

# ORBITZ WORLDWIDE, LLC PRIVATE LABEL AND XML INTERFACE AGREEMENT

500 W. Madison St. • Suite 1000 • Chicago, IL 60661

This Private Label and XML Interface Agreement (“Agreement”) is made and entered into on \_\_\_\_\_ (“Effective Date”), between Orbitz Worldwide, LLC (“Orbitz”), and the Customer listed below (“Customer”) (each, a “Party,” collectively, the “Parties”).

CUSTOMER INFORMATION	
Customer:	Linked URLs (continue on additional sheet if necessary):
Address:	
Phone:	Mobile Sites and Applications:
Fax:	
Billing contact:	
Title:	
Email address:	

## BACKGROUND

WHEREAS, ORBITZ provides on-line travel information and booking services as further described in Exhibit A attached hereto and incorporated herein by reference (“Reservation Services”) and maintains and licenses from third parties’ databases (“Databases”) of information relating to hotels, airlines, car rental, and other travel-related products and services; and

WHEREAS, Customer desires to extend to its end-users (the “End Users”) access to the Reservation Services through one or both of the following: (i) a link (the “Link”) to a web site hosted by ORBITZ (the “ORBITZ Hosted Pages”) or (ii) an XML interface (the “Interface”) that allows Customer to send search requests to, and receive travel-related data (the “Retrieved Data”) from, ORBITZ’s servers (or those of its affiliated entities or any available third party suppliers).

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties agree as follows:

## AGREEMENT

1. Reservation Services. Subject to the terms and conditions contained in this Agreement, and solely for purposes providing End Users with access to the Databases, Retrieved Data and Reservation Services to view, make or cancel reservations through one or more Customer Hosted Pages (as defined below), ORBITZ hereby grants Customer a non-transferable, non-exclusive, limited, revocable right and license to (a) publicly display the Link, (b) access, publicly display and use the Retrieved Data and Reservation Services, and (c) if applicable, use the Interface and related documentation. Customer shall participate in the Reservation Services accompanied by a checkmark on Exhibit A or are subsequently checked by Customer by logging into its account via the Affiliate Back Office (as defined in Exhibit A), or as otherwise agreed upon by the parties. All reservations requested by the End Users are subject to acceptance by ORBITZ in accordance with ORBITZ’s policies then in effect. By entering into this Agreement, Customer also agrees to the terms and conditions of the Pegasus Systems, Inc. Agreement as set forth in Exhibit B.

2. Customer Hosted Pages. The term “Customer Hosted Page” shall mean (a) each of the web pages of Customer

corresponding to the Uniform Resource Locator (“URL”) and (b) mobile site and phone applications (“Apps”), in each case other than any ORBITZ Hosted Page, listed in the “Customer Information” section above, in addition to any other channel through which Customer makes travel services available for booking. Customer agrees to promptly notify ORBITZ in writing or via the Affiliate Back Office of any change of such URLs or Apps. Customer agrees that the Retrieved Data and Reservation Services may only be displayed and used in the Customer Hosted Pages.

3. Customization. The ORBITZ Hosted Pages may be accessed by End Users through the Link and shall consist of custom web pages addressable as a separate directory under the URL [www.wctravel.com](http://www.wctravel.com) or such other URLs that ORBITZ may establish from time to time. Customer shall be responsible for providing any desired Customer Content to ORBITZ. “Customer Content” means any and all headers, footers, trademarks, service marks, logos, copyright materials, designs, artwork and any other content provided by Customer to ORBITZ for inclusion on the ORBITZ Hosted Pages. After receipt of Customer’s complete Customer Content, ORBITZ

will make the ORBITZ Hosted Pages and Link available. ORBITZ may provide additional customization services for Customer with respect to the ORBITZ Hosted Pages on such terms and for such compensation as the Parties may mutually agree in writing.

4. Compensation. ORBITZ shall pay Customer commissions as set forth on Exhibit A for the applicable Reservation Service. Customer agrees that ORBITZ may offset commissions payable to Customer hereunder against amounts owed by Customer to ORBITZ or any of its Affiliates under this Agreement or otherwise.

5. Exclusivity; Marketing. Customer agrees that the Reservation Services made available to Customer on Exhibit A hereto are required to be the exclusive on-line reservation services available on the Customer Hosted Pages. Customer further agrees to place the Link and/or the Retrieved Data in a prominent position on the Customer Hosted Pages, and to use commercially reasonable efforts to promote the ORBITZ Hosted Pages.

6. Intellectual Property.

6.1 Customer hereby grants to ORBITZ a royalty-free, worldwide, non-exclusive and revocable license, during the term hereof, to use the Customer name and any associated trademarks, service marks, or logos (collectively, "Customer Marks") on the ORBITZ Hosted Pages and to publish on the ORBITZ Hosted Pages the Customer Content to be provided by Customer hereunder. In the event that ORBITZ uses any Customer Mark or Customer Content for promotional purposes, ORBITZ agrees to provide prior notice to Customer of such use.

6.2 Other than as expressly provided in this Agreement or unless otherwise agreed to in writing by Customer, Customer does not grant any right to license, use, copy, lease, sell, publicly display, publicly perform, distribute, modify, sublicense or otherwise transfer any portion of the Customer Marks or Customer Content.

