

TERMS AND CONDITIONS GO GREEN

1. DEFINITIONS

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

"Best Price Guarantee" means the guarantee issued by Booking.com (under this or any similar name) stating that Booking.com offers the best rate for a room and that no lower rate can be found online for the equivalent room with the same check-in and check-out dates and the same booking conditions.

"Booking.com Platform" means the website(s), apps, tools, platforms or other devices of Booking.com on which the Service is made available.

"Customer Service " means the customer service desk of Booking.com which can be reached at customer.service@booking.com or such other address as set out in this Agreement.

"Direct Debit" means the instruction given by the Accommodation to its bank such that Booking.com is authorized to collect the relevant amount under this Agreement directly from the bank account of the Accommodation.

"Extranet" means the online system which can be accessed by the Accommodation (after identification of the username and the password) through the website www.booking.com/hotelaccess , for uploading, changes, verifying, updates and/or amendments of the Accommodation Information (including rates, availability, **and rooms**) and reservations.

"Force Majeure Event" means any of the following events affecting multiple Guests and multiple accommodations: act-of-God, volcanic eruptions, (natural) disaster, fire, (acts of) war, hostilities or any local or national emergency, invasion, compliance with any order or request of any national, provincial, port or other public authority, government regulation or intervention, military action, civil war or terrorism, (biological, chemical or nuclear) explosion, rebellion, riots, insurrection strikes, civil disorder (or the material or substantial threat or justified apprehension of any of the foregoing events), curtailment of transportation facilities, close down of airports or any other exceptional and catastrophic event, circumstance or emergency, making it impossible, illegal or prevents Guests from travelling to or staying at the Accommodation.

"Guest" means a visitor of the Platforms or a customer or guest of the Accommodation.

"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 (under whatever extension, e.g. .com, .nl, .fr, .eu, 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.

"Platforms" means the website(s), apps, tools, platforms and/or other devices of Booking.com and its affiliated companies and business partners on or through which the Service is (made) available.

"Service" means the online hotel reservation system of Booking.com through which accommodations can make their rooms available for reservation, and through which Guests can make reservations at such accommodations.

2. ACCOMMODATION OBLIGATIONS

2.1 Accommodation Information

2.1.1 Information provided by the Accommodation for inclusion on the Platforms shall include information relating to the Accommodation (including pictures, photos and descriptions), its amenities and services and the rooms available for reservation, details of the rates (including all applicable taxes, levies, surcharges and fees) and availability, cancellation and no-show policies and other policies and restrictions (the "Accommodation Information") and shall comply with formats and standards provided by Booking.com. The Accommodation Information shall not contain any

telephone or fax numbers or email (including **Skype**) address or social media website/app/platform (including twitter and **face book**), with direct references to the Accommodation or its websites, apps, platform, tools or other devices, or to websites, apps, platform, tools or other devices of third parties. Booking.com reserves the right to edit or exclude any information on becoming aware that it is incorrect or incomplete or in violation of the terms **and conditions** of this Agreement.

2.1.2 The Accommodation represents and covenants that the Accommodation Information shall at all times be true, accurate and not misleading. The Accommodation is at all times responsible for a correct and up-to-date statement of the Accommodation Information, including additional availability of rooms for certain periods or any extraordinary (material adverse) events or situations (e.g. renovation or construction at or near the facility). The Accommodation shall update the Accommodation Information on a daily basis (or such more frequent basis as may be required) and may –at any time– change via the Extranet (i) the rate of its available rooms bookable, and (ii) the number or type of available rooms, subject to the Minimum Allocation (as defined below).

2.1.3 The information provided by the Accommodation for the Platforms shall remain the exclusive property of the Accommodation. Information provided by the Accommodation may be edited or modified by Booking.com and subsequently be translated into other languages, whereas the translations remain the exclusive property of Booking.com. The edited and translated content shall be for the exclusive use by Booking.com on the Platforms and shall not be used (in any way or form) by the Accommodation for any other distribution or sales channel or purposes. Changes to or updates of the descriptive information of the Accommodation are not allowed unless prior written approval has been obtained from Booking.com.

2.1.4 Unless Booking.com agrees otherwise, all changes, updates and/or amendments of the Accommodation Information (including rates, availability, rooms) shall be made by the Accommodation directly and on-line through the Extranet or such other ways as Booking.com may reasonably indicate. Updates and changes in respect of pictures, photos and descriptions will be as soon as reasonably possible processed by Booking.com.

