

Terms and Conditions

Effective May 2020

Visit <https://www.travelmediagroup.com/prior-terms/> for Prior Terms

This Terms and Conditions document forms a part of the Digital Services Agreement to which it is attached and sets forth terms and conditions relating to the provision and use of the Travel Media Group, LLC, d/b/a “**TMG**”, products and services ordered through the Digital Services Agreement (the Digital Services Agreement, any addenda thereto, and this Terms and Conditions document collectively constitute the “**Agreement**”). Any terms that are not defined in these Terms and Conditions shall have the meanings given those terms under the Digital Services Agreement. The Client, as identified in the Digital Services Agreement, represents that it has read these Terms and Conditions and agrees to be bound by them.

1. ORDERED PRODUCTS AND SERVICES.

- (a) All products and services ordered by Client in the Digital Services Agreement and/or any supplemental schedule and/or addendum thereto are referred to herein collectively as the “Ordered Product(s)/Service(s)”. The Ordered Products/Services may include (i) the development, hosting, maintenance and/or support of one or more websites (each, a “Client Website”) and/or (ii) the provision of other products or services that may include, but are not necessarily limited to, reputation management services, video product/hosting, social media management and call tracking/reporting services. Subject to Section 9 below, the Ordered Products/Services shall be provided to Client by, and are ordered by Client from, TMG for the term/contract period designated in the Digital Services Agreement for that product or service (the “Contract Period”).
- (b) For each Ordered Product/Service, TMG hereby grants Client a non-exclusive, non-transferable, revocable, limited license during the applicable Contract Period to have its authorized users (as specified in the Digital Services Agreement) access and use that Ordered Product/Service and the related TMG Proprietary Materials (defined below) in connection with the operation of the hotelier or management group identified in the Digital Services Agreement. Any rights not expressly granted herein are deemed withheld. Except as expressly permitted in this Section 1(b), Client may not use, reproduce, transfer, share, sublicense or transmit any TMG Proprietary Materials in any form or by any means without the prior written consent of TMG, and, without limiting the foregoing, Client is expressly prohibited from reselling, loaning or otherwise sharing any TMG Proprietary Materials or divulging any related Confidential Information (defined below). Client further shall not directly or indirectly, and shall not permit or authorize a third party to, modify, translate, transform, decompile, reverse engineer, disassemble, or otherwise determine or attempt to determine source code from any TMG Proprietary Materials.

2. FEES.

- (a) For each Ordered Product/Service, Client shall pay TMG all fees designated in the Digital Services Agreement for that product or service, as the same may be hereafter modified, which may include one-time “upfront fees” or set-up fees and costs (including, but not limited to, applicable travel costs) and/or recurring “monthly fees” (collectively, the “Fees”).
- (b) Except to the extent that any such fees are payable in advance, TMG will invoice Client for all Fees monthly, and all invoices are due upon receipt. If any Ordered Products/Services are provided on a bundled basis, TMG will begin invoicing for those Ordered Products/Services when the first of those bundled Ordered Products/Services is deployed/activated. With respect to any Ordered Product/Service that requires customization or Client input (e.g., Client Websites, etc.), the parties expect the customization and/or activation to be completed by the beginning of the corresponding Contract Period, but if the customization and/or activation is delayed through no fault of TMG, TMG may begin invoicing for those services not later than the first day of such corresponding Contract Period.
- (c) Any invoice that remains unpaid thirty (30) days after the original invoice date shall be subject to interest on any outstanding balance at a rate equal to the lesser of (i) 1.5% per month or (ii) the maximum rate permitted by applicable law. If any outstanding Fees remain unpaid for thirty (30) (or more) days from the original invoice date, TMG may, without limiting any of its rights and remedies, suspend the provision of the Ordered Products/Services in respect of which payment has not been received plus any or all other Ordered Products/Services. The foregoing rights and remedies of TMG shall not apply to any invoice, or portion thereof, that is then subject to a good faith dispute between the parties, provided that all other invoices (or portions thereof) not in dispute have been paid by Client in full.

