

PARTNER TERMS OF USE

These Partner Terms of Use (**these Terms**) govern the terms upon which you as the entity using our API (**you**) market EAN's Hotel Information and Content to End Customers through your website or booking tool notified to us and approved by us in advance of Launch (being the **Approved Website** or **Approved Booking Tool**).

Please read these Terms. Defined terms are indicated by capitalization, and where these terms are not defined in the text, they are defined at the end of these Terms. By offering Hotel Information and Content to End Customers through Approved Website or Approved Booking Tool you agree, acknowledge and represent to us that:

- Your representative has read and understood these Terms on your behalf;
- You agree to be bound by these Terms without modification; and
- Your representative entering into the agreement created by acceptance of these Terms has the power, capacity and authority to enter into these Terms and to bind you.

1 PARTNER OBLIGATIONS

1.1 Marketing. During the Term, you shall actively market and promote the Hotel Information to End Customers. To assist you in marketing Hotel Information, we will provide you with access to our API. You acknowledge and agree that the Hotel Information, our API, and the underlying accommodation services, display products, content or services that are owned or operated by third party suppliers (**Accommodation Suppliers**), licensors and/or affiliates. Accordingly, subject to the terms of the contractual arrangements between EAN (or its Group Members) and such Accommodation Suppliers, licensors and/or affiliates: (a) certain products, content or services may not be available for distribution; and (b) certain of the products, content or services to which these Terms initially applies may be changed (enhanced, amended or deleted) or may no longer be available for distribution through our API. Any such non-availability or change may occur at any time without notice and without liability to us or EAN.

1.2 Your Use of the API

- (a) You must promptly create an application you control that interfaces with our API to enable exchange of Hotel Information and Content and data regarding Bookings (**Partner Application**). Once we have verified that your Partner Application functions correctly, you must ensure that the Hotel Information and Content, as received through our API and your Partner Application, is promptly integrated with your Approved Websites and/or Approved Booking Tools (as applicable) so that Bookings can be made by End Customers on your Approved Websites or via the Approved Booking Tools (as applicable).
- (b) You are responsible for:
 - i. promptly making and maintaining all necessary arrangements to access, use and interface with our API in accordance with such specifications and guidance as we may stipulate from time to time ("**Specifications**");
 - ii. complying with those requirements detailed on the EAN developer hub website (<http://developer.ean.com/docs/launch-requirements>, as updated from time to time) before Launch ("**Launch Requirements**") and you shall allow us or EAN to confirm your compliance with our Launch Requirements, either by allowing us or EAN access to your systems, or providing us or EAN with alternative evidence to our satisfaction.
- (c) Should you fail to continue to comply with these Launch Requirements or Specifications, we or EAN may remove or restrict your access to our API or the Hotel Information and Content.
- (d) You must implement industry-standard security measures and comply with our security requirements as notified to you from time to time and you shall ensure that your Partner Application and systems are secure and maintained in such a way as to protect our computer systems, network devices and/or the data processed thereon from the risk of penetration by, or exposure to, a third party or to avoid otherwise causing a security threat to us or EAN.

1.3 Customer Contracts. Prior to the completion of a Booking, you must:

- (a) make clear to End Customers that Travelscape, LLC or Vacationspot, SL (or any other Group Member of EAN) shall be treated by any tax authority in any pertinent jurisdiction as the supplier to the End Customer of E-Collect Bookings and the Hotel Information part of a Package for VAT (Value Added Tax) purposes as applied by Directive 2006/112/EC (where applicable);
- (b) not display or make any statement which expressly or by implication contradicts Section 1.3(a) of these Terms;

- (c) ensure that the End Customer has read and agrees to be bound by the End Customer Terms and Conditions;
- (d) ensure that the End Customer is aware of any limitations or restrictions that apply to their Booking, including whether the End Customer is allowed to make any cancellations or changes to their Booking and the consequences of the same; and
- (e) not make any verbal or written assurances to an End Customer which are additional to or are contrary to: (i) these Terms; or (ii) the End Customer Terms and Conditions; which includes promising an End Customer that their special request will be met.