2.2 Minimum Allocation and Parity

2.2.1 The Accommodation commits itself to make available a minimum number of rooms available for reservation via Booking.com, as set out in the Accommodation Agreement (the "Minimum Allocation"). Booking.com invites the Accommodation to provide additional availability of rooms for certain periods as may be available or requested from time to time.

2.2.2 The Accommodation shall give Booking.com rate and availability parity ("Parity"). Rate Parity means the same or better rates for the same accommodation, same room type, same dates, same bed type, same number of guests, same or better restrictions and policies such as breakfast, reservation changes and cancellation policy as are available on the Accommodation's websites, apps or call-centres (including the customer reservation system) , or directly at the Accommodation, with any competitor of Booking.com (which includes any online or offline reservation or booking agency or intermediary) and/or with any other (online or offline) third party that is a business partner of or in any other way related with or connected to the Accommodation. Availability Parity means that the Accommodation shall provide Booking.com with such availability (i.e. rooms available for booking at the Platform) that are at least as favourable as those provided to any competitor of Booking.com (which includes any online or offline reservation or booking agency or intermediary) and/or with any other (online or offline) third party that is a business partner of or in any other way related with or connected to the Accommodation.

2.3 Commission

2.3.1 For each reservation made on the Platforms by a Guest for a Room, the Accommodation shall pay Booking.com a commission (the "Commission"). Payment shall be made in accordance with Clause 2.4. The aggregate Commission per reservation is equal to the multiple of (i) the number of nights stayed at the Accommodation by the Guest, (ii) the booked rate per room per night (including VAT, sales taxes and such other applicable national, governmental, provincial, state, municipal or local taxes or levies (the "Taxes")) and such other extra's, fees and surcharges which are included in the offered rate at the time of booking of the room by a Guest on the Platforms (such as breakfasts, meals (half-board or full-board), bicycle rental, late check outs/early check in fees, extra person charges, resort fees, roll-away beds, theatre tickets, service fees, etc), (iii) the number of booked rooms by the Guest, and (iv) the relevant Commission percentage set out in the Agreement. For the avoidance of doubt, Commission will also be charged in the event of overbooking or a no-show (unless the Accommodation has notified Booking.com of the relevant no-show within 2 business days after the scheduled date of arrival of the Guest) or a charged cancellation (cancellation in violation of the free cancellation policy of the Accommodation) and shall be calculated in accordance with the confirmed booking.

2.3.2 The Commission percentage is subject to change where the Accommodation is eligible and participates in the Preferred Programme described in Clause 4.

2.3.3 Unless agreed otherwise in the Agreement, the rate shown to Guests on the Platforms shall be inclusive of VAT, sales tax, charges and all such other (national, governmental, provincial, state, municipal or local) taxes, fees, charges or levies (to the extent that such other taxes, fees and levies can be reasonably calculated upfront without further information).

2.3.4 In the event that pursuant to (amendment or entering into force of) the applicable law, rules and legislation applicable to the Accommodation, the rates must be shown to Guests inclusive of VAT, sales tax and all such other (national, governmental, provincial, state, municipal or local) taxes, fees or levies, the Accommodation shall adjust the rates through the Extranet in accordance with the terms of Clause 2.1.2 and 2.1.4 as soon as possible, but in any event within 5 business days after (i) amendment or entering into force of the relevant law, rules and legislation in this respect applicable to such Accommodation, or (ii) notification thereof by Booking.com.

2.3.5 Value Added Tax in respect of the payment of the Commission to Booking.com will be added to the Commission where applicable.

2.3.6 The Extranet shows details of all reservations made at the Accommodation through the Platforms and the corresponding Commission. On the 1st day of each month, an online reservation statement (the "Online Reservation Statement") is available on the Extranet showing the reservations of all Guests whose date of departure fell in the previous month.

2.4 Payment Commission

2.4.1 Commission for bookings in a calendar month that contains the (scheduled) departure date of the Guest in such month will be invoiced (save for free cancellations made through Booking.com and in accordance with the cancellation policy of the Accommodation) and paid in the subsequent month in accordance with the following terms:

(a) Invoices are processed on a monthly basis and shall be sent to the Accommodation by mail, fax or e-mail.

(b) The commission invoiced in respect of a month shall be paid by the Accommodation within 14 days from the invoice date.

(c) Payment shall be made by the Accommodation directly to Booking.com by means of Direct Debit, or in case this is not available in the banking system of the bank where the payment is made from,

by wire transfer (to such bank account as identified by Booking.com). For the avoidance of doubt, other means of payment (such as by cheque or via "payment agencies") cannot be processed by Booking.com and therefore will not be accepted. The Accommodation shall bear all costs as charged by the banks for the transfer of the funds.