6.3 With the sole exception of any artwork, marks, content or other intellectual property provided by Customer to ORBITZ for inclusion on the ORBITZ Hosted Pages, all rights, title, and interest, including, without limitation, any and all copyright, patent, trade secret, trademark and other intellectual property rights in and to the Link, ORBITZ Hosted Pages, Databases, Retrieved Data, Interface (and related documentation), the Reservation Services and all content ORBITZ creates in connection with the Link or ORBITZ Hosted Pages under United States law and any foreign laws shall remain in ORBITZ or its respective owner or supplier where applicable. All rights, title and interest, including without limitation, any and all copyright, patent, trade secret, trademark and other

intellectual property rights in and to any and all artwork, marks, content, Customer Marks or other Customer Content provided by Customer to ORBITZ under this Agreement shall remain in Customer or its respective owner or supplier where applicable. Without limiting the generality of the foregoing, Customer agrees not to modify the substance of any Retrieved Data; *provided*, however, that Customer may modify the presentation of the Retrieved Data solely for placement on the Customer Hosted Pages and in a manner that is consistent with this Agreement and applicable laws and regulations. Customer agrees not to use any Retrieved Data in (a) any Customer Hosted Page that does not use the Reservation Services, (b) in any other portion of Customer's business that uses a booking tool other than the Reservation Services, or (c) in any comparison shopping or meta search channel, such as (without limitation) farechase or kayak. Customer agrees that it will not create, utilize, participate in or knowingly permit the occurrence of non-manual repetitive search requests of the Databases, Retrieved Data or Reservation Services.

6.4 Each Party acknowledges and agrees that in addition to any other right the other Party may have at equity or law, each Party shall be entitled to petition for an injunction to prevent any unauthorized use by the other Party of (i) in the case of ORBITZ, the ORBITZ Hosted Pages, Databases, Link, Interface, Retrieved Data or any intellectual property or proprietary information of ORBITZ and (ii) in the case of Customer, the Customer Content, Customer Marks, or any other intellectual property or proprietary information of Customer.

7. Advertising. Customer shall have the exclusive right to sell advertising on the ORBITZ Hosted Pages provided to Customer hereunder, and to collect and retain all proceeds therefrom. Customer agrees to assume full responsibility for all Customer Content and representations of any such banner advertising.

8. No Illegal or Offensive Content or Conduct.

8.1 Each Party agrees to abide by all applicable local, state, national and foreign laws in connection with the performance of its rights and obligations under this Agreement.

8.2 Customer agrees to assume full responsibility for all content, images, third party links and representations on its web sites and the Customer Hosted Pages. Customer covenants and agrees that (a) its web sites and the Customer Hosted Pages shall not contain any content that is deceptive or misleading, promotes or engages in illegal activities, is sexually explicit, obscene, violent or otherwise deemed offensive, or is libelous or invasive of another's privacy ("Offensive Content"); (b) it shall not

use URLs or transmit any material through or on the Link, ORBITZ Hosted Pages, Customer Hosted Pages or its web sites that may infringe the intellectual property rights of a third party; (c) it shall not knowingly transmit any material that contains software viruses or other harmful or deleterious computer code, files or programs such as Trojan horses, worms, time bombs, and cancelbots; (d) it shall not hack into or otherwise knowingly harm the ORBITZ Hosted Pages, any Web site of ORBITZ or its suppliers, or any servers or networks connected to the ORBITZ Hosted Pages, Reservation Services or Retrieved Data, (e) it shall not engage in any illegal or unethical search engine optimization practices, (f) it shall comply with the rules and requirements of applicable search engines with respect to its search engine marketing practices, (g) it shall obtain all content on its Customer Hosted Pages (including Customer Content) in a lawful manner, including without violating the ownership, privacy or other rights of third parties, and (h) it shall comply with all of ORBITZ's requirements posted on ORBITZ's Web site, or otherwise communicated to Customer by ORBITZ.

8.3 ORBITZ covenants and agrees that (a) the ORBITZ Hosted Pages, and to ORBITZ's knowledge, the Databases and Retrieved Data, shall not contain any Offensive Content; (b) it shall not use URLs or transmit any material from the ORBITZ Hosted Pages and to ORBITZ's knowledge, the Databases or Retrieved Data, to the Customer Hosted Pages that may infringe the intellectual property rights of a third party; (c) it shall not knowingly transmit any material from the ORBITZ Hosted Pages, Databases or Retrieved Data to the Customer Hosted Pages that contains software viruses or other harmful or deleterious computer code, files or programs such as Trojan horses, worms, time bombs, and cancelbots; or (d) it shall not hack into or otherwise knowingly harm the Customer Hosted Pages, any web site of Customer or any servers or networks connected to the Customer Hosted Pages.

9. Liability for Errors. Customer using the Interface shall assume full responsibility for any reservation errors or any other errors that are caused by any acts or omissions of Customer (or on Customer's behalf by a third party other than ORBITZ or ORBITZ's agents) including, without limitation, any technical or programming errors in the Interface. If ORBITZ incurs any expenses resulting from such errors or in remedying such errors (including, without limitation, expenses paid by ORBITZ to its third party suppliers for booking errors), Customer agrees to fully reimburse ORBITZ for all such expenses.

10. Credit Card Rules and Policies. Customer using the Interface hereby agrees that in connection with all credit card transactions relating to the Reservation Services or on its

Customer Hosted Pages, it shall comply with the credit card transaction rules and policies set forth in Exhibit C attached hereto and incorporated herein by reference. Each Party agrees that it shall not, directly or indirectly, engage or participate in or otherwise be involved in any type of credit card fraud.