You shall be solely responsible and liable to use in respect of any representations or special requests made or confirmed to the End Customer without our prior written authorisation and approval.

- 1.4** You shall not make or allow Bookings other than in response to a specific request by an End Customer. You also acknowledge that any Booking is between the End Customer and the Accommodation Supplier, and may not be cancelled or otherwise amended by you without the consent of the relevant End Customer.

1.5 Customer Communications and Complaints.

- (a) You shall within 24 hours of receipt: (i) provide to the End Customer, without amendment or modification, all information related to a Booking; and (ii) provide to us, without amendment or modification: (1) all communications received related to a Booking; (2) any complaints received from End Customers; and (3) any communications received from Trading Standards or any other regulatory trade body which relate to an End Customer and/or any Booking.
- (b) You shall notify us within 24 hours if you receive any End Customer complaint, claim or action regarding a Booking (each an **End Customer Issue**). You acknowledge and agree that we shall have the right to attempt to settle any End Customer Issue directly with the End Customer. If we attempt such a settlement, you must, at your expense, provide us with all information and reasonable assistance we require to reach settlement and you shall refrain from taking any other action in respect of the End Customer Issue; unless required to do so by Applicable Law.
- (c) In order for us to support End Customers in the event that the Accommodation Supplier is not able to honour any Booking, you: (a) will continue to provide us with your up to date contact details for us to notify you of any relocations; (b) will cooperate with us to facilitate a relocation, including promptly liaising with End Customers; (c) agree that relocations will be in accordance with EAN's standard process from time to time.

- 1.6 Compliance with Laws.** You shall comply with all applicable laws in force from time to time relevant to the performance of your obligations under these Terms including, without limitation, any legislation relating to the licensing of travel agents (**Applicable Laws**).

- 1.7 Package Bookings.** Provided we give our written consent to you (directly or indirectly), certain Hotel Information that we specify from time to time (**Package Rates**) may be made available to you for booking provided that you may only offer the Package Rates to the End Customer as part of a Package. We may cease to offer Package Rates at any time by providing you (directly or indirectly) with no less than seven (7) days' written notice.

- (a) **Booking of Package Products.** You shall: (a) not book, nor make available or offer Package Rates except as part of a Package; (b) ensure that the final booking price for a Package Rates is equal to the rate we provide for such Package Rates (and you acknowledge that you remain responsible for the final price of the Package); and (c) only separate the pricing of Package Rates if such pricing is not visible at any time to End Customers during the booking or confirmation processes.

We may from time to time require you at your own cost to demonstrate your ongoing compliance with this Section 1.6(a). You shall upon our written request, send copies of booking confirmations, booking details and give access to us or EAN to such other information, systems and/or documentation as is reasonably necessary to demonstrate your compliance with this Section 1.6(a).

Without prejudice to any other rights or remedies available to EAN, us or our Group Members, if you are in breach of this Section 1.6(a), we may restrict access to Package Products with immediate effect and may terminate these Terms.

- (b) **Compliance with Law.** You undertake and warrant that you shall be solely responsible for obtaining and maintaining all licences, consents and other permissions (each, if any and whether regulatory or otherwise) and all financial security arrangements necessary for the performance of obligations under these Terms in respect of bookings of Packages provided and/or arranged by you. You will comply with all applicable laws (including European Council Directive 90/314/EEC and all relevant local implementations of it) in making Packages available pursuant to these Terms. You shall be solely

responsible for your own costs of complying with this Section 1.6(b).

You agree to provide us with all necessary assistance and support in the event of an enquiry, request for information or investigation into the making available of Packages by any national authority, consumer body or other interested party.

