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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 20-F**

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☐ **REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934**

**OR**

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2019

**OR**

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**OR**

☐ **SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission file number 001-38209

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**Despegar.com, Corp.**

(Exact Name of Registrant as Specified in its charter)

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N/A

(Translation of Registrant's name into English)

**British Virgin Islands**

(Jurisdiction of Incorporation or Organization)

**Juana Manso 999**

**Ciudad Autónoma de Buenos Aires, Argentina C1107CBR**

**Telephone: +54 11 4894-3500**

(Address of principal executive offices)

**Mariano Scagliarini, General Counsel**

**Juana Manso 999**

**Ciudad Autónoma de Buenos Aires, Argentina C1107CBR**

**Telephone: +54 11 4894-3500**

(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

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Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Ordinary Shares, no par value	DESP	The New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act:

None

**Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:**  
**None**

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Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the Annual Report:

At December 31, 2019

69,648,263 ordinary shares

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☒

Note- Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or an emerging growth company. See definitions of "large accelerated filer," "accelerated filer," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐

Accelerated filer ☒

Non-accelerated filer ☐

Emerging growth company ☒

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards<sup>†</sup> provided pursuant to Section 13(a) of the Exchange Act. ☒

<sup>†</sup> The term "new or revised financial accounting standard" refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP ☒

International Financial Reporting Standards as issued  
by the International Accounting Standards Board ☐

Other ☐

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow. Item 17 ☐ Item 18 ☐

If this is an Annual Report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

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## PART I

### INTRODUCTION

Unless the context suggests otherwise, references in this Annual Report to “Despegar,” the “Company,” “we” “us” and “our” are to Despegar.com, Corp., a business company incorporated in the British Virgin Islands (“BVI”), and its consolidated subsidiaries. Unless the context suggests otherwise, references to “Latin America” are to South America, Mexico, Central America and the Caribbean.

We were formed as a business company in BVI on February 10, 2017. On May 3, 2017, the stockholders of our predecessor, Decolar.com, Inc., a Delaware corporation, exchanged their shares of Decolar.com, Inc. for ordinary shares of Despegar.com, Corp. to create a BVI holding company. Following the exchange, our shareholders own shares of Despegar.com, Corp. and Decolar.com, Inc. is a wholly-owned subsidiary of Despegar.com, Corp. The consolidated financial information as of 2016 and 2015, and for the three years ended December 31, 2017, 2016 and 2015 included in this Annual Report, to the extent related to the events and periods prior to May 3, 2017, are the consolidated financial information of Decolar.com, Inc., which is our predecessor for accounting purposes, and other information contained in this Annual Report related to events and periods prior to May 3, 2017 is based on Decolar.com, Inc.

#### **Financial Statements**

Our financial information contained in this Annual Report derives from our audited consolidated financial statements as of December 31, 2019 and 2018 and for the fiscal years ended December 31, 2019, 2018 and 2017 included in this Annual Report and from our audited consolidated financial statements as of December 31, 2017, 2016 and 2015 and for the fiscal years ended December 31, 2016 and 2015 not included in this Annual Report. Our consolidated financial statements are prepared in accordance with U.S. generally accepted accounting principles (“U.S. GAAP”) and presented in dollars.

#### ***Adjusted Segment EBITDA***

This Annual Report includes certain references to Adjusted Segment EBITDA for each of our segments (Air; and Packages, Hotels and Other Travel Products). We use Adjusted Segment EBITDA for purposes of making decisions about allocating resources to our segments and to internally evaluate their financial performance because we believe Adjusted Segment EBITDA reflects current core operating performance of each segment and provides an indicator of each segment’s ability to generate cash. Adjusted Segment EBITDA is calculated, with respect to each segment, as our net income / (loss) exclusive of financial income / (expense), income tax, depreciation, amortization, impairment of long-lived assets and stock-based compensation expense. See note 24 to our audited consolidated financial statements for our Adjusted Segment EBITDA and segment information.

#### ***Consolidated Adjusted EBITDA***

This Annual Report includes certain references to Consolidated Adjusted EBITDA, a non-GAAP financial measure. We define Consolidated Adjusted EBITDA as net income / (loss) exclusive of financial income / (expense), income tax, depreciation, amortization, impairment of long-lived assets and stock-based compensation expense. See “Item 3. Key Information – A. Selected Financial Data – Other Financial and Operating Data” for a reconciliation of Consolidated Adjusted EBITDA to net income / (loss). Consolidated Adjusted EBITDA is not prepared in accordance with U.S. GAAP. Accordingly, you are cautioned not to place undue reliance on this information and should note that Consolidated Adjusted EBITDA, as calculated by us, may differ materially from similarly titled measures reported by other companies, including our competitors.

#### **Market Data**

This Annual Report includes industry, market and competitive position data that we have derived from independent consultant reports, publicly available information, industry publications, official government information and other third-party sources, as well as our internal data and estimates. Independent consultant reports, industry publications and other published sources generally indicate that the information contained therein was obtained from sources believed to be reliable. Although we believe that this information is reliable, the information has not been independently verified by us.

### **Certain Operating Measures**

This Annual Report includes certain references to number of transactions and gross bookings, both operating measures. Number of transactions is the total number of travel customer orders completed on our platform during a given period. Gross bookings is the aggregate purchase price of all travel products booked by our travel customers through our platform during a given period. For more information, see “Item 5. Operating and Financial Review and Prospects—A. Operating Results — Key Business Metrics.”

### **Currency Presentation**

In this Annual Report, references to “dollars” and “\$” are to the currency of the United States, references to “Brazilian real,” “Brazilian *reais*” and “R\$” are to the currency of Brazil and references to “Argentine pesos” and “AR\$” are to the currency of Argentina.

### **Rounding**

Certain figures included in this Annual Report have been subject to rounding adjustments. Accordingly, figures shown as totals in certain tables may not be exact arithmetic aggregations or percentages of the figures that precede them.

### **Trademarks**

Our key trademarks are “Despegar.com,” “Decolar.com” and “Decolar.com.br.” Other trademarks or service marks appearing in this Annual Report are the property of their respective holders. Solely for the convenience of the reader, we refer to our brands in this Annual Report without the ® symbol, but these references are not intended to indicate in any way that we will not assert our rights to these brands to the fullest extent permitted by law.

### **Forward-Looking Statements**

This Annual Report includes forward-looking statements, principally under the captions “Item 3. Key Information,” “Item 4. Information on the Company—Business Overview” and “Item 5. Operating and Financial Review and Prospects.” We have based these forward-looking statements largely on our current beliefs, expectations and projections about future events and financial trends affecting our business and our market. Many important factors, in addition to those discussed elsewhere in this Annual Report, could cause our actual results to differ substantially from those anticipated in our forward-looking statements, including:

- the impact that the ongoing Novel Coronavirus 2019 (“COVID-19”) pandemic, and governments’ extraordinary measures to limit the spread of the virus, will ultimately have on the global economy and the travel industry;
- political, social and macroeconomic conditions in Latin America;
- currency exchange rates and inflation;
- current competition and the emergence of new market participants in our industry;
- government regulation;
- our expectations regarding the continued growth of internet usage and e-commerce in Latin America;
- failure to maintain and enhance our brand recognition;

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- our ability to maintain and expand our supplier relationships;
- our reliance on technology;
- the growth in the usage of mobile devices and our ability to successfully monetize this usage;
- our ability to attract, train and retain executives and other qualified employees;
- our ability to successfully implement our growth strategies; and
- the other factors discussed under the caption “Item 3. Key Information—D. Risk Factors” in this Annual Report.

We operate in a competitive and rapidly changing environment. New risks and uncertainties emerge from time to time, and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this Annual Report. The words “believe,” “may,” “should,” “aim,” “estimate,” “continue,” “anticipate,” “intend,” “will,” “expect” and similar words are intended to identify forward-looking statements. Forward-looking statements include information concerning our possible or assumed future results of operations, business strategies, capital expenditures, financing plans, competitive position, industry environment, potential growth opportunities, the effects of future regulation and the effects of competition. Forward-looking statements speak only as of the date they are made, and we undertake no obligation to update publicly or to revise any forward-looking statements after we distribute this Annual Report because of new information, future events or other factors. These statements are intended to qualify for the safe harbors from liability provided by Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. In light of the risks and uncertainties described above, the future events and circumstances discussed in this Annual Report might not occur or come into existence and forward-looking statements are thus not guarantees of future performance. In particular, the COVID-19 pandemic, and governments’ extraordinary measures to limit the spread of the virus, are disrupting the global economy and the travel industry, and consequently adversely affecting our business, results of operation and cash flows and, as conditions are recent, uncertain and changing rapidly, it is difficult to predict the full extent of the impact that the pandemic will have. Considering these limitations, you should not make any investment decision in reliance on forward-looking statements contained in this Annual Report.

### **Additional Information**

Our principal website addresses are [www.despegar.com](http://www.despegar.com) and [www.decolar.com](http://www.decolar.com). The information on our websites should not be deemed to be part of this Annual Report. SEC also maintains a website at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements, and other information regarding registrants that make electronic filings with SEC using its EDGAR system.

### **ITEM 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISERS**

Not applicable.

### **ITEM 2. OFFER STATISTICS AND EXPECTED TIMETABLE**

Not applicable.

### **ITEM 3. KEY INFORMATION**

#### **A. Selected Financial Data**

The following selected historical consolidated financial and other operating data should be read together with “Item 5. Operating and Financial Review and Prospects” and our audited consolidated financial statements included elsewhere in this Annual Report.

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We derived the selected balance sheet data as of December 31, 2019 and 2018, and selected income statement and cash flow data for the three years ended December 31, 2019, from our audited consolidated financial statements which are included elsewhere in this Annual Report. We derived the selected balance sheet data as of December 31, 2017, 2016 and 2015, and selected income statement and cash flow data for the two years ended December 31, 2016 and 2015, from our audited consolidated financial statements which are not included in this Annual Report. Our consolidated financial statements are prepared and presented in accordance with U.S. GAAP in dollars. Our historical results do not necessarily indicate results expected for any future period.

### Selected Income Statement Data

	Year Ended December 31,				
	2019	2018	2017	2016	2015
	(in thousands, except per share data)				
<b>Revenue</b>					
Air	\$201,638	\$214,804	\$241,015	\$205,721	\$219,817
Packages, Hotels and Other Travel Products	323,238	315,810	282,925	205,441	201,894
<b>Total revenue</b>	524,876	530,614	523,940	411,162	421,711
Cost of revenue	179,565	172,110	142,479	126,675	154,213
<b>Gross profit</b>	345,311	358,504	381,461	284,487	267,498
<b>Operating expenses</b>					
Selling and marketing	187,894	174,357	166,288	121,466	170,149
General and administrative	92,962	67,240	72,626	64,683	78,181
Technology and product development	73,375	71,154	71,308	63,251	73,535
Impairment of long-lived assets	—	363	—	—	—
<b>Total operating expenses</b>	354,231	313,114	310,222	249,400	321,865
<b>Operating (loss) / income</b>	(8,920)	45,390	71,239	35,087	(54,367)
Financial income	7,944	7,621	2,389	8,327	10,797
Financial expense	(25,159)	(26,788)	(19,268)	(15,079)	(23,702)
<b>(Loss) / income before income taxes</b>	(26,135)	26,223	54,360	28,335	(67,272)
Income tax benefit (expense)	5,225	(7,069)	(11,994)	(10,538)	(18,004)
<b>Net (loss) / income</b>	\$ (20,910)	\$ 19,154	\$ 42,366	\$ 17,797	\$ (85,276)
<b>(Loss) / Earnings per share:</b>					
Basic	(0.30)	0.28	0.69	0.30	(1.49)
Diluted	(0.30)	0.27	0.69	0.30	(1.49)
<b>Weighted average shares outstanding:</b>					
Basic	69,465	69,154	61,457	58,518	57,078
Diluted	70,615	71,254	61,548	58,609	57,186

### Selected Balance Sheet Data

	As of December 31,				
	2019	2018	2017	2016	2015
	(in thousands)				
Cash and cash equivalents(1)	\$309,187	\$346,480	\$371,013	\$ 75,968	\$102,116
Total assets	801,213	763,947	738,694	353,710	348,215
Total liabilities	606,977	516,373	520,736	435,973	431,348
Total shareholders' equity/(deficit) attributable to Despegar	194,236	247,574	217,958	(82,263)	(83,133)
Common stock	261,608	255,254	253,535	6	6
Number of Shares	69,648	69,235	69,097	58,518	58,518

(1) Excludes restricted cash. See note 5 of our audited consolidated financial statements.

### Other Financial and Operating Data

We regularly review the following key metrics to evaluate our business, measure our performance, identify trends in our business, prepare financial projections and make strategic decisions.

	Year Ended December 31,				
	2019	2018	2017	2016	2015
	(in thousands)				
Operational					
Number of transactions					
By country					
Brazil	4,121	4,230	3,713	2,924	3,620
Argentina	2,324	2,378	2,264	1,798	1,787
Other	4,233	3,785	3,079	2,490	2,298
Total	10,678	10,393	9,056	7,212	7,705
By segment					
Air	6,220	5,945	5,285	4,250	4,385
Packages, Hotels and Other Travel Products	4,458	4,448	3,771	2,962	3,320
Total	10,678	10,393	9,056	7,212	7,705
Gross bookings	\$4,734,257	\$4,715,325	\$4,454,548	\$3,260,234	\$3,596,260
Financial					
Adjusted Segment EBITDA					
Air	\$ 3,346	\$ 27,790	\$ 58,397	\$ 27,940	\$ 8,259
Packages, Hotels and Other Travel Products	\$ 36,546	\$ 37,739	\$ 31,341	\$ 20,643	\$ (34,383)
Unallocated	\$ (14,330)	\$ 2,115	\$ (384)	\$ 2	\$ (12,943)
Consolidated Adjusted EBITDA (unaudited)	\$ 25,562	\$ 67,644	\$ 89,354	\$ 48,585	\$ (39,067)

### ***Number of Transactions***

The number of transactions for a period is an operating measure that represents the total number of travel customer orders completed on our platform in such period. We monitor the total number of transactions, as well as the number of transactions in each of our segments and the number of transactions with travel customers in each of Brazil, Argentina and the other countries in which we operate. The number of transactions is an important metric because it is an indicator of the level of engagement with our travel customers and the scale of our business from period to period but, unlike gross bookings and our financial metrics, the number of transactions is independent of the average selling price of each transaction, which can be significantly influenced by fluctuations in currency exchange rates.

### ***Gross Bookings***

Gross bookings is an operating measure that represents the aggregate purchase price of all travel products booked by our travel customers through our platform during a given period. We generate substantially all of our revenue from commissions and other incentive payments paid by our suppliers and service fees paid by our travel customers for transactions through our platform, and, as a result, we monitor gross bookings as an important indicator of our ability to generate revenue.

### ***Adjusted Segment EBITDA***

We measure our segment's performance by our Adjusted Segment EBITDA. We use Adjusted Segment EBITDA for purposes of making decisions about allocating resources to our segments and to internally evaluate their financial performance because we believe Adjusted Segment EBITDA reflects current core operating performance of each segment and provides an indicator of each segment's ability to generate cash. Adjusted Segment EBITDA is calculated, with respect to each segment, as our net income / (loss) exclusive of financial income / (expense), income tax, depreciation, amortization, impairment of long-lived assets and stock-based compensation expense. See note 24 to our audited consolidated financial statements for our Adjusted Segment EBITDA and segment information.

### ***Consolidated Adjusted EBITDA***

We define Consolidated Adjusted EBITDA as net income / (loss) exclusive of financial income / (expense), income tax, depreciation, amortization, impairment of long-lived assets and stock-based compensation expense.



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We believe that Consolidated Adjusted EBITDA, a non-GAAP financial measure, provides useful supplemental information to investors about us and our results. Consolidated Adjusted EBITDA is among the measures used by our management team to evaluate our financial and operating performance and make day-to-day financial and operating decisions. In addition, Consolidated Adjusted EBITDA is frequently used by securities analysts, investors and other parties to evaluate companies in the online travel industry. We also believe that Consolidated Adjusted EBITDA is helpful to investors because it provides additional information about trends in our core operating performance prior to considering the impact of capital structure, depreciation, amortization, and taxation on our results.

Consolidated Adjusted EBITDA should not be considered in isolation or as a substitute for other measures of financial performance reported in accordance with U.S. GAAP. Consolidated Adjusted EBITDA has limitations as an analytical tool, including:

- Consolidated Adjusted EBITDA does not reflect changes in, including cash requirements for, our working capital needs or contractual commitments;
- Consolidated Adjusted EBITDA does not reflect our financial expenses, or the cash requirements to service interest or principal payments on our indebtedness, or interest income or other financial income;
- Consolidated Adjusted EBITDA does not reflect our income tax expense or the cash requirements to pay our income taxes;
- although depreciation and amortization are non-cash charges, the assets being depreciated or amortized often will need to be replaced in the future, and Consolidated Adjusted EBITDA does not reflect any cash requirements for these replacements;
- although stock-based compensation is a non-cash charge, Consolidated Adjusted EBITDA does not consider the potentially dilutive impact of stock-based compensation; and
- other companies may calculate Consolidated Adjusted EBITDA differently, limiting its usefulness as a comparative measure.

We compensate for the inherent limitations associated with using Consolidated Adjusted EBITDA through disclosure of these limitations, presentation of our consolidated financial statements in accordance with U.S. GAAP and reconciliation of Consolidated Adjusted EBITDA to the most directly comparable U.S. GAAP measure, net income.

The table below provides a reconciliation of our net (loss) / income to Consolidated Adjusted EBITDA:

	Year Ended December 31,				
	2019	2018	2017	2016	2015
	(in thousands)				
Net (loss) / income	\$(20,910)	\$19,154	\$42,366	\$17,797	\$(85,276)
Add (deduct):					
Financial expense / (income), net	17,215	19,167	16,879	6,752	12,905
Income tax (benefit) / expense	(5,225)	7,069	11,994	10,538	18,004
Depreciation expense	6,659	4,985	5,075	5,089	5,152
Impairment of long-lived assets	—	363	—	—	—
Amortization expense	16,137	10,140	8,751	7,835	9,287
Stock-based compensation expense	11,686	6,766	4,289	574	861
Consolidated Adjusted EBITDA (unaudited)	\$ 25,562	\$67,644	\$89,354	\$48,585	\$(39,067)

## **B. Capitalization and Indebtedness**

Not applicable.

**C. Reasons for the Offer and Use of Proceeds**

Not applicable.

**D. Risk Factors**

*You should carefully consider the risks described below, in addition to the other information contained in this Annual Report. We also may face additional risks and uncertainties that are not presently known to us, or that as of the date of this Annual Report we deem immaterial, which may impair our business, financial condition and results of operations. If any of these events occur, the trading price of our ordinary shares could decline. In general, you take more risk when you invest in the securities of issuers with operations in emerging markets such as Latin American countries than when you invest in the securities of issuers in the United States and other developed markets. The information in this Risk Factors section includes forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in the forward-looking statements as a result of numerous factors, including those described in “Forward-Looking Statements.”*

**Risks Related to Our Business**

**The ongoing COVID-19 pandemic is disrupting the global economy and the travel industry, and consequently adversely affecting our business, results of operations and cash flows, and it is difficult to predict the full extent of the impact that the pandemic will have on our Company.**

The recent outbreak of COVID-19, which has been declared by the World Health Organization to be a “public health emergency of international concern,” has rapidly spread across the globe and is disrupting worldwide economic activity and—in particular—the travel industry. Countries around the world, including across Latin America, have adopted extraordinary measures to limit the spread of COVID-19, including imposing travel restrictions and bans, closing borders, establishing restrictions on public gatherings, instructing residents to practice social distancing, requiring closures of non-essential businesses, issuing stay at home advisories and orders, implementing quarantines and similar actions. Depending on how the spread of the virus continues to evolve, governments may extend these measures for longer periods, or re-implement these measures in the future, in order to avoid relapses even after the virus is contained.

The impact to date of the COVID-19 pandemic on global economic conditions and on the travel industry has been sudden and severe. The pandemic has significantly increased economic uncertainty and is likely to cause a global recession. Moreover, leisure travel across the world has come to a virtually immediate and complete halt during the past weeks. We cannot predict how long the COVID-19 pandemic will continue or how long current or future travel restrictions will remain in place. Furthermore, even if the initial outbreaks of COVID-19 subside and limits on travel are lifted, we cannot predict whether subsequent outbreaks will reoccur, whether governments will implement longer-term measures that continue to affect travel, when the economy and consumer sentiment will recover, whether consumer’s travel behavior will change, or if there will be other ongoing disruptions to the volume and value of transactions in the travel industry. As a result, the negative impact of COVID-19 may continue well beyond the containment of the pandemic.

