

# EXTRANET AGREEMENT V4

## AGREEMENT FOR THE SUPPLY OF ACCOMMODATION VIA EXTRANET V4

**THIS AGREEMENT** is made on the date that the Provider accepts these terms and conditions via the Extranet ("**Commencement Date**").

### **BETWEEN:-**

- (1) dnata (trading as Yalago) a Dubai decree corporation established by decree number 1 of 1987 (as amended) with its principal office being dnata Travel Centre, Sheikh Zayed Road, Dubai, United Arab Emirates PO Box 1515 ("**the Company**"); and
- (2) The provider (whose details are entered as part of the extranet sign up process) ("**the Provider**").

### **RECITALS:**

- A. The Provider is a Provider of hotel and similar accommodation.
- B. The Company acts as a travel agent and also as intermediary between various providers of hotel and similar accommodation and other travel businesses (including other travel businesses in the group of companies to which it belongs).
- C. The Provider wishes to appoint the Company as its agent for the sale and promotion of its accommodation and services (as applicable) and the Company accepts such appointment subject to the terms and conditions of this Agreement.
- D. The Parties agree that:
  - a. this Agreement shall replace any existing agreement between the parties in relation to the subject matter of this agreement and any such agreement is hereby terminated; and
  - b. any tactical offers, or other offers or rates released by the Provider during the term of this Agreement shall be subject to the terms and conditions of this Agreement. To the extent of any inconsistency between the terms and conditions set out in such offers or rates and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.

### **IT IS HEREBY AGREED AS FOLLOWS:**

#### **1. DEFINITIONS & INTERPRETATION**

##### **Definitions**

- 1.1 In this Agreement, (unless the context otherwise requires) the following words and phrases shall have the following meanings:

**"Agreement"** means this agreement for the supply of accommodation (including the Special Terms, if any), the Service Level Agreement and any other document referred to in this agreement;

**"Applicable Laws"** means all applicable laws of any jurisdiction (including any amendments as may be made from time to time) including antitrust laws, anti-human trafficking laws, labour laws, anti-corruption laws, anti-money laundering and anti-terrorist financing laws and sanctions laws, ordinances, judgments, decrees, injunctions, writs, codes of conduct, guidance and orders or like actions of any Competent Authority and the rules, regulations, orders, interpretations, licenses and permits of any Competent Authority;

**"Business Customers"** means any related, or associated businesses or brands of the Company and any third party business, to which the Company makes available the Products for on sale to Customers;

**"Competent Authority"** means any national, local or municipal government body, agency, court, department, official or public or statutory person having jurisdiction over this Agreement or either of the parties including but not limited to any duly appointed authority upon which responsibility for enforcing data protection legislation has been devolved;

**"Customers"** means any and all person(s) who purchase or book the Product(s) via the Company, or via one of its Business Customers, or any person on whose behalf the Product(s) are purchased or booked;

**"Customer Data"** means any information regarding Customers provided to the Provider by the Company, or any third party on the Customers' behalf;

**"Data Protection Legislation"** means all Applicable Laws relating to data protection, privacy and/or the Processing of Personal Information;

**"Extranet"** means the internet web-based interface made available to the Provider by the Company to enable the Provider to insert the information required by the Company and its Business Customers in relation to the Products;

**"Force Majeure"** means an occurrence beyond the reasonable control of either party including acts of god, adverse government advice advising against Customer travel, insurrection or civil disorder, war or military operations, national or local emergencies, health, security or other local/resort

emergencies or incidents, pandemics, fire, lightning, explosion, floods, unusually adverse weather conditions or strikes and industrial disputes (other than strikes by or industrial disputes with the employees, agents or sub-contractors of the party seeking to rely on the event of Force Majeure);

**"Fulfilment"** means that the Customer has occupied the accommodation and checked out or otherwise consumed the Product;

**"Health and Safety Guidelines"** means any specific Company guidelines relating to Customer health and safety and welfare as stipulated by the Company to the Provider from time to time;

**"Incident Report"** means the accident/illness/incident/death report as stipulated by the Company from time to time which is to be completed by the Provider;

**"Intellectual Property"** means patents, utility models, rights to inventions, copyright (including images) and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world owned or used by the Provider, the Company or its Business Customers (as applicable);

**"Override Payment"** means the sum payable by the Provider to the Company as agreed between the Company and the Provider in the Special Terms or as otherwise agreed from time to time in writing;

**"Override Validity Period"** means the period agreed between the Company and the Provider in the Special Terms or as otherwise agreed from time to time in writing;

**"Personal Information"** means any information relating to an individual, including Customers and any other identifiable natural person, included in any Customer Data;

**"Prepay Rates"** means rates or offers which are due to be paid by the Company prior to check-in of Customers and settled in accordance with expressly agreed terms as set out in the cancellation terms available on the Extranet.

