

Terms and Condition for Accommodation Partner

Hotel & Home: For **Hotel and Home Private Limited**, incorporated under the Companies Act, 2063 having its registered office at **Tinkune, Kathmandu Nepal (hereinafter referred to as "Company"**), which expression shall unless repugnant to the context herein, include its successors and permitted assigns); and you the Hotel/Accommodation/Hostel/Apartment/ (**"Hotel"**).

The following terms and conditions constitute definitive agreement between Hotel and the Company. By clicking the 'Accept' or similar option, the Hotel agrees to terms of this Agreement *inter alia* along with the terms of use, privacy policy and cookie policy available on the Website and any other applicable policies of the Company, as and when updated on Website. This Agreement shall be read along with the aforesaid and in case of any inconsistency, the terms and conditions of this Agreement shall prevail.

1. **Execution & Performance:** The Agreement shall be effective on and from the date on which Hotel has provided its acceptance to the Agreement which shall become enforceable upon confirmation by the Company (**"Effective Date"**).

2. **General Delivery Terms:** The Hotel declares that it has read and hereby accepts the terms and conditions as mentioned herein.

GENERAL TERMS AND CONDITIONS

1. UNDERSTANDING OF THE PARTIES

During the Term (defined hereinafter) and for the consideration set out herein, Hotel shall commit to Company a minimum number of Hotel rooms and packages (**"Inventory"**) as may be set out in **Hotel & Home inventory management system ("System"**) available to Company for reservations/distributions by the Company through various channels available to it.

2. TERM

2.1 This Agreement shall be deemed to have come into effect on and from the Effective Date and shall continue for a period of one (1) year post the Effective Date (**"Term"**) unless terminated by Company by giving one month's written notice to the Hotel (**"Notice Period"**).

2.2 The Parties hereby agree that upon expiry of the Term or the renewed term, as the case may be, this Agreement shall automatically renew for a further term of 1 (One) year. Even after the termination of this Agreement, Hotel shall honor any bookings made by Company's customers up till the effective date of termination or expiry of this Agreement. Further, the Company reserves the right to terminate this Agreement with immediate effect in the event of any material or other breach of the provision of this Agreement by Hotel including without limitation on the

Hotel's inability to offer Inventory, Inventory and rate parity not being maintained by the Hotel, failure to issue invoices to customers, bankruptcy or winding up proceedings against the Hotel, change of Control of the Hotel or multiple escalations from customers against the Hotel i.e., customer satisfaction index. Hotel shall duly intimate Company of any change of Control. For the purposes of this Agreement, a person shall be deemed to "Control" another person if such person possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such other person, whether through the ownership of voting securities, by contract or otherwise, and the terms "Controlling" and "Controlled" shall have corresponding meanings.

3. CONSIDERATION

3.1. In lieu of the Company providing services to the Hotel/ Accommodation, the Hotel/ Accommodation agrees to pay the considerations as stated in the Additional Terms and Conditions attached in “**Annexure A**” accepted and signed between Parties (“**Consideration**”).

3.2. All payments and considerations payable to the Hotel pursuant to this Agreement shall be at net pricing, as may be defined in Annexure A and be subject to the Hotel submitting all valid documents in respect of the following to the satisfaction of the Company within 7 (Seven) days from the execution of this Agreement:

- (a) Certificate of incorporation, if company/ Partnership Deed, if Partnership firm;
- (b) Copy of Pan Certificate;
- (c) Copy of Woda Registration Certificate;
- (d) Lease Agreement, if any;
- (e) Bank details, along with cancelled cheque;
- (f) Copy of registration license;
- (g) VAT registration copy.

3.3 Company shall receive payments from the customers through a third party payment gateway and shall be responsible to remit that amount to Client on a weekly basis subject to appropriation of any dues to the Company (including the Commission payable to the Company under this Agreement by the Client). The payments shall be subject to monthly reconciliations as discussed mutually between Parties. Remittance of amount collected by the Company to Hotel shall take place in regular intervals as more elaborated in **Annexure A** and Parties shall abide to the terms mentioned therein.