- (d) All Fees are exclusive of federal, state and local excise, sales, use and other taxes now or hereafter levied or imposed for the provision of Ordered Products/Services, and Client shall be solely liable for and shall pay all such taxes (except for any such taxes based on the net income of TMG), regardless of whether included on any invoice.
- (e) Subject to the other provisions of this Section 2, the Fees payable in respect of any given Ordered Product/Service shall be, (i) for the initial Contract Period thereof, the amount set forth in the applicable Digital Services Agreement, and (ii) for any Renewal Period (defined in Section 9(b) below), if greater, the list price in effect as of the first day of such Renewal Period. Notwithstanding the foregoing, during the initial Contract Period and in each Renewal Period for a given Ordered Product/Service, TMG may modify any Fees payable hereunder for a given Ordered Product/Service by giving Client at least sixty (60) days' prior written notice. Any such Fee modification shall not require an affirmative response by Client or any further action by the parties; provided, however, if any such Fee modification will result in an increase in the Fees that are payable in respect of an Ordered Product/Service, then, for a period of thirty (30) days following receipt of notice of the increase, Client may cancel the applicable Ordered Product/Service by giving TMG written notice of cancellation. If Client does not timely cancel the applicable Ordered Product/Service, then such Fee increase shall be effective (and binding on Client) as of the date specified in TMG's initial notice thereof.

3. SYSTEMS.

- (a) Client acknowledges and agrees that (i) in order to transact business using various applicable Ordered Products/Services, certain capabilities are required of Client's computing and telecommunications equipment (both hardware and software), (ii) Client is obligated to procure and install for its use, at its own expense, all equipment and infrastructure (including wiring) that is necessary to access and otherwise receive the benefit of the applicable Ordered Products/Services, and (iii) TMG shall not be responsible or liable if for any reason Client's telecommunications and computing equipment is incompatible with or otherwise insufficient for Client to utilize any applicable Ordered Products/Services.
- (b) Client further acknowledges and agrees that (i) TMG, in its discretion, may track, analyze and/or create reports related to activity and/or results obtained in connection with Client's use of the Ordered Products/Services (including, without limitation, information from consumer actions or responses) (collectively, "Results Reports"), and (ii) in furtherance thereof, TMG may install certain tracking pixels or other similar tools included therein (including photos) and use those pixels and tools to collect information relating to such use of the applicable Ordered Products/Services, which information may be used by TMG to, among other things, create, market and sell products and services.

4. COMPLIANCE.

- (a) Client represents, warrants and covenants that it is complying, and shall comply, with all federal, state and local laws, rules, regulations and ordinances applicable to its business, this Agreement and its use of the Ordered Products/Services, including, without limitation, the Americans with Disabilities Act of 1990 (ADA) and the Web Content Accessibility Guidelines 2.0 AA (WCAG 2.0 AA). Without limiting the foregoing, Client represents and warrants that the design, content and operation of any Client Website (including, without limitation, accessible room listings and descriptions of the accessibility of accessible rooms and common areas) are complete and accurate and comply with all disability laws, regulations, guidelines or policies established or promulgated by any federal, state or local governmental, or any industry or body. Client further warrants and covenants that it shall comply with all policies and procedures in respect of the use of the Ordered Products/Services that TMG may provide to Client and similarly situated customers from time to time on an across-the-board basis, including, without limitation, policies and procedures regarding (i) end user use of an Ordered Product/Service and (ii) language that TMG requests Client to include in its website privacy policy and customer order forms. Client acknowledges and agrees that any privacy policy template provided as part of any Ordered Product/Service is provided for illustration only, and Client represents and warrants that it will consult with its own legal counsel in creating a privacy policy that complies with all applicable laws.
- (b) Client acknowledges and agrees that, as between Client and TMG, Client is solely responsible for all messages, editorial content, advertising content, music recordings, photographs, videos, artwork or other similar content that is displayed on or distributed through any Client Website or any other product maintained or made available, in any media (electronic or otherwise), through any Ordered Product/Service (such content, except to the extent it incorporates any TMG Proprietary Material, is collectively the "Client Content"). Without limiting the foregoing, Client represents and warrants to TMG that (i) Client owns the Client Content (ii) all licenses, rights and other permissions from third parties (including but not limited to ASCAP, BMI and the Copyright Clearance Center) that

are necessary to display or distribute the Client Content through the applicable Ordered Products/Services shall be obtained (for the benefit of Client and TMG) and fully paid before such display and/or distribution commences and, further, shall thereafter be maintained in full force and effect by Client for so long as such distribution continues hereunder. Client acknowledges and agrees that TMG has not undertaken, and will not undertake, any obligation to investigate or evaluate the extent to which the display or distribution of any Client Content infringes upon or misappropriates any right of any third party or is otherwise permissible. (iii) All Client Content complies with the WCAG 2.0 AA and complies with requirements of the ADA, including but not limited to those in 28 C.F.R. Section 36.302(e).