(d) All Commission payments to be made under this Agreement shall be made in cleared funds, without any deduction or set-off and free and clear of and without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority. If the Accommodation is compelled to make any such deduction or withholding, it will pay to Booking.com such additional amounts as are necessary to ensure receipt by Booking.com of the full (net) amount as set out in the invoice which Booking.com would have received but for the deduction. The Accommodation is responsible and liable for the payment and remittance of any taxes, levies, imports, duties, charges, fees and withholdings over and above the full (net) Commission payment due from the Accommodation to Booking.com.

(e) The commission invoiced in respect of a month shall be paid by the Accommodation in the relevant currency (and if applicable at the exchange rate) as specified in the invoice. Booking.com may at its sole discretion prepare invoices either in a major currency (e.g. EUR/USD) or the relevant local currency of the Accommodation and subsequently convert the relevant final amount in the local currency or a major currency on the basis of the exchange rate of the last day of the relevant month for which the invoice is issued (and not on the day of checkout). The exchange rate used shall be the interbank rate (closing rate as per 4PM EST) as used or promulgated by major international financial banks or service companies from time to time selected by Booking.com.

2.4.2 The automated Ranking (as defined hereafter) system uses on-time payment as a factor so failure to pay Commissions on-time will result in a reduced Ranking.

2.4.3 In the event of a dispute between Booking.com and the Accommodation (e.g. on the amount of the Commission), any undisputed amount of the Commission will be paid in accordance with the terms of this Agreement, notwithstanding the status or nature of the dispute.

2.4.4 The Accommodation shall pay a deposit equivalent to the amount as set out in the Accommodation Agreement (the "Deposit"). If no such amount has been agreed upon, the Accommodation shall upon first written request of Booking.com be required to pay a deposit which amount shall be equal to 2 months Commission (to be determined at Booking.com discretion, which amount shall also be regarded as the Deposit). The Deposit will be held by us as a security for performance of the (payment) obligations of the Accommodation under the Agreement. Upon termination of this Agreement, the Deposit, or any balance thereof after deducting outstanding Commission, shortfall payments and other costs due to Booking.com (which balance will during **the term** of this Agreement at all times be made up upon first written request of Booking.com) will be repaid to the Accommodation within 30 days after settlement in full of the outstanding obligations and liabilities (including the payment of the outstanding Commission). Upon first written request of Booking.com, the Accommodation shall pay as further Deposit such additional amount as requested by Booking.com if the outstanding Commission exceeds the Deposit or if the Accommodation frequently fails to pay the Commission when due. The amount of the Deposit shall in no way limit or cap the liability of the Accommodation under this Agreement. The Deposit shall not bear any interest.

2.4.5 In the case of late payment, Booking.com reserves the right to claim statutory interest, to suspend its service under the Agreement (e.g. by suspending the Accommodation from the Platforms), and/or to ask for a bank guarantee or other form of financial security from the Accommodation.

2.5 Reservation, Guest Reservation, complaints and Best Price Guarantee

2.5.1 When a booking is made by a Guest on the Platform, the Accommodation shall receive a confirmation for every booking made via Booking.com. Booking.com is not responsible for the correctness and completeness of the information (including credit card details) and dates provided by Guests and Booking.com is not responsible for the payment obligations of the Guests relating to their (online) reservation. For the avoidance of doubt, the Accommodation shall on a regular basis (but at least on a daily basis) check and verify on the Extranet (the status of) the reservations made.

2.5.2 By making a reservation through the Platforms a direct contract (and therefore legal relationship) is created solely between the Accommodation and the Guest (the "Guest Reservation"). To the extent necessary, the Accommodation hereby empowers and grants Booking.com explicit authorisation to conclude Guest Reservations on its behalf arising out of online hotel reservations for the Accommodation made by Guests via the Platforms.

2.5.3 The Accommodation is bound to accept a Guest as a contractual party, and to handle the online reservation in compliance with the Accommodation Information contained on the Platforms at the time the reservation was made, including any supplementary information and/or wishes made known by the Guest.

2.5.4 Other than the fees, extra's **and any such surcharges** as set out in the confirmed **booking**; the Accommodation shall not charge the customer any transaction/administration fee or charge for the use of any payment method (e.g. credit card charge).