4. MINIMUM ALLOCATION AND PARITY

4.1. The Hotel/ Accommodation commit itself to make available a minimum number of rooms available for reservation via www.myhotelandhome.com (the "Minimum Allocation"). Company invites the Hotel/ Accommodation to provide additional availability of rooms for certain periods as may be available or requested from time to time.

4.2. The Hotel shall ensure that Rate Parity is maintained in respect of the Inventory being offered pursuant to this Agreement. For the purpose of this Agreement, "Rate Parity" shall mean the same accommodation, same room type, same dates, same bed type, same number of customers, same or better policies such as breakfast, reservation changes and cancellation policy as are available on the Hotel websites, apps or call-centers (including the customer reservation system), or directly at the Hotel, with any competitor of the Company (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 Hotel. In the event, the Company becomes aware that the prices being offered by the Hotel are not at Rate Parity, the same shall be considered material breach of this Agreement and the Company shall be entitled to terminate this Agreement in accordance with Clause 2 of this Agreement.

5. SERVICE CONDITIONS

5.1. Company shall notify all reservations made to the Hotel *via* email or as per the reservation formats mutually agreed between the Parties. During this process, Hotel shall receive a voucher from the Company at the time of a successful booking and it shall be mandatory for the Hotel to accept and confirm the voucher with immediate effects.

5.2. The rates shall be fixed by Hotel and updated to Company's platform. Additionally, Company may at its discretion also offer promotions and offers to promote the booking of Hotel rooms.

5.3. The Hotel agrees and undertakes to maintain inventory parity at all times during the Term of this Agreement. In the event it is found by the Company that Hotel is not maintaining the same, it shall be considered a material breach and the Company shall be entitled to terminate this Agreement in accordance with Clause 2 of this Agreement.

5.4. The Hotel agrees and undertakes that it shall at all times act in good faith and shall not in any way commit acts prejudicial to the interest of the Company or the customers of Company including without limitation acts which in Company's sole discretion may amount to defrauding the Company or its customers such as misuse or abuse of any benefits, accruals or offers made available by the Company.

5.5. The Hotel shall at all times honor all bookings and reservations done by Company's customers, once the booking is confirmed by the Company. Further, Hotel shall ensure that, once confirmed to the customer, no bookings shall be cancelled and/or modified, without the express consent of the relevant customer. Further, in case the Hotel is unable to honor any such booking or reservation due to any reason whatsoever, the same shall be considered as a material breach. In such a case the Hotel shall, at all times make accommodation at comparable (if not identical) or better alternate accommodation, at its own cost and expenses, to honor the confirmed

bookings or reservations. The Hotel shall be solely responsible for any consumer complaint arising out or in relation to Hotel's inability to honor the bookings.

5.6. All descriptions on the services and/or amenities at the Hotel's website as provided by Hotel and available for view by customers/third parties should actually be provided for. If description for amenities and infrastructure do not match then this shall comprise of material breach by Hotel and Hotel shall indemnify the Company for any and all claims by customers/third parties arising from the same.

5.7. By making a reservation through the Company channels, a direct contract (and therefore legal relationship) is created solely between the Hotel and the customer by means of the customer reservation. To the extent necessary, the Hotel hereby empowers and grants the Company explicit authorization to conclude customer reservations on its behalf arising out of online Hotel reservations for the Hotel made by customers *via* the Company. Accordingly, any booking made through the Company's website does not imply that the accommodation services are being provided by Company which only acts as a technology platform to enable bookings to be made by the customer with the Hotel. All accommodation services will be provided by Hotel to the customer. Further, it is agreed by the Hotel that, being the service provider to the customer, Hotel shall be responsible and liable for providing the invoice at the time checkout by or otherwise to the customer.

5.8. The Hotel is bound to accept a customer as a contractual party, and to handle the online reservation in compliance with the information contained on the Company channel at the time the reservation was made, including any supplementary information and/or wishes made known by the customer/guest.