1.8 Partner Booking Fee. If you add a booking fee to the total amount charged to the End Customer, you shall ensure:

- (a) the booking fee is not aggregated into the room rates, taxes, or service fees provided by us,
- (b) you make it clear to the End Customer that the booking fee is applied by you only;
- (c) you include the following text in your booking terms and conditions in respect of the Booking: "The total price may include an additional booking fee from [INSERT YOUR NAME]", and
- (d) you do not include the booking fee in any supplier selection algorithm or sort order logic.

2 CONTENT

2.1 Subject to the terms of these Terms, we grant to you a worldwide, non-exclusive, non-transferable, revocable, royalty free licence to use and display the information, content and data (such as descriptions and photographs) provided to you via our API that EAN and its Group Members make available to us (at their sole discretion) from time to time (**Content**) for the purposes of these Terms. In addition, you must only use the Content in accordance with the following terms:

- i. you must only display the Content on the Approved Websites or within the Approved Booking Tools, and only for the purpose of procuring a Booking. You shall not display the Content on any other medium or forum. You shall not post the Hotel Information on any online marketplace comprised within your Approved Websites or otherwise.
- ii. you must ensure that you regularly refresh the Content and Hotel Information on your Approved Websites and Approved Platforms and, in any event, shall update the Content promptly (including withdrawing any out of date Content) and within 5 Working Days of a specific request from us to do so. You will be liable for any claims brought by any third parties as a result of your failure to update the Content to our reasonable satisfaction within 5 Working Days of a receipt of such a request; and
- iii. you must ensure that you display the GBV in the currency in which we provided it to you and that the amount attributable to Travel Taxes and Tax Recovery Charges payable by the End Customer is separately stated from all other End Customer charges and clearly indicated. You may only convert the GBV into any alternative currency if that currency has not been made available by us in the API, and in which case, must ensure that any conversion into an alternative currency is calculated in accordance with the currency conversion rate published by Bloomberg at the time the Content is displayed on your Approved Websites or Approved Booking Tools (as applicable) and at the time a Booking is made by or on behalf of an End Customer (as applicable). You will be liable for any claims brought as a result of any currency conversion, notwithstanding our approval of the use of an alternative currency to display the GBV.

2.2 You may not sub-licence the Content or otherwise provide any Content to third parties (except as permitted specifically in these Terms) without our prior written consent.

3 CODE OF CONDUCT

3.1 You shall not send unsolicited bulk email, "spam" or otherwise engage in any other unethical or illegal marketing activities (as determined by us or EAN, acting reasonably) concerning End Customers in any jurisdiction.

3.2 You shall not:

- (a) place any material on any customer facing website or associate Hotel Information with any material or opinions that are illegal in any jurisdiction or are otherwise discriminatory, promote or incite violence, hatred or an illegal activity, are capable of interpretation as discriminatory or of promoting such views, or are inappropriate for general or family viewing (e.g. sexually explicit materials);
- (b) mislead or misrepresent to consumers as to the origin, affiliation or nature of your websites, products or services;
- (c) sell, redistribute, display or use in any context or manner (directly or indirectly), any data or materials

from EAN or its Group Members' websites, EAN or its Group Members' trademarks, logos or branding or any other third party (including third party Accommodation Suppliers) trademarks, logo, or branding (including any misspelling or substantially similar or confusingly similar version thereof), in any manner whatsoever (including without limitation, in any meta tags, search engine marketing or optimization, in any domain name, any other online/offline marketing or advertising, press releases, etc.) without first obtaining our or the relevant third party's prior written approval;

- (d) sell, redistribute, display or use any data, materials or other content from any website owned or operated by EAN or its Group Members other than in accordance with these Terms.

3.3 Predatory Advertising. You will not use any predatory advertising methods. Predatory advertising means any method that creates or overlays links or banners on websites, mobile devices, social media or any other channel which allows access to a Hotel Information (each a channel), spawns browser windows, or any method invented to generate traffic from a channel without that channel owner's knowledge, permission, and participation.