2.5.5 Complaints or claims in respect of (the products or service offered, rendered or provided by) the Accommodation or specific requests made by Guests are to be dealt with by the Accommodation, without mediation by or interference of Booking.com. Booking.com is not responsible for and disclaims any liability in respect of such claims from the Guests. Booking.com may at all times and at its sole discretion (a) offer customer (support) services to a Guest, (b) act as intermediate between the Accommodation and a Guest, (c) provide -at the costs and expenses of the Accommodation- alternative accommodation of an equal or better standard in the event of an overbooking or other material irregularities or complaints in respect of the Accommodation, or (d) otherwise assist a Guest in its communication with or actions against the Accommodation.

2.5.6 In the event of a valid claim of a Guest under the Best Price Guarantee, Booking.com shall promptly notify the Accommodation of such claim and provide the Accommodation with the relevant details of the claim. The Accommodation shall immediately adjust –to the extent applicable– the rate(s) made available at the Booking.com Platform such that the lower rate is available for further booking(s). Furthermore, the Accommodation shall immediately adjust the rate in the reservation made by the relevant Guest in its administration. Upon check out of the Guest, the Accommodation shall offer the room for the lower rate and shall either (i) settle the difference between the booked rate and the lower rate by charging the Guest for the lower rate, or (ii) refund (in cash) to the Guest the difference between the two rates .

2.6 Overbooking and cancellation

2.6.1 The Accommodation shall provide the rooms booked and in the event that the Accommodation is not able to meet its obligations under this Agreement for any reason whatsoever, the Accommodation shall promptly inform Booking.com via Customer Service (customer.service@booking.com ; whereas the subject line of each email shall state "overbooking") . Unless Booking.com has arranged for alternative accommodation (to be verified by the Accommodation with Booking.com), the Accommodation will use its best endeavours to procure

alternative arrangements of equal or superior quality at the expense of the Accommodation and in the event that no Room is available on arrival, the Accommodation will:

(a) **Find** suitable alternative accommodation of an equal or better standard to the Accommodation holding the Guest's guaranteed booking;

(b) **Provide** free private transportation to the alternative accommodation for the Guest and other members of the Guest's party who are listed in the Guest's guaranteed booking, and

(c) **Reimburse and or compensate** Booking.com and/or the Guest for all reasonable costs and expenses (e.g. costs alternative accommodation, transportation, telephone costs) made, suffered, paid or incurred by the Guest and/or Booking.com due to or caused by the overbooking. Any amount charged by Booking.com in this respect shall be paid within 14 days after receipt of the invoice.

2.6.2 The Accommodation is not allowed to cancel any online reservation.

2.6.3 Cancellations made by Guests before the time and date beyond which a cancellation fee applies will not attract commission. Cancellations made by Guests after the time and date beyond which a cancellation fee applies will attract commission in accordance with the terms of this Agreement.

2.7 Credit Card guarantee

2.7.1 Guarantee of the booking is based on the credit card details provided by the Guest or the person responsible for the booking. The Accommodation shall at all times accept all major credit cards (including Master Card, Visa and American Express) for guarantee of a booking. The Accommodation is responsible for the verification of the validity of these credit card details, the (pre) authorization of the credit card and the limit of credit on the date of the overnight stay(s) booked. The Accommodation shall upon receipt of a booking, promptly verify and pre-authorize the credit card. If the credit card offers no guarantee, the Accommodation will immediately notify Booking.com, which subsequently invites the Guest to guarantee the booking in an alternative manner. If the Guest is unable or unwilling to do this, Booking.com may cancel the booking upon request of the Accommodation. If the credit card (or any alternative guarantee made by the Guest) is not effective or valid for any reason, this shall always be at the risk and for the account of the Accommodation. Bookings which are cancelled by Booking.com pursuant to this Clause 2.7.1 will not attract any Commission.

2.7.2 The Accommodation which wishes to take payment from the credit card before the date of check-in must ensure that the up-front payment condition (including the (special) rate restrictions, terms and conditions for or connected with such pre-payment) are clearly explained to Guests in the information made available to the Guest prior to making a reservation and included in the Accommodation Information.

2.7.3 The Accommodation shall be responsible for charging the Guest for the consumed stay, no show fee or charged cancellation (including applicable Taxes for which the Accommodation shall be liable and remit to the relevant tax authorities). Credit cards shall be charged in the same currency as set out in the reservation of a Guest. To the extent that this is not possible, the Accommodation may charge the credit card of the Guest in a different currency with a reasonable and fair exchange rate.

2.7.4 In the event of offering rooms at cash payment only, no credit card details will be made available by Booking.com to the Accommodation as guarantee for the booking.