The COVID-19 pandemic is significantly adversely affecting our business, results of operations and cash flows. Demand for travel began showing early initial signs of weakness by the beginning of March 2020. Within a matter of days, with more news of the potentially extensive spread of the virus to other parts of the world, travel demand began to decline significantly, and then the decline accelerated precipitously as governments implemented measures to limit the spread of the virus. Since mid-March, we began experiencing—and continue to experience—an almost complete stoppage in new travel booking, and a spike in customer cancellations or reschedulings of existing bookings for substantially all near term travel.

On March 20, 2020, we withdrew our guidance for the first quarter of 2020, until there is a better understanding of the duration and depth of significantly reduced travel demand resulting from the COVID-19 pandemic and governments’ extraordinary measures. Because the extent of the COVID-19 pandemic and its impact on travel across the world cannot be predicted at this time, the full extent to which COVID-19 will impact our business, results of operations and cash flows is currently unknown, although the effects could be severe. We have not previously experienced such an unprecedented decline in travel demand, however, we believe that the severity of the impact on our Company will depend, to a large extent, on how long the crisis continues.

As an intermediary in the travel industry, a significant portion of our revenue is affected by the operations of our travel suppliers. We cannot predict the financial and operational impact that the COVID-19 pandemic will ultimately have on companies in the travel industry, nor whether any of our suppliers will significantly reduce or terminate their operations and product offerings. The effects of the pandemic and governments' measures have forced many travel suppliers to temporarily reduce operations and to seek government support in order to maintain their businesses. The suspension or termination of services by major travel suppliers, in particular airlines, would negatively impact the products we can offer to our travel customers. Additionally, it could also adversely affect our ability to benefit from advance payments that we have made to these suppliers, and could result in complaints or lawsuits against us by travel customers seeking refunds for lost bookings. Although we believe such claims would be without merit, we cannot assure you that our position will prevail in all cases or that such complaints will not affect our business.

We are taking measures to mitigate the potential effects on our Company from the pandemic, by protecting the health and safety of our employees, focusing on travel customer care operations to address the disruption in travel plans, and by reducing our expenses and preserving cash. The ongoing effects of COVID-19 could adversely affect our liquidity, as a result of the loss in revenue and, to a lesser extent, the increase in cancellation payments. We are currently taking additional actions to improve liquidity during this time, which include, among other things, limiting our marketing expenditures as well as non-essential expenditures, reducing a part of our workforce and temporarily reducing the salaries, and negotiating payment terms with suppliers. While we believe these measures are important to strengthen our Company during the crisis, they could have adverse consequences for our business such as increased restructuring costs and labor or other lawsuits, and could affect our future performance. Additionally, we cannot assure you that our business will not require additional funds for operating activities in the future, particularly if the effects of the pandemic persist, nor can we assure that we will have access to future funding on favorable terms or at all.

***We are subject to the risks generally associated with doing business in Latin America.***

Our business serves the Latin American travel industry and substantially all of our revenue is derived from Latin American countries. Substantially all of our operations are located in Latin America. Moreover, we have significant revenue from Brazil and Argentina as well as other Latin American countries. In 2019, Brazil accounted for 39% of our transactions and Argentina accounted for 22%. In addition, if our acquisition of Best Day Travel Group is consummated, our exposure to Mexico would increase significantly. As a result, we are subject to the risks generally associated with doing business in the region, including:

- political, social and macroeconomic instability;
- cycles of severe economic downturns;
- currency devaluations and fluctuations;
- periods of high inflation;
- availability, quality and level of usage of the internet and e-commerce;
- high levels of credit risk, fraud and lack of secure payment methods;
- uncertainty or changes in governmental regulation, including applicable to travel services operations and internet and e-commerce services;
- uncertainty or changes in tax laws and regulations;
- limited access to financing, both for companies and for consumers;

- exchange and capital controls;
- limited infrastructure, including in the travel and technology sectors;
- adverse labor conditions and difficulties in hiring, training and retaining qualified personnel;
- the challenges of doing business across a region with multiple languages, different currencies and regulatory regimes that varies from country to country; and
- the impact of adverse global conditions in the region.

Any of these risks could have a material adverse effect on our business, financial condition and results of operations. For more information, see “—Risks Related to Latin America.”

***General declines or disruptions in the travel industry may adversely affect our business and results of operations.***

Our business is significantly affected by the trends that occur in the travel industry. As the travel industry is highly sensitive to business and personal discretionary spending levels, it tends to decline during general economic downturns. Trends or events that tend to reduce travel and are likely to reduce our revenue include:

- health-related risks, such as the ongoing COVID-19 pandemic, or future outbreaks of Zika virus, H1N1 influenza, Ebola virus, yellow fever, avian flu, or any other serious contagious diseases;
- terrorist attacks or threats of terrorist attacks or wars;
- fluctuations in currency exchange rates;
- increased prices in the airline ticketing, hotel, or other travel-related sectors;
- significant changes in oil prices;
- travel-related strikes or labor unrest, bankruptcies or liquidations;
- travel-related accidents or the grounding of aircraft due to safety or other concerns;
- political unrest;
- high levels of crime;
- natural disasters or severe weather conditions, including volcanic eruptions, hurricanes, flooding or earthquakes;
- changes in immigration policy; and
- travel restrictions or other security procedures implemented in connection with any major events, particularly those that affect travel by Latin Americans within their respective countries, across the region and outbound from the region to the rest of the world.

We could be severely and adversely affected by declines or disruptions in the travel industry and, in many cases, have little or no control over the occurrence of such events. Such events could result in a decrease in demand for our travel services. Any decrease in demand, depending on the scope and duration, could significantly and adversely affect our business and financial performance over the short and long term.

***Our business and results of operations are adversely affected by macroeconomic conditions.***

Consumer purchases of discretionary items generally decline during periods of recession and other periods in which disposable income is adversely affected. As a substantial portion of travel expenditure, for both business and leisure, is discretionary, the travel industry tends to experience weak or reduced demand during economic downturns.

General adverse economic conditions, including the possibility of recessionary conditions in Latin America or a worldwide economic slowdown, would adversely impact our business, financial condition and results of operations. Past weakness and uncertainty in the global economy and in Latin America have negatively impacted consumer spending patterns and demand for travel services and may continue to do so in the future. For example, consumer spending patterns and demand for travel services were negatively impacted by the 2008-2009 global financial crisis that arose in the United States, as well as the recession in Brazil of 2015-2016, the Argentine financial crisis of 2001-2002 and recession of 2018 and 2019.

As an intermediary in the travel industry, a significant portion of our revenue is affected by prices charged by our travel suppliers. During periods of poor economic conditions, airlines and hotels tend to reduce rates or offer discounted sales to stimulate demand, thereby reducing our commission-based income. A slowdown in economic conditions may also result in a decrease in transaction volumes and adversely affect our revenue, including our consumer fee-based income. It is difficult to predict the effects of the uncertainty in global economic conditions. If economic conditions decline globally or in Latin America, our business, financial condition and results of operations could be adversely impacted.

Moreover, the ongoing COVID-19 pandemic has significantly increased economic uncertainty and is likely to result in a global recession, which may continue to adversely affect consumer spending and travel demand even after the health concerns of the virus have subsided.

***We are exposed to fluctuations in currency exchange rates.***

Because we conduct our business outside the United States and receive almost all of our revenue in currencies other than the dollar, but report our results in dollars, we face exposure to adverse movements in currency exchange rates. The currencies of certain countries where we operate, including Brazil and Argentina, have historically experienced significant devaluations. The Brazilian real depreciated 2%, 17% and 4% during 2017, 2018 and 2019, respectively; while the Argentine peso depreciated 18%, 51% and 59% during 2017, 2018 and 2019, respectively. The results of operations in the countries where we operate are exposed to foreign exchange rate fluctuations as the financial results of the applicable subsidiaries are translated from the local currency into dollars upon consolidation. If the dollar weakens against foreign currencies, the translation of these foreign-currency-denominated transactions will typically result in increased revenue and operating expenses, and our revenue and operating expenses will typically decrease if the dollar strengthens. Moreover, if the dollar strengthens against the foreign currencies of countries in which we operate, the purchasing power of our travel customers from those countries could be negatively affected by potentially increased prices in local currencies, and we could experience a reduction in the demand for our travel services.

Additionally, foreign exchange exposure also arises from pre-pay transactions, where we accept upfront payments for bookings in the travel customer's home currency, but payment to the hotel is not due until after the travel customer checks out, and is paid by us in the hotel's home currency. We are therefore exposed to foreign exchange risk between the time of the initial reservation and the time when the hotel is paid.

We minimize our foreign currency exposures by managing natural hedges, netting our current assets and current liabilities in similarly denominated foreign currencies, and managing short term loans and investments for hedging purposes. Additionally, from time to time we enter into derivative transactions. However, depending on the size of the exposures and the relative movements of exchange rates, if we choose not to hedge or fail to hedge effectively our exposure, we could experience a material adverse effect on our consolidated financial statements and financial condition.

***We incurred operating losses in 2019 and may experience earnings declines or net losses in the future.***

We incurred operating losses for the year ended December 31, 2019. We cannot assure you that we can sustain profitability or avoid net losses in the future. Our ability to remain profitable depends on various factors, including our ability to generate additional transaction volume and revenue and control our costs and expenses. We may incur significant losses in the future for a number of reasons, including the other risks described in this Annual Report, and we may further encounter unforeseen expenses, difficulties, complications, delays and other unknown events. If our costs and expenses increase at a more rapid rate than our revenue, we may not be able to sustain profitability and may incur losses.

***If we are unable to maintain or increase consumer traffic to our sites and our conversion rates, our business and results of operations would be harmed.***

Our ability to generate revenue depends, in part, on our ability to attract consumers to our platform. If we fail to maintain or increase consumer traffic and our conversion rates, our ability to grow our revenue could be negatively affected. We expect that our efforts to maintain or increase traffic are likely to include, among other things, significant increases to our marketing expenditures. We cannot assure you that any increases in our expenses will be successful in generating additional consumer traffic.

There are many factors that could negatively affect user retention, growth, and engagement, including if:

- we fail to offer compelling products;
- users increasingly engage with competing products instead of ours;
- we fail to introduce new and exciting products and services or those we introduce are poorly received;
- our websites or mobile apps fail to operate effectively on the iOS and Android mobile operating systems;
- we do not provide a compelling user experience;
- we are unable to combat spam or other hostile or inappropriate usage on our products, or if our anti-fraud measures are too conservative and we reject too many bona fide transactions;
- there are changes in user sentiment about the quality or usefulness of our existing products;
- there are concerns about the privacy implications, safety, or security of our products;
- our suppliers decide to discontinue the offering of their products through our platform;
- technical or other problems frustrate the user experience, particularly if those problems prevent us from delivering our products in a fast and reliable manner;
- we fail to provide adequate service to our travel customers and travel suppliers;
- we or other companies in our industry are the subject of adverse media reports or other negative publicity; or
- we do not maintain our brand image or our reputation is damaged.

Any decrease to user retention, growth, or engagement could render our products less attractive to consumers and would seriously harm our business.

***We operate in a highly competitive and evolving market, and pressure from existing and new companies may adversely affect our business and results of operations.***

The travel market in Latin America and worldwide is intensely competitive and rapidly evolving. Factors affecting our competitive success include, among other things, price, availability and breadth of choice of travel services and products, brand recognition, customer service, fees charged to travelers, ease of use, accessibility, consumer payment options and reliability. We currently compete with both established and emerging providers of travel services and products, including regional offline travel agency chains and tour operators, global OTAs with presence in Latin America and smaller, country-specific online and offline travel agencies and tour operators. In addition, our travel customers have the option to book travel directly with airlines, hotels and other travel service providers who are increasingly focused on further refining their online offerings. Large, established internet search engines have also launched applications offering travel itineraries in destinations around the world, and meta-search companies who can aggregate travel search results also compete against us for travel customers. We also face competition from Airbnb and other providers acting in the alternative accommodations space. In addition, we face price competition from new entrants that offer discounted rates and other incentives from time to time, as well as social media channels that market travel products and experiences. Some of our competitors have significantly greater financial and other resources than us. From time to time we may be required to reduce service fees and revenue margins in order to compete effectively and maintain or gain travel customers, brand awareness and supplier relationships.

Further, we may also face increased competition from new entrants in our industry. We cannot assure you that we will be able to successfully compete against existing or new competitors. If we are not able to compete effectively, our business, financial condition and results of operations may be adversely affected.

Some travel suppliers are seeking to decrease their reliance on distribution intermediaries like us by promoting direct distribution channels. Many airlines, hotels, car rental companies and tour operators have call centers and have established their own travel distribution websites and mobile applications. From time to time, travel suppliers offer advantages, such as bonus loyalty awards and lower transaction fees or discounted prices, when their services and products are purchased from supplier-related channels. We also compete with competitors which may offer less content, functionality and marketing reach but at a relatively lower cost to suppliers. If our access to supplier-provided content or features were to be diminished either relative to our competitors or in absolute terms or if we are unable to compete effectively with travel supplier-related channels or other competitors, our business could be materially and adversely affected.

***If we are unable to maintain existing, and establish new, arrangements with travel suppliers, our business may be adversely affected.***

Our business is dependent on our ability to maintain our relationships and arrangements with existing suppliers, such as airlines, global distribution system (GDS), service providers, hotels, hotel consolidators and destination services companies, car rental companies, bus operators, cruise companies and travel assistance providers, as well as our ability to establish and maintain relationships with new travel suppliers. In addition, the hotel and other lodging products that we offer through our platform for all countries outside Latin America are provided to us substantially all by affiliates of Expedia, and Expedia is the preferred provider to us of hotel and other lodging products in Latin America, pursuant to a lodging outsourcing agreement (the “Expedia Outsourcing Agreement”). In the event the Expedia Outsourcing Agreement is terminated, we may be required to pay a \$125.0 million termination fee. For more information on our relationships with Expedia, see “Item 7. Major Shareholders and Related Party Transactions — B. Related Party — Relationship with Expedia.” Adverse changes in key arrangements with our suppliers, including an inability of any key travel supplier to fulfill its payment obligation to us in a timely manner, increasing industry consolidation or our inability to enter into or renew arrangements with these parties on favorable terms, if at all, could reduce the amount, quality, pricing and breadth of the travel services and products that we are able to offer, which could adversely affect our business, financial condition and results of operations. For example, American Airlines discontinued our access to its inventory from July 2013 to March 2016, until a mutually satisfactory settlement was reached and American Airlines resumed supplying us with airline tickets.

In addition, adverse economic developments affecting the travel industry could also adversely impact our ability to maintain our existing relationships and arrangements with one or more of our suppliers. We cannot assure you that our agreements or arrangements with our travel suppliers or travel-related service providers will continue or that our travel suppliers or travel-related service providers will not further reduce commissions, terminate our contracts, make their products or services unavailable to us as part of exclusive arrangements with our competitors or default on or dispute their payment or other obligations towards us, any of which could reduce our revenue and margins or may require us to initiate legal or arbitral proceedings to enforce their contractual payment obligations, which may adversely affect our business, financial condition and results of operations.

***We rely on the value of our brands, and any failure to maintain or enhance consumer awareness of our brands could adversely affect our business and results of operations.***

We believe continued investment in our brand is critical to retain and expand our business. The travel customers awareness of our brand, which we foster via our online and offline marketing throughout our target markets in Latin America, has become one of the most important drivers of growth in our travel customer base, and we believe that our brands are well recognized in the Latin American travel market. We have invested in developing and promoting our brand since our inception and expect to continue to spend on maintaining the value of our brands to enable us to compete against increased spending by competitors and to allow us to expand into new services or increase our penetration in certain markets where our brands are less well known.

We cannot assure you that we will be able to successfully maintain or enhance consumer awareness of our brands. Even if we are successful in our branding efforts, such efforts may not be cost-effective. Our marketing costs may also increase as a result of inflation in media pricing. If we are unable to maintain or enhance consumer awareness of our brands and generate demand in a cost-effective manner, it would negatively impact our ability to compete in the travel industry and would have a material adverse effect on our business, financial condition and results of operations.

***We rely on information technology to operate our business and maintain our competitiveness, and any failure to adapt to technological developments or industry trends could adversely affect our business.***

We depend on the use of sophisticated information technology and systems, for search and reservation for airline tickets, hotels, and any of the other products that we offer on our platform, as well as payments, refunds, customer relationship management, communications and administration. As our operations grow in both size and scope, we must continuously improve and upgrade our systems and infrastructure to improve services, features and functionality, while maintaining the reliability and integrity of our systems and infrastructure in a cost-effective manner. Our future success also depends on our ability to upgrade our services and infrastructure ahead of rapidly evolving consumer demands while continuing to improve the performance, features and reliability of our service in response to competitive offerings.

We may not be able to maintain or replace our existing systems or introduce new technologies and systems as quickly as our competitors, in a cost-effective manner or at all. We may also be unable to devote adequate financial resources to develop or acquire new technologies and systems in the future.

We may not be able to use new technologies effectively, or we may fail to adapt our websites, mobile apps, transaction processing systems and network infrastructure to meet consumer requirements or emerging industry standards, comply with government regulation or prevent fraud or security breaches. If we face material delays in introducing new or enhanced solutions, our travel customers may forego the use of our services in favor of those of our competitors. Any of these events could have a material adverse effect on our business, financial condition and results of operations.

***Some of our airline suppliers (including our GDS service providers) may reduce or eliminate the commission and other compensation they pay to us for the sale of airline tickets and this could adversely affect our business and results of operations.***

In our air business, we generate revenue through commissions and incentive payments from airline suppliers (including our GDS service providers) and service fees charged to our travel customers. Our airline suppliers (including our GDS service providers) may reduce or eliminate the commissions, incentive payments or other compensation they pay to us. To the extent any of our airline suppliers (including our GDS service providers) reduce or eliminate the commissions, incentive payments or other compensation they pay to us, our revenue may be



reduced unless we are able to adequately mitigate such reduction by increasing the service fee we charge to our travel customers or increasing our transaction volume in a sustainable manner. However, any increase in service fees may also result in a loss of potential travel customers. In addition, our arrangement with the airlines that supply airline tickets to us may limit the amount of service fee that we are able to charge our travel customers. Our business would also be negatively impacted if competition or regulation in the Latin American travel industry causes us to have to reduce or eliminate our service fees.

***Our business and results of operations could be adversely affected when one or more of our major travel suppliers suffers a deterioration in its financial condition or restructures its operations.***

As we are an intermediary in the travel industry, a substantial portion of our revenue is affected by the prices charged by our suppliers, including airlines, GDS service providers, hotels, destination service providers, car rental suppliers, tour operators, supply aggregators (such as other OTAs), cruise operators, bus service providers and travel assistance providers, and the volume of products offered by our suppliers. As a result, if one or more of our major suppliers suffers a deterioration in its financial condition or restructures its operations, it could adversely affect our business, financial condition and results of operations. Accordingly, our business may be negatively affected by adverse changes in the markets in which our suppliers operate.

In particular, as a substantial portion of our revenue depends on our sales of airline flights, we could be adversely affected by changes in the airline industry, including consolidation or bankruptcies and liquidations, and in many cases, we will have no control over such changes. Any consolidation in the airline industry in the future would result in fewer airlines with potentially more bargaining power with respect to the commissions and incentive payments or other fees they pay to intermediaries. Events or weaknesses specific to the airline industry that could negatively affect our business include air fare fluctuations, airport, airspace and landing fee increases, seat capacity constraints, removal of destinations or flight routes, travel-related strikes or labor unrest, imposition of taxes or surcharges by regulatory authorities and fuel price volatility. While decreases in prices for flights and other travel products generally increase demand, such price decreases generally also have a negative effect on the commissions we earn, particularly in our non-flight business, which is more dependent on commissions than our flight business. The overall effect of a price increase or decrease is therefore uncertain.

In the past, major airlines have filed for bankruptcy, exited bankruptcy, or discussed publicly the risk of bankruptcy. In addition, some of these and other airlines have merged, or discussed merging, with other airlines. If one of our major airline suppliers merges or consolidates with, or is acquired by, another company that either does not participate in the GDS systems we use, or that participates in such systems but at substantially lower levels, the surviving company may elect not to make supply available to us or may elect to do so at lower levels than the previous supplier. Similarly, in the event that one of our major airline suppliers voluntarily or involuntarily declares bankruptcy and is subsequently unable to successfully emerge from bankruptcy, and we are unable to replace such supplier, our business would be adversely affected. Further consolidation of one or more of the major airlines could result in further capacity reductions, a reduction in the number of airline tickets available for booking on our website and increased air fares, which may have a negative impact on demand for travel products.