- (c) If any third party (including any governmental agency or authority) notifies TMG that Client's use of any Ordered Product/Service violates or may violate any federal, state or local law or regulation, TMG may at any time thereafter on notice to Client suspend Client's use of each applicable Ordered Product/Service until TMG receives reasonable assurance that Client's use does not violate such law or regulation.

5. PROPRIETARY RIGHTS; LICENSE; RESTRICTIONS.

- (a) As between the parties, TMG shall own all right, title and interest in and to the Ordered Products/Services and all Intellectual Property Rights (defined below) relating to the Ordered Products/Services (and any derivative works, enhancements, additions or improvements related to the Ordered Products/Services that are created, developed or discovered by or on behalf of TMG or its affiliates, whether in the course of its internal activities or activities related to the use of Ordered Products/Services by Client), whether owned by TMG or held pursuant to a contract or license, including, but not limited to, (i) all associated software, technology, materials, documentation and Brand Features (defined below), (ii) the style and design of any Client Website, (iii) any other text, audio, photo, video or other creative work, whether in print or electronic form, developed by TMG for any Client Website, and (iv) all Results Reports (collectively, the "TMG Proprietary Materials"). Client does not and shall not acquire any right, title or interest in the Ordered Products/Services or the TMG Proprietary Materials, except for the limited use rights expressly set forth in this Agreement, and Client shall not take any action to impair, limit or interfere in any manner with TMG's ownership or rights with respect to any TMG Proprietary Materials. Client further acknowledges and agrees that nothing herein shall be deemed or construed to limit in any manner TMG's development and/or use of the Ordered Products/Services of any other TMG Proprietary Materials.
- (b) As used herein, (i) "Intellectual Property Rights" shall mean any and all rights existing from time to time under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, as well as any and all applications, renewals, extensions, restorations and re-instatements thereof, now or hereafter in force and effect worldwide, and (ii) "Brand Features" shall mean the trade names, trademarks, service marks, logos, and other distinctive brand features of a party, as secured by such party from time to time.
- (c) As between the parties, Client shall own all right, title and interest in and to the Client Content; provided, Client hereby grants to TMG a non-exclusive, worldwide, irrevocable, perpetual, royalty-free right and license (with rights to sublicense) to, reproduce, use, prepare derivative works from, display and distribute the Client Content as may be necessary or appropriate for TMG to provide the Ordered Products/Services (including, without limitation, by sharing the Client Content with its affiliates and third parties in connection therewith). In addition to and not in limitation of the foregoing, the parties acknowledge and agree that, (i) subject to the rights of applicable registries and/or registrars in and to any such domain name(s), Client is the sole owner of the domain name(s) for any Client Website registered by or on behalf of Client, and Client shall be solely responsible for any applicable domain name registration fees (TMG may host domain name(s) on behalf of Client, but shall have no ownership rights or responsibilities with respect thereto); (ii) TMG shall have no responsibility and shall be held harmless from liability for Client's failure to renew or maintain in good status Client's domain name(s); and (iii) Client shall not be entitled to any credit against its Fees payable to Client if any Client Website is unavailable due to any failure to maintain domain name(s) in good standing.

6. CONFIDENTIALITY.

- (a) During the Term of this Agreement and for a period of three (3) years thereafter, each party (the "Receiving Party") shall retain in confidence the terms of this Agreement and all confidential or proprietary information, technology, materials and know-how of the other party (including, without limitation, information of the other party that such other party has received on a confidential basis from its licensors, vendors or other third parties) disclosed to or acquired by the Receiving Party pursuant to or in connection with this Agreement that either is designated as confidential and/or proprietary or that reasonably should be understood to be confidential and/or proprietary given the nature of the information and/or the circumstances surrounding its disclosure ("Confidential