5.9. Hotel and Company may agree to jointly or severely undertake promotional, marketing and other activities, details of which shall be mutually agreed. Further, the Hotel agrees and undertakes that Company shall be at liberty to offer discounts to the customers on behalf of the Hotel to the extent as may be intimated on a periodical basis by the Company to Hotel.

5.10. Hotel agrees and acknowledges that Company owes no tax liability with respect to any bookings confirmed from its platform. Any tax including VAT, Service Tax etc. shall be borne by the Hotel themselves and Company will be only liable to pay applicable taxes on the Commission received from the Hotel under this Agreement.

5.11. System will provide the Hotel/ Accommodation with a user ID and password which allow the Hotel/ Accommodation to access the dashboard. The Hotel/ 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 System. The Hotel/ Accommodation shall immediately notify Company of any (suspected) security breach or improper use.

6. REPRESENTATION AND WARRANTIES

The Hotel/ Accommodation represents and warrants to the Company that:

6.1. It has all requisite power and authority to execute, deliver and perform its obligations under this Agreement and has been fully authorized by all requisite corporate actions to do so. The representation herein is in respect of all the Inventory also includes representation that the long term management contracts entered into by the Hotel shall not cease, expire or terminate during the Term;

6.2. It has all necessary statutory and regulatory permissions, approvals and permits for the running and operation of its establishment for the conduct of its business, more particularly for the services herein;

6.3. It has full right, title and interest in and to all trade names, trademarks, service marks, logos, symbols, proprietary marks and other intellectual property marks ("**IPR**") which it provides to Company , for use related to the services, and that any IPR provided by a Party will not infringe the marks of any third party;

6.4. It will provide such co-operation as the Company may reasonably request in order to give full effect to the provisions of this Agreement;

6.5. All information, content, images, facilities, amenities etc. available at the Hotel's website or provided by the Hotel to the Company are true, correct and updated at all times;

6.6. The Hotel shall at no time charge any extra charges, taxes and/or levies, over and above what has been specified at the time of booking. The Hotel shall only charge the customer for any additional facility used by the customer which was not included while making the booking;

6.7. The execution and performance of this Agreement by either Party does not and shall not violate any provision of any existing Agreement, law, rule, regulation, any order or judicial pronouncement;

6.8. The Hotel represents and warrants that all information provided to the Company which shall be contained on the Hotel's website or as shared with Company or any marketing or promotional materials in connection with the services of the Hotel is true, accurate and correct as of the date of the Agreement.

7. CANCELLATION REFUNDS AND RETENTION POLICIES

7.1. Every booking shall be made, amended or cancelled by informing the Company in writing. The Hotel undertakes that it shall ensure parity in respect of cancellation policy as well, across channels. Notwithstanding anything said above, any booking made on hourly or slot basis will not be cancelled by the Hotel in any circumstances and shall be honored mandatorily.

7.2. The cancellation, retention and refund policies of the Hotel shall be uploaded/updated by the Hotel to System and any modification thereto shall be intimated in writing to Company. Hotel hereby confirms that such change in policies shall not be made applicable retrospectively and shall be applicable to only such customers who make reservations/booking post the publication of such policies.

7.3. If the Agreement stands terminated on account of breach of the terms of this Agreement and refunds pertaining to cancellations are owed to Company along with other dues, then such refunds shall be credited to Company's account one week post such termination. In the event, this cancellation refund is not credited to Company's account in the aforementioned time, then Company shall levy an interest at the rate of 24% per annum on such refund as penalty one week prior to termination of this Agreement. In the event of breach of the provisions of clause 5.3, without prejudice to other rights of the Company under the Agreement, in law or equity, Company *inter alia* reserves the right to withhold payments or cancel all future bookings.