3.4 Keyword Advertising. You will not bid on the names that are present in URLs owned by EAN or its Group Members, including, "travelnow.com", "hotels.com", "hotel.com", "vacationspot.com", "hotels.co.uk", "condosavers.com", "orlando.com", "expedia", "hotwire", "wotif.com", "orbitz", "cheaptickets", "travelocity", "homeaway.com", "airasia" or "ebookers" (or any regional variants), for preferential placement in any cost per click search engine or other search engine in which search result page listing order is determined by payment to the search engine or other third party, and will not use any such names in keyword meta tags on any pages of the approved websites or any other websites or channels you own or operate. If requested, you shall promptly cease bidding on or otherwise using name or names present in a URL of any Accommodation Supplier or any brand or name of such supplier.

3.5 You shall not represent yourself as acting on behalf of EAN or any of its Group Members.

3.6 You shall not misrepresent who you are acting for when contacting End Customers including (as an example only) leading End Customers to believe that you are directly connected to any of the Accommodation Suppliers.

3.7 You acknowledge and agree that Travelscape, LLC or Vacationspot, SL (or any other Group Member EAN designates) shall be treated by any Tax authority in any pertinent jurisdiction as the supplier to the End Customer of E-Collect Bookings and the Hotel Reservation part of a Package for VAT (Value Added Tax) purposes as applied by Directive 2006/112/EC (where applicable).

3.8 You shall not directly contact any of the Accommodation Suppliers relating to Hotel Information or Bookings. Any direct communications from such Accommodation Suppliers which you receive should be referred immediately to us.

3.9 Any advertising and promotional materials used in connection with the Hotel Information shall be provided by or expressly approved in writing by us.

3.10 You shall notify us of any and all customer complaints made to you relating to the VAT treatment of Bookings, and must not attempt to deal with such complaints yourself. You shall also refer to us any enquiries from tax authorities or any other government agencies in relation to these Terms or the Bookings, and shall provide us with and EAN the opportunity to review and/or contribute to any response to such enquiries.

3.11 You shall not misrepresent any of the terms of the contract relevant to services being provided under these Terms, including product descriptions.

3.12 You warrant that you are not incorporated in or resident in a relevant country, or listed as a "Specially Designated National," a "Specially Designated Global Terrorist," a "Blocked Person," or similar designation under the economic or trade sanctions imposed by the U.S. Treasury Department's Office of Foreign Assets Control, the United Nations Security Council, the European Union and Her Majesty's Treasury (collectively the "Economic Sanctions"), and you will not act in such a way so as to bring EAN into breach of any Economic Sanctions.

4 TERM AND TERMINATION

4.1 These Terms shall commence on the earlier of: (i) your acceptance of these Terms; or (ii) your first Booking; and subject to earlier termination in accordance with Section 4.2, shall continue until expiry or termination of our relationship with you or EAN's relationship with us (**Term**).

4.2 We in our sole discretion and without cause may terminate these Terms immediately upon written notice for any reason. You may terminate these Terms on thirty (30) days' written notice to us. The rights and remedies provided in this Section 4.2 are not exclusive and are in addition to any other rights and remedies provided by law or these Terms.

4.3 Upon termination or expiration of these Terms for any reason: (i) you shall immediately cease procuring Bookings; and (ii) we may immediately shut down your account. Sections 4.3, 4, 5, and 6 shall survive any expiration or termination of these Terms.