11. End Users. Use of the ORBITZ Hosted Pages or Customer Hosted Pages by End Users is governed by the posted privacy polic(ies) and any applicable terms and conditions (including, for example, the cancellation and refund policy) specific to the particular Reservation Service ("T&Cs"). Customer shall not modify any T&Cs that relate to the products and/or services being booked via any particular Reservation Service without ORBITZ's prior written approval. Customer shall own all personally identifiable information of End Users (such as End Users' names, addresses, and credit card billing information) collected by Customer or ORBITZ through the Reservation Services or ORBITZ Hosted Pages ("End User Information"), and the Parties acknowledge that all such End User Information being collected is being collected on behalf of and for the benefit of Customer; provided that ORBITZ shall have the right to use such End User Information in processing the underlying transaction and for related recordkeeping. Each Party shall be fully responsible for compliance with its privacy policy and the T&Cs.

12. Confidentiality. A Party's "Confidential Information" means any and all information and material disclosed by the disclosing Party to the receiving Party (whether in writing, verbally, electronically or in any other form) that is marked or identified as (or provided under circumstances reasonably indicating that it is) confidential or proprietary. An example of ORBITZ's Confidential Information includes, but shall not be limited to, the existence and terms of this Agreement, ORBITZ's software, specifications, code and documentation relating to the Interface. Each Party shall hold the other Party's Confidential Information in strictest confidence and shall not disclose such Confidential Information to third parties nor use the other Party's Confidential Information for any purpose, other than as required to perform under this Agreement, without the prior written consent of the other Party. Such restrictions shall not apply to otherwise Confidential Information (i) that is already known by the receiving Party, (ii) that becomes, through no act or fault of the receiving Party, publicly known, (iii) that is received by receiving Party from a third party without a restriction on disclosure or use, or (iv) that is independently developed by the receiving Party without reference to Confidential Information. Each Party hereby agrees to protect the other Party's Confidential Information from improper use and unauthorized disclosure to third parties, utilizing the same degree of care such Party uses to protect its own confidential or proprietary information of like importance, but in any case using no less than a reasonable degree of care.

13. Term. Unless sooner terminated in accordance with the terms set forth in this Agreement, the initial term of this Agreement shall begin as of the Effective Date hereof and shall continue for a period of one year. The term of this Agreement shall be automatically renewed for successive periods of one year each unless terminated by either Party at least thirty (30) days before the end of the initial term or any successive term thereafter. The initial term, along with any successive term or terms shall be referred to herein as the “Term.”

14. Termination. Either Party may terminate this Agreement in the event of a material breach of this Agreement by the other Party, which breach has not been cured within thirty (30) after the breaching Party’s receipt of written notice of such breach (or in the event described in Exhibit A). In addition, ORBITZ may suspend or terminate this Agreement, access to all or any portion of the Reservation Services and/or the licenses granted herein: (A) immediately upon written notice to Customer, in the event that (i) Customer has failed to launch the Reservation Services on the Customer Hosted Pages by the date that is ninety (90) days following the Effective Date, (ii) Customer fails to produce a minimum of twenty (20) fulfilled hotel or air bookings per month for any three (3) consecutive months, at any time following a ninety (90) day ramp-up period following the Effective Date, or (iii) Customer is, or is acquired by or becomes controlled by an Ineligible Company. As used herein, an “Ineligible Company” means any third party agent or intermediary for, or distributor of, hotel room inventory. Ineligible Companies include, but are not limited to, Agoda, American Airlines Vacations, Asiarooms.com, Booking.com, Certified Vacations, CheapTickets, eBookers, eLong, Expedia, Getaroom.com, Gullivers, Hotels.com, Laterooms, NLG, Opodo, Pegasus, Priceline, Venere, Wotif.com, and the Affiliates, successors and assigns of any of the foregoing companies; and (B) immediately and without notice, in the event that (i) Customer violates Section 6 (*Intellectual Property*), 8 (*No Illegal or Offensive Content or Conduct*), 10 (*Credit Card Rules and Policies*), 11 (*End Users*), or 12 (*Confidentiality*), (ii) Customer uses or permits the use of the Interface, Retrieved Data, Databases or Reservation Services for any improper or illegal purpose or any purpose not authorized by this Agreement, or (iii) Customer willfully violates any provision in this Agreement. Further, ORBITZ may terminate access to the applicable portion of the Reservation Services immediately (upon written notice to Customer if commercially reasonable) (a) upon termination of any agreement with ORBITZ’s suppliers, (b) if ORBITZ reasonably determines, or any ORBITZ supplier or other third party alleges, that Customer or any web site owned or controlled by Customer infringes the intellectual property rights or policies of such ORBITZ Supplier or other third party, or (c) upon the written request of any supplier not to be

included in the Reservation Services displayed on the Customer Hosted Pages or the ORBITZ Hosted Pages.

15. Representations and Warranties. Each Party represents and warrants that it has the right, power and authority to enter into this Agreement and to perform all of its respective obligations under this Agreement and that the performance of such obligations shall not conflict with or result in a breach of any agreement to which it is a party or is otherwise bound. Customer further represents and warrants that (a) it owns or possesses all rights and licenses to use, copy, display and distribute any and all of Customer Content; and (b) it shall not make any representations or warranties to End Users about the Reservation Services, Retrieved Data, Databases, Link or Interface, other than those expressly authorized by ORBITZ in writing. If an individual, Customer represents and warrants that he or she is of sufficient legal age and capacity to create a binding legal obligation.