2.8 Securitization of Credit Card Data

2.8.1 The Accommodation is required to comply, and to have its service providers comply on an ongoing basis, with the requirements, compliance criteria and validation processes as set forth in the Payment Card Industry ("PCI") Data Security Standard as promulgated from time to time by the major credit card companies.

2.8.2 The Accommodation acknowledges that it is responsible for the security of cardholder data it processes within the context of this Agreement and Booking.com acknowledges that it is responsible for the security of cardholder data it processes within the context of this Agreement.

2.9 Direct marketing to Guests

The Accommodation agrees not to specifically target Guests that have been obtained via Booking.com in either online or offline marketing promotions or solicited or unsolicited mail.

2.10 Extranet

Booking.com will provide the Accommodation with a user ID and password which allows the Accommodation to access the Extranet. The Accommodation 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 Extranet. The Accommodation shall immediately notify Booking.com of any (suspected) security breach or improper use.

2.11 Force Majeure Event

In the event of a Force Majeure Event, the Accommodation shall not charge (and shall repay (if applicable)) the Guests affected by the Force Majeure Event any fee, costs, expenses or other amount (including the (non-refundable) rate or the no-show, (change of) reservation or cancellation fee) for (i) any cancellation or change of the reservation made by the Guests, or (ii) that part of the reservation that was not consumed, due to the Force Majeure Event. In the event of reasonable and justified doubt, the Accommodation may ask a Guest to provide reasonable evidence of the causality between the Force Majeure Event and cancellation, no-show or change of reservation (and provide Booking.com upon request with a copy of such evidence). In order for Booking.com to register any cancellation, no-show or amendment of the reservation due to a Force Majeure Event, the Accommodation shall inform Booking.com within 2 business days after (a) the scheduled arrival date of the no-show or cancellation, or (b) check out, the number of days actually stayed. Booking.com will not charge any commission in the event of a registered no-show or cancellation or over that part of the booking which is not consumed due to the Force Majeure Event.

3. [BOOKING.COM](#) RIGHTS AND OBLIGATIONS

3.1 The Accommodation hereby grants Booking.com a non-exclusive, royalty free and worldwide right and license (or sublicense as applicable):

(a) to use, reproduce, have reproduced, distribute, sublicense, communicate and make available in any method and display those agreed upon elements of the Intellectual Property Rights of the Accommodation as provided to Booking.com by the Accommodation pursuant to this Agreement and which are necessary for Booking.com to exercise its rights and perform its obligations under this Agreement;

(b) to use, reproduce, have reproduced, process, distribute, sublicense, display and utilize (including without limitation to publicly perform, modify, adapt, communicate, reproduce, copy and make available to the public in any manner whatsoever) the Accommodation Information.

3.2 Booking.com may sublicense, make available, disclose and offer the Accommodation Information (including the relevant Intellectual Property Rights) of the Accommodation and special offers made available by the Accommodation on the Platforms and all such further rights and licenses set out in

this Agreement via or in collaboration with (the websites, apps, platform, tools or other devices of) affiliated companies and/or third parties (the "Third Party Platforms").

3.3 In no event shall Booking.com be liable to the Accommodation for any acts or omissions on the part of any Third Party Platforms. The sole remedy for the Accommodation in respect of such Third Party Platforms is (i) to request Booking.com (which has the right and not the obligation) to disable and disconnect with such Third Party Platform, or (ii) termination of this Agreement, all in accordance with the terms of this Agreement.

3.4 Customer Data and guest reviews

3.4.1 Booking.com will transmit or make available the reservation made by a Guest to the Accommodation, which reservation details will include the date of arrival, the number of nights, the room type (including smoking preference (if available)), the room rate, the Guest's name, address and credit card details (collectively "Customer Data") and such other specific request(s) made by the Guest.

3.4.2 Guests which have stayed at the Accommodation will be asked by Booking.com to comment on their stay at the Accommodation and to provide a score for certain aspects of their stay.

3.4.3 Booking.com reserves the right to post these comments and scores on the Platforms. The Accommodation acknowledges that Booking.com is a distributor (without any obligation to verify) and not a publisher of these comments.

3.4.4 Booking.com undertakes to use its best efforts to monitor and review Guest reviews in respect of obscenities or the mention of an individual's name. Booking.com reserves the right to refuse, edit or remove unfavourable reviews in the event that such reviews include obscenities or mention an individual's name.

3.4.5 Booking.com will not enter into any discussion, negotiation or correspondence with the Accommodation in respect of (the content of, or consequences of the publication or distribution of) the Guest reviews.

3.4.6 Booking.com shall not have and disclaims any liability and responsibility for the content and consequences of (the publication or distribution of) any comments or reviews howsoever or whatsoever.