5 CONFIDENTIALITY; MEDIA COMMUNICATIONS, DATA PROTECTION

5.1 Confidentiality

- (a) For the purpose of this clause, **Confidential Information** means any and all know-how, documentation and information, whether commercial, financial, technical, operational or otherwise, relating to the business, finances, affairs, tools (including those provided on a technology), products, services, personnel, customers, suppliers (including precincts, future and potential personnel, customers and suppliers), prices, commissions, rates, vendors, processes, or methods of one party or its Group Members (and EAN or its Group Members), which is disclosed to or otherwise obtained by the other party in connection with these Terms and the existence, terms and subject matter of these Terms.
- (b) Both you and we (each a **Party** and together the **Parties**) shall keep the other's Confidential Information confidential and shall not divulge the same to any third party, except EAN or EAN's Group Members, unless divulging for the purposes of these Terms, or use it itself for any other purpose without the prior written consent of the other Party.
- (c) Section 4.1(b) shall not apply to any Confidential Information that the receiving Party can show: (i) is in the public domain in substantially the same combination as that in which it was disclosed to the receiving Party other than as a result of a breach of these Terms or any other obligations of confidentiality; (ii) is or was lawfully received from a third party not under an obligation of confidentiality with respect thereto; (iii) is required to be disclosed under operation of law, by court order or by any regulatory body of competent jurisdiction (but then only to the extent and for the purpose required); (iv) is approved for disclosure in writing; or (v) was developed independently of and without reference to Confidential Information disclosed by the other Party; provided that a particular disclosed or discovered use, combination, analysis, form or collection of information will not be in the public domain simply because it could be re-created using information in the public domain.
- (d) Each Party shall give the other as much notice of any disclosure required under Section 4.1(c) as is reasonable and lawful in the circumstances (if any) and shall provide the other with reasonable assistance in avoiding or limiting the required disclosure.
- (e) Each Party shall be entitled to divulge the other Party's Confidential Information to its employees, Partners, directors, officers, authorised sub-contractors, professional advisors and consultants who have a need to know the same in connection with these Terms provided that the receiving Party shall ensure that such persons are aware of and, shall procure that such persons comply with, these obligations as to confidentiality.

5.2 **Media Communications.** You shall not release to the public any press release or other communication to the press and/or public regarding these Terms without our prior written consent.

5.3 **Data Protection.** For the purposes of Section 5.3, the following terms will have the following meanings:

Applicable Data Protection Law(s) means all data protection and privacy laws and regulations that are applicable to you (including, if you are established or use data processing equipment in the European Economic Area, European Union Directives 95/46/EC and 2002/58/EC (as implemented, amended or replaced));

Data Breach means any unauthorised access, loss, destruction, theft, use or disclosure of End Customer Data;

Data Controller, Data Processor, Personal Data and Processing have the meanings set out under Applicable Data Protection Law;

End Customer Data means any information relating to an identified or identifiable individual End Customer who views, enquires about, books or has stayed at a hotel in accordance with their Booking and relates only to Personal Data which is Processed under these Terms.

- (a) You warrant that you have complied with and will comply with all Applicable Data Protection Law(s). You will ensure that you display a compliant and accurate privacy policy and cookie notice (if required) on your customer facing websites.
- (b) You shall:
 - i. implement appropriate operational and technical measures to protect the End Customer Data

against any Data Breach; and

- ii. promptly notify us if you suffer a Data Breach, giving full details of the same and providing us with such reasonable cooperation as it may require in order to remedy or mitigate the effects of the Data Breach.
- (c) You warrant and represent that you will:
- i. only obtain, use, transmit and store End Customer cardholder data to the extent required to comply with your obligations under these Terms;
 - ii. where you obtain, use, transmit, store or process End Customer's cardholder data, you will comply with the Payment Card Industry Data Standard Security Requirements (**PCI DSS**) as issued by the PCI Security Standards Council, as updated from time to time;
 - iii. provide us with a copy of your annual certification of compliance upon request;
 - iv. promptly notify us of any breach of the PCI DSS or any other unauthorised access to End Customer cardholder data.

6 Audit

We or EAN shall be entitled to audit your performance under these Terms at any time upon reasonable notice (save where we or EAN (acting reasonably) suspect a material breach of these Terms, fraud and/or a breach of law in which case there shall be no requirement to give prior notice of any audit). You shall permit and/or shall procure that we or EAN are permitted access to such of your and your sub-contractors' and agents' records, systems and information as we may require for the purpose of such auditing.