The COVID-19 pandemic and the extraordinary measures adopted by the governments are disrupting the global economy and the travel industry in particular, and the business, results of operations and financial condition of many of our suppliers have been adversely affected, and may be further affected, if the disruption to the economy and the industry continues. We cannot predict the financial and operational impact that the COVID-19 pandemic will ultimately have on companies in the travel industry, nor whether any of our suppliers will significantly reduce or terminate their operations and product offerings. The effects of the pandemic and governments' measures have forced many travel suppliers to temporarily reduce operations and to seek government support in order to maintain their businesses. The suspension or termination of services by major travel suppliers, in particular airlines, would adversely affect the products we can offer to our travel customers. It also could adversely affect the Company's ability to benefit from advance payments that we have made to these suppliers, and could result in complaints or lawsuits against us by travel customers seeking refunds for lost bookings. Although we believe such claims would be without merit, we cannot assure you that our position will prevail in all cases or that such complaints will not affect our business.

Governments are approving large stimulus packages to mitigate the effects of the sudden decline in economic activity caused by the pandemic; however, we cannot predict the extent to which these measures will be sufficient to restore or sustain the business and financial condition of companies in the travel industry. Moreover, Latin America-based airlines may have more limited access to government stimulus packages to the extent Latin American governments have less resources to support local economies.

***We are subject to payments-related fraud risks.***

We are held liable for accepting fraudulent bookings on our platform and other bookings for which payment is successfully disputed by the cardholder, both of which lead to the reversal of payments received by us for such bookings (referred to as a “chargeback”). Our results of operations may be negatively affected by our acceptance of fraudulent bookings made using credit cards, as occurred in 2015, when there was an increase in fraud in the Latin American travel industry, particularly in Brazil. In the fourth quarter of 2015, we experienced an increase in attempted fraudulent transactions in Brazil, resulting in both the first quarter of 2016 and the fourth quarter of 2015 in an increase in fraud expense in the form of chargebacks. We also experienced a decrease in gross bookings in both quarters, as we imposed more restrictive anti-fraud protocol in response to the uptick in fraudulent transactions that resulted in more rejections of legitimate transactions. Our ability to detect and combat fraud, which has become increasingly common and sophisticated, may be negatively impacted by the adoption of new payment methods, the emergence and innovation of new technology platforms, including smartphones, tablets and other mobile devices, and our expansion, including into geographies with a history of elevated fraudulent activity. If we are unable to effectively combat fraud on our platform or if we otherwise experience increased levels of chargebacks, our results of operations could be materially adversely affected.

We have agreements with companies that process travel customers’ credit and debit card transactions for the facilitation of travel customer bookings of travel services from our travel suppliers. These agreements allow these processing companies, under certain conditions, to hold an amount of our cash (referred to as a “holdback”) or require us to otherwise post security equal to a portion of bookings that have been processed by such companies. These processing companies may be entitled to a holdback or suspension of processing services upon the occurrence of specified events, including material adverse changes in our financial condition. Moreover, there can be no assurances that the rates we pay for the processing of travel customer’s credit and debit card transactions will not increase, which could reduce our revenue thereby adversely affecting our business and financial performance.

Moreover, credit card networks, such as Visa and MasterCard, have adopted rules and regulations that apply to all merchants which process and accept credit cards and include the Payment Card Industry Data Security Standards (“PCI DSS”). Under these rules, we are required to adopt and implement internal controls over the use, storage and security of card data. We are currently PCI DSS certified and in compliance with PCI DSS. We assess our compliance with PCI DSS rules on a periodic basis and make necessary improvements to our internal controls as needed. Failure to comply may prevent us from processing or accepting credit cards.

In addition, when onboarding suppliers to our platform, we may fail to identify falsified or stolen supplier credentials, which may result in fraudulent bookings or unauthorized access to personal or confidential information of users of our websites and mobile applications. A fraudulent supplier scheme could also result in negative publicity and damage to our reputation, and could cause users of our websites and mobile applications to lose confidence in the quality of our services. Any of these events would have a negative effect on the value of our brands, which could have an adverse impact on our financial performance.

***Any system interruption, security breaches or lack of sufficient redundancy in our information systems may harm our businesses.***

We rely on information technology systems, including the internet and third-party hosted services, to support a variety of business processes including booking transactions, and activities and to store sensitive data, including our proprietary business information and that of our suppliers, personally identifiable information and other information of our travel customers and employees and data with respect to invoicing and the collection of payments, accounting and procurement activities. In addition, we rely on our information technology systems to process financial information and results of operations for internal reporting purposes and to comply with financial reporting, legal, and tax requirements. The risk of a cybersecurity-related attack, intrusion, or disruption, including by criminal

organizations, hackers, foreign governments, and terrorists, is persistent. We have experienced and may in the future experience system interruptions that make some or all of these systems unavailable or prevent us from efficiently fulfilling orders or providing services to third parties. Interruptions of this nature could include security intrusions and attacks on our systems for fraud or service interruption. Significant interruptions, outages or delays in our internal systems, or systems of third parties that we rely upon—including multiple co-location providers for data centers, cloud computing providers for application hosting, and network access providers—and network access, or deterioration in the performance of such systems, would impair our ability to process transactions, decrease our quality of service that we can offer to our travel customers, damage our reputation and brands, increase our costs and/or cause losses.

Potential security breaches to our systems or the systems of our service providers, whether resulting from internal or external sources, could significantly harm our business. We devote significant resources to network security, monitoring and testing, employee training, and other security measures, but we cannot assure you that these measures will prevent all possible security breaches or attacks. A party, whether internal or external, that is able to circumvent our security systems could misappropriate travel customers' or employees' information, proprietary information or other business and financial data or cause significant interruptions in our operations. We may need to expend significant resources to protect against security breaches or to address problems caused by breaches, and reductions in website availability could cause a loss of substantial business volume during the occurrence of any such incident. Because the techniques used to sabotage security change frequently, often are not recognized until launched against a target and may originate from less regulated and remote areas around the world, we may be unable to proactively address these techniques or to implement adequate preventive measures. We have obtained cyber insurance, however we cannot assure you that our insurance will be sufficient to protect against our losses or will cover all potential incidents. Moreover, security breaches could result in negative publicity and damage to our reputation, exposure to risk of loss or litigation and possible liability due to regulatory penalties and sanctions or pursuant to our contractual arrangements with payment card processors for associated expenses and penalties. Security breaches could also cause travel customers and potential users and our suppliers to lose confidence in our security, which would have a negative effect on the value of our brands. Failure to adequately protect against attacks or intrusions, whether for our own systems or those of our suppliers, could expose us to security breaches that could have an adverse impact on our financial performance.

In addition, we cannot assure you that our backup systems or contingency plans will sustain critical aspects of our operations or business processes in all circumstances, many other systems are not fully redundant and our disaster recovery or business continuity planning may not be sufficient. Fire, flood, power loss, telecommunications failure, break-ins, earthquakes, acts of war or terrorism, acts of God, computer viruses, electronic intrusion attempts from both external and internal sources and similar events or disruptions may damage or impact or interrupt computer or communications systems or business processes at any time. Although we have put measures in place to protect certain portions of our facilities and assets, any of these events could cause system interruption, delays and loss of critical data, and could prevent us from providing services to our travel customers and/or third parties for a significant period of time. Remediation may be costly and we may not have adequate insurance to cover such costs. Moreover, the costs of enhancing infrastructure to attain improved stability and redundancy may be time consuming and expensive and may require resources and expertise that are difficult to obtain.

***Our ability to attract, train and retain executives and other qualified employees, particularly highly-skilled IT professionals, is critical to our business and future growth.***

Our business and future success is substantially dependent on the continued services and performance of our key executives, senior management and skilled personnel, particularly personnel with experience in our industry and our information technology and systems. Any of these individuals may choose to terminate their employment with us at any time and we cannot assure you that we will be able to retain these employees or find adequate replacements, if at all. The specialized skills we require can be difficult, time-consuming and expensive to acquire and/or develop and, as a result, these skills are often in short supply. A lengthy period of time may be required to hire and train replacement personnel when skilled personnel depart our company. Our ability to compete effectively depends on our ability to attract new employees and to retain and motivate our existing employees. We may be required to increase our levels of employee compensation more rapidly than in the past to remain competitive in attracting the quality of employees that our business requires. Competition for these personnel is intense, and we cannot assure you that we will be able to successfully attract, integrate, train, retain, motivate and manage sufficiently qualified personnel. If we do not succeed in attracting well-qualified employees or retaining or motivating existing employees, our business and prospects for growth could be adversely affected.

In addition, we compete for talented individuals not only with other companies in our industry but also with companies in other industries, such as software services, engineering services and financial services companies, among others, and there is a limited pool of individuals who have the skills and training needed to help us grow our company. High attrition rates of qualified personnel could have an adverse effect on our ability to expand our business, as well as cause us to incur greater personnel expenses and training costs.

Moreover, while we sometimes require our senior management to sign non-compete agreements, typically for a period of one year following termination, we cannot assure you that our former employees will not compete with us in the future. In addition, these non-compete agreements may be difficult to enforce in certain Latin-American jurisdictions.

***We rely on third-party systems and service providers and any disruption or adverse change in their businesses could have a material adverse effect on our business.***

We currently rely on a variety of third-party systems, service providers and software companies, including the GDS and other electronic central reservation systems used by airlines, various channel managing systems and reservation systems used by other suppliers, as well as other technologies used by payment gateway providers. In particular, we rely on third parties for:

- the hosting of our websites;
- certain software underlying our technology platform;
- transportation ticketing agencies to issue transportation tickets and travel assistance products, confirmations and deliveries;
- third-party local tour operators to deliver on-site services to our packaged-tour customers;
- assistance in conducting searches for airfares and process air ticket bookings;
- processing hotel reservations for hotels not connected to our management system;
- processing credit card, debit card and net banking payments;
- providing computer infrastructure critical to our business; and
- providing customer relationship management (CRM) services.

Any interruption or deterioration in performance of these third-party systems and services could have a material adverse effect on our business. Further, the information provided to us by certain of these third-party systems may not always be accurate due to either technical glitches or human error, and we may incur monetary and/or reputational loss as a result.

Our success is also dependent on our ability to maintain our relationships with these third-party systems and service providers. In the event our arrangements with any of these third parties are impaired or terminated, we may not be able to find an adequate alternative source of systems support on a timely basis or on commercially reasonable terms, which could result in significant additional costs or disruptions to our business. Any security breach at one of these companies could also affect our travel customers and harm our business.

***We rely on banks or payment processors to collect payments from travel customers and facilitate payments to suppliers, and changes to credit card association fees, rules or practices may adversely affect our business.***

We rely on banks or payment processors to process collections and payments, and we pay a fee for this service. In the countries where we operate, the number of processors is limited so there is little or no competition among processors. From time to time, credit card associations may increase the interchange fees that they charge for each transaction using one of their cards.

For certain payment methods, including credit cards, we pay transaction and other fees, which may increase over time and raise our operating costs, lowering profitability. We rely on third parties to provide payment processing services and it could disrupt our business if these companies become unwilling or unable to provide these services to us. If we fail to comply with these third-party servicers' rules or requirements, or if our data security systems are breached or compromised (similar to the increase in fraud attempts we experienced in the fourth quarter of 2015 in Brazil), we may be liable for chargebacks, credit card issuing banks' costs, fines and higher transaction fees and we may lose our ability to accept credit card payments from our travel customers, process electronic funds transfers, or facilitate other types of online payments. If any of these situations were to occur, our business and results of operations could be adversely affected.

***Our business depends on the availability of credit cards and financing options for consumers.***

Our business is highly dependent on the availability of credit cards and financing options for consumers. In 2019, 2018 and 2017, substantially all our net sales were derived from payments effected through credit cards. Moreover, approximately 57%, 57% and 55% of transactions in 2019, 2018 and 2017 were paid by installments through bank financing options, respectively. As a result, the continued growth of our business is also partially dependent on the expansion of credit card penetration in Latin America, which may never reach a percentage similar to more developed countries for reasons that are beyond our control, such as low credit availability for a significant portion of the population in such countries. The provision of credit cards and other consumer financing depends on the product offerings at local and regional banks operating in the countries we serve. In the past, banking systems in Latin America have suffered disruptions and significantly limited availability and increased cost of consumer credit. Banks may also change their product offerings that they provide to consumers, or may change the availability or costs of such products, due to credit, regulations or other reasons beyond our control.

We rely on various banks to provide financing to our travel customers who elect to use an installment plan payment option. Under our agreements with local and regional banks, we offer consumers the possibility of financing their purchases under installment plans established, offered and administered by the credit card holders' issuing banks. Under these agreements, the banks provide the financing arrangements to the consumers and they assume the risk of any potential payment default or delinquency by consumers. Some of our competitors also offer installment plans and may offer installment plans with more attractive terms. If we are not able to offer a competitive selection of installment plan financing at competitive rates, our business and results of operations could be adversely affected. Moreover, our agreements with local banks allow us to offer installment payment plans without assuming collection risk from the travel customer and receive payment in full (provided we choose not to factor such installment payments). We cannot assure you that local banks will not change their credit practices in the future. If our arrangements with local banks are impaired or terminated, our business and results of operations could be adversely affected.

Furthermore, as secure methods of payment for e-commerce transactions have not been widely adopted in certain emerging markets, consumers and other merchants may have relatively low confidence in the integrity of e-commerce transactions and remote payment mechanisms, which may have a material and adverse effect on our business prospects or limit our growth.

***Our business could be negatively affected by changes in search engine algorithms and dynamics or other traffic-generating arrangements.***

We utilize internet search engines such as Google, principally through the purchase of travel-related keywords, to generate a significant portion of the traffic to our websites. Search engines frequently update and change the algorithms that determine the placement and display of results of a user's search. It is possible that any such update

could negatively affect us or may negatively affect us relative to our competitors. We have developed search engine management tools that are designed to bid more efficiently on portfolios of travel-related keywords and we have a search engine management team dedicated to reviewing the return of investment of all biddings. We cannot assure you that these tools will be effective over the long term, as the search engine sector is dynamic and rapidly changing.

In addition, a significant amount of traffic is directed to our websites through participation in pay-per-click and display advertising campaigns on search engines, including Google, and travel metasearch engines, including TripAdvisor and Trivago. A search or metasearch engine could, for competitive or other purposes, adopt emerging technologies, such as voice, or alter its search algorithms or results, any of which could cause us to place lower in search query results, or exclude our website from the search query results. If a major search engine changes its algorithms or results in a manner that negatively affects the search engine ranking, paid or unpaid, of our websites, or if competitive dynamics impact the costs or effectiveness of search engine optimization, search engine marketing or other traffic-generating arrangements in a negative manner, this may have a material and adverse effect on our business and financial performance. In addition, certain metasearch engines have added or may add various forms of direct or assisted booking functionality to their sites. To the extent such functionality is promoted at the expense of traditional paid listings, this may reduce the amount of traffic to our websites or those of our affiliates.

***Changes in internet browser functionality could result in a decrease in our overall revenue.***

Some of our services and marketing activities rely on cookies, which are placed on individual browsers when users visit websites. We use these cookies to optimize our marketing campaigns, to better understand our users' preferences and to detect and prevent fraudulent activity. Users can block or delete cookies through their browsers or "adblocking" software or apps. The most common internet browsers allow users to modify their browser settings to prevent cookies from being accepted by their browsers, or are set to block third-party cookies by default. Increased use of methods, software or apps that block cookies, or diminished interest of users resulting from our use of such marketing activities, may adversely affect our business, financial condition and results of operations.

***Our business depends on the continued growth of e-commerce and the availability and reliability of the internet in Latin America.***

The market for e-commerce is developing in Latin America. Our future revenue depends substantially on Latin American consumers' widespread acceptance and use of the internet as a way to conduct commerce. The use of and interest in the internet (particularly as a way to conduct commerce) has grown rapidly since our inception and we cannot assure you that this acceptance, interest and use will continue in the regions we target. For us to grow our user base successfully, more consumers in our markets must accept and use new ways of conducting business and exchanging information.

The price of personal computers and/or mobile devices and internet access may limit our potential growth in countries with low levels of internet penetration and/or high levels of poverty. In addition, the infrastructure for the internet may not be able to support continued growth in the number of internet users, their frequency of use or their bandwidth requirements.

The internet could lose its viability in our target markets due to delays in telecommunications technological developments, or due to increased government regulation. If telecommunications services change or are not sufficiently available to support the internet, response times would be slower, which would adversely affect use of the internet and our service in particular. Moreover, lack of investment in mobile infrastructure in Latin America may limit the expansion of our mobile offerings, which is one of our key growth strategies.

***Growth of e-commerce transactions in Latin America may be impeded by the lack of secure payment methods.***

As secure methods of payment for e-commerce transactions have not been widely adopted in Latin America, both consumers and merchants may have a relatively low confidence level in the integrity of e-commerce transactions. Consumer confidence can be adversely affected by incidents of fraud and security breaches, including generally in the marketplace, which is beyond our control. Moreover, although we are PCI DSS certified, most of our suppliers with which we share information are not. The continued growth of e-commerce in the region will depend on consumers' confidence in the safety of online payment methods.

***Our future success depends on our ability to expand and adapt our operations in a cost-effective and timely manner.***

We plan to continue to expand our operations by developing and promoting new and complementary services and increasing our penetration in our markets. Moreover, we seek to expand our travel customer base as income levels and access to internet and banking services, such as credit card issuances, increase in Latin America. We may not succeed at expanding our operations in a cost-effective or timely manner, and our expansion efforts may not have the same or greater overall market acceptance as our current services. Furthermore, any new service that we launch that is not favorably received by consumers could damage our reputation and diminish the value of our brands. To expand our operations we will also need to spend significant amounts on development, operations and other resources, and this may place a strain on our management, financial and operational resources. Similarly, a lack of market acceptance of these services or our inability to generate satisfactory revenue from any expanded services to offset their cost could have a material adverse effect on our business, financial condition and results of operations.

***We may not be successful in implementing our growth strategies.***

Our growth strategies involve expanding our service and product offerings, enhancing our service platforms and potentially pursuing acquisitions or other strategic opportunities.

Our success in implementing our growth strategies could be affected by:

- our ability to attract travel customers in a cost-effective manner, including in markets where we have lower brand awareness or operational history;
- our ability to improve the competitiveness of our product offerings including by expanding the number of suppliers and negotiating fares and rates with existing and potential suppliers;
- our ability to market and cross-sell our travel services and products to facilitate the expansion of our business;
- our ability to compete effectively with existing and new entrants to the Latin American travel industry;
- our ability to expand and promote our mobile platform and make it user-friendly;
- our ability to build required technology;
- our ability to expand our businesses through strategic acquisitions and successfully integrate such acquisitions;
- the general condition of the global economy (particularly in Latin America) and continued growth in demand for travel services, particularly online;
- the growth of the internet and mobile technology as a medium for commerce in Latin America; and
- changes in the regulatory environments where we operate.

Many of these factors are beyond our control and we cannot assure you that we will succeed in implementing our strategies. Even if we are successful in executing our growth strategies, our different businesses may not grow at the same rate or with a uniform effect on our revenue and profitability.



***Acquisitions could present risks and disrupt our ongoing business.***

We consider and evaluate acquisitions of, or significant investments in, complementary businesses as part of our business strategy. Acquisitions involve numerous risks, and any acquisition could have a material adverse effect on our business, results of operations and financial condition. In June and July 2019, we completed the acquisition of the Viajes Falabella travel companies in Chile, Argentina, Perú and Colombia (together, “Viajes Falabella”). In January 2020, we entered into an agreement to acquire Best Day Travel Group (“Best Day”), a leading travel agency in Mexico, with business in Argentina, Colombia, Brazil and Uruguay, subject to the occurrence of certain closing and business conditions, which are pending.

We may seek to undertake additional strategic acquisitions in the future. We cannot assure you that we will be successful in identifying opportunities and consummating acquisitions on favorable terms or at all. Depending on the size and timing of an acquisition, we may be required to raise future financing to consummate the acquisition.

Moreover, even if we are able to consummate a transaction, acquisitions may involve significant risks and uncertainties, which risks may include: distraction of management and other employees from our day-to-day operations and the development of new business opportunities; difficulties in integrating the operations of the acquired business and technology with our existing business and technology; greater than expected costs, liabilities, expenses and working capital requirements; challenges retaining travel customers or suppliers of acquired businesses; regulatory restrictions that prevent us from achieving the expected benefits of the acquisition; we may not derive the benefits such as operational or administrative synergies we expect from acquisitions, which may result in us committing capital resources and not receiving the expected returns; difficulties in modifying accounting standards rapidly; challenges in the ability to properly access and maintain an effective internal control environment over an acquired company to comply with public reporting requirements; problems assimilating or retaining employees; and other unidentified issues or contingencies not discovered in our pre-acquisition investigations and evaluations of those strategies and acquisitions.