3.5 (Online) marketing and PPC advertising

3.5.1 Booking.com is entitled to promote the Accommodation using the Accommodation's name(s) in online marketing, including email marketing and/or pay-per-click (PPC) advertising. Booking.com runs online marketing campaigns at its own costs and discretion.

3.5.2 The Accommodation is aware of the working methods of search engines, such as spidering of content and ranking of URLs. Booking.com agrees that if the Accommodation becomes aware of behaviour by Third Party Platforms that breaches the Accommodation's Intellectual Property Rights, then the Accommodation will notify Booking.com in writing with details of the conduct and Booking.com will use its commercially reasonable endeavours to ensure that the relevant third party takes steps to remedy the breach.

3.5.3 The Accommodation agrees not to specifically target the Booking.com brand directly through keyword purchases that use Booking.com's Intellectual Property Rights.

4. RANKING AND PREFERRED PROGRAMME

4.1 Ranking

4.1.1 The order in which the Accommodation is listed on the Platforms (the "Ranking"), is determined automatically and unilaterally by Booking.com. Ranking is based on and influenced by various factors, including but not limited to the commission percentage (to be) paid by the Accommodation, the minimum availability stated by the Accommodation, the number of bookings related to the number of visits to the relevant accommodation page on the Platform (the "Conversion"), the volume realized by the Accommodation, the ratio of cancellations, the guest review scores, the customer service history, the number and type of complaints from Guests and the on-time payment record of the Accommodation.

4.1.2 The Accommodation has the possibility to influence its own ranking by changing the commission percentage and availability for certain periods, and continuously improving the other factors. The Accommodation shall not make any claim against Booking.com regarding the Ranking of Accommodation; the Ranking system is automated.

4.2 Preferred Programme

4.2.1 On the Booking.com Platform, Booking.com operates and offers a preferred programme for **certain accommodation which meets and maintains** certain criteria (the "Preferred Programme"). The Preferred Programme operates by invitation of Booking.com to eligible Accommodation (the "Eligible Accommodation") who meet and maintain the following 7 qualifying performance criteria (the "Qualifying Performance Criteria") to be determined at Booking.com's sole discretion to the extent the Preferred Program is available within a destination:

- (a) **Higher** than average Conversion compared to all accommodation which are serviced by Booking.com in each accommodation's destination;
- (b) **Higher** than average availability percentage compared to all accommodations which are serviced by Booking.com in each accommodation's destination;
- (c) **Lower** than average cancellation percentage compared to all accommodations which are serviced by Booking.com in each accommodation's destination;
- (d) **The** average Guest review score meets or exceeds 7 out of 10;
- (e) **An** unbroken record of paying Commissions on time and in full;
- (f) **An** unbroken record of Parity, and
- (g) **Compliance** with the allotment as set out in invitation for the Preferred Programme.

4.2.2 Only if the Accommodation has been receiving bookings from Guests through Booking.com for more than 60 days, it can be invited for participation in the Preferred Programme. Eligible accommodations who accept the invitation for participation in the Preferred Programme will be advertised as "Preferred Accommodation" on the Booking.com Platform.

4.2.3 If a Preferred Accommodation ceases to be eligible for the Preferred Programme it will be listed as a standard accommodation and the commission will be adjusted according to the local standard commission for that country.

5. REPRESENTATIONS AND WARRANTIES

5.1 The Accommodation represents and warrants to Booking.com that for the term of this Agreement:

- (i) the Accommodation has all necessary rights, power and authority to use, (sub)license and have Booking.com make available on the Platforms the Intellectual Property Rights in respect of, as set out or referred to in the Accommodation Information made available on the Platforms;

(ii) the Accommodation holds and has complied with all permits, licenses and other governmental authorisations necessary for conducting, carrying out and continuing its operations and business, and

(iii) the price for the rooms advertised on the Platforms correspond to the best available price for an equivalent stay with the Accommodation and a better price cannot be obtained by a Guest making a reservation with the Accommodation directly or via another (third) party or via another medium or channel.

5.2 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 authorise the execution and performance of this Agreement;

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

(iv) each Party shall comply with all applicable governmental laws, codes, regulations, ordinances and rules of the country, state or municipal under which law the relevant Party is incorporated with respect to the products (to be) offered and/or services (to be) rendered by such Party.

5.3 Except as otherwise expressly provided in this Agreement, **neither Party makes any representations nor warranties**, 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.