Information"). (Without limiting the generality of the foregoing, Client expressly acknowledges and agrees that the TMG Proprietary Materials constitute TMG's Confidential Information.) In connection with the foregoing, (i) neither party shall use any Confidential Information with respect to which it is the Receiving Party for any purpose other than to carry out the activities permitted or contemplated hereunder (including, provision or use of the Ordered Products/Services, as applicable), or to exercise or enforce its rights under this Agreement; (ii) each Receiving Party shall use commercially reasonable efforts to protect the Confidential Information of the other party against any unauthorized use or disclosure, and in any event shall take precautions at least commensurate with those taken to protect its own Confidential Information of a similar nature; and (iii) each Receiving Party shall notify the other party promptly in writing in the event such party learns of any unauthorized use or disclosure of any Confidential Information that it has received from such other party, and will cooperate in good faith to remedy such occurrence to the extent reasonably possible. The restrictions set forth in this Section 6 shall not apply to any information that: (A) was known by the Receiving Party without obligation of confidentiality prior to disclosure thereof by the other party; (B) was in or entered the public domain through no fault of the Receiving Party; (C) is disclosed to the Receiving Party on a non-confidential basis by a third party legally entitled to make such disclosure without violation of any obligation of confidentiality; or (D) is independently developed by the Receiving Party without use of or reference to any Confidential Information of the other party.

- (b) If a Receiving Party is required to disclose Confidential Information of the other party pursuant to an order from a court of competent jurisdiction or governmental agency with appropriate legal authority, the Receiving Party shall (i) provide the disclosing party with prior notice of such compelled disclosure, (ii) provide reasonable assistance, at the disclosing party's cost and expense, if the disclosing party wishes to contest the disclosure, and (iii) disclose only those portions of the Confidential Information as are necessary to comply with the order.
- (c) Upon request of the other party, each Receiving Party shall return to the other or destroy all materials, in any medium, which contain or reveal all or any part of any Confidential Information of the other party.

7. DISCLAIMER; LIMITATIONS OF LIABILITY.

- (a) EACH ORDERED PRODUCT/SERVICE AND ALL TMG PROPRIETARY MATERIALS ARE PROVIDED ON AN "AS IS" BASIS. EXCEPT FOR WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, IF ANY, TMG DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS, ORAL, IMPLIED OR STATUTORY, WITH RESPECT TO ANY ORDERED PRODUCT/SERVICE OR ANY TMG PROPRIETARY MATERIAL, AND TMG HEREBY SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, WITH RESPECT TO THE ORDERED PRODUCTS/SERVICES AND THE OTHER TMG PROPRIETARY MATERIALS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF QUALITY, ACCURACY, COMPLETENESS, PERFORMANCE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING ANYTHING IN THE FOREGOING, (i) TMG DOES NOT MAKE ANY REPRESENTATION OR WARRANTY THAT THE ORDERED PRODUCTS/SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR WILL FULFILL ANY PARTICULAR NEEDS OR PURPOSES; (ii) TMG DOES NOT PROVIDE ANY WARRANTY AGAINST INFRINGEMENT OR INTERFERENCE WITH ENJOYMENT; (iii) CLIENT ACKNOWLEDGES THAT THE OPERATION, USE OR PERFORMANCE OF THE ORDERED PRODUCTS/SERVICES ENTAILS THE LIKELIHOOD OF SOME HUMAN AND MACHINE ERRORS, OMISSIONS, DELAYS AND LOSSES, INCLUDING INADVERTENT LOSS OR DISCLOSURE OF DATA OR DAMAGE TO MEDIA, WHICH MAY GIVE RISE TO LOSS OR DAMAGE, AND CLIENT AGREES THAT TMG SHALL NOT BE LIABLE IN ANY EVENT ON ACCOUNT OF ANY SUCH ERRORS, OMISSIONS, DELAYS, OR LOSSES; AND (iv) CLIENT ACKNOWLEDGES AND AGREES THAT NO STATEMENTS MADE IN ANY ADVERTISING MATERIALS OR ANY OTHER DOCUMENTATION (OTHER THAN STATEMENTS THAT ARE EXPRESSLY SET FORTH IN THIS AGREEMENT) HAVE FORMED A PART OF THE PARTIES' AGREEMENT OR UNDERSTANDING, AND CLIENT IS NOT ENTITLED TO RELY ON SUCH STATEMENTS IN ADVERTISING OR OTHER DOCUMENTATION.
- (b) IN ADDITION TO AND NOT IN LIMITATION OF ANY OTHER LIMITATION OF LIABILITY HEREUNDER, CLIENT ACKNOWLEDGES AND AGREES THAT (i) TMG SHALL NOT BE LIABLE TO CLIENT OR ANY OTHER PERSON FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY OR OTHER SIMILAR DAMAGES OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY ORDERED PRODUCT/SERVICE OR ANY TMG PROPRIETARY MATERIAL, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TMG SHALL NOT BE LIABLE FOR ANY LOST PROFITS OR REVENUE, INCLUDING, BUT NOT LIMITED TO, ANY SUCH LOSSES INCURRED AS A RESULT OF LOSS OF USE OF ANY ORDERED PRODUCT/SERVICE OR ANY TMG PROPRIETARY MATERIAL, LOSS OR DISCLOSURE OF DATA (HOWEVER CAUSED), BUSINESS INTERRUPTION, COST OF RECOVERING SOFTWARE OR DATA OR