***We cannot assure that we will be able to consummate the acquisition of Best Day under the existing terms, under different terms or at all, and, if we are able to consummate the acquisition, we may not achieve the benefits we expect from the acquisition.***

On January 27, 2020, we entered into an agreement to acquire Best Day, subject to the occurrence of certain closing and business conditions, which are pending.

While we anticipate that, subject to closing conditions, the closing of the acquisition may occur on or about May 2020, we can provide no assurance that we will be able to complete the acquisition on our anticipated timeframe, on the agreed terms, or at all. The purchase agreement is subject to a number of closing conditions, including regulatory approvals, in particular approval of the Mexican antitrust authorities, and certain business conditions. If we and/or the sellers do not satisfy these conditions in the manner or in the timeframe contemplated, the proposed acquisition may be delayed, modified or terminated.

We are monitoring, and having discussions with the sellers, regarding the impact of the COVID-19 pandemic and other developments on Best Day. We currently cannot predict how severe an impact the COVID-19 pandemic will have on the business, results of operations and financial condition of Best Day; nor can we predict whether, if the acquisition were consummated, we would be able to realize the intended benefits and synergies from the acquisition. We cannot assure you that we and the sellers will be able to consummate the acquisition of Best Day under the existing terms, under different terms, or at all. Under certain circumstances, we and the sellers may nonetheless be obligated by the terms of the purchase agreement to, or may be otherwise agree to, complete the acquisition.

The consummation of the acquisition would increase our business and operations in Mexico. As a result, our business and results of operations may be more affected by economic, political and social conditions in Mexico, including the country’s economy, fluctuations in the value of the Mexican peso, exchange control policies, inflation, interest rates, regulation, taxation, social instability, weather conditions and natural disasters, drug-related and other serious crime, and other developments in or affecting Mexico over which we have no control. In the past, Mexico has experienced several periods of slow or negative economic growth, high inflation, high interest rates, currency devaluation and other economic and social problems. These problems may worsen or reemerge in the future and could adversely affect our business and results of operations.



***If we continue to grow, we may not be able to appropriately manage the increased size of our business.***

We have experienced significant expansion in recent years and anticipate that further expansion will be required to address potential growth in our travel customer base and market opportunities. This expansion has placed, and is expected to continue to place, significant demands on management and our operational and financial resources.

We must constantly improve our software, technology infrastructure, product offering and human resources to accommodate the increased use of our website. This upgrade process is expensive, and the increasing complexity and enhancement of our website result in higher costs. Failure to upgrade our technology, features, transaction processing systems, security infrastructure, or network infrastructure to accommodate increased traffic or transaction volume or the increased complexity of our website could materially harm our business. Adverse consequences could include unanticipated system disruptions, slower response times, degradation in levels of customer support, impaired quality of users' experiences with our services and delays in reporting accurate financial information. Furthermore, we may need to enter into relationships with various strategic partners and other third-party service providers necessary to our business. The increased complexity of managing multiple commercial relationships could lead to execution problems that can affect current and future revenue and operating margins.

Our failure to manage growth effectively could have a material adverse effect on our business, results of operations and financial condition.

***Internet regulation in the countries where we operate is scarce, and several legal issues related to the internet are uncertain.***

Most of the countries where we operate do not have specific laws governing the liability of e-commerce business intermediaries, such as ourselves, for fraud, intellectual property infringement or other illegal activities committed by individual users or third-party infringing content hosted on a provider's servers. This legal uncertainty allows for different judges or courts to decide very similar claims in different ways and establish contradictory case law.

In addition, we are subject to a variety of laws, decrees and regulations across the countries where we operate that affect e-commerce, electronic or mobile payments, tourism, data collection, data protection, privacy, anti-money laundering, taxation (including VAT or sales tax collection obligations), obligations to provide certain information to certain authorities about transactions which are processed through our platforms or about our users and those regulations applicable to consumer protection and businesses in general. However, it is not clear how existing laws governing issues such as general commercial activities, property ownership, copyrights and other intellectual property issues, taxation (including tax laws that require us to provide certain information about transactions consummated through our platforms or about our users) and personal privacy apply to online businesses. Many of these laws were adopted before the internet was available and, as a result, do not contemplate or address the unique issues of the internet.

Moreover, due to these areas of legal uncertainty, and the increasing popularity and use of the internet and other online services, it is possible that new laws and regulations will be adopted with respect to the internet or other online services. If laws relating to these issues are enacted, they may have a material adverse effect on our business, results of operations and financial condition.

We are subject to laws relating to the collection, use, storage and transfer of personally identifiable information about our users, especially financial information. Several jurisdictions have regulations in this area, and other jurisdictions are considering imposing additional restrictions or regulations. For example, in August 2018, Brazil approved its first comprehensive data protection law ("Lei Geral de Proteção de Dados Pessoais" or "LGPD"), which will become effective beginning August 2020. If we fail to comply with these laws, which in many cases apply not only to third-party transactions but also to international transfers of information or transfers of information to third parties with which we have commercial relations, we could be subject to significant penalties and negative publicity, which would adversely affect us. As of the date of this Annual Report, we continue working on the implementation of all necessary measures to comply with such data protection law.

Because our services are accessible worldwide, other foreign jurisdictions may claim that we are required to comply with their laws. Laws regulating internet companies outside of the Latin American jurisdictions where we operate may be more restrictive to us than those in Latin America. In order to comply with these laws, we may have to change our business practices or restrict our services. We could be subject to penalties ranging from criminal prosecution, significant fines or outright bans on our services for failure to comply with foreign laws.

***We process, store and use personal information, card payment information and other consumer data, which subjects us to risks stemming from possible failure to comply with governmental regulation and other legal obligations.***

In our business, we use personal information, card payment information and other consumer data from users of our website and mobile applications. There are numerous laws regarding privacy and the storing, sharing, use, processing, transfer, disclosure and protection of personal information, card payment information and other consumer data, the scope of which are changing, subject to differing interpretations, and may be inconsistent between countries or conflict with other rules. We strive to comply with all applicable laws, policies, legal obligations and industry codes of conduct relating to privacy and data protection. It is possible, however, that these obligations may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another and may conflict with other rules or the practices of the company. Any failure or perceived failure by us, or our service providers, to comply with the privacy policies, privacy-related obligations to users or other third parties, or privacy related legal obligations, or any compromise of security that results in the unauthorized release or transfer of personally identifiable information, payment card information or other consumer data, may result in governmental enforcement actions, litigation or public statements against the Company by consumer advocacy groups or others and could cause our travel customers and members to lose trust in our Company, as well as subject us to bank fines, penalties or increased transaction costs, all of which could have an adverse effect on our business.

The regulatory framework for privacy issues is currently in flux and is likely to remain so for the foreseeable future. Practices regarding the collection, use, storage, transmission and security of personal information by companies operating over the internet have recently come under increased public scrutiny. Countries in Latin America are increasingly implementing new privacy regulations, resulting in additional compliance burdens and uncertainty as to how some of these laws will be interpreted.

***Application of existing tax laws or regulations are subject to interpretation by taxing authorities.***

The application of income and non-income tax laws and regulations to our products and services is subject to interpretation by the applicable taxing authorities across the multiple jurisdictions in which we operate our business. For example, in Brazil we are subject to corporate income tax (IRPJ), social contribution on net profits (CSLL), social contribution on total revenue (PIS and COFINS), withholding taxes, and a municipal tax on services (ISS). In Argentina, we are subject to income tax, value added tax, turnover tax and a new 30% tax (Tax for an Inclusive and Solidarity Argentina (PAIS for its acronym in Spanish)) on purchases made in foreign currencies.

In both countries, we are subject to transfer pricing rules applicable to cross-border operations with related parties or parties in tax havens or subject to privileged fiscal regimes. These taxing authorities may become more aggressive in their interpretation and/or enforcement of such laws and regulations over time, as governments are increasingly focused on ways to increase revenue. This may contribute to an increase in audit activity and harsher stances by tax authorities. As such, additional taxes or other assessments may be in excess of our current tax reserves or may require us to modify our business practices to reduce our exposure to additional taxes going forward, any of which could have a material adverse effect on our business, financial condition and results of operations.

While we believe we currently comply in all material respects with applicable tax laws and regulations in the jurisdictions in which we operate, tax authorities may determine that we owe additional taxes. Moreover, we may have historical tax contingencies across multiple jurisdictions, and while we have made provisions for those contingencies which we considered probable, the amount of total contingencies may exceed our provisions. In addition, in accordance with U.S. GAAP, we record provisions for contingencies based on probable loss or when otherwise required under accounting rules, but we do not record provisions for possible and remote losses.

Significant judgment and estimation is required in determining our tax liabilities. In the ordinary course of our business, there are transactions and calculations, including intercompany transactions and cross-jurisdictional transfer pricing, for which the ultimate tax determination may be uncertain or otherwise subject to interpretation. Tax authorities may disagree with our intercompany charges, including the amount of or basis for such charges, cross-jurisdictional transfer pricing or other matters, and assess additional taxes. Although we believe our tax estimates are reasonable, the final determination of tax audits could be materially different from our historical income tax provisions and accruals, in which case we may be subject to additional tax liabilities, possibly including interest and penalties, which could have a material adverse effect on our cash flows and results of operations. Moreover, we have in the past and may in the future be required in certain jurisdictions to pay any such tax assessments prior to contesting their validity, which payments may be substantial.

***Amendment to existing tax laws or regulations or enactment of new unfavorable tax laws or regulations could adversely affect our business and results of operations.***

Many of the underlying laws or regulations imposing taxes and other obligations were established before the growth of the internet and e-commerce. If the tax or other laws or regulations were amended, or if new unfavorable laws or regulations were enacted, our tax payments or other obligations could increase, prospectively or retrospectively, which may subject us to interest and penalties, decrease the demand for our products and services if we pass on such costs to our travel customers, result in increased costs to update or expand our technical or administrative infrastructure or effectively limit the scope of our business activities if we decided not to conduct business in particular jurisdictions. As a result, these changes could have an adverse effect on our business, financial condition or results of operations.

Governments could adopt tax laws that increase our tax rate or tax liabilities or affect the carrying value of deferred tax assets or liabilities, including the termination of tax-free incentives or termination of treaties for the avoidance of double taxation. Any changes to tax laws could impact the tax treatment of our earnings and adversely affect our profitability. Our effective tax rate in the future could also be adversely affected by changes to our operating structure, changes in the mix of earnings in countries with differing statutory tax rates, or changes in the valuation of deferred tax assets and liabilities.

In addition, we have benefited from, and continue to benefit from, certain tax exemptions and incentive programs in various jurisdictions in which we have operations. When any of our tax exemptions or incentive programs expire or terminate, or if the applicable government withdraws or reduces the benefits of a tax exemption or incentive that we enjoy, our tax expense may materially increase and this increase may have a material impact on our results of operations. The applicable tax authorities may also disallow deductions claimed by us and assess additional taxable income on us in connection with their review of our tax returns. See “Item 4. Information on the Company — B. Business Overview — Regulation — Regulations Related to Taxation.”

***New laws and regulations requiring economic substance in the BVI***

On 1 January 2019 the Economic Substance (Companies and Limited Partnerships) Act, 2018 (the “**ES Act**”) came into force in the British Virgin Islands. The ES Act was enacted in direct response to a scoping paper issued by the European Union’s Code of Conduct Group (Business Taxation) in June 2018. The scoping paper (a) expressed concerns regarding so-called harmful tax competition and the potential “misuse” of offshore entities for profit-shifting; and (b) set out requirements that certain jurisdictions outside the European Union must adopt in order for the jurisdiction to avoid being “blacklisted” by the European Union.

Under the ES Act and related regulations and guidelines, companies incorporated in the BVI that are not tax resident in another jurisdiction and which carry on certain specified activities must establish and maintain ‘economic substance’ in the BVI. As we are tax resident in the United States, we believe these substance requirements should not apply to our Company.

***We are subject to anti-corruption and economic sanctions laws and regulations in the jurisdictions in which we operate, including the U.S. Foreign Corrupt Practices Act and regulations administered and enforced by the U.S. Treasury Department’s Office of Foreign Assets Control. Failure to comply with these laws and regulations could negatively impact our business, our results of operations, and our financial condition.***

We are subject to a number of anti-corruption and economic sanctions laws and regulations, including the U.S. Foreign Corrupt Practices Act (“FCPA”) and regulations administered and enforced by the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”). Failure to comply with these laws and regulations could negatively impact our business, our results of operations, and our financial condition.

The FCPA and similar anti-bribery laws generally prohibit companies and their intermediaries from making improper payments or improperly providing anything of value to foreign officials, directly or indirectly, for the purpose of obtaining or keeping business and/or other benefits. The FCPA also requires maintenance of adequate record-keeping and internal accounting practices to accurately reflect transactions. Under the FCPA, companies operating in the United States may be held liable for actions taken by their strategic or local partners or representatives. Other jurisdictions in which we operate have adopted similar anti-corruption, anti-bribery and anti-kickback laws to which we are subject.

Economic sanctions and embargo laws and regulations, such as those administered and enforced by OFAC, vary in their application, as they do not all apply to the same covered persons or proscribe the same activities, and such sanctions and embargo laws and regulations may be amended or strengthened over time. Although we believe that we are in compliance with all applicable sanctions and embargo laws and regulations, and intend to maintain such compliance, there can be no assurance that we will be in compliance in the future, particularly as the scope of certain laws may be unclear and may be subject to changing interpretations.

Civil and criminal penalties may be imposed for violations of these laws. We operate in some countries which are viewed as high risk for corruption and/or economic sanctions issues. Despite our ongoing efforts to ensure compliance with the FCPA and similar laws, and economic sanctions laws and regulations, there can be no assurance that our directors, officers, employees, agents, and third-party intermediaries will comply with those laws and our policies, and we may be ultimately held responsible for any such non-compliance. If we or our directors or officers violate such laws or other similar laws governing the conduct of our business (including local laws), we or our directors or officers may be subject to criminal and civil penalties or other remedial measures, which could harm our reputation and have a material adverse impact on our business, financial condition, and results of operations. Any investigation of any actual or alleged violations of such laws could also harm our reputation or have an adverse impact on our business, financial condition, and results of operations.

***We are, and may be in the future, involved in various legal proceedings, the outcomes of which could adversely affect our business and results of operations.***

We are, and may be in the future, involved in various legal proceedings relating to allegations of our failure to comply with consumer protection, labor, tax or antitrust regulations, that could involve claims or sanctions for substantial amounts of money or for other relief or that might necessitate changes to our business or operations.

Our websites contain information about hotels, flights, popular vacation destinations and other travel-related topics. It is possible that if any information, accessible on our websites, contains errors or false or misleading information, third parties could take action against us for losses incurred in connection with the use of such information. In addition, because consumer protection laws in many of our markets provide for joint liability, travel customers may bring claims against us for a failure or deficiencies in the provision of a travel product or service by one of our suppliers that is outside of our control.

The defense of any of these actions is, and may continue to be, both time-consuming and expensive. We cannot assure you that we will prevail in these legal proceedings or in any future legal proceedings and if such disputes were to result in an unfavorable outcome, it could result in reputational damage and have a material adverse effect on our business, financial condition and results of operations. For a discussion of certain key legal proceedings relating to us, see “Item 4. Information on the Company — Business Overview — Legal Proceedings.”

***We may not be able to adequately protect and enforce our intellectual property rights; and we could potentially face claims alleging that our technologies infringe the property rights of others.***

Our websites and mobile applications rely on brands, domain names, technology and content. We protect our brands and domain names by relying on trademark and domain name registration in accordance with laws in Latin America. We have also entered into confidentiality and invention assignment agreements with our employees and certain

contractors, as well as confidentiality agreements with certain suppliers and strategic partners, in order to protect our technology and content. We own our technology platform, which is comprised of applications that we develop in-house using primarily open source software. We have not registered our technology, however, because we believe it would be difficult to replicate and that it is adequately protected by the agreements we have in place. Additionally, our technology is constantly evolving and any registration may run the risk of protecting outdated technology. Even with these precautions, it may be possible for another party to copy or otherwise obtain and use our intellectual property without our authorization or to develop similar intellectual property independently. Effective trademark protection may not be available in every jurisdiction in which our services are made available, and policing unauthorized use of our intellectual property is difficult and expensive. Any misappropriation or violation of our rights could have a material adverse effect on our business. Furthermore, we may need to go to court or other tribunals to enforce our intellectual property rights or to determine the validity and scope of the proprietary rights of others. These proceedings might result in substantial costs and diversion of resources and management attention.

We currently license from third parties some of the technologies, trademarks and content incorporated into our websites. As we continue to introduce new services that incorporate new technologies, third parties' trademarks and content, we may be required to license additional technologies, third parties' trademarks and content. We cannot be sure that such technologies and content licenses will be available on commercially reasonable terms, if at all.

Third parties may assert that our services, products and technology, including software and processes, violate their intellectual property rights. As competition in our industry increases and the functionality of technology offerings further overlaps, such claims and counterclaims could increase. We cannot assure you that we do not or will not inadvertently infringe on the intellectual property rights of third parties. Any intellectual property claim against us, regardless of its merit, could have an adverse effect on our business, financial condition and results of operations and could be expensive and time consuming to defend. Our failure to prevail in such matters could result in loss of intellectual property rights, judgments awarding substantial damages and injunctive or other equitable relief against us, or require us to delay or cease offering services or reduce features in our services.

***Increased labor costs, compliance with labor laws and regulations and failure to maintain good relations with labor unions may adversely affect our results of operations.***

We are required to comply with extensive labor regulations in each of the countries in which we have employees, including with respect to wages, social security benefits and termination payments. If we fail to comply with these regulations we may face labor claims and government fines.

In the past, governments from certain countries in which we operate, including Argentina, have adopted laws, regulations and other measures requiring companies in the private sector to increase wages and provide specified benefits to employees. We cannot assure you that these governments will not do so again in the future. On December 13, 2019, the Argentine administration enacted Decree No. 34/2019 that duplicates the amount of the statutory severance payments payable to employees hired before December 13, 2019 and fired between December 13, 2019 and June 13, 2020. Moreover, by Decree No. 14/2020 issued on January 3, 2020, the Argentine government approved mandatory salary increases for private sector employees of AR\$3,000 in January 2020, and additional AR\$1,000 in February 2020.

In addition, some of our employees in Argentina, Brazil and certain other countries are currently represented by labor unions. We may face pressure from our labor unions or otherwise to increase salaries. In Argentina, for example, employers in both the public and private sectors have historically experienced, and are currently experiencing, significant pressure from unions and their employees to further increase salaries due to the devaluation of the peso and high inflation. According to the data published by the Instituto Nacional de Estadística y Censos (National Statistics Institute or "INDEC") regarding the evolution of salaries in the private and public sectors in Argentina, salary increases in both sectors have been of approximately 30.4% and 30.3% for 2018, and 44.5% and 42.2% for 2019, respectively.

Due to high levels of inflation and full employment in the tech industry, we expect to continue to raise salaries. If future salary increases in the Argentine peso or the currencies of other countries in which we have employees exceed the pace of the devaluation of those currencies, such salary increases could adversely affect our business, results of operations and financial condition.

Moreover, while we have enjoyed satisfactory relationships with labor unions that represent our employees, labor-related disputes may still arise. Labor disputes that result in strikes or other disruptions could adversely affect our business, financial condition and result of operations.

***A failure to comply with current laws, rules and regulations or changes to such laws, rules and regulations and other legal uncertainties may adversely affect our business, results of operations or business growth.***

We have been subject, and we will likely be subject in the future, to inquiries from time to time from regulatory bodies concerning compliance with consumer protection, tax, labor, antitrust and travel industry-specific laws and regulations.

Such inquiries have included investigations and legal proceedings relating to the travel industry and, in particular, parity provisions in contracts between hotels and travel companies, including us, as well as allegations of “geopricing” or “geoblocking practices.” See Item 4. “Business—Legal and Regulatory—Legal Proceedings” for more information. Parity provisions are significant to our business model, and their removal or modification may adversely affect our business, financial condition and results of operations. We are unable at this time to predict the timing or outcome of these various investigations and lawsuits, or similar future investigations or lawsuits, and their impact, if any, on our business and results of operations.

The failure of our businesses to comply with these laws and regulations could result in fines and/or proceedings against us by governmental agencies and/or consumers, which if material, could adversely affect our business, financial condition and results of operations. Further, if such laws and regulations are not enforced equally against other competitors in a particular market, our compliance with such laws may put us at a competitive disadvantage vis-à-vis competitors which do not comply with such requirements.