**"Process or Processing"** means any operation or set of operations which is/are performed upon data which are included in Personal Information (whether or not by automatic means) including collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by

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transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

**“Products”** means the details of the accommodation and any other travel services (such as transfer services) entered on the Extranet by the Provider and to be provided or procured in the Territory by the Provider from time to time;

**“Remitted Amount”** means the amount remitted to the Provider for the Products as stipulated by the Provider on the Extranet from time to time. To the extent of any inconsistency between this Agreement and any Provider rate sheet, the terms of this Agreement shall prevail);

**“Selling Price”** means the price paid for the Products by the Customer;

**“Service Level Agreement”** means the service levels set out in Schedule 1;

**“Special Terms”** means any special terms agreed by the Parties, including in relation the calculation of an Override Payment or brochure/adhoc contributions, and any amendments to the standard terms of the Agreement, as set out in the document entitled “Special Terms” and appended hereto.

**“Term”** means the term of this Agreement as set out in clause 9.1; and

**“Territory”** means, in relation to each accommodation Product, the country where that accommodation Product is located.

**“Virtual Credit Card”** means a one-time use credit card number created by the credit card provider through a dedicated software.

## Interpretation

1.2 In this Agreement:

- a) Any reference to the singular includes the plural and vice versa and any reference to one gender includes all genders.
- b) References to persons shall include bodies corporate, partnerships, unincorporated associations and any other legal or commercial entity or undertaking.
- c) Any reference to a Clause or a Schedule is to a clause or schedule of this Agreement and any reference in a Schedule to a paragraph is to a paragraph of that Schedule.
- d) The headings used in this Agreement are included for convenience only and shall not be used in construing or interpreting this Agreement.
- e) A reference to any party to this Agreement shall include, where the context permits, a reference to its legal successors and permitted assignees.
- f) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- g) A reference to "writing" includes email, but not facsimile.

## 2. OBLIGATIONS OF THE COMPANY

2.1 The Company agrees to:

- a) act as the Provider's agent for the sale and promotion of the Products, subject to the terms and conditions of this Agreement;
- b) appoint Business Customers as sub agents to promote and market the Products; and
- c) act with due care and skill and in good faith at all times.

## 3. OBLIGATIONS OF THE PROVIDER

3.1 The Provider hereby warrants and undertakes:

- a) to supply the Products with due care and skill and act in good faith at all times;
- b) to authorise the Company to promote and market the Products at the prices advertised by the Company and to retain the difference between the Selling Price and the Remitted Amount as commission on the Extranet;
- c) that all personnel provided or used by the Provider shall be appropriately qualified, experienced and competent in providing the Products and shall act in a courteous manner at all times;
- d) to ensure that at all times any and all of its chosen third party suppliers, agents, employees and sub-contractors comply in full with the Provider's obligations pursuant to this Agreement;
- e) that the Products will at all times be of a high standard of cleanliness, in full working order and safe for occupation and fit for purpose and maintained and operated at all times in accordance with any of the Company's guidelines as amended from time to time;
- f) to ensure that the Products are safe for use by the Customers and that no Customer suffers any damage or injury of any nature as a result of the use of the Products;
- g) that the Products supplied comply at all times with all Applicable Laws, including those relating to the transportation of Customers and safety and other standards applicable to the Products provided and will at all times maintain and enforce the appropriate certificates and/or licences relating to such compliance;
- h) to comply (and ensure that each of its Providers and subcontractors shall comply) with all Applicable Laws and any related policies implemented by the Company;
- i) to adhere at all times to the Health and Safety Guidelines stipulated by the Company from time to time and the Provider hereby warrants that any third parties used by the Provider shall comply with the Health and Safety Guidelines (the Provider shall provide copies of any health and safety audits immediately upon request);
- j) that in the event that any Customer requires medical treatment and/or hospitalisation or otherwise requires immediate assistance for a welfare, safety or security issue while in the care of the Provider, the Provider shall ensure the Customer receives prompt and proper help, treatment and/or other appropriate assistance and shall inform the Company immediately;
- k) to immediately inform the Company if any issues arise relating to any Products, Customers, Providers, servants or agents, which may pose an actual or potential hazard, or which could result in a potential claim against the Company or its Business Customers;
- l) to keep the Company fully informed on any quality issues arising in respect of any facilities, or Products provided by the Provider or associated third parties to the Company, its Customers, employees, servants or agents;
- m) that no changes will be made to the Products except as provided for within this Agreement;
- n) that, except for any tax that is payable directly by a Customer (which may be set out in the Special Terms), the rates on the Extranet are inclusive of all taxes, charges (including bank charges), duties, fees and other applicable sums relating to the Products which shall be payable by the Provider, and the same

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shall be paid promptly upon becoming due. If necessary, the Company shall provide any relevant information to the Provider to enable the Provider to comply with this clause; and