OTHER SIMILAR COSTS); AND (ii) TMG'S TOTAL LIABILITY FOR ALL CLAIMS OF ANY KIND IN RESPECT OF ANY ORDERED PRODUCT/SERVICE OR TMG'S OBLIGATIONS UNDER THIS AGREEMENT RELATING THERETO, REGARDLESS OF THE FORM IN WHICH ANY CLAIM MAY BE BROUGHT, SHALL NOT EXCEED (IN THE AGGREGATE) THE TOTAL FEES PAID BY CLIENT TO TMG UNDER THIS AGREEMENT FOR THAT ORDERED PRODUCT/SERVICE DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH CLAIMS.

- (c) If TMG is not appointed to handle the hosting of domain-name service ("DNS") entries or domain names relating to the Client Website(s) that constitute Ordered Products/Services hereunder, then TMG shall not be responsible for any issues that may result from or relate to the hosting, including domain downtime.

8. INDEMNIFICATION.

- (a) Client assumes sole responsibility for all use of the Ordered Products/Services and the TMG Proprietary Materials. Furthermore, Client shall indemnify, defend and hold harmless TMG and its affiliates, and its and their respective officers, directors, employees, agents and representatives (collectively, the "Indemnified TMG Parties"), from and against any and all claims, proceedings and demands asserted or alleged by third parties against an Indemnified TMG Party ("Claims"), and from and against any damages, costs, expenses and liabilities of any kind whatsoever (including, without limitation, reasonable attorneys' fees and costs) incurred in connection with any such Claims, arising out of or in any way related to (i) Client's use of any of the Ordered Products/Services, (ii) any breach by Client of any representations, warranties, covenants or other terms and conditions set forth in this Agreement, (iii) Client's violation of or failure to comply with any applicable law, rule or regulation, (iv) the failure of a Client Website or any content included therein (including, without limitation, accessibility information about accessible rooms or common areas required by 28 C.F.R. Section 36.302(e) and any privacy policy) to comply with the requirements of any privacy or disability law, regulation, guideline or policy established or promulgated by any federal, state or local governmental, or any industry or body, including, without limitation, the ADA and the WCAG 2.0 AA, or (v) any allegation that any Client Content, whether as displayed on any website, product or otherwise, (A) infringes (directly or in a contributory manner), violates or misappropriates any copyright, patent, trademark or service mark or any other Intellectual Property Right of a third party, (B) violates any right of publicity or privacy of any third party or (C) constitutes unlawful use, disclosure or misappropriation of a third party's trade secret or otherwise constitutes unfair competition under applicable law.
- (b) In the event that TMG determines, in its sole discretion, that the use of the Ordered Products/Services or other TMG Proprietary Materials in accordance with the terms of this Agreement is, or may be held to be, infringing or otherwise in violation of any Intellectual Property Right of third party, then TMG may at its option and expense either (i) use commercially reasonable efforts to procure for Client the right to continue to use the applicable Ordered Product(s)/Service(s) or TMG Proprietary Materials as provided in this Agreement, or (ii) use commercially reasonable efforts to replace or modify the applicable Ordered Product(s)/Service(s) or TMG Proprietary Materials with a version that is non-infringing but that performs substantially similar functions. While pursuing either option, TMG may, at its option, suspend the provision of all or any part of the applicable Ordered Products/Services. In the event that neither of the foregoing options is commercially viable in the sole judgment of TMG, then TMG may cancel its provision to Client of the applicable Ordered Product(s)/Service(s) or TMG Proprietary Materials and refund to Client any Fees pre-paid by Client with respect thereto.