***Complaints from travel customers or negative publicity about our services can diminish consumer confidence and adversely affect our business.***

In the past, government and consumer protection agencies have received a substantial number of complaints about our products, which represent a small percentage of our total transactions but could increase in the future. Many of these claims are related to the behavior of our suppliers. From time to time, we are involved in disputes or regulatory inquiries that arise in the ordinary course of business. The number and significance of these disputes and inquiries have increased as our business has expanded. We have responded to inquiries from regulatory agencies; however, we are likely to receive inquiries in the future, which may lead to actions against us. If during these inquiries we were found to violate any laws or to constitute unfair business practices, we could be subject to civil damages, enforcement actions, fines or penalties. Such actions or fines could require us to restructure our business processes in ways that would harm our business and cause us to incur substantial costs.

Because volume and growth in the number of new travel customers are key drivers of our revenue and profitability, travel customer’s complaints or negative publicity about our customer service could severely diminish consumer confidence and use of our services. Measures we sometimes take to combat risks of fraud and breaches of privacy and security can damage relations with our travel customers. To maintain good customer relations, we need prompt and accurate customer service to resolve irregularities and disputes. Effective customer service requires significant personnel expense and investment in developing programs and technology infrastructure to help customer service representatives carry out their functions. These expenses, if not managed properly, could significantly impact our profitability. Failure to manage or train our customer service representatives properly, could compromise our ability to handle our travel customer’s complaints effectively. If we do not handle travel customer complaints effectively, our reputation and brand may suffer and we may lose our travel customers confidence.

***Consumer adoption and use of mobile devices creates new challenges.***

Widespread adoption of mobile devices, coupled with the web browsing functionality and development of apps available on these devices, is driving substantial online traffic and commerce to mobile platforms. We have experienced a significant shift of business to mobile platforms and our suppliers are also seeing a rapid shift of traffic to mobile platforms. Many of our competitors and new market entrants are offering mobile apps for travel

products and other functionality, including proprietary last-minute discounts for accommodation reservations. Advertising and distribution opportunities may be more limited on mobile devices given their smaller screen sizes. The average price of travel products purchased in mobile transactions may be less than a typical desktop transaction due to different consumer purchasing patterns. Further, given the device sizes and technical limitations of tablets and smartphones, mobile consumers may not be willing to download multiple apps from multiple companies providing a similar service and instead prefer to use one or a limited number of apps for their mobile travel activity. As a result, the consumer experience with mobile apps as well as brand recognition and loyalty are likely to become increasingly important. Our mobile offerings drive a material and increasing share of our business. We believe that mobile bookings present an opportunity for growth and are necessary to maintain and grow our business as consumers increasingly turn to mobile devices instead of a desktop computer. As a result, it is increasingly important for us to develop and maintain effective mobile apps and websites optimized for mobile devices to provide consumers with an appealing, easy-to-use mobile experience. If we are unable to continue to innovate rapidly and create new, user-friendly and differentiated mobile offerings and advertise and distribute on these platforms efficiently and effectively, or if our mobile offerings are not used by consumers, we could lose considerable market share to existing competitors or new entrants and our business, financial condition and results of operations could be adversely affected.

Moreover, we are dependent on the compatibility of our app with popular mobile operating systems that we do not control, such as Android and iOS, and any changes in such systems that degrade our products' functionality or give preferential treatment to competitive products could adversely affect the usage of our app on mobile devices. Additionally, in order to deliver high quality mobile products, it is important that our products work well with a range of mobile technologies, systems, networks, and standards that we do not control. We may not be successful in developing relationships with key participants in the mobile industry or in developing products that operate effectively with these technologies, systems, networks, or standards. In the event that it is more difficult for our users to access and use our app on their mobile devices, or if our users choose not to access or use our app on their mobile devices or use mobile products that do not offer access to our app, our user growth and user engagement could be harmed.

***We rely on Expedia for substantially all of the hotel and other lodging products that we offer for all countries outside Latin America.***

Substantially all hotel and other lodging products that we offer through our platform for all countries outside Latin America are provided to us by affiliates of Expedia pursuant to the Expedia Outsourcing Agreement. In addition, Expedia is the preferred provider to us of hotel and other lodging products in Latin America. For more information on our relationships with Expedia, see "Item 7. Major Shareholders and Related Party Transactions — B. Related Party — Relationship with Expedia."

If Expedia's affiliates cease to provide us with their hotel and other lodging products, we may be unable to offer these products to our users for some time and it might be difficult for us to replace this supply in the short term, which would negatively affect our business, financial condition and results of operations.

Pursuant to the Expedia Outsourcing Agreement, Expedia pays monthly marketing fees to us, which are calculated as a percentage of the gross booking value of the bookings that we sourced through Expedia during that month. We are required to maintain a level of bookings through Expedia such that those marketing fees equal at least \$5.0 million in a six-month period; otherwise, Expedia may require us to pay a \$125.0 million termination fee. Given the uncertainty caused by the ongoing COVID-19 pandemic, we cannot assure you that we will be able to meet this requirement in the future. As a result, we have initiated discussions with Expedia regarding a potential temporary suspension of this requirement under the Expedia Outsourcing Agreement, although, in the event that we are not able to meet this requirement in the future due to the effects of the pandemic, we believe that the termination fee would not apply as a result of the force majeure provision under the contract.

In addition, the agreement was amended and restated on November 14, 2019 in order to, among other things, allow us to source a limited percentage of our hotel bookings outside of Latin America without Expedia and from certain pre-agreed properties. However, if such transactions exceed the agreed percentage threshold during a six-month period, we may be required to pay Expedia compensation; and if our non-Expedia sourced bookings outside of Latin America exceed the agreed percentage of gross bookings outside of Latin America for two consecutive quarters, or a



higher agreed percentage threshold in one quarter, Expedia may elect to become our exclusive provider outside of Latin America once again. If such transactions exceed the agreed percentage of the minimum bookings set forth therein for any three consecutive months or any three months within a six-month period, then Expedia may require us to pay a \$125.0 million termination fee. The Expedia Outsourcing Agreement may also be terminated by Expedia, and we may be required to pay the termination payment, if the termination by Expedia is for our material breach of certain terms under the agreement or our Shareholder Agreements. In addition, Expedia may unilaterally terminate the Expedia Outsourcing Agreement in the event of a change of control of our Company. Moreover, if the hotel and other lodging products provided by Expedia were to suffer a deterioration in scale or quality, or if their pricing were not attractive, the products and services that we offer to our users would be adversely affected. The Expedia Outsourcing Agreement may be terminated by us unilaterally beginning from March 6, 2022 upon payment of a \$125.0 million termination payment to Expedia. Consequently, if a deterioration in the scale or quality of the products and services provided exclusively to us by affiliates of Expedia were to occur, or if their pricing were not attractive, it could be difficult for us to terminate the Expedia Outsourcing Agreement.

***We may experience constraints in our liquidity and may be unable to access capital when necessary or desirable, either of which could adversely affect our financial condition.***

Although we believe we have a sufficient level of cash and cash equivalents to cover our working capital needs in the ordinary course of business, we may, from time to time, explore additional financing sources and means to improve our liquidity and lower our cost of capital, which could include equity, equity-linked and debt financing and factoring activities. In addition, from time to time, we review acquisition and investment opportunities to further implement our business strategy and may fund these investments with bank financing, the issuance of debt or equity or a combination thereof.

The availability of financing depends in significant measure on capital markets and liquidity factors over which we exert no control. In light of periodic uncertainty in the capital and credit markets, we can provide no assurance that sufficient financing will be available on desirable or even any terms to improve our liquidity, fund investments, acquisitions or extraordinary actions or that our counterparties in any such financings would honor their contractual commitments, which in turn could negatively affect our business, results of operations and financial condition. In addition, if we raise funding through the issuance of new equity or equity-linked securities, it would dilute the percentage ownership of our then existing shareholders.

The ongoing COVID-19 pandemic could adversely affect our liquidity. We are currently taking additional actions to improve our liquidity during the crisis, which include expense reductions and preserving cash. As conditions are recent, uncertain and changing rapidly, we cannot assure you that our business will not require additional funds for operating activities in the future, particularly if the effects of the pandemic persist, nor we can assure you that we will be able to access new funding on favorable terms or at all.

***Our business experiences seasonal fluctuations and quarter-to-quarter comparisons of our results may not be meaningful.***

Our business experiences fluctuations, reflecting seasonal variations in demand for travel services. For example, bookings for vacation and leisure travel are generally higher during the fourth quarter, although we have historically recognized more revenue associated with those bookings in the first quarter of each year. As a result, quarter-to-quarter comparisons of our results may not be meaningful. Moreover, seasonal fluctuations in our results of operations could result in declines in our share price that are not related to the overall performance and prospects of our business.

***The use of derivative financial instruments may adversely affect our results of operations, particularly in a volatile and uncertain market.***

From time to time, we enter into derivative transactions to manage our risks associated with currency exchange rates and interest rates. Significant changes may occur in our portfolio of derivative instruments due to increasing volatility and the fluctuation of the currencies of certain countries where we operate, including Brazil and Argentina, against the dollar and volatility in the relevant interest rates, and we may incur net losses from our derivative financial instruments. The fair value of the derivative instruments fluctuates over time as a result of the effects of



future interest rates and exchange rates. These values must be analyzed in connection with the underlying transactions and as a part of our total average exposure to interest rate and exchange rate fluctuations. It is difficult to predict the magnitude of the risk resulting from derivative instruments because the appreciation is imprecise and variable. We may be adversely affected by our derivative financial positions.

## **Risks Related to Latin America**

### ***Latin American countries are subject to political and social instability.***

Political and social developments in Latin America, including government deadlock, instability, civil strife, terrorism, high levels of crime, expropriations and other risks of doing business in Latin America could impact our business, financial condition and results of operations.

For example, in Brazil, as a result of the ongoing Operation Car Wash (*Lava Jato* investigation), a number of senior politicians have resigned or been arrested and other senior elected officials and public officials are being investigated for allegations of corruption. In 2016 the Brazilian Senate impeached President Rousseff for violations of fiscal responsibility laws, and the then Vice-President Michel Temer assumed office to complete the remainder of the presidential mandate. In July 2017, former President Luiz Inácio Lula da Silva was convicted of corruption and money laundering by a federal court in the State of Paraná in connection with the Operation Car Wash (*Lava Jato*). After Mr. Temer's mandate as President ceased in the beginning of 2019, he was arrested in the context of the corruption investigation on a warrant issued by the federal justice, making him the second former president (following Luiz Inácio Lula da Silva) arrested as part of Operation Car Wash (*Lava Jato*). Jair Bolsonaro was elected as the new President of Brazil in October 2018, and took office in January 2019. His election led to a market recovery and the recovery of the value of local stock and the Brazilian real, however we cannot assure that this confidence in the market will continue. While the potential outcome of these and other investigations is uncertain, they have already had a material adverse effect on the image and reputation of the companies involved, as well as the market's overall perception of the Brazilian economy. There can be no guarantee that investigations will not lead to greater political and economic instability or whether new allegations against government employees and officials and/or private companies will arise in the future.

In Argentina, in the past decade, the Argentine government nationalized or announced plans to nationalize certain industries and expropriate private sector companies and property. In December 2008, the Argentine government transferred approximately AR\$94.4 billion (\$29.3 billion) in assets held by the country's private Administradoras de Fondos de Jubilaciones y Pensiones (pension fund management companies, or "AFJPs") to the government-run social security agency ("ANSES"). AFJPs were the largest participants in the country's local capital market. With the nationalization of their assets, the local capital market decreased in size and became substantially concentrated. In addition, the Argentine government became a significant shareholder in many of the country's public companies, including YPF S.A., the main Argentine oil and gas company, in which the majority of the capital stock was expropriated from the Spanish company Repsol, S.A. in 2012. In October 2019, Argentine presidential, legislative and certain provincial and municipal governments elections were held and Alberto Fernández was elected president. The new administration took office on December 10, 2019. Certain members of the current government coalition, including president Alberto Fernández and vice president Cristina Fernández de Kirchner, were part of administrations which in the past were characterized by high levels of government intervention and policies at times disadvantageous to investors and the private sector. On December 23, 2019, the new Argentine government passed a law granting emergency powers to the executive branch, among other measures. We cannot predict what policies the new Argentine government will implement under these emergency powers, nor their impact in the Argentine economy.

Although political and social conditions in one country may differ significantly from another country, events in any of our key markets could adversely affect our business, financial conditions or results of operations.

### ***Latin American countries have experienced periods of adverse macroeconomic conditions.***

Our business is dependent upon economic conditions prevalent in Latin America. Latin American countries have historically experienced economic instability, including uneven periods of economic growth as well as significant downturns. As a consequence of economic conditions in global markets and lower commodity prices and demand for commodities, many of the economies of Latin American countries have recently slowed their rates of growth, and some have entered recessions.

For example, according to the Brazilian Institute for Geography and Statistics (Instituto Brasileiro de Geografia e Estatística, or “IBGE”), Brazil real GDP decreased 3.8% in 2015 and 3.6% in 2016, increased 1% in 2017 and 1.1% in 2018 and, in 2019 it’s been forecast to have increased 0.6%. In addition, the credit rating of the Brazilian federal government was downgraded in 2015 and 2016 by all major credit rating agencies and is no longer investment grade.

The Argentine economy has experienced significant volatility, including multiple periods of low or negative growth and high levels of inflation and currency depreciation. According to restated information released by INDEC, Argentina’s real GDP grew by 2.7% in 2015, decreased by 2.2% in 2016, grew by 2.9% in 2017, and decreased by 2.5% in 2018. For 2019, the INDEC has preliminarily estimated a decrease by 3.1%.

Since our business is dependent on discretionary consumer spending, which is influenced by general economic conditions, any prolonged economic downturn in any of our key markets could have adverse effects on our business, financial condition and results of operations.

***Latin American governments have exercised and continue to exercise significant influence over their economies.***

Governments in Latin America frequently intervene in the economies of their respective countries and occasionally make significant changes in policy and regulations. Governmental actions have often involved, among other measures, nationalizations and expropriations, price controls, currency devaluations, mandatory increases on wages and employee benefits, capital controls and limits on imports.

Our business, financial condition and results of operations may be adversely affected by changes in government policies or regulations, including such factors as exchange rates and exchange control policies; inflation control policies; price control policies; consumer protection policies; import duties and restrictions; liquidity of domestic capital and lending markets; electricity rationing; tax policies, including tax increases and retroactive tax claims; and other political, diplomatic, social and economic developments in or affecting the countries where we operate.

In the future, the level of intervention by Latin American governments may continue or increase. We cannot assure you that these or other measures will not have a material adverse effect on the economy of each respective country and, consequently, will not adversely affect our business, financial condition and results of operations.

***Inflation, and government measures to curb inflation, may adversely affect Latin American economies.***

Many of the countries in which we operate have experienced, or are currently experiencing, high rates of inflation. For example, the inflation rate in Brazil, as reflected by the Broad Consumer Price Index (*Índice Nacional de Preços ao Consumidor Amplo*, or “IPCA”), published by the IBGE, was 10.7% in 2015, 6.3% in 2016, 2.9% in 2017, 3.8% in 2018, and 4.3% in 2019. In the past, Brazil has recorded high inflation rates, which, combined with other measures taken by the Brazilian government to fight inflation and speculation on what measures would be taken, has materially adversely affected the Brazilian economy and contributed to economic uncertainty in Brazil, which increases volatility in the Brazilian capital markets and may materially adversely affect us.

In Argentina, inflation has materially undermined the Argentine economy and the government’s ability to foster conditions that permit stable growth. The Consumer Price Index (*Índice de Precios al Consumidor de la Ciudad de Buenos Aires* or “IPCBA”) measured by the City of Buenos Aires (national statistical data was not available in Argentina from December 2015 to June 2016) showed an increase of 26.9% in 2015 and 41% in 2016. According to measurements from INDEC of the national consumer price index, inflation for the first nine months of 2015 was 10.7%, for the period from May to December 2016 was 15.8%, and cumulative consumer price inflation (*Inflacion Acumulada de Precios al Consumo*) for 2017 was 24.8%, for 2018 was 47.6%, and for 2019 was 59.8%. Moreover, INDEC reported that the 2020 monthly consumer price index increased by 2.3% in January compared to December 2019 and 2% in February compared to January 2020.

Inflation in Argentina could increase our costs of operations and impact our financial condition and results of operations. Inflation rates may continue to increase in the future, and the government measures to control inflation, adopted presently or in the future, remain uncertain. Measures taken by the governments of these countries to control inflation have often included maintaining a tight monetary policy with high interest rates, thereby restricting the availability of credit and retarding economic growth. Inflation, measures to combat inflation and public speculation about possible additional actions have contributed materially to economic uncertainty in many of these countries.

***Exchange rate fluctuations against the dollar in the countries in which we operate could negatively affect our results of operations.***

Local currencies used in the conduct of our business are subject to depreciation and volatility. The currencies of many countries in Latin America have experienced significant volatility in the past, particularly against the dollar.

For example, the Brazilian real has historically experienced frequent, sometimes significant, fluctuations relative to the dollar. The real depreciated 47% in 2015, appreciated 17% in 2016, and depreciated 2%, 17% and 4% in 2017, 2018 and 2019, respectively, based on official exchange rates as reported by the Brazilian Central Bank. A devaluation of the Brazilian real relative to the dollar could create inflationary pressures in Brazil and cause the Brazilian government to, among other measures, increase interest rates. Any depreciation of the Brazilian real may generally restrict access to the international capital markets, and would also reduce the dollar value of our results of operations. Restrictive macroeconomic policies could reduce the stability of the Brazilian economy and harm our results of operations and profitability. In addition, domestic and international reactions to restrictive economic policies could have a negative impact on the Brazilian economy.

Fluctuations in the value of the Argentine peso continue to affect the Argentine economy. In 2015, the Argentine peso lost approximately 52% of its value with respect to the dollar, primarily after the lifting of certain foreign exchange restrictions in the month of December, and following that, during the years 2016, 2017, 2018 and 2019, the Argentine peso depreciated 17%, 18%, 51% and 59%, respectively, with respect to the dollar. As a result of the greater volatility of the Peso, the former government announced several measures to restore market's confidence and stabilize the value of the Argentine peso. During 2019, with the intention to reduce the amount of Argentine pesos available in the market and reduce the demand for foreign currency, the government established a new regime for a stricter control of the local monetary base, which would initially remain in place until December 2019, and was further complemented by the reinstatement of foreign currency controls on September 2019. The success of any measures taken by the Argentine government to restore market's confidence and stabilize the value of the Argentine peso is uncertain and the continued depreciation of the Argentine peso could have a significant adverse effect on our financial condition and results of operations.

***We are subject to foreign currency exchange controls in certain countries in which we operate.***

Certain Latin American economies have experienced shortages in foreign currency reserves and their respective governments have adopted restrictions on the ability to transfer funds out of the country and convert local currencies into dollars.

For example, Brazilian law provides that whenever there is a serious imbalance in Brazil's balance of payments or reason to foresee a serious imbalance, the Brazilian government may impose temporary restrictions on the remittance to foreign investors of the proceeds of their investments in Brazil.

In the case of Argentina, in 2001 and 2002 imposed exchange controls and transfer restrictions substantially limiting the ability of companies to make payments abroad. During 2019, the Argentine government established a new regime for a stricter control of the local monetary base, which was meant to initially remain in place until December 2019, in an attempt to reduce the amount of Argentine pesos available in the market and reduce the demand for foreign currency. Complementing these measures, on September 2019, foreign currency controls were reinstated in Argentina. For further information on this topic, see Item 10. "Additional Information – Exchange Controls".

Under current Argentine law, we are restricted from accessing the official foreign exchange market to make dividend payments to us from our Argentine subsidiaries without prior approval from the Argentine Central Bank. In addition, Argentina recently enforced some measures that control and restrict the capacity of individuals and companies to exchange Argentine pesos for foreign currencies, conditioned to prior approval from the Argentine Central Bank, which could eventually restrict the ability to exchange Argentine pesos for other currencies, such as dollars. Restrictions currently apply to dollar purchases via bank account and in cash. In addition, on December 2019, the Argentine government also implemented a new tax PAIS, with a rate of 30% on transactions involving –among others– the acquisition by Argentine residents of foreign currency; foreign services through credit and debit cards; services to be provided abroad, contracted through Argentine travel and tourism agencies –wholesale or retailers–; and international passenger transport services (by land, air, aquatic and road).

We cannot assure you that foreign exchange controls in Brazil, Argentina or any other country where we operate, may not reemerge or worsen in the future to prevent capital flight, counter a significant depreciation of the Brazilian real, Argentine peso or other currency, or address other unforeseen circumstances. Additional controls could have a negative effect on the ability of our operating entities in the affected country to access the international credit or capital markets.