- o) to comply with the Service Levels set out in Schedule 1.
  - p) to make available accurate and complete information on the Products via the Extranet at all times, including but not limited to information relating to meal plans, any board basis inclusions or exclusions and all mandatory fees, including but not limited to any government imposed taxes in relation to the Products that the Customer is obliged to pay directly to the Provider. The Provider remains responsible at all times for the information it has provided on the Extranet.
  - q) to complete all requested health & safety self-assessment checklists provided by the Company or an appointed external auditor and enable the Company or such auditor to conduct a comprehensive health and safety on-site audit as and when requested with reasonable notice.
- 3.2 The Provider shall immediately notify the Company in writing in the event that there is a breach of clause 3.1.
- 3.3 The Provider will allow the Company, its Business Customers and their representatives access during normal working hours to inspect the Products.
- 3.4 The Provider shall notify the Company in writing immediately if there are any changes to the provision or standards of the Products and update the information on the Extranet as soon as possible in relation to the relevant Product if required by the Company.
- 3.5 The Provider warrants that all descriptions of the Products made available on the Extranet are accurate and complete. The Provider will, throughout the Term, continuously monitor and update the information on the Extranet in relation to the Products to ensure that detailed and accurate descriptions of the Products (including details of any facilities and services associated with the Products) are maintained at all times.
- 3.6 The Provider will provide the Company with copies of all relevant certificates, licences or other relevant information pursuant to clause 3.1(g), prior to the commencement of this Agreement. If sufficient evidence is not provided by the Provider within fourteen (14) days of the date of this Agreement, the Company may terminate this Agreement without liability. The Provider warrants that all such information is up-to-date and complies with the applicable national, local, trade and other laws and regulations. The Provider shall notify the Company in writing immediately of any changes to such information and shall provide updated copies of any relevant certificates or licenses.
- 3.7 The Provider will provide the Company with all other relevant information and/or documentation, as requested by the Company from time to time, within seven (7) days of the request being made or sooner as reasonably required by the Company.
- 3.8 The Provider shall update the Product information on the Extranet with any changes to the Products or circumstances affecting the Products including but not limited to: alterations, building work (whether to the Product or surrounding properties), deficiencies, unavailability, whether temporary or otherwise, within twenty four (24) hours of being aware of the change, or sooner where the circumstances require.

#### 4 FAILURE TO MAINTAIN, OPERATE OR SUPPLY THE PRODUCTS

- 4.1 In the event of the failure of the Provider to provide the Products in accordance with this Agreement, the Provider and/or the Company (as applicable) shall immediately notify the other party in writing and the Provider shall use its best endeavours to promptly remedy the failure at its own cost.
- 4.2 In the event that the Provider is unable or reluctant to promptly remedy the breach (for whatever reason) forthwith or within such a period as

notified by the Company at its absolute discretion, the following provisions will apply;

- a) the Provider shall, with the Company's prior written consent, obtain alternative arrangements for the Products which are at least comparable (in all respects including: location, board basis, star rating, room type, facilities), which fully comply with the terms of this Agreement at its own cost; or
- b) the Company may at its absolute discretion secure alternative arrangements for the Products which are at least comparable (in all respects including: location, board basis, star rating, room type, facilities). The Provider shall be responsible for the costs of such alternative arrangements,

and the original booking shall be cancelled or amended (as appropriate) at no cost to the Company, its Business Customers and/or Customers.

- 4.3 If the Company, its Business Customers or a Customer reject any alternative proposed under clause 4.2(a), or if the Company is unable to find a suitable alternative in accordance with clause 4.2(b), then the Company may cancel the booking (in its absolute discretion) at no cost to the Company, its Business Customers or the Customer and the Provider will refund to the Company any amounts already paid in relation to the booking.

#### 5 CUSTOMER CARE/COMPLAINT/INCIDENT HANDLING

- 5.1 The Provider shall promptly inform the Company of any complaints, claims, issues or after sales enquiries concerning the Products which come to the Provider's attention and keep the Company fully informed of the progress of any such issue.
- 5.2 The Provider shall, in the event it becomes aware of any issues with the Customer(s), notify the Company in writing within twenty four (24) hours (or earlier if required by this Agreement, or if earlier notification is appropriate due to the nature of the complaint, incident or accident) from the initial complaint/incident/accident.
- 5.3 The Provider will use its best endeavours to resolve amicably any complaints, claims or issues received while the Customer is in their care. The Provider shall not pledge the Company or its Business Customers to make any payment without the prior written approval of the Company.
- 5.4 The Provider warrants and undertakes to fully investigate any complaint/incident/accident within a maximum of twenty one (21) days of receiving notification from the Company.
- 5.5 Where an enquiry relates to a Customer travelling within seven (7) days or already in resort, the Provider will resolve all such issues within two (2) hours unless otherwise agreed.
- 5.6 In the event that the Provider is informed of any complaints, claims or issues by the Customer after the Customer has left resort, the Provider shall issue a comprehensive written response to the Company within twenty one (21) days.
- 5.7 The Provider shall acknowledge within one working day of receipt any emails and/or correspondence by the Company. For the avoidance of doubt, it is not acceptable to acknowledge with an auto response email. Any telephone calls/messages shall be returned within twenty four (24) hours.
- 5.8 The Provider shall respond to any requests for additional information within seven (7) days (or earlier should the circumstances require an earlier response).
- 5.9 The Provider shall respond to any high priority request within two (2) hours. A high priority request shall be classed as any request relating to an incident likely to attract media interest and/or involve liability on the part of the Company or its Business Customers, including but not limited

