

KIWI.COM S.R.O.

AND

LETIŠTĚ OSTRAVA, A.S.

AGREEMENT ON PROVISION OF SERVICES

THIS AGREEMENT ON PROVISION OF SERVICES (the "**Agreement**") is concluded on the date specified below

BY AND BETWEEN:

- (1) **Kiwi.com s.r.o.**, a company existing and organized under the laws of the Czech Republic, having its registered office at Rohanské nábřeží 678/25, Prague, Postcode: 186 00, the Czech Republic, Company Identification No. (IČO): 293 52 886, registered in the Commercial Register maintained by the Municipal Court in Prague, file no. 387231 (the "**Kiwi.com**"); and
- (2) **Letiště Ostrava,a.s.**, a company existing and organised under the laws of the Czech Republic, having its registered office at č.p. 401, 742 51 Mošnov, Company Reg./Identification No. (**IČ**): 268 27 719, registered in the Commercial Register maintained by the Municipal Court in Ostrava under oddíl B, vložka 2764 (the "**Partner**");

(jointly the "**Parties**" and each a "**Party**").

PREAMBLE:

- (a) Kiwi.com is a Czech company that operates the website kiwi.com and globally provides its customers with brokerage services related to air transportation offered by various air carriers;
- (b) The Partner is interested in promoting Kiwi.com's flight offers using the Solution via its marketing channels and redirecting the end Customers to Kiwi.com.

Now, therefore, in consideration of the foregoing, it is hereby agreed as follows:

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 Definitions. In this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

"**Agreement**" means this agreement together with all Schedules hereto as the same may be supplemented or amended from time to time;

"**Business Day**" means any day (other than a Saturday or a Sunday) on which banks are open for general business in the Czech Republic;

"**Carrier**" means an airline providing the services of carriage by air based on a contract of carriage that will be concluded with the Customers as a result of provision of the Services by the Partner;

"**Civil Code**" means Act No. 89/2012 Coll., the Czech Civil Code, as amended;

"**Confidential Information**" means full or partial knowledge, data or information relating to the activities or business of each Party that may be either in tangible or intangible form, expressed orally, in writing or in any other form, including, but not limited to, financial information and data, business and financial plans, budgets, prices, marketing strategies, market information, strategic information, information relating to Kiwi.com's accounting records, including revenues, business secrets, patterns, technical information, drawings, designs, technologies, studies, processes, systems, ideas, know-how, sector affiliation, photos, computer programs, templates, source and object codes, manuals, reports, records and any other documents in whatever form of expression;

"**Customer**" means the customer willing to book the Flight(s) and conclude a contract of carriage with the selected Carrier and service agreement with the Kiwi.com;

"**Effective Date**" means a day of signature of this Agreement by both Parties;

"Fee" means a fee payable by Kiwi.com to the Partner for the provision of the Services in accordance herewith. The Fee is further specified in Clause 3.1 hereof;

"Flight" means the Carrier's offer of carriage by air including Kiwi.com's services for the service fee, which is displayed on the basis of the Solution;

"Licence" means the rights granted by Kiwi.com to the Partner according to Clause 2.3 hereof;

"Services" means the services related to the promotion and marketing of the Flights provided by the Partner to Kiwi.com in accordance with this Agreement. The scope of the Services is defined in Clause 2.1 hereof;

"Solution" means the software technical solution provided and operated by Kiwi.com to the Partner which allows to drive the "online customer traffic" to Kiwi.com e.g. white-label solution, banner, widget and other online tools which allow to promote Kiwi.com's services.

"Term" means the period during which this Agreement is effective. The Term begins on the Effective Date and extends until this Agreement is terminated;

"VAT" means value added tax or any other tax of a similar nature (as applicable at the time), and unless otherwise expressly stated, all references to any sum or other amounts payable under this Agreement are inclusive of VAT.

"Virtually Interlined ("VI") Flight" means a combination of flights forming together a single travel itinerary that consists of two or more travel segments and are issued as two or more separate bookings by the respective carrier for any given passenger and itinerary sector (outbound or return sector), notwithstanding whether they are provided by a single or multiple carriers.