5.4 Booking.com disclaims and excludes any and all liability in respect of the Accommodation which is related to any (temporary and/or partial) breakdown, outages, downtime, interruption or unavailability of the Platforms, the Service and/or the Extranet.

6. INDEMNIFICATION AND LIABILITY

6.1 Each Party (the "Indemnifying Party") shall be liable towards, and compensate, indemnify and hold the other Party (the "Indemnified Party") 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 the Indemnified Party pursuant to:

(i) **A** breach of this Agreement by the Indemnifying Party, or

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

6.2 The Accommodation shall fully indemnify, compensate and hold Booking.com harmless for and against any liabilities, costs, expenses (including, without limitation, reasonable attorneys' fees and expenses), damages, losses, obligations, claims of any kind, interest, penalties and legal proceedings paid, suffered or incurred by Booking.com in connection with:

(i) **All** claims made by Guests concerning inaccurate, erroneous or misleading information of the Accommodation on the Platforms;

(ii) **All** claims made by Guests concerning a stay in the Accommodation, overbooking or (partly) cancelled or wrong reservations;

(iii) **To** the extent that any claims under or pursuant to the Best Price Guarantee are not settled between the Guest and the Accommodation upon check out of the Guest (by payment of the lower rate), all claims made by Guests regarding or pursuant to the Best Price Guarantee;

(iv) **All** other claims from Guests which are wholly or partly attributable to or for the risk and account of the Accommodation (including claims related to (lack of) services provided or product offered by the Accommodation) or which arise due to tort, fraud, wilful misconduct, negligence or breach of contract (including the Guest Reservation) by or attributable to the Accommodation in respect of a Guest or its property; and

(v) **All** claims against Booking.com in relation to or as a result of the failure of the Accommodation to pay or withhold any applicable taxes levied or based on the services or other charges hereunder in the relevant jurisdiction.

6.3 Save as otherwise provided for in this Agreement, the maximum liability of one Party to any other party in aggregate for all claims made against such 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 year or EUR 100,000 (whichever is higher), unless in the event of tort, fraud, wilful misconduct, gross negligence, deliberate non-disclosure or deliberate deception on the part of the liable Party (i.e. the Indemnifying Party), in which event the limitation of liability is not applicable for such liable party. Parties agree and acknowledge that none of the limitations of liability set out in Clause 6 shall apply to any of the indemnifications in respect of third party claims (e.g. claims from Guests as described in 6.2) or third party liabilities.

6.4 In the event of a third party claim, Parties shall act in good faith and use their commercially reasonable efforts to consult, cooperate and assist each other in the **defence** and/or settlement of such claim, whereas the indemnifying Party shall be entitled to take over a claim and assume the defence (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).

6.5 In no event shall any Party be liable to any other Party for any indirect, special, punitive, incidental or consequential damages or losses, including loss of production, loss of profit, loss of revenue, loss of contract, loss of or damage to goodwill or reputation, loss of claim, 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.

6.6 Each Party acknowledges that remedies at law may be inadequate to protect the other Party against any breach of this Agreement and without prejudice to any other rights and remedies otherwise available to the other **Party**; each Party will be entitled to injunctive relief and specific performance.

7. TERM, TERMINATION AND SUSPENSION

7.1 Unless agreed otherwise, this Agreement shall commence on the date hereof and be effective for 1 year, unless terminated by either Party with due observance of a notice period of 14 days. After the 1 year period, this Agreement shall continue thereafter for indefinite period of time until terminated by either Party on not less than 14 days written notice to the other Party.

7.2 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 (e.g. delay of payment, insolvency, breach of rate parity guarantee, the provision of wrong information or receipt of a significant number of Guest complaints); or

(b) **(Filing or submission of request for)** bankruptcy or suspension of payment (or similar action or event) in respect of the other Party.

7.3 After termination, the Accommodation shall honour outstanding reservations for Guests and shall pay all commissions (plus interest if applicable) due on those reservations in accordance with the terms of this Agreement.

7.4 Booking.com is entitled to immediately suspend its services (including the display of or availability of Accommodation or the relevant reservation tool on the Platforms) to or in respect of the Accommodation in any of the following events:

- (i) **The** Accommodation fails to pay Commissions on or before the due date;
- (ii) **The** Accommodation posts incorrect or misleading Accommodation Information on the Extranet;
- (iii) **The** Accommodation fails to maintain Information on the Extranet resulting in over-bookings at the Accommodation;
- (iv) **The** Accommodation fails to accept a reservation at the price shown on a reservation;
- (v) **The** Accommodation overcharges one or more guests;
- (vi) **The** Accommodation charges a guest's credit card prior to arrival of the guest without an express agreement from the guest (a guest provides express agreement if they select a non-refundable or an advance purchase room type);
- (vii) Booking.com receives one or more legitimate and serious complaint(s) from one or more guest(s) who made reservations with the Accommodation;
- (viii) Misuse of the Guest review process by any behaviour that results in a review appearing on the Platforms that is not an honest expression of a real stay by a real guest at the Accommodation;
- (ix) Inappropriate or unprofessional behaviour towards guests or Booking.com staff; or
- (x) The Accommodation refuses to agree to any reasonable revision to any term of this Agreement.