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to: emergency situations, loss of life or serious injury and incidents where the loss of life or serious injury is an inevitable outcome based on the information provided to the Company including, but not limited to: hurricanes, shooting, terrorist Incident or threatened incident, mass food poisoning/illnesses, aircraft-vessel incidents, collapse of an airline, Provider, tour operator affecting customer bookings, fire.

5.10 In the event of a high priority incident, the Provider shall provide an incident team/support network to the Company in a timely manner together with relevant experts/professionals in resort as requested by the Company from time to time. The Provider shall provide the Company with an Incident Report within seven (7) days of the relevant incident.

5.11 The Provider shall provide a twenty four (24) hour, seven (7) days a week incident notification and advice line, with the capacity to deal and respond to any incidents, accidents or other risks to the Customers.

5.12 The Provider hereby agrees to notify the Company immediately in writing if the media has become involved in any complaint/incident/accident issue.

5.13 The Provider hereby confirms and agrees that it shall not, under any circumstances agree to bind the Company in any way and must ensure that it does not say or do anything which will prejudice the Company's position in any respect.

5.14 In the event that a complaint, claim, issue or after sales enquiry is made against the Company or any of its Business Customers by any Customer or any third party arising out of or in connection with any aspect of this Agreement, or the supply or failure to supply the Products, the Company shall promptly inform the Provider of the nature of the complaint, claim, issue or after sales enquiry. The Provider will promptly provide the Company with any assistance requested by the Company including, but not limited to, providing reports, witness statements and relevant documentation or information. The Provider shall also make available employees to attend court (which may be in a different location to its place of business) if so required. All such assistance shall be at the expense of the Provider. Failure to provide such assistance shall be a material breach of this Agreement which is incapable of remedy.

### 6 PAYMENT TERMS AND CANCELLATIONS

6.1 The Company (or one of its related businesses as advised by the Company) shall pay the Provider via the payment mechanism agreed between the Parties from time to time in writing, such as , but not limited to a Virtual Credit Card, or by method of invoicing, provided it has received a valid statement pursuant to clause 6.3. The following clauses shall be applicable depending on the choice of payment mechanism.

6.2 The Parties agree that, except in relation to bookings on Prepay Rates, the Provider shall have no entitlement to receive the Remitted Amount for the Products until there has been Fulfilment. Bookings made on Prepay Rates shall be payable in accordance with the terms set out in the cancellation terms on the Extranet..

6.3 Where the payment are made following receipt of a statement of account, the Provider shall provide the Company with such statement of account (in the format /frequency requested by the Company from time) during the Term indicating the Products reserved by the Company.

6.4 Such statement of account shall only include bookings which are up to thirty (30) days after the departure of the Customer and bookings on Prepay Rates which are due in that statement period.

6.5 Where the payment are made following receipt of a statement of account, the Company (or one of its related businesses as advised by the Company) shall pay the Provider on or before the last day of each calendar month during the Term for the Products set out in the statements provided to the Company in the previous month. Where any booking on a Prepay Rate due to be Fulfilled in the previous

month is not Fulfilled, the value of such booking shall be deducted from the statement.

6.6 The Provider's statement shall be emailed to the finance department of the Company (or as otherwise directed by the Company).

6.7 The Provider's statement shall be calculated at the Remitted Amounts and shall specifically refer to the Products as confirmed at the time of booking.

6.8 The Company shall not accept or pay any statements of account that are received more than six (6) months after a Customer checks out.

6.9 If the Company disputes a statement of account it shall:

- a) pay any undisputed element within thirty (30) days of receipt of such statement; and
- b) provide the Provider, as soon as reasonably practicable, a report indicating which elements/amounts of the statement are disputed and cannot be reconciled by the Company for any reason ("**Disputed Items**") and the reason why the Company is unable to reconcile the Disputed Items. The Parties shall work together in good faith to attempt to resolve the Disputed Items as soon as is practicable. Pending resolution of the Disputed Items, the Company shall have no obligation to pay any amounts to the Provider in respect of the Disputed Items. If, within ninety (90) days of the date the Company first received the relevant statement of account from the Provider, the Provider has been unable to demonstrate to the Company's satisfaction that the Company is liable to pay for the relevant Disputed Items, the Company shall cease to have any obligation to pay any amounts to the Provider in respect of the Disputed Items.