Any shortages or restrictions on the transfer of funds from abroad may impede our ability to convert these currencies into dollars and to transfer funds, including for the payment of dividends or debt. Moreover, such restrictions limit our ability to use funds for operating purposes in other countries. Consequently, if we are prohibited from transferring funds out of the countries in which we operate, our business, financial condition and results of operations could be adversely affected. For a discussion of certain foreign exchange regulations applicable to us, see “Item 10. Additional Information — Exchange Controls.”

Those kinds of exchange controls could have a material adverse impact on our operations, business, financial condition and results of operations. It is uncertain whether the Brazilian and/or Argentine governments will or will not increase such controls or restraints which could affect the ability to make payments to foreign creditors or suppliers, and dividend payments to shareholders.

***Developments in other markets may affect Latin America.***

The market value of companies like us may be, to varying degrees, affected by economic and market conditions in other global markets. Various Latin American economies have been adversely impacted by the political and economic events that occurred in several emerging economies in recent times, including Mexico in 1994, the collapse of several Asian economies between 1997 and 1998, the economic crisis in Russia in 1998, the Brazilian devaluations in January of 1999 and 2002 and the Argentine crisis of 2001 and 2002. In addition, Latin American economies have been adversely affected by events in developed countries, such as the 2008 and 2009 global financial crisis that arose in the United States, and the current COVID-19 pandemic in 2020.

As of the date of this Annual Report, recent global developments have occurred in the world which could impact the economies of the Latin American countries in which we operate and consequently have an adverse effect on our business, financial condition and results of operations, such as any new restrictions on travel, immigration or trade.

Developments of a similar magnitude to the international markets in the future can be expected to adversely affect the economies of Latin American countries and, therefore, us.

**Risks Related to our Ordinary Shares**

***An active or liquid trading market for our ordinary shares may not be maintained.***

An active, liquid trading market for our ordinary shares may not be maintained in the long term. Loss of liquidity could increase the price volatility of our ordinary shares. Moreover, we cannot assure you that investors will be able to sell ordinary shares should they decide to do so.

***The price of our ordinary shares may fluctuate significantly and your investment may decline in value.***

The price of our ordinary shares may fluctuate significantly in response to factors, many of which are beyond our control, including those described above under “—Risks Related to our Business” and “—Risks Related to Latin America.” The stock markets in general, and the shares of emerging market and technology companies in particular, have experienced price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of the companies involved. We cannot assure you that any trading price or valuation will be sustained. These factors may materially and adversely affect the market price of our ordinary shares, which may limit or prevent investors from readily selling our ordinary shares and may otherwise affect liquidity, regardless of our operating performance. Market fluctuations, as well as general political and economic conditions in the markets in which we operate, such as recession or currency exchange rate fluctuations, may also adversely affect the market price of our ordinary shares. Following periods of volatility in the market price of a company’s securities, that company may often be subject to securities class-action litigation. This kind of litigation may result in substantial costs and a diversion of management’s attention and resources, which would have a material adverse effect on our business, financial condition and results of operation.

***The sale or availability for sale of substantial amounts of our ordinary shares could adversely affect their market price.***

Sales of substantial amounts of our ordinary shares in the public market, or the perception that such sales could occur, could adversely affect the market price of our ordinary shares, even if there is no relationship between such sales and the performance of our business.

A portion of our ordinary shares are currently held by affiliates, which means they may not be sold unless the sale is registered under the Securities Act, other than if an exemption from registration is available. Certain of our shareholders have demand and/or other piggyback registration rights which may enable them to sell some or all of their ordinary shares in a public offering in the United States registered under the Securities Act. For more information, see “Item 7. Major Shareholders and Related Party Transactions—B. Related Party Transactions.”

***The strategic interests of our significant shareholders may, from time to time, differ from, and conflict with, our interests and the interests of our other shareholders.***

As of March 31 2020, Expedia held 13.77% and funds affiliated with Tiger Global held 13.29% of our outstanding ordinary shares. If Expedia or other investors acquire or continue to own and control, directly or indirectly, a significant portion of our voting share capital, even if their respective interests represent less than a majority of our total voting share capital, such shareholders may be able to exert influence over decisions at both the shareholder and board level of our Company. For more information, see “Item 7. Major Shareholders and Related Party Transactions.”

The strategic interests of our significant shareholders may differ from, and conflict with, our interests and the interests of our other shareholders in material respects. In addition, our memorandum and articles of association provides that Expedia and any of our directors affiliated with Expedia do not have any duty to refrain from engaging, directly or indirectly, in the same business activities or similar business activities or lines of business in which we operate.

Expedia also competes in the global travel industry, and also acts as a supplier to us and certain of our competitors. For a further description of our relationship with Expedia, see “Item 7. Major Shareholders and Related Party Transactions—B. Related Party Transactions,” “—Risks Related to our Business—We rely exclusively on Expedia for the hotel and other lodging products that we offer for all countries outside Latin America,” and “Item 16G. Corporate Governance—Differences in Corporate Law—Conflict of Interest.”

We cannot assure you that the actions of Expedia and other significant shareholders, will not conflict with our interests or the interests of our other shareholders.

***We have not determined any specific use for our net proceeds from our initial public offering and we may use the proceeds in ways with which you may not agree.***

The principal purposes of our initial public offering in September 2017 was to increase our financial flexibility and create a public market for our ordinary shares. As of the date of this Annual Report, we have not allocated our net proceeds from our initial public offering to any particular purpose, other than for the acquisition of Viajes Falabella and the contemplated acquisition of Best Day. Rather, our management has considerable discretion in the application of the net proceeds that we received. Our net proceeds may be used for corporate purposes that do not improve our profitability or increase our share price. In addition, net proceeds we received from our initial public offering may be placed in investments that do not produce income or that lose value.

***Investors should not unduly rely on market information included in this Annual Report.***

Facts, statistics, forecasts and other information included in this Annual Report relating to the Latin America travel and e-commerce markets are derived from various sources, including independent consultant reports, publicly available information, industry publications, official government information and other third-party sources, as well as internal data and estimates. Although we believe that this information is reliable, the information has not been independently verified by us. Additionally, we cannot assure you that the market data included in this Annual Report is compiled or stated on the same basis as may be the case in the United States or elsewhere, particularly as the publication of certain market data for the Latin American region may be relatively newer than in the United States or elsewhere.

In addition, certain data related to the Latin American travel market and the Latin American online travel market includes the purchase of hotel and other travel products by inbound travelers traveling to Latin America, as well as corporate travel. Our travel customer base, however, is primarily comprised of consumers from Latin America traveling for leisure domestically within their own country of origin, to other countries in the Latin American region, and outside of Latin America. Market data related solely to the travel trends of Latin American consumers is limited. As a result, certain market data included in this Annual Report is being provided to investors to give a general sense of the trends of our industry but such market data does not capture the trends of only our targeted customers.

Accordingly, investors should not place undue reliance on the market information included in this Annual Report.

***We are a foreign private issuer under U.S. securities regulations and, as a result, we are not subject to U.S. proxy rules and we are subject to Exchange Act reporting obligations that, to some extent, are more lenient and less frequent than those of a U.S. issuer.***

We report under the Exchange Act as a non-U.S. company and a “foreign private issuer,” as such term is defined under U.S. securities regulations. Because we qualify as a foreign private issuer, we are exempt from certain provisions of the Exchange Act that are applicable to U.S. public companies, including (1) the sections of the Exchange Act regulating the solicitation of proxies, consents or authorizations in respect of a security registered under the Exchange Act; (2) the sections of the Exchange Act requiring insiders to file public reports of their stock ownership and trading activities and liability for insiders who profit from trades made in a short period of time; and (3) the rules under the Exchange Act requiring the filing with the SEC of quarterly reports on Form 10-Q containing unaudited financial and other specified information, or current reports on Form 8-K upon the occurrence of specified events. In addition, we are not required to file our Annual Report on Form 20-F until 120 days after the end of each fiscal year, while U.S. domestic issuers that are accelerated filers are required to file their Annual Report on Form 10-K within 75 days after the end of each fiscal year. Foreign private issuers are also exempt from Regulation Fair Disclosure, aimed at preventing issuers from making selective disclosures of material information. As a result of the above, even though we are required to furnish reports on Form 6-K disclosing whatever information we have made or are required to make public pursuant to BVI law or distribute to our shareholders and that is material to our Company, you may not have the same protections afforded to shareholders of companies that are not foreign private issuers.

***We are exempt from certain corporate governance requirements of the New York Stock Exchange.***

We are exempt from certain corporate governance requirements of the New York Stock Exchange, by virtue of being a foreign private issuer. The standards applicable to us are considerably different than the standards applied to U.S. domestic issuers. For instance, we are not required to:

- have a majority of our board of directors be independent;
- have a compensation committee or a nominating or corporate governance committee;
- have regularly scheduled executive sessions with only non-management directors;
- have an executive session of solely independent directors each year; or
- adopt and disclose a code of business conduct and ethics for directors, officers and employees.

For more information, see “Item 6. Directors, Senior Management and Employees — A. Directors and Senior Management.” We have relied on and intend to continue to rely on some of these exemptions. As a result, you may not be provided with the benefits and protections of certain corporate governance requirements of the New York Stock Exchange.

***We are an “emerging growth company” and the reduced disclosure and attestation requirements applicable to emerging growth companies could make our ordinary shares less attractive to investors.***

We are an “emerging growth company” (an “EGC”), as defined in the Jumpstart Our Business Startups Act (the “JOBS Act”), and we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not EGCs, including not being required to comply with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act for up to five fiscal years after our initial public offering in September 2017. Section 404(b) of the Sarbanes-Oxley Act would otherwise require our independent registered public accounting firm to attest to and report on the effectiveness our internal control structure and procedures for financial reporting.

In addition, Section 107 of the JOBS Act also provides that an EGC may take advantage of the extended transition period provided in Section 13(a) of the Exchange Act for complying with new or revised accounting standards. In other words, an EGC may delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected not to take advantage of the benefits of this extended transition period and, therefore, are subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. This election is irrevocable.

We will cease to be an EGC upon the earliest of: (1) the last day of the fiscal year during which we have revenue of \$1.07 billion or more, (2) the last day of the fiscal year following the fifth anniversary of our initial public offering in September 2017, (3) the date on which we have issued more than \$1 billion in non-convertible debt during the previous three-year period, or (4) when we become a “large accelerated filer,” as defined in Rule 12b-2 under the Exchange Act.

***The requirements of being a public company may strain our resources and distract our management.***

As a public company, we are subject to the reporting requirements of the Exchange Act and requirements of the Sarbanes-Oxley Act applicable to a foreign private issuer and EGC. These requirements may place a strain on our systems and resources. The Exchange Act requires that we file annual and current reports with respect to our business and financial condition. The Sarbanes-Oxley Act requires that we maintain effective disclosure controls and procedures and internal controls over financial reporting. To maintain and improve the effectiveness of our disclosure and internal controls and procedures, we need to commit significant resources, potentially hire additional staff and provide additional management oversight. We have implemented additional procedures and processes for the purpose of addressing the standards and requirements applicable to public companies. In addition, sustaining our



growth also will require us to commit additional management, operational and financial resources to identify new professionals to join our Company and to maintain appropriate operational and financial systems to adequately support expansion. These activities may divert management's attention from other business concerns, which could have a material adverse effect on our business, financial condition and results of operations.

***We may lose our foreign private issuer status in the future, which could result in significant additional costs and expenses.***

We are a "foreign private issuer," as such term is defined under the Securities Act, and, therefore, we are not required to comply with all the periodic disclosure and current reporting requirements of the Exchange Act and related rules and regulations. Under the Securities Act, the determination of foreign private issuer status is made annually on the last business day of an issuer's most recently completed second fiscal quarter and, accordingly, the next determination will be made with respect to us on June 30, 2020.

In the future, we would lose our foreign private issuer status if a majority of our shareholders, directors or management are U.S. citizens or residents and we fail to meet additional requirements necessary to avoid loss of foreign private issuer status. Although we have elected to comply with certain U.S. regulatory provisions, our loss of foreign private issuer status would make such provisions mandatory. If we are not a foreign private issuer, we will be required to file periodic reports and registration statements on U.S. domestic issuer forms with the SEC, which are more detailed and extensive than the forms available to a foreign private issuer. For example, the Annual Report on Form 10-K requires domestic issuers to disclose executive compensation information on an individual basis with specific disclosure regarding the domestic compensation philosophy, objectives, annual total compensation (base salary, bonus and equity compensation) and potential payments in connection with change in control, retirement, death or disability, while the Annual Report on Form 20-F permits foreign private issuers to disclose compensation information on an aggregate basis. We will also have to mandatorily comply with U.S. federal proxy requirements, and our executive officers, directors and principal shareholders will become subject to the short-swing profit disclosure and recovery provisions of Section 16 of the Exchange Act. We may also be required to modify certain of our policies to comply with good governance practices associated with U.S. domestic issuers. In addition, we may lose our ability to rely upon exemptions from certain corporate governance requirements on U.S. stock exchanges that are available to foreign private issuers. Such transition and modifications will involve additional costs and may divert our management's attention from other business concerns, which could have a material adverse effect on our business, financial condition and results of operations.

***Any failure to maintain an effective system of internal controls may result in material misstatements of our consolidated financial statements or cause us to fail to meet our reporting obligations or fail to prevent fraud; and in that case, our shareholders could lose confidence in our financial reporting, which would harm our business and could negatively impact the price of our ordinary shares.***

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404, we are required to furnish a report by our senior management on our internal control over financial reporting. However, while we remain an EGC we are not required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm. To prepare for eventual compliance with Section 404, once we no longer qualify as an EGC, we are engaged in a process to document and validate through testing that our internal controls are functioning as documented and implementing a continuous reporting and improvement process for internal controls over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, potentially engage outside consultants, adopt a detailed work plan to assess and document the adequacy of internal control over financial reporting, continue steps to improve control processes as appropriate. Despite our efforts, there is a risk that we will not be able to conclude, within the prescribed timeframe or at all, that our internal control over financial reporting is effective as required by Section 404. If we identify one or more material weaknesses, it could result in an adverse reaction in the financial markets due to a loss of confidence in the reliability of our financial statements.

Effective internal controls are necessary for us to provide reliable and accurate financial reports on a timely basis and prevent fraud. If we fail to maintain an effective system of internal controls, we might not be able to report our financial results accurately or on a timely basis or prevent fraud; and in that case, our shareholders could lose confidence in our financial reporting or we could be sanctioned by the SEC, which would harm our business and



could negatively impact the price of our ordinary shares. While we believe that we have sufficient personnel and review procedures to allow us to maintain an effective system of internal controls, we cannot provide assurance that we will not experience potential material weaknesses in our internal control. Even if we conclude that our internal control over financial reporting provides reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes in accordance with U.S. GAAP, because of its inherent limitations, internal control over financial reporting may not prevent or detect fraud or misstatements. Failure to implement required new or improved controls, or difficulties encountered in their implementation, could harm our results of operations or cause us to fail to meet our future reporting obligations.

***Future issuances of our ordinary or other classes of shares may cause a dilution in your shareholding.***

We may raise additional funding to meet our working capital, capital expenditure requirements for our planned long-term capital needs, or to fund future acquisitions. If such funding is raised through issuance of new equity or equity-linked securities, it may cause a dilution in the percentage ownership of our then existing shareholders.

***From time to time we may grant equity-based compensation to our management and employees, which may dilute the value of your ordinary shares.***

From time to time, we may grant options or other equity-based compensation to our management and employees. As of the date of this Annual Report, we have reserved 5,461,777 ordinary shares for issuance under our 2016 Stock Incentive Plan, of which 315,425 shares remain available for future grants under the 2016 Plan as of March 31, 2020. For more information about our equity-based compensation, see “Item 6. Directors, Senior Management and Employees — B. Compensation.” If our board of directors approves the issuance of new equity incentive plans (or the issuance of additional shares under the existing equity incentive plans), the interests of other shareholders may be diluted.

***If securities or industry research analysts do not publish or cease publishing research or reports about our business or if they issue unfavorable commentary or downgrade our ordinary shares, our stock price and trading volume could decline.***

The trading market for our ordinary shares will rely in part on the research and reports that securities and industry research analysts publish about us, our industry and our business. We do not have any control over these analysts. Our stock price and trading volumes could decline if one or more securities or industry analysts downgrade our ordinary shares, issue unfavorable commentary about us, our industry or our business, cease to cover us or fail to regularly publish reports about us, our industry or our business.

***Investors may have difficulty enforcing judgments against us, our directors and management.***

We are incorporated under the laws of the BVI and many of our directors and officers reside outside the United States. Moreover, many of these persons do not have significant assets in the United States. As a result, it may be difficult or impossible to effect service of process within the United States upon these persons, or to recover against us or them on judgments of U.S. courts, including judgments predicated upon the civil liability provisions of the U.S. federal securities laws.

Furthermore, our memorandum and articles of association include an exclusive jurisdiction clause pursuant to which, to the fullest extent permitted by applicable law, (i) other than claims specified in clause (ii) below and except as may otherwise be expressly agreed between the Company and a shareholder or between two or more shareholders in relation to the Company, we and all our shareholders agree that the BVI courts shall have exclusive jurisdiction to hear and determine all disputes of any kind regarding us and shareholders’ respective investments in us, irrevocably submit to the jurisdiction of the BVI courts, irrevocably waive any objection to the BVI courts being nominated as the forum to hear and determine any such dispute, and undertake and agree not to claim any such court is not a convenient or appropriate forum; and (ii) the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act, in each case unless our board of directors consents in writing to the selection of an alternative forum.

An award of punitive damages under a U.S. court judgment based upon U.S. federal securities laws is likely to be construed by BVI courts to be penal in nature and therefore unenforceable in the BVI. Further, no claim may be brought in the BVI against us or our directors and officers in the first instance for violation of U.S. federal securities laws because these laws have no extraterritorial application under BVI law and do not have force of law in the BVI. However, a BVI court may impose civil liability, including the possibility of monetary damages, on us or our directors and officers if the facts alleged in a complaint constitute or give rise to a cause of action under BVI law. Moreover, it is unlikely that a court in the BVI would award damages on the same basis as a foreign court if an action were brought in the BVI or that a BVI court would enforce foreign judgments if it viewed the judgment as inconsistent with BVI practice or public policy.

The courts of the BVI would not automatically enforce judgments of U.S. courts obtained in actions against us or our directors and officers, or some of the experts named herein, predicated upon the civil liability provisions of the U.S. federal securities laws, or entertain actions brought in the BVI against us or such persons predicated solely upon U.S. federal securities laws. Further, there is no treaty in effect between the United States and the BVI providing for the enforcement of judgments of U.S. courts in civil and commercial matters, and there are grounds upon which BVI courts may decline to enforce the judgments of U.S. courts. Some remedies available under the laws of U.S. jurisdictions, including remedies available under the U.S. federal securities laws, may not be allowed in the BVI courts if contrary to public policy in the BVI. Because judgments of U.S. courts are not automatically enforceable in the BVI, it may be difficult for you to recover against us or our directors and officers based upon such judgments.

***Certain types of class or derivative actions generally available under U.S. law may not be available as a result of the fact that we are incorporated in the BVI and the exclusive jurisdiction clause included in our memorandum and articles of association. As a result, the rights of shareholders may be limited.***

Shareholders of BVI companies may not have standing to initiate a shareholder derivative action in a court of the United States. Furthermore, our memorandum and articles of association include an exclusive jurisdiction clause which, to the fullest extent permitted by applicable law, will act as a bar to any such action in a court of the United States. In any event, the circumstances in which any such action may be brought, if at all, and the procedures and defenses that may be available in respect to any such action, may result in the rights of shareholders of a BVI company being more limited than those of shareholders of a company organized in the United States. Accordingly, shareholders may have fewer alternatives available to them if they believe that corporate wrongdoing has occurred. The BVI courts are also unlikely to recognize or enforce against us judgments of courts in the United States based on certain liability provisions of U.S. securities law or to impose liabilities against us, in original actions brought in the BVI, based on certain liability provisions of U.S. securities laws that are penal in nature.

***You may have more difficulty protecting your interests than you would as a shareholder of a U.S. corporation.***

Our corporate affairs are governed by the provisions of our memorandum and articles of association, as amended and restated from time to time, and by the provisions of applicable BVI law. The rights of shareholders and the fiduciary responsibilities of our directors and officers under BVI law are not as clearly established as they would be under statutes or judicial precedents in some jurisdictions in the United States, and some states (such as Delaware) have more fully developed and judicially interpreted bodies of corporate law.

These rights and responsibilities are to a large extent governed by the BVI Business Companies Act, 2004 as amended from time to time (the “BVI Act”) and the common law of the BVI. The common law of the BVI is derived in part from judicial precedent in the BVI as well as from English common law, which has persuasive, but not binding, authority on a court in the BVI. In addition, BVI law does not make a distinction between public and private companies and some of the protections and safeguards (such as statutory pre-emption rights, save to the extent expressly provided for in the memorandum and articles of association) that investors may expect to find in relation to a public company are not provided for under BVI law.