16. Disclaimer of Warranties. **EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, EACH PARTY MAKES NO, AND HEREBY EXPRESSLY DISCLAIMS ALL, WARRANTIES, REPRESENTATIONS AND CONDITIONS IN CONNECTION WITH THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR TITLE. EACH PARTY MAKES NO WARRANTY THAT THE RESERVATION SERVICES, THE LINK, THE ORBITZ HOSTED PAGES, THE CUSTOMER HOSTED PAGES, THE RETRIEVED DATA, OR THE DATABASES WILL BE CONTINUOUSLY AVAILABLE OR ERROR-FREE OR COMPLETELY SECURE, OR THAT ANY DEFECTS IN THE RESERVATION SERVICES, THE LINK, THE ORBITZ HOSTED PAGES, THE CUSTOMER HOSTED PAGES, THE RETRIEVED DATA, OR THE DATABASES WILL BE CORRECTED.**

17. Indemnification. Customer agrees to indemnify ORBITZ, its parents, subsidiaries, affiliates and suppliers and their successors and assigns against and hold them harmless from any and all claims, liabilities, damages, costs and expenses, including reasonable attorneys’ fees and experts’ fees, resulting directly or indirectly from: (a) any portion of the Customer Content; (b) breach of any representation, warranty or covenant contained in this Agreement or breach of ORBITZ’s applicable published policies; (c) a violation by Customer of any applicable law, rule or regulation; (d) a violation of Section 6 (*Intellectual Property*), 8 (*No Illegal or Offensive Content or Conduct*), 10 (*Credit Card Rules and Policies*), 11 (*End Users*) or 12 (*Confidentiality*); (e) any reservation error or other error caused by Customer or its Interface; (f) improper use or application of the ORBITZ

Hosted Pages, Databases, Link, Interface, Retrieved Data or Reservation Services. The indemnity obligations hereunder shall survive the termination of this Agreement.

18. Limitation of Liabilities and Risk of Internet Usage.  
**EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS IN SECTION 18, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY NATURE, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS, LOST PROFITS, OR LOSS OF DATA OR USE, EVEN IF SUCH PARTY SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING SHALL APPLY REGARDLESS OF THE NEGLIGENCE OR OTHER FAULT OF ANY PARTY AND REGARDLESS OF WHETHER SUCH LIABILITY ARISES IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY.**

**IN NO EVENT SHALL THE MAXIMUM AMOUNT OF DAMAGES PAYABLE BY EITHER PARTY FOR ANY BREACH OF THIS AGREEMENT EXCEED THE GREATER OF (A) \$100,000 OR (B) THE AMOUNT OF COMMISSIONS PAID TO CUSTOMER HEREUNDER DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING ANY SUCH CLAIM..**

19. Compatibility; Updates. Customer acknowledges and agrees that it shall be solely responsible for determining whether its systems are compatible with the Interface, for providing all software necessary for use thereof and for all maintenance of its systems.

20. Modification of Reservation Service Programs. ORBITZ may add, delete or otherwise modify any of the Reservation Services programs generally. If any material modification is unacceptable to Customer, Customer may (a) refuse (if feasible or practicable as reasonably determined by ORBITZ) the portion of the Reservation Services affected by the modification, or (b) if refusal is not feasible or practicable as reasonably determined by ORBITZ, terminate the Agreement, by notifying ORBITZ in writing within ten (10) days after receipt of notice of such modification. Customer's failure to act within such ten (10) days period shall constitute Customer's binding acceptance of the modification. In the event of a modification of any Reservation Service, the ORBITZ Hosted Pages or the Interface that would require a critical change (as determined by ORBITZ) in Customer's web site, Customer agrees to make such critical change within 30 days of receiving notice from ORBITZ, and the failure to make such change in a timely manner shall be a material breach of this Agreement. Without limiting the foregoing, and by way of example, a material change would include changes

required to be implemented by XML customers, such as changes required in processing card transactions.

21. Additional XML Interface Provisions. (a) Customer agrees that the use of the Interface and Retrieved Data granted hereunder is for the sole purpose of making travel reservations for End Users. Customer understands that there is a cost to ORBITZ for each and every message that Customer sends to ORBITZ's servers. ORBITZ offers this service at no charge under the expectation that Customer would produce successful reservations on the Customer Hosted Pages. Customer agrees that it shall not use robots or any other method to systematically request data from ORBITZ. Customer agrees that it shall not build a "rate cache" using the Interface or Retrieved Data. Customer shall use best efforts to not exceed 400 messages per booking (mpb) and not exceed 1/2 transactions per second (tps) in aggregate transactions sent from Customer's servers. In the event that Customer exceeds either the mpb or tps limits described in the preceding sentence, ORBITZ may, in its sole discretion, provide Customer with 5 business days' to correct the excess messaging. If Customer does not remedy such violations within 5 business days after receiving such notice, ORBITZ shall have the right, in its sole discretion, to terminate Customer's access to the Reservation Services without additional notice and to charge customer an excessive messaging fee for such violations. The excessive messaging fee shall be payable as described in the ORBITZ invoice, or may be offset against payments due from ORBITZ to Customer.

(b) All XML requests to the server should be made to the base Linked URL listed in this Agreement. All requests must be sent using HTTP POST. XML responses are received from ORBITZ via the Linked URL. Customer acknowledges that the ORBITZ XML engine only accepts plain ASCII (text) UTF-8 requests/streams. Encoded streams are not acceptable. All element names, attributes names, and attribute values are case sensitive. Customer is responsible for reviewing all other additional XML related information, which can be found in the Affiliate Back Office under the section "Hotel Booking Engine API Specifications". Customer agrees to read this section and comply with all of the requirements listed in the Affiliate Back Office.

22. Force Majeure. Neither Party shall be deemed in default or otherwise liable hereunder due to its inability to perform its obligations by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, terrorist act, or any municipal, county, state or national ordinance or law, or any executive, administrative or judicial order (which order is not the result of any act or omission which would constitute a default hereunder), or any failure or delay of any transportation, power, or communications system or any other similar cause beyond such Party's reasonable control.