1.2 Interpretations. In this Agreement, a reference to:

- (a) Clauses and Schedules are references to, respectively, Clauses of and Schedules to this Agreement and references to this Agreement include its Schedules;
- (b) any agreement or document (or to any specified provision thereof) is to be construed as a reference to that agreement or document (or that provision) as it may be amended from time to time;
- (c) a statute, statutory instrument or accounting standard or any provision thereof is to be construed as a reference to that statute, statutory instrument or accounting standard or such provision thereof, as it may be amended or re-enacted from time to time.

1.3 The index to and the headings in this Agreement are inserted for convenience only and are to be ignored in construing this Agreement.

1.4 Words importing the plural shall include the singular and vice versa.

1.5 The interpretation of this Agreement must not take into consideration (a) any other practice established by and between the Parties in a legal connection; (b) anything that preceded their entry into the Agreement, or, as the case may be, (c) any facts presented to the Parties subsequent to the Agreement whose content and meaning they attach to this Agreement.

1.6 The Parties hereby represent that they are acquainted with the meaning of any and all expressions used herein. In case of any doubts, the Parties acknowledge that the meaning of any ambiguous or imprecise expression used herein was explained to them in due course and in a due manner and/or that they themselves established this meaning in due course and in a due manner before the attachment of their signatures hereto.

2. SUBJECT OF THE AGREEMENT

- 2.1 Provision of Services. Subject to the terms and conditions of this Agreement, the Partner undertakes to provide Kiwi.com with the Services consisting of promotion, marketing and advertising of the Flights via using the Kiwi.com's Solution in order to drive customer traffic to Kiwi.com's website www.kiwi.com and/or allow Kiwi.com to conclude the services agreement(s) with the customers on the Partner's website
- 2.2 For the provision of Services, Kiwi.com shall pay to the Partner the Fee in accordance with Clause 3.1 hereof.
- 2.3 Licence. Subject to the terms and conditions of this Agreement, Kiwi.com hereby grants the Partner the non-exclusive, non-transferable, non-sublicensable, royalty free and revocable right to use any Solution that will be provided to the Partner in relation to this Agreement (the "**Licence**"), solely during the Term and solely for the purpose of the provision of the Services.
- 2.4 Scope of the Licence. Subject to the Licence, the Partner is entitled to:
- (a) display, and otherwise use the Solution in connection with the Services;
 - (b) make available to the public the Solution via its website(s) or other publicly available platforms previously approved by Kiwi.com (the "**Website**").
- 2.5 Retention of Rights. Kiwi.com retains any and all rights to the Solution and any part(s) thereof made available or provided to the Partner based on this Agreement. Unless expressly set forth herein, no express or implied licence or right of any kind is granted to the Partner regarding the Solution or any part(s) thereof. All rights not expressly granted to the Partner herein are reserved to Kiwi.com.
- 2.6 Initial Delivery. The Licence shall be granted to the Partner by integrating the Solution into the Website. Kiwi.com shall initially provide the Partner with the Solution within fourteen (14) Business Days after the Effective Date.
- 2.7 The Partner acknowledges that the Solution may not be constantly available, especially due to the necessary hardware and/or software maintenance. Therefore, the Solution may be, from time to time, subject to maintenance or certain technical difficulties (outages, temporary limitations, interruptions).
- 2.8 The Partner hereby acknowledges and agrees that the Solution are made available under this Agreement on an "as is" and "as available" basis, without any representation or warranty, whether express or implied, including any warranty of merchantability, non-infringement of third party intellectual property rights or fitness for a particular purpose, all of which are hereby disclaimed to the greatest extent permitted under the applicable law.