8. INDEMNITY

8.1. Hotel agrees and undertakes to defend, indemnify and hold harmless the Company and its affiliates, directors, officers and employees from any and all claims, demands, action suits or proceedings, liabilities, losses, costs, expenses (including legal fees) or damages asserted against the Company arising out or in relation to (i) any consumer complaints arising out of Hotel's services under this Agreement including but not limited to unavailability, deficiency and/or misbehaviors by employees; (ii) breach of any applicable laws pertaining to the subject of this Agreement; and (iii) breach of any of representations, warranties and obligations under this Agreement. Similarly, the Company shall, subject to the provisions of sub-clause (d) below, defend, indemnify and hold harmless the Hotel and its directors, officers and employees from any and all claims, demands, action, suits or proceedings, liabilities, losses, costs, expenses (including legal fees) or damages asserted against the Hotel arising out or in relation to (i) breach of any applicable laws pertaining to the subject of this Agreement; and (ii) breach of any representations, warranties and obligations under this Agreement. Hotel agrees to discharge all tax liabilities arising as a result of accommodation services provided by it to the customer. Hotel also undertakes to provide Company with necessary documents to prove discharge of any tax in case the same is being demanded by any authority from Company.

8.2. The obligations set out in this clause shall survive the Term of this Agreement.

9. PROCESS FOR DEALING WITH CUSTOMER DISPUTES

9.1. In case the Company receives a complaint from a customer regarding the Hotel, the Company shall communicate the same to the Hotel and Hotel shall be obligated to respond the same within 2 working days of intimation by Company. The resolution of the dispute will be based on facts of the matter at hand gathered from the Hotel, the customer and any other third

parties. The Company may at its sole discretion mediate such dispute between the Hotel and the customer. The decision of the Company shall be final in respect of such a dispute. If the resolution involves refund by the Hotel to the customer, the Hotel shall refund such amount to the customer within 48 hours of the Company requiring the Hotel to do so. In the event no amount is refunded by the Hotel, the same shall be refunded by the Company and such amount shall become payable by the Hotel to the Company as debt owed to the Company and shall be paid by the Hotel within seven days of being notified to do so by the Company.

9.2. The Company is not responsible for and disclaims any and all liability in respect of such claims from the customers. The Company may at all times and at its sole discretion (a) offer customer (support) services to a customer, (b) act as intermediate between the Hotel and a customer, (c) provide -at the costs and expenses of the Hotel alternative accommodation of an equal or better standard in the event of an overbooking or other material irregularities or complaints in respect of the Hotel, or (d) otherwise assist a customer in its communication with or actions against the Hotel.

9.3. In the event of a valid claim of a customer related to Rate Parity post investigation by the Company undertaken by the Hotel, the Company shall promptly notify the Hotel of such claim and provide the Hotel with the relevant details of the claim. The Hotel shall immediately adjust to the extent applicable the rate(s) made available on Company channels such that the lower rate is available for further booking(s). Furthermore, the Hotel shall immediately adjust the rate in the reservation made by the relevant customer. Upon check out of the customer, the Hotel 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 customer for the lower rate, or (ii) refund (in cash) to the customer the difference between the two rates.

9.4. **Overbooking and Cancellation:** The Hotel shall provide the rooms booked and in the event that the Hotel is not able to meet its obligations under this Agreement for any reason whatsoever, the Hotel shall promptly inform the Company. The subject line of each such email shall state '**Overbooking**'. It is the sole obligation of the Hotel to procure alternative Hotel of equal or superior quality at its own expense and in the event that no Inventory is available on arrival, the Hotel shall-

(i) find suitable alternative accommodation of an equal or better standard to the Hotel holding the customer's guaranteed booking;

(ii) provide private transportation to the alternative accommodation for the customer and other members of the customer's party who are listed in the customer's guaranteed booking, and

(iii) reimburse and compensate the Company and/or the customer for all reasonable costs and expenses (e.g. costs, alternative accommodation, transportation, telephone costs) incurred by the customer and/or the Company due to or caused by the overbooking. Any amount charged by the Company in this respect shall be paid within 15 days after receipt of the invoice.

9.5. The Hotel is not allowed to cancel any online reservation under any circumstances.

10. LIMITATION OF LIABILITY

10.1. Neither Party shall be liable under this Agreement for any indirect, incidental, special, punitive or consequential loss or damage, any loss of profits, loss of business, loss of revenue and/or loss of goodwill, except in case of any infringement of intellectual property rights or any violation of law.