23. Governing Law, Venue, Jurisdiction and Waiver of Jury Trial. This Agreement and all matters or issues related to this Agreement shall be governed by and construed under the laws of the State of Illinois, without giving effect to principles of conflicts of laws that would result in the application of the laws of any other jurisdiction. Each Party hereby agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement shall be instituted in a state or Federal court located in Cook County, Illinois, USA, and each Party irrevocably submits to the jurisdiction of any such court in any such action, suit or proceeding and hereby agrees not to assert, by way of motion, as a defense or otherwise, in any such action, suit or proceeding, any claim that (i) he, she or it is not subject personally to the jurisdiction of such court, (ii) the venue is improper, or (iii) this Agreement or the subject matter hereof may not be enforced in or by such court. Each Party waives to the fullest extent permitted by law trial by jury of all claims arising out of or relating to this Agreement.

24. Assignment. Customer may not assign or sublicense, by operation of law or otherwise, this Agreement or any duties, rights or obligations under this Agreement without ORBITZ's prior written consent. For purposes of this provision, a change of control or management, sale of all or substantially all of Customer's assets, or sale of stock constitutes an assignment. Notwithstanding the foregoing, either Party may assign this Agreement or the rights, duties or obligations under the Agreement to any of such Party's Affiliates, without the consent of the other Party. For purposes of the foregoing sentence, an "Affiliate" shall mean a person or entity, directly or indirectly, controlled by, controlling, or under common control with, a Party. Any purported assignment or sublicense contrary to this paragraph shall be null and void. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

25. Severability; No Waiver. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, then such provision shall be construed, as nearly as possible, to reflect the intentions of the Parties with the other provisions remaining in full force and effect. The failure of either Party to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision, unless such waiver is in writing and is executed by the Party against whom such waiver is claimed.

26. Notices. Any notice required or permitted under this Agreement shall be given in writing and shall be delivered:

(i) by hand delivery; (ii) by facsimile (with written confirmation of delivery); (iii) by overnight express mail; or (iv) certified or registered U.S. mail (with postage paid and return receipt requested). Notices shall be effective, in the case of (a) hand delivery or facsimile transmission, upon receipt, (b) overnight express mail, on the next business day after timely delivery to a recognized overnight delivery service, and (c) U.S. mail, upon the third business day after deposit with the U.S. postal service. Notices shall be delivered to each Party at its respective facsimile number or address specified in this Agreement, or at such other facsimile number or address as such Party may specify by written notice to the other.

27. No Agency or Third Party Beneficiary. Customer and ORBITZ are independent contractors, and nothing in this Agreement shall be construed to create a partnership, joint venture, franchise, or agency relationship between Customer and ORBITZ. Neither Party has any authority to enter into agreements of any kind on behalf of the other Party. ORBITZ and Customer agree that there are no third party beneficiaries to this Agreement, including, but not limited to, End Users.

28. Tax Forms. Customer agrees, as a condition to this Agreement, to deliver to ORBITZ a true and correct copy of Customer's (i) Internal Revenue Service ("IRS") Form W-9, if Customer is a "U.S. Person" (including a resident alien) as defined by the IRS or (ii) IRS W-8 BEN, W-8 ECI, W-8 EXP or W-8 IMY, as applicable, if Customer is a "Foreign Person" as defined by the IRS.

29. Miscellaneous. This Agreement, along with the attached Exhibits, constitutes the entire agreement of the Parties with respect to its subject matter, superseding all prior or contemporaneous oral and written communications, proposals, negotiations, representations, understandings, courses of dealing, agreements, contracts, and the like between the Parties in such respect. The section headings in this Agreement are for convenience only and have no legal or contractual effect. This Agreement: (i) may be executed in any number of counterparts, each of which, when executed by both Parties to this Agreement shall be deemed to be an original, and all of which counterparts together shall constitute one and the same instrument; and (ii) may not be amended or modified by Customer unless such amendment or modification is in writing signed by both parties. The terms of any sections that, by their nature, are intended to extend beyond termination shall survive termination of this Agreement for any reason.

THIS AGREEMENT is a binding contract between Customer and ORBITZ.

**Customer**



**Orbitz Worldwide, LLC**

**Signed by:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signed by:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**EXHIBIT A**  
**ORBITZ RESERVATION SERVICES, AND COMPENSATION STRUCTURE**

Customer hereby agrees to participate in the following Reservation Services, as indicated by a checked box, and to promptly fulfill the obligations required of the Customer as set forth in this Agreement:

**RESERVATION SERVICES:**

- A. **Hotel Reservation Service**
- B. **Car Rental Reservation Service**
- C. **Airline Reservation Service**
  
- D. **CustomTrip Reservation Service**
- 

Customer at any time during the term of this Agreement may opt-in or opt-out of any Reservation Service listed above by logging into the Affiliate Back Office and check or uncheck, as applicable, the proper box associated with the applicable Reservation Service; provided that Customer must at all times participate in the Hotel Reservation Service, unless otherwise agreed to by WCT. By selecting or opting-in to participate in any Reservation Service, Customer agrees to the terms and conditions set forth in this Agreement, including, without limitation, the compensation structure set forth in this Exhibit A or any subsequent amendments.