7.5 Upon termination and save as set out otherwise, this Agreement shall absolutely and entirely terminate in respect of the terminating Party and cease to have effect without prejudice to other Party's rights and remedies in respect of an indemnification or a breach by the other (terminating) Party of this Agreement. Clause 6, 8, 9 and 10 shall survive termination.

8. BOOKS AND RECORDS

The systems, books and records of Booking.com (including Extranet, the Online Reservation Statement, faxes and/or emails) shall be considered conclusive evidence of the existence and receipt by the Accommodation of the reservations made by the Guest and the amount of the commission of the Accommodation due to Booking.com under this Agreement, unless the Accommodation can provide reasonable and credible counter-evidence.

9. CONFIDENTIALITY

9.1 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 information of the other party (the "Confidential Information"). Confidential Information includes Customer Data, transaction volume, marketing and business plans, business, financial, **technical and operational** 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.

9.2 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 who need to know such information in furtherance of this Agreement; (d) it shall not, and shall use prudent methods to

ensure that the Permitted Persons do not, copy, publish, disclose to others or use (other than pursuant to the terms hereof) the Confidential Information; and (e) it shall return or destroy all ((hard and soft) copies of) Confidential Information upon written request of the other Party.

9.3 Notwithstanding the foregoing, (a) 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, and (b) nothing in this Agreement shall prevent, limit or restrict a Party from disclosing this Agreement (including the any technical, operational, performance and financial data (but excluding any Customer Data)) in confidence to an affiliated company that is under the control of or controls that relevant Party (a company or other entity shall be deemed to control another if it owns or controls more than fifty percent (50%) of the voting stock or other ownership interest of the company or entity).

9.4 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 Directives 95/46/EC and 2002/58/EC on the processing of personal data and the protection of privacy.

10. MISCELLANEOUS

10.1 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 Booking.com 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 Accommodation.

10.2 All notices and communications must be in English, in writing, and sent by facsimile or nationally recognized overnight air courier to the applicable facsimile number or address set out in the Agreement.

10.3 This Agreement (including the 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 (including vis-à-vis the Accommodation).

10.4 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.

10.5 Save as set out otherwise in this **Agreement**; this Agreement shall be exclusively governed by and construed in accordance with the laws of the Netherlands. Save as set out otherwise in this Agreement, any **disputes** arising out or in connection with this Agreement shall exclusively be submitted to and dealt with by the competent court in Amsterdam, the Netherlands.

10.6 Parties agree and acknowledge that notwithstanding this Clause 10.5, nothing in this Agreement shall prevent or limit Booking.com in its right to bring or initiate any action or proceeding

or seek interim injunctive relief or (specific) performance before or in any competent courts where the Accommodation is established or registered under the laws of the relevant jurisdiction where the Accommodation is established or registered and for this purpose, the Accommodation waives its right to claim any other jurisdiction or applicable law to which it might have a right.

10.7 The original English version of these Terms may have been translated into other languages. The translated version of the English Terms is a courtesy and office translation only and the Accommodation 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 these Terms, the English language version shall prevail, apply and be binding and conclusive. The English version shall be used in legal proceedings. The English version is available on the following website <https://admin.bookings.org/hotelreg/terms-and-conditions.html?language=en;cc1=gb> and shall be sent to you upon written request.

10.8 In respect of (or as an award for) the execution, delivery, sealing, registration, filing of, and/or the execution, performance or delivery under or pursuant to, the Agreement, the Accommodation (including its employees, directors, officers, agents or other representatives) shall (i) not directly or indirectly (a) offer, promise or give to any third party (including any governmental official or political party('s official, representative or candidate)), or (b) seek, accept or get promised for itself or for another party, any gift, payment, reward, consideration or benefit of any kind which would or could be construed as bribery or an illegal or corrupt practice, and (ii) comply with all applicable laws governing anti-bribery and corrupt gifts and practices (including the U.S. Foreign Corrupt Practices Act and the UK Anti-Bribery Act