10.2. Further, notwithstanding anything in the Agreement to the contrary, the maximum aggregate liability of the Company under this Agreement shall be limited to the amounts received by the Company as commission in the month immediately preceding the month in which the cause of action arose. The obligations set out in this clause shall survive the Term of this Agreement.

10.3 No special, punitive or consequential damages shall be recoverable from the Company. It is further expressly understood and agreed that the Company shall not be liable to any third person for the damages or injuries which the said third person may incur directly or indirectly, as a result of any errors or omissions of the Hotel or in connection with any bookings.

11. MISCELLANEOUS

11.1. Amendment

No modification, amendment, waiver, discharge or termination of any of the provisions of this Agreement shall be effective unless made in writing specifically referring to this Agreement and duly signed by each of the Parties.

11.2. Confidentiality

Each Party ("**Disclosing Party**") acknowledges and agrees that in connection with this Agreement, the other Party ("**Receiving Party**") will have access to sensitive information relating to the Disclosing Party including but not limited to business affairs, operations, products, processes, methodologies, plans, projections, know-how, market opportunities, suppliers, customers, marketing activities, sales and/or software ("**Confidential Information**"). The Receiving Party hereby agrees not to disclose any Confidential Information to any third party and not to use any such Confidential Information for any purpose other than as strictly required for the performance of this Agreement. All such Confidential Information is and shall remain the exclusive property of the Disclosing Party.

The Receiving Party undertakes to use all precautions required to enable it to comply with all the terms of this Agreement and to ensure similar compliance of the same by its employees/ personnel.

Notwithstanding the foregoing, the obligation of confidentiality shall apply to any disclosure of information: (i) that is in or enters the public domain other than by reason of a breach by Receiving Party; (ii) that was in possession of Receiving Party prior to disclosure; (iii) required by law, legal process, or order of any court or governmental body having jurisdiction. Any breach of the aforementioned confidentiality obligations by either Party is considered material breach of this Agreement and non-defaulting Party shall be entitled to terminate this Agreement in accordance with Clause 2 of this Agreement.

11.3. Arbitration and Jurisdiction

All claims arising under this Agreement shall be resolved amicably by the Parties. If such dispute is not resolved amicably between the Parties within 30 days then the same shall be referred to arbitration. The arbitration proceedings shall be carried out by a sole arbitrator appointed mutually by the Parties in accordance with the rules and regulations under **the Arbitration Act, 2055**. The arbitration shall be conducted at Kathmandu in Nepali language. Subject to the above, the Parties agree to submit to the exclusive jurisdiction of courts at Kathmandu in respect of any dispute under this Agreement. However, the Parties shall have the right to approach the courts at Kathmandu at any time for injunctive relief.

11.4. Severability

If any provision of this Agreement shall contravene or be illegal, invalid or unenforceable under the laws of any state in which this Agreement shall be performed or enforced, then such contravention, illegality, invalidity or unenforceability shall not invalidate the entire Agreement and the Agreement shall be modified to the extent necessary to make it enforceable.

11.5. Independent Parties

Parties acknowledge and agree that the relationship between them is solely that of independent contractors and nothing in this Agreement is to be construed as employer / employee, franchise/ franchisee, agent / principal, partners, joint ventures, co-owners, or otherwise participants in joint or common undertaking and the relationship is purely on principal to principal basis.

11.6. Survival

The clauses of this Agreement that are by their nature intended to survive shall so survive the Term of this Agreement.

11.7. Assignment

Each of the Parties understands and acknowledges that each Party shall not assign or otherwise transfer its rights or obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. However, the Company may at any time assign or transfer all or any part of its rights or obligations arising under or in connection with this Agreement to any of its affiliate entities without requiring the prior written consent of the Hotel.

11.8. Entire Agreement

This Agreement with signed and executed Annexure A contains the entire Agreement of the Parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the Parties with respect to said subject matter.