**COMPENSATION STRUCTURE:**

**PAYMENT:**

Commissions earned on Consumed transactions up to the end of the prior calendar month (the monthly period in which the commissions were earned shall be referred to herein as the "Commission Period") totaling \$100 or more and due to Customer shall be paid to Customer by ORBITZ no later than the last business day of the month, net of any portion thereof subject to a good faith dispute; provided that ORBITZ has received such commissions from the respective third party supplier or licensor. Accrued commissions totaling less than \$100.00 shall carry over to the following month's payment period or until such time accrued commissions total at least \$100.00. If the Customer is based in the United States and has a U.S. bank account, Customer may opt to receive commissions via direct deposit by notifying ORBITZ and completing all forms required by ORBITZ and/or relevant financial institutions. If ORBITZ has unintentionally failed to pay Customer a commission during the month it became due, ORBITZ shall be entitled to accrue such amount and submit it with the next monthly payment due, and if necessary, final payment to Customer may be retained for a reasonable period of time to ensure full and complete settlement with the End User. ORBITZ makes no representation or guarantee as to the amount or frequency of commissions that may be generated hereunder. In the event that commissions are paid on a Net Gross Booking amount that was calculated in error or later reduced due to litigation or settlement thereof ("Excess Commissions"), ORBITZ shall notify Customer of that event and ORBITZ may thereafter set-off such Excess Commissions from payment of future commissions (if feasible) or require reimbursement thereof by Customer to ORBITZ.

**DEFINITIONS:**

As used herein, the following terms have the meaning set forth below:

**Affiliate Back Office:** means the online customer support center which is designed to provide Customer with (i) access to online sales and revenue reports for bookings, (ii) tools to add Customer branding, (iii) site and booking engine options, and (iv) various marketing, merchandising and promotional tools.

**Applicable Charges:** means: (i) any and all applicable amounts owed for domestic or foreign taxes, mandatory charges and surcharges (including port charges and airport facility charges), including any amounts paid in settlement of disputes regarding the foregoing, (ii) mandatory surcharges for gratuities, fuel increases, other surcharges, duties, shipping and handling, and credit card fees; (iii) any refunds, cancellations, rebates, cancellation fees, commissions, commission collection fees, service and Merchant Fees; (iv) any and all applicable amounts not actually received by ORBITZ due to credit card fraud, bad debts or



similar events; and (v) any other amounts representing non-commissionable bookings.

**Collected Commission:** means the amount actually collected and received by ORBITZ from the applicable supplier in respect of a consumed Qualifying Booking, less all Applicable Charges.

**Consumed:** means a Reservations Service that has been used by the End User or when the date of delivery of the Reservations Service has passed (e.g. no-shows). Hotel Reservation Services shall be deemed Consumed upon check-in date, Air Reservation Services upon completion of the applicable flight, and Car Travel Services shall be deemed Consumed upon the return of the rented vehicle. For purposes of paying revenue share on services which Orbitz receives a Commission, Orbitz will pay applicable revenue share in the month following the receipt of those Commissions.

**Gross Hotel Bookings:** means the total amount or face value of Qualifying Bookings for hotels which are actually booked by End Users, including those booked through the Global Distribution System (“Published Rate Bookings”), or using merchant bookings (collectively “Save Rate Bookings”), and Preferred Rate Bookings.

**Merchant Fee:** means the applicable credit card merchant fee charged by credit card companies for each transaction.

**Net Gross Bookings:** means the sum of the amounts collected from End Users (as defined in the Agreement) for consumed Qualifying Bookings using prepaid merchant rates, less all Applicable Charges; provided that commissions based on Net Gross Bookings shall be paid only if (a) the product or service booked has been paid for in full upon consumption and has not been exchanged, refunded, or rebated, and (b) amounts due to the respective supplier for the booking has been settled with such supplier.

**Opti-Fee** means a service fee, an additional fee or the like charged by Customer to an End User for each online Qualifying Booking.

**Qualifying Booking:** means the booking of a product or service made by an End User through ORBITZ’s Reservation Services via online (through the Link or Interface) and, if available, via the customer call center or what is referred herein as offline.

**COMMISSION PERCENTAGE:**

Customer shall earn commissions for each Qualifying Booking based on the percentage commission structure set forth below for the respective Reservation Service.

**HOTEL RESERVATION SERVICE:**

The commission levels for hotel sales shall be determined based on the amount of Gross Hotel Sales generated by Customer during the prior calendar month, as set forth in the following table.

	Revenue Share <sup>1</sup>		Straight Commission <sup>2</sup>				Opti-Fee <sup>3</sup>
	Published GDS Rates Your share of collected commission paid to ORBITZ		Save Rates Prepaid Merchant Rates- Your share of Net Gross Bookings		Preferred Rates- Pre-Paid Merchant Rates IHG Properties Only Your share of Net Gross Bookings		Online Only
	Online	Offline	Online	Offline	Online	Offline	
Commission	50%	30%	6%	5%	7%	4%	50%
1 – percentage of commission remitted by hotel after customer checkout 2 – percentage commission on the net gross sale (total price less any applicable taxes and surcharges) 3 – percentage of total Opti-Fee less 50% of the credit card Merchant Fee							

**OPTI-FEES:**

If Customer charges an Opti-Fee, Customer agrees, as a material inducement to ORBITZ to enter into this Agreement, to utilize ORBITZ’s Opti-Fee services as the sole and exclusive method of charging such Opti-Fees. For hotel bookings, the Customer will earn a commission based on a percentage of the online Opti-Fees as set forth in the Hotel Reservation Service commission table

above, minus ORBITZ's then-current transaction fee for credit card transactions. On-line Opti-Fees are calculated based on the following standard Opti-Fee schedule:

**For Online Hotel Qualifying Bookings:**

- \$1.75 per night on bookings less than \$79.99 per night
  - \$2.75 per night on bookings between \$80.00 and \$119.99 per night
  - \$3.75 per night on bookings higher than \$120.00 per night
- Fees are capped at \$15.00 per booking.