3. FEE, PAYMENTS AND PAYMENT TERMS

- 3.1 xxx
- 3.2 Specific content disclaimers. The Partner acknowledges that the bookings as specified under Letter (a) and (b) of Clause 3.1 hereof
- (a) may not be available via Solution from time to time based on the sole discretion of Kiwi.com, and
 - (b) are made available to the Partner hereunder only to refer consumers to Kiwi.com (e.g. based on the metasearch/affiliate model).
- 3.3 Tracking and reporting platform. Kiwi.com's tracking and reporting platform will be used as a sole source of information for determining the exact number of realized transactions between the Customers and Kiwi.com, made on the basis of the booking or other form of order of Kiwi.com's services and Kiwi.com's approval of such booking and payment. As such, this

Kiwi.com's tracking and reporting platform will be the sole and only decisive source of information for calculating the exact amount of the Partner's Fee, as referred in Clause 3.1 of this Agreement.

- 3.4 Unless agreed otherwise, all payments under this Agreement shall be made via wire transfer using the following bank details:

(a) For the Kiwi.com:

Account Name:	Kiwi.com s.r.o.
Account Number (IBAN):	GB60CITI18500817880502
Beneficiary Bank name:	Citibank, N.A., London Branch
Beneficiary Bank address:	Citigroup Centre, Canada Square, Canary Wharf, London E14 5LB
SWIFT:	CITIGB2L

(b) For the Partner:

Account Name:	LETIŠTĚ OSTRAVA, A.S.
Account Number (IBAN):	CZ7101000000272504150247
Beneficiary Bank name:	Komerční banka, a.s.
Beneficiary Bank address:	Na Příkopě 33 čp. 969, Praha 1, PSČ 114 07
SWIFT:	KOMBCZPPXXX

- 3.5 Both Parties hereby acknowledge and agree that all invoices issued on the basis hereof may be issued and sent electronically.

- 3.6 Both Parties declare that the consideration pursuant to this Agreement is made upon the mutual consent of both Parties.

4. PROVISION OF THE SERVICES

- 4.1 The Partner undertakes to provide the Services duly, on time and with professional care.
- 4.2 The Partner declares and guarantees that, in all commercial communications related to the Services, only legitimately owned images and/or content not damaging, in any capacity, any third-party rights, will be used. The Partner declares and guarantees to have duly remunerated any possible holders of the above-mentioned rights for this specific commercial use.
- 4.3 The Parties undertake to protect the good reputation of each other's brand. Each Party shall avoid making any negative, disrespectful and/or disparaging remarks and comments about the opposing Party's services and/or products, as well as other remarks and comments that could be detrimental to the opposing Party's services and/or products.
- 4.4 Flight schedule changes and cancellations. The Partner acknowledges and understands that any Flights that are booked and confirmed may be changed or cancelled by the Carrier. In such case, Kiwi.com undertakes to exert reasonable effort to notify the Customers directly and provide them with the assistance services, if applicable, in accordance with the Terms and Conditions regulating the legal relationship between Kiwi.com and Customer, which are valid and effective at the time when the Customers booked the Flight(s).

- 4.5 Kiwi.com's Customer Care. Changes and questions from the Customers regarding their bookings of the Flights via the Solution shall be answered by the Kiwi.com's Customer Care. The Partner shall inform its Customers about this possibility on its websites and/or by the standard customer communication means.