6.10 The Company may at any time, without notice to the Provider, set off any liability of the Provider (including under any indemnity) against any liability of the Company to the Provider, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. If the liabilities to be set off are expressed in different currencies, the Company may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Company of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

6.11 The Provider hereby agrees to pay to the Company the Override Payment (if applicable) as agreed between the parties from time to time in the Special Terms or otherwise.

6.12 The Provider hereby agrees to pay to the Company any brochure contribution, and/or ad hoc contribution (if applicable) as agreed with the Company from time to time in the Special Terms or otherwise.

6.13 Provided that a Customer cancels a booking at least forty eight (48) hours before check in, no charge will be levied by the Provider, unless otherwise specified by the Provider in the room type cancellation policy on the Extranet for that Product at the time the booking was made. If a Customer cancels a booking forty eight (48) hours or less from check-in or if the Customer fails to arrive at all, the Provider may levy a cancellation charge equal to one night's stay at the accommodation or as specified by the Provider in the room type cancellation policy on the Extranet for that Product at the time the booking was made. In relation to bookings on Prepay Rates, the relevant amount shall be deducted from the next statement, unless otherwise updated in the cancellation terms available on the Extranet.

### 7 INTELLECTUAL PROPERTY

7.1 The Provider hereby authorises the Company and its Business Customers to use the Intellectual Property of the Provider on a non-exclusive basis in relation to the marketing advertising, promotion

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and sale of the Products, subject to the terms and conditions of this Agreement. The Company shall indemnify the Provider in relation to any direct losses suffered by the Provider arising solely out of the Company's use of the Provider's Intellectual Property otherwise than in accordance with any written instructions agreed with the Provider from time to time.

7.2 The Provider undertakes to provide to the Customer accurate, complete and up to date images and content in relation to the Products and to ensure that such images and content remain up to date throughout the Term.

7.3 The Provider hereby acknowledges that all the Intellectual Property Rights of the Company and/or its Business Customers (whether now existing or brought into being during the term of this Agreement) shall remain the Intellectual Property Rights of the Company or the Business Customer (as applicable) and no right or licence is granted to the Provider in respect of the such Intellectual Property Rights except as expressly set out in this Agreement.

7.4 The Provider shall defend, indemnify and hold harmless the Company and its Business Customers (and their directors, officers, agents, employees and associated companies) from and against all claims, liabilities, suits, losses, costs, damages and expenses, including reasonable legal fees brought against them by third parties relating to or resulting from any actual or alleged infringement of any Intellectual Property Right arising out of or in connection with this Agreement, including where caused by any Product or the supply or use of any Product.

7.5 In the defence or settlement of the claim, the Provider shall obtain for the Company and its Business Customers the right to continue using the Intellectual Property, replace or modify the Intellectual Property so that it becomes non-infringing or, if such remedies are not reasonably available, the Company may immediately terminate this Agreement without liability to the Provider and any sums that have accrued in favour of the Company shall become immediately due and payable.

### 8 FORCE MAJEURE

8.1 Neither party will be liable for a failure to comply or delay in complying with its obligations under this Agreement to the extent resulting from an event of Force Majeure.

8.2 A party shall not be entitled to rely on this clause 8 to the extent that it fails to use all reasonable endeavours to resume performance of its obligations as soon as is practicable, and in the meantime, to mitigate the effects of any such event.

8.3 If either party is affected by an event of Force Majeure, it will promptly notify the other party in writing of the nature and extent of the circumstances giving rise to the event of Force Majeure, and both parties shall co-operate to mitigate the effect of the event of Force Majeure to the fullest extent reasonably practicable.

### 9. TERM AND TERMINATION

9.1 This Agreement shall commence on the Commencement Date and shall remain in force for an indefinite period of time until terminated in accordance with the provisions set out in this clause 9 ("Term").

9.2 The Company shall be entitled to immediately terminate this Agreement by written notice to the Provider, if the Provider:

- a) is in breach of this Agreement and in the case of such breach being capable of remedy, fails to remedy the same within fourteen (14) days after receipt of written notice giving particulars of that breach and requiring it to be remedied;
- b) repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its

conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;

c) fails to adhere to the Company's Health and Safety Guidelines as stipulated from time to time and/or does not ensure that any applicable third party suppliers adhere to such guidelines;

d) fails to adhere to provide any documentation required in this Agreement or any reasonable requests for information and/or documentation; or

e) in the reasonable opinion of the Company, does not maintain, operate or supply the Products to the standard approved by the Company.

9.3 Either party shall be entitled to terminate this Agreement forthwith by written notice to the other party if:

a) the other party is unable to perform its obligation as a result of a Force Majeure event falling within the scope of Clause 8 which continues for more than thirty (30) continuous days; or

b) the other party convenes a meeting of its creditors; or

c) a proposal is made by the other party for a voluntary arrangement or any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors; or

d) the other party is unable to pay its debts; or

e) a trustee, receiver or administrative receiver or similar officer is appointed in respect of all or any part of the other party's business or assets; or

f) a petition is presented or a meeting is convened for the purpose of considering a resolution (or other steps are taken) for the winding-up of the other party otherwise than for the purpose of an amalgamation or reconstruction.