Without prejudice to the foregoing, upon request you will promptly provide us or EAN with copies of such records, accounts and information as we or EAN require to audit your performance or compliance under these Terms.

7 DISCLAIMER

YOU AGREE THAT EAN MAKES NO REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE HOTEL INFORMATION OR CONTENT. YOU AGREE THAT EAN EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, OBLIGATIONS AND LIABILITIES ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE HOTEL INFORMATION OR CONTENT, INCLUDING WITHOUT LIMITATION ANY: (i) IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE; (ii) IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; OR (iii) IMPLIED WARRANTY OF NON-INFRINGEMENT.

YOU AGREE THAT EAN WILL HAVE NO LIABILITY TO YOU OR ANY END CUSTOMERS RELATING TO: (A) ANY FAILURE OF THE SYSTEMS OF US, EAN OR ANY THIRD PARTY THAT RESULTS IN THE FAILURE OR INABILITY TO PROCESS A BOOKING; OR (B) THE QUALITY OF THE ACCOMMODATION PROVIDED BY ACCOMMODATION SUPPLIERS TO END CUSTOMERS.

8 GENERAL

8.1 Governing Law and Dispute Resolution. These Terms and all rights and obligations hereunder, including matters of construction, validity, performance and dispute resolution, shall be governed by and construed in accordance with the substantive laws of England and Wales without regard to any conflict of laws, rules or principles that may require the application of any other law or where these Terms or any amendment to it is actually executed. Any dispute, controversy or claim arising out of or in relation to these Terms or at law, or the breach, termination or invalidity thereof, that cannot be settled amicably by agreement between the Parties, shall be finally settled by the Courts of England and Wales, and the Parties submit to the exclusive jurisdiction of those courts.

8.2 Modification. We may make changes to these Terms from time to time. We will notify you of any changes and provide you with a copy of the revised terms by email or such other means as may have been agreed between the Parties. If you do not agree with the changes, you must notify us by email within 30 days of the date of (i) successful dispatch of our email or (ii) receipt of our notice if sent by any other method. If you fail to do so within this time period you shall be deemed to have accepted the changes and the changes will come into effect on the date set out in the revised terms. If you notify us that you object, either Party may terminate these Terms in accordance with Section 4.2.

8.3 Force Majeure. Neither Party shall be liable to the other for any failure or delay in the performance of its obligations under these Terms (save in respect of any obligation to pay any monies due) to the extent that such failure or delay arises due to reasons beyond such Party's reasonable control which that Party is unable

to reasonably avoid or provide against provided always that the affected Party promptly notifies the other of the cause and likely duration of the failure or delay and takes all reasonable steps, including implementation of its business continuity and disaster recovery plan to overcome the failure or delay as soon as possible.

- 8.4 Non-waiver.** No waiver of any term, condition or obligation of these Terms will be valid. No failure or delay by any Party at any time to enforce one or more of the terms, conditions or obligations of these Terms will: (a) constitute waiver of such term, condition or obligation; (b) preclude such Party from requiring performance by the other Party at any later time; or (c) be deemed to be a waiver of any other subsequent term, condition or obligation, whether of like or different nature.
- 8.5 Assignment.** These Terms may not be assigned by either Party without the prior written consent of the other Party not to be unreasonably withheld.
- 8.6 Severability.** These Terms will be enforced to the fullest extent permitted by Applicable Law. If any provision of these Terms is held to be invalid or unenforceable, then such provision will be interpreted, construed or reformed to the extent reasonably required to render the same valid, enforceable and consistent with the original intent underlying such provision.
- 8.7 Entire Agreement.** These Terms constitute the entire and exclusive agreement between the Parties regarding the subject matter hereof, and supersede all prior or contemporaneous oral or written agreements and understandings; provided nothing in this Section 8.7 shall limit a Party's liability for any representations made fraudulently.
- 8.8 Third Party Rights.** You agree and acknowledge that EAN, Travelscape LLC, and VacationSpot SL and each of its Group Members shall have the benefit of these Terms. Notwithstanding this, the Parties agree that any claims in respect of losses suffered by EAN, Travelscape LLC, Vacation Spot SL and/or any of their Group Members shall where possible be brought by us for and on behalf of the affected Group Member and the Parties agree that, for this purpose, we shall be Partner for and conduct any claims on behalf of such Group Member. Nothing in this clause shall enable EAN, Travelscape LLC, and VacationSpot SL and each of their Group Members to be entitled to recover damages or obtain any other form of payment or compensation more than once in respect of the same loss or breach.