9. TERM AND TERMINATION.

- (a) This Agreement shall commence on the date that the initial Digital Services Agreement is executed and delivered by an authorized Manager of TMG and, unless earlier terminated in accordance with the terms hereof, shall remain in effect until the end of the last Contract Period (or, where applicable, Renewal Period) for Ordered Products/Services commenced hereunder in accordance with Section 1 above.
- (b) Each Digital Services Agreement specifies an initial term/contract period (defined above as the Contract Period) for each Ordered Product/Service. After the initial Contract Period for any Ordered Product/Service expires, the Contract Period for such Ordered Product/Service shall, except as provided below, automatically renew for successive terms that are equal in length to the initial Contract Period (each, a "Renewal Period"), unless a party gives the other party written notice of its intent not to renew this Agreement for the applicable Ordered Products/Services not less than sixty (60) days prior to the applicable renewal date. As specified in Section 2(e) above, the Fees for each Renewal Period hereunder shall be the list price then in effect for the applicable Ordered Product/Services.

- (c) Client, on the one hand, or TMG, on the other hand, may terminate this Agreement (including any and all active Digital Services Agreements) at any time by written notice to the other party if (i) the other party materially breaches this Agreement and the breach remains uncured for a period of thirty (30) days after notice of breach from the non-breaching party, or (ii) the other party ceases to do business in the normal course, a petition for relief under any bankruptcy legislation is filed by or against the other party, the other party makes an assignment for the benefit of creditors or a receiver is appointed for all or substantially all of the other party's assets.
- (d) In addition to and not in limitation of Section 9(c) above, TMG may terminate this Agreement (including any and all active Digital Services Agreements): (i) immediately upon written notice to Client in the event that Client, or any of its employees, agents or other representatives, engages in any conduct that TMG in its reasonable discretion deems offensive, inappropriate or otherwise inconsistent with TMG's standards of conduct, including, but not limited to, use of abusive, insulting or derogatory language with any TMG personnel or (ii) at any time, and for any (or no) reason, upon one hundred eighty (180) days' prior written notice to Client.
- (e) Following termination of this Agreement for any reason, all rights and licenses granted herein shall terminate and Client shall immediately cease use of all Ordered Products/Services (including by discontinuing use of all TMG Proprietary Materials) and certify to TMG that it has destroyed all copies of all applicable TMG Proprietary Materials. Notwithstanding the foregoing, termination of this Agreement shall not limit either party from pursuing any remedies available to it at the time of or in connection with such termination, nor shall such termination release Client from its obligation to satisfy all payment obligations under this Agreement. Sections 2, 5, 6, 7, 8, 9(e), 10 and 11 shall survive any termination or expiration of this Agreement.

10. GOVERNING LAW; DISPUTE RESOLUTION. The parties hereby expressly (i) agree that their respective rights and obligations shall be determined by the terms of this Agreement and (ii) waive and opt out of any application of the Uniform Computer Information Transactions Act, or any version thereof, adopted in any State in any form to the maximum extent permitted by applicable law. This Agreement will be construed in accordance with and governed by the laws of the Commonwealth of Virginia (subject to clause (ii) in the preceding sentence), without regard to principles of conflicts of law. Each party irrevocably consents to the exclusive jurisdiction and venue of any local, state or federal court that is located in Norfolk, Virginia in connection with any dispute, claim or controversy arising out of or relating to this Agreement, and waives any objections in the nature of jurisdiction or venue. In any action or other proceeding by which Client's account is referred to an attorney or collection agency for collection, Client will pay for all collection fees, costs and expenses incurred by TMG in connection therewith. EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