9.4 If the Provider fails to adhere to any Applicable Laws or any Provider policy in relation to such laws, the Company shall be permitted, in its sole discretion to:

- a) amend the terms of this Agreement to avoid any further violations of Applicable Laws; or
- b) immediately terminate this Agreement.

9.5 Either party is permitted to terminate this Agreement at any time by giving a minimum of thirty (30) days' notice.

### 10. CONSEQUENCES OF EXPIRY/TERMINATION

10.1 The Provider will fulfil any bookings made for the Products prior to expiry or termination.

10.2 Following expiry or termination, the Provider will continue to provide such assistance as the Company shall require in relation to complaints, after-sales enquiries or other incidents, as set out in this Agreement.

10.3 This Agreement shall remain in force to the extent necessary for the parties to fulfil their obligations up to and including the date that the last Customer has completed their stay with the Provider.

10.4 Upon termination or expiry the Provider shall destroy or deliver up to the Company (as requested by the Company) at its own expense, any materials and/or documents which feature the Intellectual Property or confidential information of the Company or its Business Customers including without limitation marketing materials, documents and any business literature, and any Personal Information and the Provider shall not keep copies of the same.

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- 10.5 Upon termination or expiry the Provider shall cease all association with the Company and shall not hold itself out to be in association with the Company.
- 10.6 Any clauses that are expressly or by implication intended to survive termination and/or expiry of this Agreement shall remain in full force and effect notwithstanding termination and/or expiry.
- 10.7 Any sums that are owed by one party to the other shall remain due and payable on termination or expiry in accordance with this Agreement.
- 10.8 In the event that the Provider terminates the Agreement in accordance with clause 9.5, or if the Company terminates this Agreement in accordance with clause 9.2, 9.3 or 9.4, then any expenses incurred by the Company in promoting the Products (or otherwise incurred under this Agreement) shall be reimbursed in full to the Company by the Provider.
- 11. INDEMNITY AND INSURANCE**
- 11.1 The Provider agrees to fully and effectively indemnify the Company and its Business Customers and to keep the Company and its Business Customers fully and effectively indemnified against any and all direct or indirect damages, compensation, claims, liabilities, penalties, fines, expenses (including legal expenses), actions, proceedings, demands and losses of whatever nature they incur directly or indirectly arising out of or in connection with this Agreement, the Products or the supply (or failure to supply) the Products including but not limited to:
- a) any acts, omissions, failures or breach or alleged breach of the terms of this Agreement by the Provider, its servants, agents, subcontractors, employees or persons instructed by the Provider to provide any aspect of the Products or services relating to the supply of the Products (including for the sake of clarity arising out of incorrect rates or inaccurate Product information being displayed on the Extranet); or
  - b) any non-compliance by the Provider (or its subcontractors) with any Applicable Laws, the Company's Health and Safety Guidelines or regulations of any relevant authority.
- 11.2 In particular but without prejudice to clause 11.1, the Provider shall indemnify the Company and its Business Customers against any;
- a) costs, expenses of whatever nature the Company and/or its Business Customers incur in investigating any incidents involving personal injury or death of any Customer;
  - b) any sum which the Company and/or its Business Customers may have to pay the Customers or third parties in connection with any act, omission, failure, breach or alleged breach of the terms of this Agreement by the Provider, its servants, agents, subcontractors, employees or persons instructed by the Provider to provide any part of the Products or services relating to the supply of the Products whether such sums are ordered to be paid by a court, tribunal of competent jurisdiction or such sums which are decided as appropriate to resolve a complaint or claim by the Company or its Business Customers in their absolute discretion.
- 11.3 The provisions of Clause 11.1 and Clause 11.2 shall remain in full force and effect notwithstanding the expiry of the Term or earlier termination of this Agreement (howsoever arising).
- 11.4 The Provider shall maintain, throughout the Term, at its own cost, the following insurances:
- a) hoteliers liability (including but not limited to third party liability, products liability, premises liability and personal injury liability) insurance which shall not be less than the insurance limit required as per the laws/regulations/directives applicable in the Territory, covering the Provider's liability which it may incur towards the Company, any Business Customer, or any of the Customers or any other third party for any damages, liabilities, claims and costs from any of the causes, events or circumstances referred to in clause 11.1 and 11.2 and/or as a consequence of, directly or indirectly, of any action that the Provider takes or omits to take in the performance of this Agreement; and
  - b) motor vehicle third party legal liability insurance covering the Provider's liability for death or injury to third party persons including any employees or customers of the Company or its Business Customers, or for loss or damage to property of any employees or customers of the Company or its Business Customers or any third party caused by or arising out of the use of vehicle (including but not limited to passengers whilst in the vehicle or during the course of getting in to or out of the vehicles) for a limit not less than the statutory minimum requirements as required by the applicable law or regulation of the relevant country, state, province or local municipality in respect of any vehicle used for services under this Agreement.
- 11.5 The Provider shall provide the Company with a copy of its insurance policies or certificates of insurance evidencing the insurance coverage requirement on the Provider referred to in clause 11.4, before the commencement of this Agreement and on every renewal of each of such insurances. If in the reasonable opinion of the Company, the amount or the extent of the insurance cover held by the Provider is inadequate, then the Company may require the Provider to increase the amount or extent of such cover and the Provider shall comply with such requirement within seven (7) days of receiving such notice. Should the Provider fail to comply with such requirement, then the Company may immediately remove the Products from sale or terminate this Agreement without liability. The Provider warrants that all such insurance policies will be maintained up-to-date and comply with the applicable national, local, trade and other laws and regulations with respect of any insurances. The Provider shall provide translations of insurance policies or certificates, if not in English, with respect to its insurances referred in clause 11.4 at the expense of the Provider. For the avoidance of doubt failure to maintain the insurances referred in clause 11.4 shall be a material breach of this Agreement which is incapable of remedy. In the event of failure of the Provider to comply with its obligations under clause 11.4 and clause 11.5, the Company may terminate this Agreement without liability. The Provider shall notify the Company immediately in writing of any changes to any of its insurance referred in clause 11.4 and shall provide updated copies of any relevant certificates or policy documentation.
- 12. CONFIDENTIALITY**
- 12.1 Each party undertakes that it shall not at any time during the Term of this Agreement, disclose to any person any Personal Information, confidential information concerning the business, affairs, Customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's confidential information;
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
  - (b) as may be required by law, court order or any governmental or regulatory authority.