There may be less publicly available information about us than is regularly published by or about U.S. issuers. Also, the BVI regulations governing the securities of BVI companies may not be as extensive as those in effect in the United States, and the BVI law and regulations regarding corporate governance matters may not be as protective of minority shareholders as state corporation laws in the United States. Therefore, you may have more difficulty protecting your interests in connection with actions taken by our directors and officers or our principal shareholders than you would as a shareholder of a corporation incorporated in the United States.

***The laws of BVI provide limited protections for minority shareholders, so minority shareholders will not have the same options as to recourse in comparison to the United States if the shareholders are dissatisfied with the conduct of our affairs.***

Under the laws of the BVI there is limited statutory protection of minority shareholders other than the provisions of the BVI Act dealing with shareholder remedies. The principal protections under BVI statutory law are derivative actions, actions brought by one or more shareholders for relief from unfair prejudice, oppression and unfair discrimination and/or to enforce the BVI Act or the memorandum and articles of association. Shareholders are entitled to have the affairs of the company conducted in accordance with the BVI Act and the memorandum and articles of association, and are entitled to payment of the fair value of their respective shares upon dissenting from certain enumerated corporate transactions. For more information, see “Item 10. Additional Information — Memorandum and Articles of Association” and “Item 16G. Corporate Governance — Differences in Corporate Law” below.

There are common law rights for the protection of shareholders that may be invoked, largely dependent on English company law, since the common law of the BVI is limited. Under the general rule pursuant to English company law known as the rule in *Foss v. Harbottle*, a court will generally refuse to interfere with the management of a company at the insistence of a minority of its shareholders who express dissatisfaction with the conduct of the company’s affairs by the majority or the board of directors. However, every shareholder is entitled to seek to have the affairs of the company conducted properly according to law and the constitutional documents of the company. As such, if those who control the company have persistently disregarded the requirements of company law or the provisions of the company’s memorandum and articles of association, then the courts may grant relief. Generally, the areas in which the courts will intervene are the following: (i) a company is acting or proposing to act illegally or beyond the scope of its authority; (ii) the act complained of, although not beyond the scope of the authority, could only be effected if duly authorized by more than the number of votes which have actually been obtained; (iii) the individual rights of the plaintiff shareholder have been infringed or are about to be infringed; or (iv) those who control the company are perpetrating a “fraud on the minority.”

These rights may be more limited than the rights afforded to minority shareholders under the laws of states in the United States.

***We have no current plans to pay any cash dividends on our ordinary shares.***

We currently intend to retain our future earnings, if any, to fund the development and growth of our business. As a result, capital appreciation, if any, of our ordinary shares are likely to be your sole source of gain for the foreseeable future. Consequently, in the foreseeable future, you will likely only experience a gain from your investment in our ordinary shares if the trading price of our ordinary shares increases.

***Anti-takeover provisions in our Shareholder Agreements and memorandum and articles of association might discourage, delay or prevent acquisition or other change of control attempts for us that you and/or other of our shareholders might consider favorable.***

Certain provisions of our Shareholder Agreements and memorandum and articles of association may discourage, delay or prevent a change in control of our Company or management that shareholders may consider favorable, including but not limited to the following provisions:

*Pursuant to our Shareholder Agreements:*

- Until September 19, 2020, we may not directly or indirectly issue or transfer any of our securities to certain specified entities that conduct business in the travel industry, and certain of our existing shareholders and their affiliates are also precluded from directly or indirectly transferring any of our securities to such entities, subject to limited exceptions.

- Expedia has agreed not to acquire more than 35% of the voting or economic power of our outstanding shares prior to September 19, 2020 except by means of a tender offer that, if consummated, would result in Expedia being the beneficial owner of more than 75% of the voting or economic power of our outstanding shares entitled to vote in the election of the board of directors.

*Pursuant to our memorandum and articles of association:*

- Our board of directors may without prior notice to shareholders, or obtaining any shareholder approval, amend our memorandum and articles of association to authorize and subsequently issue an unlimited number of preferred shares in one or more classes and series and designate the issue prices, rights, preferences, privileges, restrictions and terms of such preferred shares.
- Our board of directors is currently made up of six directors divided into three classes, with each class having a three year term. Class I's, Class II's and Class III's terms will expire at the Company's annual meetings in 2021, 2022 and 2020, respectively. The only circumstance in which shareholders can elect new directors is at an annual meeting and in respect of those board seats whose term is expiring at the annual meeting. Elections will take place by plurality voting. Shareholders do not have the power to increase or reduce the size of the board or fill a vacancy on the board, which matters are the exclusive authority of our board of directors.
- Our shareholders may only remove directors for cause and only by resolution approved by shareholders holding not less than two-thirds of the voting rights at a meeting of shareholders called for the stated purpose of removing the director.
- There are a number of restrictions, conditions and other requirements (including advance notice period requirements) that apply to our shareholders' ability to (i) request special meetings of our shareholders; (ii) nominate persons for election as directors at annual meetings of our shareholders; and (iii) propose other items of business or other matters for consideration at any annual or special meetings of our shareholders.
- All resolutions of the shareholders must be adopted at a meeting of our shareholders convened in accordance with our memorandum and articles of association. Shareholders are prohibited from adopting resolutions by written consent.
- There are restrictions on amending our memorandum and articles of association. Certain provisions of our memorandum and articles of association (including many of the provisions described above) may only be amended with the approval of both our shareholders and our board of directors. Provisions that may be amended by the shareholders without board approval require the affirmative vote of holders of two-thirds of the shares entitled to vote on the resolution.

For more information on our Shareholder Agreements, see "Item 7. Major Shareholders and Related Party Transactions—B. Related Party Transactions." For more information on our memorandum and articles of association, see "Item 10. Additional Information—Memorandum and Articles of Association" and "Item 16G. Corporate Governance—Differences in Corporate Law."

These provisions and other provisions under BVI law could discourage, delay or prevent potential takeover attempts and other transactions involving a change in control of our Company, including actions that our shareholders may deem advantageous. As such, these provisions may reduce the price that investors might be willing to pay for our ordinary shares in the future and negatively affect the trading price of our ordinary shares.

## **ITEM 4. INFORMATION ON THE COMPANY**

### **A. History and Development of the Company**

Despegar.com, Corp. was formed as a business company incorporated in the BVI on February 10, 2017. On May 3, 2017, the stockholders of our predecessor, Decolar.com, Inc., a Delaware corporation, exchanged their shares for ordinary shares of Despegar.com, Corp. to create a BVI holding company. Following the exchange, our shareholders own shares of Despegar.com, Corp., and Decolar.com, Inc. is a wholly-owned subsidiary of Despegar.com, Corp.

We are known by our two brands, Despegar, our global brand, and Decolar, our Brazilian brand.

Our principal executive office is located at Juana Manso 999, Ciudad Autónoma de Buenos Aires, Argentina C1107CBR, and our telephone number is: +54 11 4894 3500. Our agent for service of process in the United States is Cogency Global Inc., located at 10 E. 40th Street, 10th Floor, New York, New York 10016.

### **Our History and Development**

Our business has grown substantially in revenue, products and geographic scope since launching in 1999. The following table shows the timeline of key milestones:

<b>1999</b>	<ul style="list-style-type: none"><li>• Launched site in Argentina.</li></ul>
<b>2000</b>	<ul style="list-style-type: none"><li>• Launched sites in Brazil, Chile, Colombia, Mexico and Uruguay.</li></ul>
<b>2001</b>	<ul style="list-style-type: none"><li>• Launched sites in the United States and Venezuela.</li></ul>
<b>2007</b>	<ul style="list-style-type: none"><li>• Launched site in Perú.</li></ul>
<b>2009</b>	<ul style="list-style-type: none"><li>• Expanded our offering to include hotels.</li><li>• Launched sites in Bolivia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Nicaragua, Panama, Paraguay and Puerto Rico.</li></ul>
<b>2010</b>	<ul style="list-style-type: none"><li>• Launched sites in El Salvador and Honduras, reaching our 20th market.</li><li>• Cumulative one million travel customers served.</li></ul>
<b>2012</b>	<ul style="list-style-type: none"><li>• Launched our mobile apps on Android and iOS.</li><li>• Expanded offering to include packages, rental cars and cruise products.</li></ul>
<b>2013</b>	<ul style="list-style-type: none"><li>• Reached one million downloads of our mobile app.</li><li>• Expanded our offering to include destination services.</li><li>• Expanded hotel offering to include vacation rentals.</li></ul>
<b>2014</b>	<ul style="list-style-type: none"><li>• Cumulative 10 million travel customers served.</li><li>• Our mobile app is included in the iTunes Store's "Best of 2014".</li><li>• Launched travel affiliates program.</li><li>• Expanded our offering to include travel insurance.</li></ul>
<b>2015</b>	<ul style="list-style-type: none"><li>• Reached 10 million downloads of our mobile app.</li></ul>

- Completed migration from call center sales to fully online model.
- Deepened strategic partnership with Expedia, including its equity investment in our Company.
- 2016**
  - Awarded “E-commerce Leader in the Tourism Industry in LATAM” by the Latin American E-Commerce Institute.
  - Expanded our offering to include our bus product.
  - Expanded our destination services offering to include our local concierge product.
- 2017**
  - Initial public offering and listing on the New York Stock Exchange.
- 2018**
  - Launched sales call centers in Perú, Ecuador, Mexico, Chile, Colombia, Argentina and Brazil.
  - Developed tour operation business.
- 2019**
  - Completed rebranding our core business, including logos, website and images in order to update our outward facing content.
  - Acquired Viajes Falabella in Chile, Argentina, Perú and Colombia.
  - Entered into an API connectivity agreement with CTrip International Travel (Hong Kong) Ltd., for the integration of Despegar direct lodging offering in Latin America with Ctrip’s platform.
  - Entered into a ten-year exclusive agreement with Industrial and Commercial Bank of China Limited, to launch a co-branded credit card in Argentina in partnership with Mastercard.
- 2020**
  - Announced agreement to acquire Best Day, a leading travel agency in Mexico, subject to the occurrence of certain closing and business conditions.
  - Launched a co-branded credit card in Brazil jointly with Banco Santander.
  - Entered into a ten-year commercial partnership agreement with Tarjeta Naranja, the leading branded proprietary credit card issuer in Argentina and a subsidiary of Grupo Financiero Galicia.

## Capital Expenditures

See “Item 5. Operating and Financial Review and Prospects—C. Research and Development, Patents and Licenses.”

## B. Business Overview

### Overview

We are the leading online travel company in Latin America, known by our two brands, Despegar, our global brand, and Decolar, our Brazilian brand. We have a comprehensive product offering, including airline tickets, packages, hotels and other travel-related products, which enables consumers to find, compare, plan and purchase travel products easily through our marketplace. We provide our network of travel suppliers a technology platform for managing the distribution of their travel products and access to our travel customers. We believe that our focus on the underpenetrated Latin American online travel market, our knowledge of the consumer and supplier landscape in the region and our ability to manage the business successfully through economic cycles will allow us to continue our industry leadership. In 2019, 2018 and 2017, we had approximately 5.2 million, 5.3 million and 4.6 million travel customers, generating \$524.9 million, \$530.6 million and \$523.9 million in revenue, respectively. Our gross bookings were \$4.7 billion, \$4.7 billion and \$4.4 billion during 2019, 2018 and 2017, respectively.

Latin America online travel bookings are expected to continue growing in the coming years, once the effects of the COVID-19 pandemic have subsided. Factors driving the growth in online travel bookings include the increase of internet penetration, further adoption of smartphones, tablets and other mobile devices and a growing middle class with greater access to banking services and credit products, together enabling a larger segment of the growing population to transact online or on mobile devices.

The Latin American travel industry is characterized by significant fragmentation in suppliers across airlines, hotels and other travel products. This fragmentation is compounded by regional complexities, including differences in language, local customs, travel preferences, currencies and regulatory regimes across the more than 40 countries in the region. These factors create challenges for suppliers to reach customers directly and, consequently, create a significant market opportunity for us.

We believe we have the broadest travel portfolio among OTAs in Latin America, with inventory from global suppliers, including over 270 airlines and over 690,000 hotels, as well as approximately 1,260 car rental agencies and approximately 200 destination services suppliers with more than 7,500 activities. Our business benefits from network effects: our large travel customer base helps us to attract additional travel suppliers and, in turn, a larger network of travel suppliers helps us to attract new travel customers by enhancing our product offering. Additionally, as we continue to grow our marketplace, we are increasingly able to offer more competitive pricing and product availability to our travel customers as well as enhance the effectiveness of our marketing strategy.

We launched our award-winning mobile travel app in 2012 and it is an increasingly important part of our business, as it allows consumers to access and browse our real-time inventory, compare prices and transact through their mobile devices quickly. As of December 31, 2019, our apps have more than 60 million cumulative downloads from the iOS App Store and Google Play, 21.6 million of which were downloaded in the last two years, and we believe they are the most downloaded OTA apps in Latin America. During 2019 and 2018, mobile accounted for approximately 60% and 61%, respectively, of all of our user visits, and approximately 39% and 34%, respectively, of our transactions were purchased on our mobile platform, complementing our desktop website traffic. As internet, smartphone and other mobile device penetration continue to increase, we believe that our strength in mobile will continue to be a strategic advantage.

Through mobile and online marketing, brand promotion and cross-marketing, we have created strong brand recognition among Latin America travelers, which we view as one of our key competitive advantages. To date, we have invested more than \$1.5 billion in marketing and branding initiatives promoting our brand, which we believe, combined with the quality of the service we have delivered over the years, has made us a trusted brand with our travel customers. In 2019 and 2018, 64% and 61% of our travel customers had completed previous purchases on our platform, respectively.

### **Travel Market Opportunity in Latin America**

Latin America is one of the largest and most diverse regions in the world. Comprised of over 40 countries with a total population of over 600 million, the region encompasses multiple languages, currencies and regulatory regimes. The travel market serving Latin American consumers presents a significant opportunity for us due to its large market size, highly fragmented base of travel suppliers and rapid growth in the adoption of technology-based solutions for consumers and travel suppliers. In addition, long-term favorable macroeconomic trends in the region have contributed to the expansion of the middle class and increased consumption in the region.

Since the middle of March 2020 and as of the date of this Annual Report, the travel market in Latin America –as in other parts of the world– has been severely impacted as a consequence of the ongoing COVID-19 pandemic and governments’ measures to limit the spread of the virus. Governments around the world, including in Latin America, have imposed travel restrictions and bans, closed borders, established restrictions on public gatherings, instructed residents to practice social distancing, required closure of non-essential businesses, issued stay at home advisories and orders, implemented quarantines and similar actions, which has resulted in a virtually immediate and complete halt in leisure travel during the past weeks. While it is impossible to predict at this moment how the travel industry, globally and in Latin America, will ultimately be impacted, we believe that the Latin American travel industry will continue to grow, and the following trends will largely continue in the longer term, once the effects of COVID-19 pandemic have subsided.

### ***Overview of Suppliers in the Latin American Travel Industry***

The Latin American travel industry is characterized by significant supplier fragmentation across airlines, hotels and other travel products. Regional complexities, including differences in language, local customs, travel preferences, currencies and regulatory regimes across the more than 40 countries in the region create challenges for travel suppliers to reach travel customers directly, at scale and across the region. Further driving this fragmentation is the growing number of smaller airlines, including low-cost airlines that have been commencing operation in recent years. Today, travel agencies are the leading distribution channel in the region for airlines, due to their ability to provide greater selection and scale across the region.

We believe that due to a lack of scale or unified brand, other travel services in Latin America tend to be even more fragmented, operating in specific cities or countries.

### ***Trends Driving Online Travel and Our Growth***

An expanding and evolving travel market, coupled with greater internet, smartphone and other mobile device penetration, is expected to drive robust growth in online travel bookings in Latin America. As consumers shift to researching and booking travel online, travel suppliers have adapted their offerings and deepened their relationships with online marketing and booking channels, such as OTAs, to generate revenue. OTAs provide travel suppliers with scale and distribution into new and existing markets and 24/7 customer service and localization services, including language and payment capabilities.

Factors driving the growth in online travel include:

- ***Increasing internet penetration.*** While internet penetration in Latin America has increased, we believe it has substantial room for growth. As internet penetration increases, Latin American consumers are increasingly using the internet to research and purchase products, including travel.
- ***Increasing adoption of mobile devices, including smartphones.*** The use of mobile devices in Latin America is expected to continue to grow. With the proliferation of smartphones and tablets, mobile has become a prominent tool for travelers to search, discover and purchase travel services.
- ***Superior user experience.*** Online travel booking channels, which include websites and mobile apps, empower travelers to search products and user-generated reviews and easily compare real-time availability and pricing options from multiple travel providers simultaneously, which we believe leads to higher user engagement and customer conversion.
- ***Growth in banked consumers and proliferation of credit products.*** With the continued development of the Latin American economy, a larger portion of the population has opened bank accounts, enabling access to new forms of payments including credit cards and other financial products. With the increased number of consumers with bank and credit card accounts, more people have the ability to make purchases online. Access to bank accounts and credit cards also gives consumers access to additional financing options from banks, such as payment by installments.

As the leading OTA in Latin America, we believe we are well positioned to succeed as consumers' destination of choice for fast, easily searchable and more transparent travel research and shopping. As our market share grows, we are increasingly able to capture significant amounts of customer data including travel history and preferences and serve personalized recommendations to drive higher customer conversion. Additionally, we are able to provide better pricing through scale and by bundling multiple travel products together in a single offer.



## **Our Competitive Strengths**

We are the leading OTA in Latin America, offering our travel customers a broad and diversified selection of travel products at attractive prices. Our leadership position is a result of our following core strengths:

### ***Industry Leader in Latin America***

With our launch in 1999, we have benefited from an early mover advantage in Latin America, which has allowed us to achieve significant scale and brand awareness. In 2019 and 2018, we had approximately 5.2 million and 5.3 million travel customers, respectively, primarily in Latin America, generating \$524.9 million and \$530.6 million in revenue and approximately \$4.7 billion in gross bookings, in both 2019 and 2018.

We have established relationships with a large network of travel suppliers in Latin America and we have become the leading online air ticketing provider in Latin America, having sold approximately 20.4% and 20.4% of all airline tickets purchased through GDS in the region during 2019 and 2018, respectively, according to Amadeus. Additionally, we believe we provide our travel customers with the largest travel portfolio among Latin American OTAs, with access to over 270 global airlines and over 690,000 hotels globally as well as approximately 1,260 car rental agencies and approximately 200 destination services suppliers with more than 7,500 activities. Additionally, we have accumulated approximately 17.6 million user-generated reviews in total as of December 31, 2019, of which 2.3 million and 2.2 million were submitted in 2019 and 2018, respectively, which we believe drive user engagement. Our platform is also of increasing importance to airlines based outside of Latin America, which generally have a limited local presence in the region, and which account for over 68% of the outbound international travel booked on our platform. Such international travel is more attractive because of its price point and higher commission structure.

Our technology platform allows us to offer our travel customers the ability to create custom packages of two or more products, such as a combination of airfare and a hotel booking for a particular trip, allowing us to offer our travel customers lower combined prices that may not be available for individual products. We are also able to better cross-sell multiple travel products and provide travel customers with a comprehensive solution for their travel needs.

We benefit from network effects: our large travel customer base helps us to attract additional travel suppliers and, in turn, a larger network of travel suppliers helps us to attract new travel customers by enhancing our product offering. Furthermore, by growing our user base and aggregating different products from our supplier base, we are able to offer attractive pricing and availability of travel products to our travel customers as well as enhance the effectiveness of our marketing strategy.

### ***Strong Brand Recognition and Awareness***

Despegar, our global brand, and Decolar, our Brazilian brand, have leading brand awareness in online travel in key markets, including Brazil and Argentina. According to search engine trend data that is based on the relative number of searches of brand related keywords on Google during 2019, we had an approximate 28% share (as compared with what we believe to be the next five largest competitors in the market) in Latin America.

### ***Local Market Expertise and Leadership***

We have a strong track record in Latin America, with a point of sale in 19 markets, representing 98% of the region's population, and with a leading OTA presence in key markets such as Brazil, Argentina, Mexico, Chile, and Colombia. In our two largest markets, Brazil and Argentina, we have operated for 20 and 21 years, respectively. Our knowledge of local consumers, and their buying patterns and travel preferences, as well as our ability to offer financing through our relationships with financial institutions, have enabled us to serve our travel customers more effectively than global competitors from outside the region. Furthermore, our extensive supplier relationships allow us to offer a greater scale and breadth of offerings than smaller, local competitors. We understand the objectives of, and challenges faced by, Latin American travel suppliers and we are well-positioned to address those challenges by helping the travel suppliers grow their businesses, all to the benefit of travel customers who receive more choice at attractive pricing.