11. GENERAL.

- (a) Independent Contractors. The relationship of the parties hereunder is that of independent contractors. Neither TMG, on the one hand, nor Client, on the other hand, has or will have any power to bind the other or to create any obligation on behalf of the other, nor shall it represent that it has any such power.
- (b) Promotional Matters. TMG may issue press releases and other marketing and promotional material describing the relationship created by this Agreement and, among other things, displaying websites or products, developed for or provided to Client as examples of the service offerings available from TMG. Client hereby grants TMG the right to use Client's name, trademarks, service marks and logos (i) in advertising targeted to all or any portion of Client's customer base in connection with the performance of the Ordered Products/Services hereunder, and (ii) in any advertising and publicity identifying Client as a customer of TMG.
- (c) Notices. All notices and other communications to each party must be in writing and sent to the applicable address specified in the Digital Services Agreement, with any such notices to TMG to be sent care of Vice President/General Manager, Travel Media Group. Unless otherwise agreed, notice shall be deemed given upon (i) receipt when delivered personally, (ii) written verification of receipt from overnight courier, (ii) verification of receipt of registered or certified mail, or (iv) verification of receipt via facsimile.
- (d) Force Majeure. No party shall be deemed to be in default or otherwise liable for any delays or failure in performance of its obligations under this Agreement (other than its obligation to pay any monies owed hereunder, which shall not be excused) resulting directly or indirectly from any cause or circumstances beyond its reasonable control, including but not limited to acts of God or nature, war or warlike conditions, terrorism, riot, embargoes, acts of civil or military authority, fire, flood, accidents, strikes or labor shortages, sabotage, shortages in fuel,

transportation facilities or materials, or failures of equipment, Internet, telecommunications facilities or third party software programs.

- (e) Severability; Waiver. If any term or condition hereof is found or ruled to be invalid or unenforceable, the remaining terms and conditions hereof shall remain in full force and effect and shall be enforceable to the maximum extent permitted by law. The failure of either party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- (f) Remedies. Except as otherwise expressly set forth in this Agreement, a party's remedies set forth herein are not exclusive and are in addition to any and all other remedies available at law or in equity, none of which shall be deemed as waived by virtue of a party's exercise of any other remedy. Each party acknowledges that any unauthorized use or disclosure of the other party's Confidential Information would cause the other party irreparable harm that may not be adequately compensated by monetary damages; accordingly, in addition to any other remedies available to it at law or in equity, each party will be entitled to injunctive or other equitable relief to prevent any actual or threatened unauthorized use or disclosure of its Confidential Information.
- (g) Amendment. Except to the extent otherwise expressly provided herein (such as, by way of example, in the case of Fee increases by TMG), this Agreement may not be amended or otherwise modified except by a writing signed by both parties. Notwithstanding the foregoing, TMG may, at any time and from time to time during the Contract Period or any Renewal Period, propose amendments or modifications to these Terms and Conditions by delivering to Client written notice of TMG's proposed amendment or modification, which notice shall identify the sections or paragraphs hereof that are being amended. If Client does not object to such amendment or modification by delivering to TMG written notice of objection within thirty (30) days after the Client receives notice of the proposed amendment, then such amendment or modification will be deemed accepted and agreed to by Client, and these Terms and Conditions shall be automatically amended to include such amendment or modification without any further action by the parties. If Client validly and timely objects to the proposed amendment or modification, in accordance with the preceding sentence, then Client and TMG shall endeavor to negotiate a mutually acceptable amendment or modification in good faith.
- (h) Assignment. Client may not assign or otherwise transfer this Agreement or any of its rights or obligations hereunder to any other person or entity without the express prior written consent of TMG. In addition, and notwithstanding anything to the contrary set forth in this Agreement, if another person, business or entity becomes the "Client" under this Agreement, whether by way of a permitted assignment hereof, change of ownership of the original/current Client hereunder, or any other means or mechanism whatsoever, then following such assignment, ownership change or other means/mechanism the original/current Client shall nonetheless be and remain responsible for both (i) all obligations incurred by the original/current Client hereunder prior to such change, and (ii) any and all obligations (including but not limited to payment of all Fees) incurred by any such new "Client" subsequent to such change.
- (i) Third Party Beneficiaries. This Agreement is not intended to benefit any third party and the parties do not intend to create, and do not and shall not be deemed to create, any third party beneficiary rights hereunder.
- (j) Authority. Each party represents and warrants to the other that (i) it is duly organized, validly existing, and, where applicable as a concept, in good standing, (ii) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder, and (iii) upon the complete execution and delivery of this Agreement, this Agreement shall constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.
- (k) Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior agreements and understandings, written or oral, with respect thereto. BY EXECUTING THE DIGITAL SERVICES AGREEMENT, THE PARTIES AGREE TO BE BOUND BY THIS TERMS AND CONDITIONS DOCUMENT AND CONSENT TO THE USE OF THE SIGNATURES TO THE DIGITAL SERVICES AGREEMENT (INCLUDING ANY DIGITAL SIGNATURES) AS PROOF THEREOF.

[END OF TERMS & CONDITIONS - UPDATED MAY 2020]