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12.3	For the avoidance of doubt this clause 12 shall survive the termination of this Agreement.		to the Provider and the Provider shall agree to any novation of this Agreement by the Company (including to any related business of the Company).
<b>13.</b>	<b>PERSONAL DATA</b>	<b>16.</b>	<b>GENERAL</b>
13.1	In order to fulfil its obligations under this Agreement, the parties may Process Personal Information.	16.1	Nothing in this Agreement shall create, or be deemed to create, a partnership or joint venture of any kind between the parties and the Company shall have no liability to the Provider's current or former employees, shareholders and/or creditors in any respect.
13.2	Each party will Process Personal Information in accordance with this Agreement and in compliance with applicable Data Protection Legislation.	16.2	Each party acknowledges that, in entering into this Agreement, it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly set out or referred to in this Agreement and all conditions, warranties or other items implied by statute or common law are excluded to the fullest extent permitted by law.
13.3	The Company owns the copyright and any database rights in the Personal Information.	16.3	If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, unenforceable or illegal, it shall be amended to the minimum extent required to make it valid and enforceable, and the other provisions of this Agreement shall remain in full force and effect.
13.4	Each party warrants and represents that it has: <ul style="list-style-type: none"> <li>a) full legal authority to receive, store and Process Personal Information, to use it for the purpose(s) for which it has been collected;</li> <li>b) in place, appropriate technical and organisational measures to prevent unlawful or unauthorised processing, accidental or unlawful destruction, accidental loss, alteration, unauthorised disclosure or access and adequate security procedures to ensure that unauthorised persons will not have access to the Personal Information, or to equipment used to Process the Personal Information, and that any persons it authorises to have access to the Personal Information will respect and maintain the confidentiality and security of the Personal Information;</li> <li>c) as far as it is aware, the Processing of the Personal Information under this Agreement will not infringe the Intellectual Property Rights of any third party.</li> </ul>	16.4	No waiver by the Company of any breach of the Provider's obligations shall constitute a waiver of any prior or subsequent breach and the Company shall not be affected by any delay, failure or omission to enforce any obligation of the Provider.
13.5	Each party undertakes to: <ul style="list-style-type: none"> <li>a) promptly comply with any request made pursuant to Data Protection Legislation from the other party requiring it to amend, transfer or delete Personal Information;</li> <li>b) notify the other party within 2 working days if it receives a request made pursuant to Data Protection Legislation from a data subject for access to that person's Personal Information. Each party shall provide the other party with full co-operation and assistance in relation to any such request.</li> </ul>	16.5	This Agreement constitutes the entire agreement and understanding between the parties with respect to the matters contained herein and supersedes any and all agreements, written or oral, express or implied between the parties with respect to its subject matter and it may not be modified except by an instrument in writing signed by an authorised representative of each of the parties hereto.
<b>14.</b>	<b>AUDIT</b>	16.6	This Agreement and any amendment hereto may be executed in any number of counterparts, each of which shall be enforceable with respect to the parties actually executing such counterparts. An electronic signature on this Agreement shall serve as an original signature for all purposes.
14.1	The Provider shall permit the Company to audit the Provider's compliance with its obligations in this Agreement, including but not limited to its obligation to comply with Applicable Laws and to protect Personal Information, provided that (save where an audit is required to be conducted differently for legal or regulatory reasons): <ul style="list-style-type: none"> <li>a) such audits shall take place at the Provider's premises or (if applicable) wherever the Personal Information is being held at that time; and</li> <li>b) the Company provides no less than forty eight (48) hours written notice to the Provider of such audit and such audit is to take place within the Provider's normal hours of business.</li> </ul>	<b>17.</b>	<b>Governing Law and Jurisdiction</b>
<b>15.</b>	<b>ASSIGNMENT</b>	17.1	This Agreement shall be governed by and construed in accordance with English law.
15.1	This Agreement is personal to the Provider and the Provider shall not assign, mortgage, charge or sub-license all or any of its rights or obligations under this Agreement (or purport or agree to do so) without the prior written consent of the Company, such consent shall be at the Company's absolute discretion.	17.2	If the Provider is located in a jurisdiction where an English court judgment can be enforced, then any and all disputes arising out of or in connection to this Agreement shall be finally settled by the English Courts. If an English court judgment cannot be enforced in such jurisdiction, then any and all disputes arising out of or in connection to this Agreement shall be finally settled by arbitration under the rules of the DIFC LCIA ("Rules"), which Rules are incorporated by reference into this Agreement. The number of arbitrators shall be one, nominated by the arbitration centre. The seat or legal place of arbitration shall be the Dubai International Financial Centre and the language of the arbitration shall be English.
15.2	The Company may assign, mortgage, charge and/or sub-license and/or sub-contract, declare a trust over or deal in any other manner with any of its rights or obligations under this Agreement, or may act through any company which is a member of the group of companies in which it belongs provided it gives prior written notice		