5. DURATION OF THE AGREEMENT AND TERMINATION

- 5.1 The Agreement shall be effective as of the Effective Date and shall remain in force for an initial period of 1 (one) year. This Agreement shall be automatically renewed after the initial period of 1 (one) year for another 1 (one) year period under the same conditions as stipulated in this Agreement, unless one of the Party or both Parties send to the other Party a written notice upon which the Party insists on the termination of the Agreement by the end of the stipulated term of duration of the Agreement. Such notice on termination needs to be delivered to the other Party not less than 2 months before the agreed term of termination of the Agreement. The automatic prolongation of the Agreement may occur repeatedly.
- 5.2 Both Parties may terminate the Agreement without reason as of the end of the calendar month. In such case, the termination notice shall be delivered to the other Party at least ninety (90) calendar days before the contemplated termination of the Agreement.
- 5.3 Kiwi.com may withdraw from the Agreement in the event of a material breach of this Agreement by the Partner via a written notice. Such withdrawal is effective as of the delivery of the withdrawal notice to the Partner. For the purposes hereof, the following situations shall be regarded as a material breach of the Agreement:
- (i) the Partner's breach of Intellectual Property Rights with respect to the Solution;
 - (ii) Breach of the obligations of the Partner stipulated in Clauses 4.2, 4.3. and 6.1 hereof;
 - (iii) Material or repeated breach of other obligations of the Partner arising hereof in connection with the provision of the Services and/or the use of the Solution, where repeated shall mean that the Partner breaches its obligations after already being notified of a breach and on the possibility of withdrawal from the Agreement; and
 - (iv) Other situations stipulated by applicable law.
- 5.4 Obligations of termination of the Agreement. In the event of a termination of this Agreement by either Party, the Partner undertakes to cease using the Solution, promptly (but under any circumstances in no more than two (2) Business Days) remove the Solution from the Website.

6. CONFIDENTIALITY

- 6.1 The Parties agree that the Confidential Information shall remain confidential, and that they shall both be prohibited from disclosing any of the Confidential Information to any third person, except as provided below. The Parties shall instruct any person with access to the Confidential Information (i.e. employees, the Partner's or advisors) in writing about the existence of the copyright and confidentiality obligation and shall ensure that these persons neither disclose to third parties nor use the Confidential Information for any other purpose than stipulated herein.
- 6.2 The obligations set forth in Clause 6.1 hereof do not apply to the Confidential Information that: (i) is already available in the public domain through no fault of the other Party, (ii) has been independently acquired or developed by a Party without breach of this Agreement, (iii) has been whenever rightfully acquired by a Party from a third party, without any limitation in relation to its further use or disclosure, (iv) is legally required to be disclosed by a Party, provided that the disclosing Party promptly notifies the other Party of its requirement to disclose the Confidential Information, and co-operates with the other Party, (v) is expressly authorised for disclosure by written permission of the other Party.

- 6.3 The obligation of confidentiality set forth in this Clause 6 (*Confidentiality*) shall remain in effect also after the termination of this Agreement for the longer period of (a) five (5) years thereafter, or (b) statutory period of the protection of the Confidential Information as a trade secret under the applicable law.

7. LIABILITIES

- 7.1 The Partner shall be liable to Kiwi.com for any damage resulting from the Partner's breach of this Agreement or the incorrectness of the representations herein.
- 7.2 In any case, the Partner undertakes to notify Kiwi.com in writing of any claims or complaints in connection with the provision of the Services and this Agreement, brought against the Partner and/or Kiwi.com by third parties, without undue delay after being informed of such claims or complains, and provide Kiwi.com with all necessary information, documents and cooperation.
- 7.3 Subject to economic or payment reasons, neither of the Parties shall be deemed in default of this Agreement to the extent that performance of their obligations or attempts to cure any breach are delayed or prevented by reason of force majeure.

8. EXPENSES AND VAT

- 8.1 Each Party shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement. Any and all amounts payable hereunder are stated inclusive VAT or similar tax.

9. NOTICES

- 9.1 Any notice, consent, authorisation, invoice, communication or approval required to be given hereunder shall be delivered (i) personally, (ii) via registered letter, (iii) or via e-mail upon confirmation of delivery to the following addresses:

(a) For Kiwi.com: Kiwi.com Distribution Team
Address: Lazaretní 925/9, 615 00, Brno, the Czech Republic
E-mail: xxx
Telephone xxx
Attention: xxx

(b) For THE PARTNER: Letiště Ostrava, a.s.
Address: 742 51 Mošnov, č.p. 401, Czech Republic
E-mail: xxx
Telephone: xxx
Attention: xxx

- 9.2 Any Party hereto may change its address, e-mail address, telephone number, or fax number for notices and other communications hereunder by five (5) Business Days' written notice to the other Party hereto.

9.3 In proving service of a notice it shall be sufficient to prove that the delivery was made or that the envelope containing the notice was properly posted for delivery by registered mail to the address of the addressee as established in Clause 9.1.