Customer may elect to vary the standard online Opti-Fee schedule for online hotel Qualifying Bookings by using ORBITZ's online Customer back office rates. In the event that Customer customizes the online Opti-Fee schedule, the minimum online Opti-Fee that can be charged is \$1.50 per night and the maximum allowable charge is \$15.00 per booking, provided that the maximum allowable charge may be modified by ORBITZ by providing Customer with written or e-mail notice.

**For Online Car Rental Qualifying Bookings:**

- \$2.99 per booking for economy cars
- \$4.99 per booking for intermediate cars
- \$6.99 per booking for luxury cars

Fees are charged to End Users at the time of booking. The online Opti-Fee will appear on the End User's credit card statement as being charged by "Travel Reservations Center" or, when possible and available, Customer's name.

ORBITZ, in its sole discretion, may opt to waive Opti-Fees for particular End Users.

<b>RESERVATION SERVICE</b>	<b>COMMISSION PERCENTAGE OR FEE PAYABLE FOR ONLINE QUALIFYING BOOKINGS</b>	<b>COMMISSION PERCENTAGE OR FEE PAYABLE FOR OFFLINE QUALIFYING BOOKINGS</b>
Car Rental	50% of Collected Commissions paid to ORBITZ	Non-commissionable at this time.
Air Engine	50% of the ORBITZ Base Fee (currently \$5 per passenger on domestic US flights and \$10 on international flights) 50% of Opti-Fees if you have chosen to add Opti-Fees \$2.00 per passenger for Qualifying Bookings of domestic Flight Protection Plans \$4.00 per passenger for Qualifying Bookings of international Flight Protection Plans	Non-commissionable at this time.
Custom Trip (packaging)	5% of net sales	3% of Net Gross Bookings when phone reservations are offered

**SUPPLIER COMPENSATION STRUCTURE:**

Customer acknowledges that the Compensation Structure outlined herein may be adversely affected by any significant external events, including without limitation, a reduction in the compensation paid by hotel suppliers to ORBITZ, or which hotel suppliers permit ORBITZ to retain. In the event of any significant external event that results in such a reduction, Customer agrees to meet with ORBITZ to discuss the economic impact of such change, and to discuss in good faith modifications to the compensation structure under this Agreement. If, after such meeting, the Parties are unable to agree, then ORBITZ may terminate this agreement by providing 30 days' prior written notice to Customer.

**EXHIBIT B**  
**PEGASUS SYSTEMS, INC. AGREEMENT**

By entering into the Agreement, Customer also agrees to the following terms and conditions:

Customer acknowledges that Pegasus Systems, Inc. (hereinafter, "Pegasus") has provided ORBITZ the following: (i) a digital database of hotel and lodging information created and maintained by Pegasus (the "Distribution Access Database") and (ii) the capability to determine room availability for specific dates and to make and cancel reservations at a hotel contained in the Distribution Access Databases (the "Reservation Function"). Customer further acknowledges and agrees that the Distribution Access Databases and Reservation Function are the sole exclusive property of Pegasus or the hotels participating in the Distribution Access Databases and may not be copied, downloaded, hyperlinked or in any manner used, reproduced or redistributed in whole or in part except by an End User of Customer for the sole purpose of making or canceling a reservation at a hotel contained in the Distribution Access Databases. Customer agrees that it will not create, utilize, participate in or knowingly permit the occurrence of non-manual repetitive search requests of the Distribution Access Databases. Customer agrees that, if information regarding a lodging establishment is provided from the Distribution Access Databases, reservations for such establishment shall be made, changed or cancelled exclusively through the Reservation Function.

PEGASUS WILL NOT BE RESPONSIBLE OR LIABLE FOR (i) ANY FALSIFICATIONS OR INACCURACIES IN ANY OF THE INFORMATION DISPLAYED ON THE WEB PAGES OR WEB SITE, (ii) ANY ACT OR FAILURE TO ACT WITH RESPECT TO THE PUBLICATION OF INFORMATION ON THE INTERNET OR THE CREATION OR FUNCTIONALITY OF RESERVATION CAPABILITIES, (iii) SERVICE AND/OR THE MAKING, CHANGING OR CANCELING OF A RESERVATION AND THE USE OF A CREDIT CARD OR OTHER DEBIT DEVICE IN CONNECTION THEREWITH, (iv) ANY CLAIM RESULTING FROM ANY INTERRUPTION, MALFUNCTION OR CHANGE IN THE USE OF THE INTERNET OR A DISTRIBUTION SYSTEM OR (v) ANY CLAIM, DAMAGE OR LIABILITY OF ANY NATURE ARISING OUT OF THE DISTRIBUTION ACCESS DATABASE, TRANSLATED INTO ANY OTHER LANGUAGE, EXCEPT TO THE EXTENT RESULTING FROM PEGASUS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, GOOD AND WORKMANLIKE PRODUCT OR SERVICE OR OTHERWISE ARE DISCLAIMED BY PEGASUS AND WAIVED BY CUSTOMER. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE OPERATION OF A WEB SITE ON THE INTERNET IS AT CUSTOMER'S OWN RISK. Customer acknowledges and agrees that the Internet is a communication medium over which Pegasus has no control and that its continued utilization in its present form at current costs is uncertain. Therefore, if at any time during the term of this Agreement the cost of access to the Internet increases, or there is imposed a fee or cost for access to or use of the Internet communication lines, or there is imposed any law, governmental ruling or regulation the result of which increases the cost of access to or usage of the Internet or otherwise makes it impractical, in Pegasus' sole discretion, to continue to perform this Agreement, Pegasus may immediately terminate this Agreement without consequence. Customer agrees to indemnify and hold harmless Pegasus from and against any and all claims of any nature arising out of access to or use of the Distribution Access Databases and/or the Reservation Function by Customer or any of the End Users.