## **Schedule 1**

### **Service Level Agreement**

#### **1. Goals & Objectives**

To ensure that the correct practices and procedures are in place to provide consistent service support and delivery to the Company by the Provider.

#### **2. Provider Responsibilities**

##### **2.1 Support for Enquiries**

To provide the Company with a dedicated manager, responsible for overseeing and resolving escalated queries and enquiries from the Company where the operational/customer Relations department has not delivered on the below service level.

To provide the Company with a daily catch up call (if requested) within peak periods and regularly upon request during other periods.

To provide the Company with a priority phone line during working hours.

To provide the Company with a 24/7 Emergency phone line and In resort phone line.

Requests to reconfirm a booking must be actioned within 12 hours of request (or earlier if the circumstances require) and the Provider must advise the original confirmation number.

##### **2.2 Changes to Existing Bookings (pre & post)**

###### Changes to Existing Bookings pre-travel

The Provider must offer early check out charges within 2 hours of being requested by the Company and will provide those charges separate from the new booking charges clearly to the Company.

The Provider is to keep the same reference and use it in all correspondence relating to a matter, to avoid further administrative work.

###### Missed Closeouts

It is the Provider's responsibility to call and email the Company's departmental team leaders as soon as is possible where the Provider or its Provider has missed a close out and the only option is to move the passenger. In those instances, the Provider will work alongside the Company to ensure that the passenger's needs are met, and will not categorise this as an accommodation change. The Company can retain the booking in the original booked property with another accommodation provider or hotel directly, the Provider must reimburse the Company for any cost difference between the Provider cost and the new cost

###### Changes to Descriptions, Star Ratings or other Errata

The Provider undertakes to notify the Company within 24 hours of any withdrawal of, or alteration to, the Products or any other matter (or earlier if the circumstances require). The Provider also undertakes to inform the Company within 24 hours (or earlier if the circumstances require) of any building, maintenance work or other activity taking place at a property and of the withdrawal of services which may adversely affect the enjoyment or quality of the Customer's stay. The Provider hereby undertakes to follow the above irrespective of whether the Company has any affected bookings. The Provider hereby declares they will be responsible for any liability that the Company might incur in cases where static data (i.e., data which

is stored and only refreshed at certain intervals) at the moment of booking did not reflect the real status of a Product.

SIGNIFICANT change – where there is a significant change the Provider will offer compensation to the Company for this at the time it notifies the Company of the change. Where such offer is not acceptable to the Customer, the compensation offered must also take into consideration the cost of flights and potential court losses. All compensation is to be quoted NET to the Company.

## **2.3 Product Administration**

### Images

The Provider must provide images with all of the properties imported by the Company and the Company may refuse to sell any Product without those images.

### Descriptions

The Provider must provide all content in English and without reference to the Provider's business name or any third party names, addresses and websites.

### Health and Safety

The Provider shall ensure that the Products provided by the Provider are in compliance with the Health and Safety Guidelines provided by the Company

In the event that the Provider persistently fails to meet some or all of the Service Levels, the parties shall meet to discuss the Provider's performance. The Provider shall put in place a plan to rectify the breaches, to be approved by the Company.

**Any notifications required to be sent by the Provider under this Agreement shall be sent to the details set out in the Help Section of the extranet system.**