8.9 Notice

- (a) Notices must be given in English by email by a Party's authorised sender to the addresses notified to the other Party from time to time.
- (b) An email notice shall take effect: (i) if sent before 4.30pm on a Working Day, on the day of transmission; or (ii) when receipt is acknowledged by any of the receiving party's authorised recipients, or in the absence of such acknowledgment, 3 hours after the time of transmission (as recorded by the sending party's email application) save where such time of receipt would fall after 4.30pm on a Working Day, in which case it shall be deemed received at 10am on the next Working Day; and where (iii) no error (including any delivery error message) or valid out-of-office email message is received by the sending party in response to such email notice in respect of all of the receiving party's authorised recipients.

9 Taxation

- 9.1** We and you shall use reasonable endeavours to secure that Travelscape, LLC or VacationSpot SL (or any other Group Member as EAN designate) shall be treated by any Tax authority in any pertinent jurisdiction as the supplier to the End Customer of E-Collect Bookings and the Hotel Information component of a Package for VAT (Value Added Tax) purposes as applied by Directive 2006/112/EC (where applicable); and you shall not do, or omit to do, anything which we may reasonably expect to result in any Tax authority taking a contrary position.
- 9.2** Neither you nor any of your Group Members shall:
- (a) account to any Tax authority for Travel Tax on the basis that you (or any of your Group Members) are the supplier to the End Customer of the accommodation underlying the Bookings to the End Customer with respect to Hotel-Collect Bookings or E-Collect Bookings or the Hotel Information component of Packages; or
- (b) issue any invoices to the End Customer that expressly or implicitly state that you are making a supply of Bookings, whether on a standalone basis or as part of a Package, to the End Customer, unless otherwise required by applicable law.
- 9.3** You and each of your Group Members shall:
- (c) collect any applicable E-Collect Booking Taxes from the End Customer in the exact amount and manner provided through our API;

- (d) remit any applicable E-Collect Booking Taxes to us (or any of our Group Members as we designate) and, in respect of any E-Collect Booking of accommodation located in the United States, remit any applicable Travel Tax collected in excess of E-Collect Booking Taxes to the applicable Taxing authority; and
 - (e) hold all monies collected from an End Customer in relation to the supply of an E-Collect Booking and the accommodation component of any Package in a segregated balance sheet account identified as such and shall account to our relevant Group Member for the totality of the sum received from the End Customer.
- 9.4 You agree that all funds you (or any of your Group Members) collect in relation to E-Collect Bookings and the accommodation component of Packages, are collected on behalf of Travelscape, LLC or VacationSpot SL (or any other Group Member as EAN designates), as applicable, and you shall account for this in your records and shall not treat these monies as your own.
- 9.5 Neither you (nor any of your Group Members) will correspond with any Tax authority in relation to the Travel Tax treatment of Bookings without first consulting with us, including allowing us and EAN to review and comment on such correspondence and to make any amendments that we reasonably require. We will provide you with such information as you reasonably require for the purposes of such correspondence. Each of the obligations set out in this clause are limited to the extent permitted by law.
- 9.6 You will promptly provide us or our Group Members with a copy of any communications you receive from any Tax authorities in relation to the Travel Tax treatment of Bookings.
- 9.7 You acknowledge and agree that you shall be solely responsible for any and all Group Member Additional Taxes.
- 9.8 Notwithstanding any other provision to the contrary, you shall be responsible for any and all Taxes imposed on you resulting from these Terms.