9.4 Any notice or other communication under or in connection with this Agreement shall be in the English language.

10. ENTIRE AGREEMENT

10.1. This Agreement sets forth the full and complete agreement of the Parties and supersedes all proposals, negotiations and representations made prior to its execution relating to the subject matter of this Agreement, except to the extent that the same are incorporated herein. Any and all customs and habitual practices of the Parties are set out in this Agreement. The Parties may not invoke habitual practices and customs, unless these expressly derive from this Agreement.

11. WAIVERS

11.1. No failure or delay by the Parties in exercising any rights or remedies provided by law under or pursuant to this Agreement shall impair such rights or remedies or operate and/or be interpreted and/or construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

12. CUMULATIVE REMEDIES

12.1. All rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the Parties, whether provided by law, statute, in any other agreement between the Parties or otherwise.

13. SEVERABILITY

13.1 Except as set forth expressly otherwise in this Agreement, any provision of this Agreement that is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction. The Parties hereby undertake to negotiate in good faith to replace any invalid, illegal or unenforceable provision with a new provision which is valid, legal and enforceable and comes as close as legally possible to such invalid, illegal or unenforceable provision.

14. AMENDMENTS

14.1. Any changes, amendments and supplements to this Agreement shall be in writing, including electronic form, signed by all Parties.

15. ASSIGNMENT OF THE RIGHTS AND OBLIGATIONS

15.1 The rights and obligation of the Partner under this Agreement shall be assignable to the third party only with the prior written consent of Kiwi.com.

15.2 Kiwi.com may assign its rights and obligations under this Agreement to the third party with the prior written consent of the Partner, which shall not be unreasonably withheld.

16. SUCCESSORS

- 16.1 This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assignees.

17. GOVERNING LAW

- 17.1 This Agreement shall be governed by and construed in accordance with the laws of the Czech Republic.

18. DISPUTE RESOLUTION

- 18.1 Any and all disputes or discrepancies arising from this Agreement or in connection herewith shall be resolved by amicable settlement. Should the Parties fail to resolve any such disputes or discrepancies by amicable settlement within a reasonable period of time, which shall not exceed thirty (30) calendar days, any such disputes or discrepancies shall be settled by the competent courts of the Czech Republic.

19. LANGUAGE

- 19.1 This Agreement is executed in the English language. In the event of a translation to any other language and in the event of discrepancy or inconsistency between the original English version and its translation, the English version shall prevail.

20. COUNTERPARTS

- 20.1. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

21. VALIDITY AND EFFECTIVENESS

- 21.1. This Agreement shall become valid on the date of its execution by the authorised representatives of all Parties hereto.
- 21.2 The Contracting parties declare that they have been informed of the duty to publish this Contract in the Register of Contracts established by the Ministry of the Interior pursuant Act No. 340/2015 Sb., on Special Conditions of Effectiveness of Certain Contracts, Publication of Such Contracts and on the Register of Contracts (the Act on the Register of Contracts), as amended, and express their consent to this publication, including the publication of personal data under Act No. 110/2019 Sb., on the Processing of Personal Data.
- 21.3. Publication of the Contract in the Register of Contracts pursuant to Act No. 340/2015 Sb. shall be ensured by the Partner.
- 21.4. Clause 3.1 letters (a), (b), and (c) in paragraph 3 are considered confidential business information and will not be disclosed in the Register of Contracts.
- 21.5. This Contract shall become effective on the date of its publication in the Register of Contracts pursuant to Act No. 340/2015 Sb.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement on the date first written above.

For and on behalf of **Kiwi.com s.r.o.**

Name: Stanislav Komanec Title: Chief Technology Officer Date:	
---	--

For and on behalf of **Letiště Ostrava, a.s.**

Name: Ing. Karin Gajdová, Ph.D. Title: Chairman of the Board Date:	
Name: Mgr. Martin Vymětal, LL.M. Title: Member of the Board Date:	