**EXHIBIT C**  
**CREDIT CARD RULES AND POLICIES**

**1.0 Definitions:**

- 1.1 “Association” means any entity formed to administer and promote Cards, including VISA, MasterCard, American Express, Discover Card, and any other entity as specified by ORBITZ.
- 1.2 “Authorization” means the process by which Customer electronically accesses Servicers’ computerized system, unless such system is inoperable or otherwise not accessible to Customer, in which case Customer shall utilize the designated toll-free telephone number, to obtain credit approval from the Card issuing bank before completion of the Card transaction.
- 1.3 “Card” means a valid credit card or valid off-line debit card bearing the service mark of VISA or MasterCard and any valid card issued by any other Associations or is then currently accepted by ORBITZ for payment of a booking made through the Reservation Services.
- 1.4 “Cardholder” means the individual whose name is embossed on the Card and any authorized user of such Card.
- 1.5 “Card Security ID” is a unique number that is either on the front or back of the Card and that serves as an additional level of security to help protect from Internet or credit card fraud.
- 1.6 “Chargeback” means the procedure by which a Transaction Record or other indicia of a Card transaction (or disputed portion thereof) is returned to the Card issuing bank for whatever reason, the liability of which is the Customer’s responsibility.
- 1.7 “Services” means the activities undertaken by Servicers to authorize, process and settle all United States Dollar denominated VISA, MasterCard Card and any other Card transactions undertaken by Cardholders at Customer’s location(s) in the United States, and all other activities necessary for Servicers to perform the functions specified in this Agreement for all other Cards than currently accepted by ORBITZ.
- 1.8 “Servicers” means the financial institutions who are responsible for their respective bankcard programs and perform authorization, processing and settlement services for merchants participating in such bankcard programs (including MasterCard, VISA, American Express and Discover). Servicers currently include JPMorgan Chase Bank, Chase Merchant Services L.L.C., and any entity issuing a Card then currently accepted by ORBITZ.
- 1.9 “Transaction Record” means evidence of a purchase of goods or services by a Cardholder from Customer using a Card, regardless of whether the form of such evidence is in paper, electronic or otherwise, all of which must conform to Association Rules.

**2.0 Acceptance of Cards.**

- 2.1 Customer acknowledges that Servicers shall perform the Services as they may determine.
- 2.2 Customer will accept any Card properly tendered, without imposing any special conditions. Customer will assess no special charge or extract any special agreement, condition (including any minimum or maximum transaction amounts) or security from a Cardholder in connection with any Card transaction. Customer shall not make any statements indicating that Customer will refuse to honor Card transactions below or above a specified amount. Customer shall not engage in acceptance practices or procedures that discriminate against or discourage the offered use of any particular Card accepted by Customer. Nothing contained in this Agreement shall prohibit Customer from entering into any Card specific promotions whether or not in conjunction with any Card issuer or co-branding a Card with any Card issuer, provided such promotion does not violate any rules set forth in this Exhibit C.
- 2.3 When using an XML Interface If the Cardholder is not present at the point-of-sale, Customer shall be responsible for identifying and verifying the Cardholder by request the following information: (a) Cardholder’s first and last name, (b) the billing address as it appears on the Cardholder’s Card statement, (c) Card type, number and expiration date and year, and (d) the Card Security ID. By asking for the Card Security ID when the Cardholder makes a Card transaction, it becomes more difficult for unauthorized individuals to use the Cardholder’s Card. Customer will not honor a Card that appears or Customer otherwise has reason to believe to be invalid or expired.
- 2.4 When using an XML Interface, Customer will not store, print or save on any media type the Cardholder’s Card Security ID. Customer shall not store the Card Security ID in any database.
- 2.5 When using an XML Interface, Customer shall disclose to the Cardholder the following information (e.g., in a booking confirmation page or/and follow-up email): (i) the transaction date; (ii) a brief description of the goods or services sold, returned or cancelled; (iii) the price of the goods or services, including applicable taxes, or amount of any credit or adjustment; (iv) the Cardholder name; (v) Customer’s name in a manner recognizable to Cardholders; (vi) Customer’s address; (vii) a customer service telephone number; (viii) any applicable terms and conditions of the sale; (ix) exact date any free trials end; and (x) any other information which the applicable Association may require.

**3. Authorization.**

When using an XML Interface, Customer acknowledges that Authorization, (i) indicates only the availability of credit at the time of Authorization; (ii) does not warrant that the person presenting the Card is the rightful Cardholder; and (iii) is not an unconditional promise or guarantee by Servicers or ORBITZ that any Card transaction will not be subject to Chargeback.

**4. Internet and Telephone Orders.**

When using an XML Interface, for each Internet or telephone order, an Authorization must be obtained by ORBITZ, regardless of the face amount, and Customer must complete the Transaction Record as described in the XML Interface documentation. Customer assumes all responsibility for identification of the Cardholder and the validity of the Card information for Internet and telephone orders.

Customer’s Web site must contain a complete description of the goods or services offered, returned merchandise and refund policy, customer service contact information (including an email address or telephone number), known export or legal restrictions, and Customer’s delivery policy.

For Internet transactions, copies of Transaction Records may be delivered to Cardholder in electronic or paper format.

Customer may not transmit Cardholder account numbers to Cardholders for Internet transactions.

When using an XML Interface, Customer agrees to follow the VISA Cardholders Information Security Guidelines (presently available online at VISA’s Web site ([www.visa.com](http://www.visa.com))) as well as any other security guidelines or requirements established by any applicable Association or by Servicers.

**5. Chargebacks.**

Customer shall assume all liability and responsibility for Chargeback transactions equal to the amount of the Customer’s compensation for that transaction.