10 DEFINITIONS AND INTERPRETATION

10.1 **Definitions.** In these Terms, the following definitions apply:

Applicable Laws: as defined at Section 1.5 of these Terms;

Approved Booking Tool: the websites and/or platforms you use to market the Hotel Reservations;

Booking: a reservation made through the Approved Website or Approved Booking Tool on the basis of the Hotel Information;

EAN: means EAN.com LP;

E-Collect Booking: A Booking for which you or we collect the payment from the End Customer;

End Customer: the individual or corporate customer undertaking the Booking, or on whose behalf the Booking is being made;

End Customer Issue: as defined at Section 1.4(b) of these Terms;

End Customer Terms and Conditions: the terms and conditions applicable to Bookings, including any applicable privacy policy, as updated and notified to you from time to time;

Group Member: an entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with an entity;

Group Member Additional Taxes any Taxes ultimately charged to us (or any of our Group Members) in excess of the amount of Travel Taxes included in an E-Collect Booking due to: (a) the failure by you (or any of your Group Members) to separately state any Travel Taxes (e.g., from the booking price and from any service or other fees) for any Booking; or (b) any additional amount charged by you (or any of your Group Members) for any Package that includes a Booking;

Hotel Information: rate and availability information that EAN and its Group Members make available to us (at its sole discretion) from time to time;

Launch: having our API available and Bookings able to be made in a live environment with End Customers;

Package: the booking of accommodation together with a travel component (air, rail and car only);

Package Products: as defined at Section 1.6 of these terms;

Tax or Taxes any and all federal, national, state, local, provincial and other taxes, imposts, duties, levies, assessments and other similar governmental charges and fees of any nature whatsoever, together with all interest, penalties, and additions imposed with respect to such amounts;

Tax Recovery Charges means an amount designated as “tax recovery charges” and provided by us through our Tools to be displayed on your Approved Websites and/or Approved Booking Tool;

Travel Taxes means any and all sales, use, occupancy, accommodation, lodging, tourism, excise, gross receipts, value added, ad valorem, goods and services and other Taxes, however designated, and other transactional Taxes or fees of any kind (including any related interest, penalties and additions to Tax) imposed in respect of travel-related services, including services typically provided by online travel companies. For the avoidance of doubt, “Travel Taxes” includes Taxes in the nature of business activity Taxes that may be imposed on income with respect to Bookings, but excludes business activity Taxes imposed by a jurisdiction in lieu of net income Taxes (e.g., Ohio Commercial Activity Tax, Washington Business and Occupation Tax, Texas Franchise (Margins) Tax), which shall be borne by the party incurring such Taxes;

Term: as defined at Section 4.1 of these terms;

Working Day: Monday to Friday excluding bank holidays in England.

10.2 Interpretation.

In these Terms, except where the context requires otherwise:

- (a) references to sections or schedules shall be to sections of and schedules to these Terms. Headings are inserted for ease of reference and shall not affect interpretation;
- (b) persons includes natural persons, firms, partnerships, companies, corporations, and words suggesting a gender shall include all other genders, words denoting the singular shall include the plural and vice versa;
- (c) references to statutes, statutory instruments and government regulations shall be deemed to include any modification, amendment, extension or re-enactment thereof from time to time;
- (d) the expressions including, include, in particular, for example and any similar expression shall not limit the preceding words;
- (e) references to writing and written include communication by email including all related attachments;
- (f) a reference to any agreement or document means that agreement or document as amended or varied by written agreement between the Parties from time to time.