILIATE. THE AFFILIATE UNDERSTANDS THAT AGODA MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMER REFERRALS ON TERMS THAT MAY DIFFER FROM THOSE CONTAINED IN THIS AGREEMENT OR OPERATE WEBSITES THAT ARE SIMILAR TO OR COMPETE WITH THE AFFILIATE'S WEBSITE. THE AFFILIATE HAS INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATION IN THE PROGRAM AND IS NOT RELYING ON ANY REPRESENTATION, GUARANTEE OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT. THE AFFILIATE EXPLICITLY AGREES THAT ELECTRONIC ACCEPTANCE OF THIS AGREEMENT AND ITS TERMS AND CONDITIONS, INCLUDING THOSE RELATED TO MODIFICATIONS, IS VALID, BINDING AND ENFORCEABLE.

11.10 Heading - Wording

The headings in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement. Words denoting the singular shall include the plural and vice versa. Words denoting any gender shall include all genders. Words denoting persons shall include corporations and vice versa.

11.11 No Control

Agoda does not in any way (directly or indirectly, independently or in conjunction with any party) own, manage, operate or control any Hotels, or any room in such Hotels.

12. GOVERNING LAW AND JURISDICTION

12.1 Governing law

This Agreement shall be exclusively governed by and construed in accordance with the laws of Singapore. The Contracts (Rights of Third Parties) Act 2001 (Cap 53B) shall not apply to this Agreement. The Parties will in any event attempt to settle their disputes in an amicable manner out of court by first conducting good faith discussions and negotiations.

12.2 Jurisdiction

ANY DISPUTES ARISING OUT OR IN CONNECTION WITH THIS AGREEMENT SHALL EXCLUSIVELY BE SUBMITTED TO AND DEALT WITH BY THE COMPETENT COURT IN SINGAPORE, WITHOUT REGARD TO THE CONFLICT OF LAWS RULES.