As the leading Latin American OTA, we have developed long-standing relationships with a wide range of local banks to offer installment payment plans to their credit card holders as an alternative purchase option. We believe that local banks look to partner with us because of our scale, access to our online audience and high transaction volume. We believe this differentiates us from other local and global travel agencies as those agencies either do not offer installment plans or offer installment plans from a more limited selection of financing providers or in a more

limited selection of countries. We believe our portfolio of installment plans is a meaningful driver of traffic to our platform as well as conversion. Approximately 57% of our transactions in both 2018 and 2019 were paid by installment. Our agreements with local banks allow us to offer installment plans without assuming collection risk from the travel customer.

### ***Leading Mobile Offering***

Mobile is an increasingly important part of our business, as consumers are quickly able to access and browse our real-time travel offerings, compare prices and make purchases through their mobile devices. We launched our leading mobile travel apps in 2012. As of December 31, 2019, our mobile apps have more than 60.1 million cumulative downloads from the iOS App Store and Google Play ( 21.6 million of which were downloaded in the last two years). In addition, our iOS App Store and Google Play apps were rated 3.5 and 3.9 stars as of December 31, 2019. During 2019 and 2018, mobile, which includes both mobile web and our mobile apps, accounted for approximately 60% and 61%, respectively, of all of our user visits, and approximately 39% and 34%, respectively, of our transactions. In addition, transactions via mobile increased by approximately 17.6% from 2018 compared to 2019. We continue to provide innovative features and functionality to consumers through our mobile apps, including push notifications, dynamic updates, inventory alerts and personalized promotions as well as in-app customer service. Our travel customers using mobile devices have historically made more repeat transactions than travel customers using desktop computers. Additionally, our mobile presence allows in-destination marketing, which facilitates cross-selling of additional travel products, such as rental cars and destination services to travel customers, after they have arrived at their destination.

Many of our travel customers use their mobile device to search for travel products but complete their transactions on their desktop. However, as mobile purchasing becomes increasingly prevalent in the region, we believe our award-winning mobile platform, coupled with the widespread adoption of our apps, positions us well for an increasingly mobile future.

### ***Powerful Data and Analytics Platform***

Our large web and mobile audience and transaction volume generate a significant amount of data that allows us to better understand our travel customers and provide personalized travel offerings and also helps us to drive our sales, marketing and operational strategy. To offer the most effective content and products for each travel customer, we extensively analyze the data we collect to identify and highlight the most valuable products and destinations in each travel customer interaction. By gathering and analyzing data in real-time, we are quickly able to assess and react to changes in travel customer behavior, market pricing and other market dynamics. Currently, the majority of visitors to our platform see a personalized landing page based on such factors as user account information, past search and purchasing history and geolocation. We believe that this personalization of the user experience increases engagement and likelihood of purchase.

### ***Effective Marketing Capabilities***

We have invested significant resources in our marketing team, which we believe is a significant driver of our business. Through our vertically-integrated, in-house marketing team, we are able to control all aspects of our budget, marketing campaigns and market analytics, without the need for agencies or external consultants. Our marketing team's local knowledge and expertise in our key markets have allowed us to develop direct relationships with a broad range of local and regional media providers and purchase media directly, avoiding more costly intermediaries. We have invested in our own creative, production and media execution teams, who are quickly able to adapt our marketing strategy, while also leveraging our extensive data and analytics capabilities for more precise audience targeting. Furthermore, we have developed our own software platform for managing our search optimization capabilities, allowing us to tailor messages effectively for specific target markets and travel customers.

### ***Proven and Experienced Team***

Our management team has significant experience in the travel sector and across a variety of industries in Latin America. Members of our management team have worked at organizations such as LATAM Airlines, McKinsey, Morgan Stanley, PwC and Thales, among others. In addition to our management team, we have an extensive technology team including more than 1,000 developers and technology professionals. By fostering a distinctive, collaborative and high-performance working culture, we attract software developers with world-class talent and offer an engaging working environment for ongoing career development. We believe we are perceived as a top talent recruiter for IT professionals in Latin America, allowing us to attract the highest quality professionals and specialists dedicated to the enhancement of our platform.

### **Our Travel Customers**

We had approximately 5.2 million and 5.3 million travel customers for 2019 and 2018, respectively, primarily in Latin America. Our travel customers are primarily from Latin America traveling domestically within their own country of origin, to other countries in the Latin American region, and outside of Latin America. Most of our travel customers are traveling for leisure, although we do have some independent business travelers as well.

### **Our Products**

We offer a wide range of travel and travel-related products catering to the needs of Latin Americans traveling domestically within their own country of origin, to other countries in the Latin American region and outside of Latin America. We provide these travelers with the comprehensive tools and information, in multiple languages, that they need to research, plan, book and purchase travel products efficiently. That information includes approximately 6.8 million user-generated reviews over the last three years ended December 31, 2019, of which 2.3 million and 2.2 million were submitted in 2019 and 2018, respectively. We organize our business into two segments: (1) Air, which consists of the sale of airline tickets, and (2) Packages, Hotels and Other Travel Products, which consists of travel packages (which can include airline tickets and hotel rooms), as well as stand-alone sales of hotel rooms (including vacation rentals), car rentals, bus tickets, cruise tickets, travel insurance and destination services. We offer our products online through our website and mobile applications, and use data and analytics to personalize the travel customer experience on our platform, based on geolocation, past search and purchasing history and social network interactions, which we believe increases engagement and likelihood of purchase.

#### ***Air***

Through our Air segment, we offer airline tickets, primarily targeted at leisure travelers in Latin America, including travel domestically, to other countries in the region and outside of Latin America. Our Air segment includes airline tickets purchased on a stand-alone basis but excludes airline tickets that are packaged with other non-airline flight products. Our travel customers booked approximately 6.2 million, 5.9 million and 5.3 million transactions in our Air segment using our platform in 2019, 2018 and 2017, respectively.

We provide our travel customers with access to over 270 full service and low-cost airlines. We obtain inventory from these airlines either through a GDS or, primarily in the case of low-cost airlines, via direct connections to the airlines' booking systems. We believe our platform provides comprehensive information to our travel customers in a time efficient and transparent manner. Travel customers are quickly and easily able to evaluate a broad range of fares and airline combinations, and may search for flights based on their preferred travel dates, destinations, number of passengers, number of stops and class of travel, or they may use our more advanced search tool and include additional search parameters. Travel customers can also filter and sort the results of their search easily according to their preferences.

#### ***Packages, Hotels and Other Travel Products***

The total number of transactions in our Packages, Hotels and Other Travel Products segment was 4.4 million, 4.5 million and 3.8 million in 2019, 2018 and 2017, respectively.

#### ***Packages***

We offer travelers the opportunity to create custom packages by combining two or more travel products, such as airline tickets and hotel, airline tickets and car rental or hotel and car rental, and booking them in a single transaction. Combining multiple products into a package with a single quoted price allows us to offer travel customers lower prices than are available for individual products and helps us to cross-sell multiple products in a single transaction.

### *Hotels*

Through our platform, travel customers can search, compare and book reservations at more than 690,000 hotels globally through our direct network and third-party inventory. In addition, since 2013 our hotels offering includes vacation rentals.

Travel customers may search for hotels based on their destination and preferred dates for check-in and checkout, and may filter and sort our search results easily by selecting star ratings, specific hotel chains and location.

Travel customers can also indicate amenity preferences such as business services, internet access, fitness centers, swimming pools and more. Travel customers can also view hotel pictures and read hotel reviews from other travel customers on our platform. Our platform features approximately 6.8 million user-generated reviews over the last three years ended December 31, 2019, of which 2.3 million and 2.2 million were generated in 2019 and 2018, respectively.

As of December 31, 2019, approximately 31,000 of our hotel suppliers in Latin America were directly connected to our booking system. Through these direct connections, our hotel suppliers allocate rooms to us either by managing their room inventory directly on an extranet supported by us, or on an extranet supported by one of our more than 48 third-party channel managers.

In 2019 and 2018, 8.4% and 9.2%, respectively, of our gross bookings were attributable to supply provided to us by affiliates of Expedia. Expedia, the beneficial owner of 13.77% of our ordinary shares outstanding as of December 31, 2019, holds certain rights in its capacity as a shareholder. For more information on our relationships with Expedia, see “Item 7. Major Shareholders and Related Party Transactions —B. Related Party — Relationship with Expedia” for more information.

We typically do not assume inventory risk as we do not pre-purchase hotel room inventory from our hotel suppliers. Hotel suppliers are paid by one of two methods: “pre-pay” and “pay-at-destination.” Under the pre-pay model, our travel customer pays us at the time of booking and we pay our hotel suppliers after the travel customer checks out. Under the pay-at-destination model, the travel customer pays the hotel directly at checkout and we either receive our commission later from the hotel suppliers or from the travel customer, at the time of booking.

### *Other Travel Products*

We also offer other travel products on our platform. We provide our travel customers access to approximately 1,260 car rental agencies, more than 180 bus carriers, six cruise carriers, approximately 200 destination services, suppliers with more than 7,500 activities, and one travel insurance supplier. While we offer both pre-pay and pay-at-destination options for car rentals, the other travel products that we offer must be prepaid.

*Destination Services:* We offer in-destination services as an opportunity for us to offer attractions, tickets, tours and activities and local concierge services to package with other products and as a way to encourage in-destination transactions. The wide array of options offered is intended to suit varying budgets and preferences of potential travel customers.

*Car Rentals:* Currently, we offer car rentals worldwide, with a focus in Latin America and the United States.

*Cruise Tickets:* Currently, cruise tickets are available to travel customers in Argentina, Brazil, Chile, Colombia and Mexico. We currently have relationships with six cruise carriers.

*Travel Insurance:* We offer travel insurance through a third-party provider in Latin America, Assist Card, with whom we entered into an exclusivity agreement in 2017. Travel customers can choose from a range of coverage options depending on their particular needs, such as medical insurance and lost or damaged baggage. Typically, this product is requested in conjunction with a flight and hotel booking. Prior to confirming and proceeding with the reservation of and payment for a flight or hotel booking or a package booking, our travel customers are offered the opportunity to purchase travel insurance.

*Bus Tickets:* Currently, bus tickets are available only in Brazil and Argentina, and we intend to expand our coverage further to major cities in Latin America. We currently have relationships with three suppliers that give us access to more than 180 bus carriers.

In addition, we sell digital advertising on our platform, which represented 3% of our revenue in 2019.

### **Payment Options**

Credit cards are the primary means of payment for products on our platform. We allow for the use of more than one credit card in a single transaction, permitting travel customers with lower credit limits to make larger purchases. We also offer other payment alternatives including debit cards as well as several localized payment options available in the markets in which we operate.

In addition, we agreed with a wide range of local and regional banks that allow us to offer to our travel customers, the possibility to purchase our travel products under installment purchase plans established, offered and administered by such banks; which we believe differentiates us from other global travel agencies which either do not offer installment plans or offer them from a more limited selection of financing providers or in a more limited selection of countries. Local banks look to partner with us because of our scale, access to our online audience and high transaction volume. Credit card travel customers may choose from a range of installment plan offerings and terms from different financial institutions with which the travel customer holds or obtains a credit card. Many of these installment plan offerings are interest-free to the travel customer. Installment plans allow travel customers to make larger purchases than they may otherwise be able to make in a single payment.

Our agreements with local and regional banks allow us to offer travel customers installment payment plans without assuming collection risk from the travel customers and receive payment in full (provided we choose not to factor such installment payments). We do not provide any type of financing by ourselves. Each of our partner local and/or regional bank establishes, offers and administers any financing plan to travelers. When travel customers make purchases using installment plans, the facilitating bank bears the full risk that the travel customer will actually make the required installment payments.

Regardless of any financing or installment agreement offered by the banks, for transactions in certain territories, we generally receive full payment of our commissions and service fees within less than one month after the travel customer completes the booking in our platforms, in an amount that reflects its cash-selling price. We typically receive payment before travel occurs. In other territories, such as in Brazil, we generally receive payment from the financing bank only after each scheduled payment is due from the travel customer, regardless of the fact that the travel customer actually makes the scheduled payments; so in those cases we generally receive payment before or while the travel occurs. In some cases, we elect to factor or discount installment receivables, allowing us to receive the payment of the purchase price earlier. For the years ended December 31, 2019 and 2018, more than 57% of our transactions were completed using an installment plan offered by a financial institution.

In Brazil, we work with a provider to enable clients to finance purchases without credit cards, in up to twelve installments, with an interest rate of 1.85% per month. The provider bears the risk of payment and fraud. We first made this payment option available in 2018 for refundable hotels sold through our sales call center.

## Marketing and Affiliates

### Marketing

We execute a multi-channel marketing strategy. Through this effort, we have created a long-standing brand that is associated with superior travel products, high quality services and competitive prices in Latin America. We have an experienced in-house marketing team dedicated to delivering efficient allocation of time and resources across media channels, without relying on outside agencies or consultants. During 2019, our marketing strategy allowed us to increase our total travel customers by 4% and our travel customers from mobile devices by 2%. Key elements of our marketing strategy include:

***In-house Teams.*** We have teams dedicated to: audiovisual content generation across online and offline channels; negotiation with media and agencies to control budget; performance trends and market analysis through strong data analytics; and targeted campaign monitoring.

***Buy Direct.*** Through our direct relationships with key media suppliers throughout Latin America, we believe we are able to secure highly competitive rates across the region, without unnecessary interaction with intermediaries.

***“Always On” Strategy.*** We have 24/7 continuity of marketing campaigns through a combination of online, television, radio, print and other channels tailored for every country and market. We run campaigns to drive maximum awareness, and we use a multi-channel approach in our top markets.

***Cross-Device Insights and Custom Attribution Model and Bidding Tools.*** We measure marketing success across all media channels and devices by reconstructing the user’s marketing path across devices and applying our custom attribution model that feeds our optimization strategy. We have also developed proprietary tools to optimize our investment in search engine marketing (“SEM”) campaigns for Google Adwords by tracking sources of traffic and attributing a percentage of conversions to each event in a user’s marketing path.

***Focus on Efficient Use of Media.*** We continuously analyze the minimum frequency needed on each media channel to deliver targeted marketing messages, events and promotions to travel customers based on the specific demographics of each market.

***Promotions and Sales.*** We focus aggressively on promotions including discounts, holiday campaigns and financing options. Our technology-driven marketing allows us to dynamically optimize promotions on a daily basis. For example, we partnered with Mercado Libre, Latin America’s largest online marketplace, for the SiWeek promotion, which was a one-week offering of very attractive discounts by Mercado Libre and us. This was an opportunity to increase sales as the promotion appealed to the impulse traveler.

### Affiliates

We have relationships with a network of over 9,800 affiliates, including travel agents, airlines, websites and other third parties such as online and offline retailers, in seven countries across Latin America. Our agreements with these affiliates allows them to access our product inventory directly through our platform or through our application program interface (“API”). We believe our affiliate program is attractive because we provide access to a range of travel products that our affiliates otherwise may not be able to access cost-effectively or at all. Our affiliates earn commissions from us depending on country and type of products sold. Furthermore, our affiliate program allows us to expand our footprint in Latin America and distribution network in a cost-effective manner.

### Sales Call Centers

In 2018, we launched call center operations through third parties in Perú, Ecuador, Mexico, Colombia, Chile, Argentina and Brazil. Through these call centers we sell all our products, with the exception of buses, cruise lines and vacation rentals. We included our sales call number on the homepage of each website. This complements our online platform, helping us to gain new travel customers and interact with those who might not be digitally enabled. Our travel customers are quickly embracing this option, as gross bookings from our sales call centers increased over 18% on average quarterly, totaling \$228.1 million in 2019.

### ***Acquisition of Viajes Falabella***

On June 7, 2019, we completed the acquisition of Viajes Falabella in Argentina, Peru and Chile, and on July 31, 2019 we completed the acquisition of Viajes Falabella in Colombia, for a total consideration of \$23 million. Of this total consideration, we have paid \$11.5 million, and the remaining \$11.5 million will be paid in two installments in June 2020 and June 2021. Concurrent with the acquisition, the Company entered into a 10-year commercial agreement with Grupo Falabella which provides for several marketing and promotional activities, and other activities to promote future business, including the license for the “Viajes Falabella” brand name, for which we paid \$2 million in June 2019 and \$2 million will be paid in two installments in June 2020 and June 2021. The license for the ‘Viajes Falabella’ brand name is for an initial period of four years and is renewable for one year periods thereafter at the option of the Company, for a pre-agreed price, provided that the Company meets a service standard set forth under the contract.

The acquisition of Viajes Falabella provides travel customers of both companies with access to an enhanced travel and tourism product and service offerings, wherever and however they want to book travel (mobile, online, apps, call center and store-within-store locations). This includes air, hotel and insurance travel packages, as well as significant non-air travel offerings. In addition, travel customers are able to access exclusive discounts, earn double CMR Points Falabella’s loyalty program, both at Viajes Falabella and Despegar, as well as an expanded product offering in exchange for CMR Points at Viajes Falabella. Following the acquisition of Viajes Falabella, as of December 31, 2019 we operated 86 travel agencies in Chile, Argentina, Perú and Colombia.

### ***Acquisition of Best Day***

On January 27, 2020, we entered an agreement to acquire Best Day, a leading travel agency in Mexico, with business in Argentina, Colombia, Brazil and Uruguay, subject to the occurrence of certain closing and business conditions, which are pending. The total consideration for the acquisition is approximately \$136 million, subject to closing purchase price adjustments and plus or minus a variable purchase price component of up to approximately 10% of the total consideration. According to the purchase agreement, approximately 65% of the purchase price is payable upon closing, with the remainder of the consideration to be paid on or about the second and third anniversaries of the closing date.

Best Day operates a cross-platform business model with a product mix that includes significant revenue from non-air travel. In addition to its business-to-consumer business operated through its online platform, call centers and more than 200 kiosks, the company offers a variety of destination services, including ground transportation, tours and activities across Mexico. Best Day also provides online wholesale travel products to agencies worldwide, as well as white label services for major travel vendors, including partnerships with certain Mexican airlines. We believe the acquisition of Best Day would enhance our strategies to focus on Mexico and on travel packages.

We cannot assure you that we and the sellers will be able to consummate the acquisition of Best Day under the existing terms, under different terms, or at all. For more information, see “Item 3. Key Information — D. Risk Factors—Risks Related to Our Business— We cannot assure that we will be able to consummate the acquisition of Best Day under the existing terms, under different terms or at all, and, if we are able to consummate the acquisition, we may not achieve the benefits we expect from the acquisition”.

### **Customer Service**

Customer experience is a key focus for our business and we believe this is reflected in our strong brand recognition and loyalty throughout Latin America. We emphasize providing personalized support throughout the customer purchase cycle, including automated web-based support and support from live customer service representatives.

In addition to our customer service centers in Brazil and Colombia, we rely on outsourced services to provide 24/7 support to our customers for issues that cannot be resolved through our platform. Our customer service facilities in Brazil are dedicated to our Portuguese-speaking travel customers, while our customer service facilities in Colombia serve Spanish-speaking travel customers. Many of our customer service staff at these facilities speak English in addition to Portuguese and/or Spanish. We also have a team of customer service staff dedicated specifically to addressing urgent customer needs, primarily those of customers that are in-destination.

To control expenditures related to customer support, we also outsource certain functions to international call center service providers. These outsourced customer service providers support our internal call center operations and improve our ability to support travel customers around the world.



We also have implemented comprehensive performance measures to monitor our calls to ensure that our travel customers receive quality service. In addition, as a part of our customer experience we maintain a database containing travel customer transactions and user preferences for each travel customer who has booked services through us in order to provide customized support and offerings in the future. We believe that the design of our existing systems can scale to meet further increases in call volume.

In addition, during 2018 we implemented a service button on our mobile app which enables travel customers to reach our Company no matter where they are via VOIP (Voice over Internet Protocol) or WI-FI, at no cost.

As a result of our efforts we managed to increase our net promoter score (“NPS”) 110 basis points, up to 67.4% during 2019.

### **Technology and Data**

We use our technology platform to improve the travel customer experience and optimize the efficiency of our business operations. We have successfully built an innovative technology culture that we believe is unique in Latin America and enables us to attract and retain some of the best talent in the region. We employ more than 1,000 dedicated technology professionals. We actively recruit and train these highly-skilled technology professionals and many of our current technology managers started in our training program.

We own our technology platform, which is comprised of applications that we develop in-house using primarily open source software. Our technology team has adopted a continuous improvement, high-frequency testing approach to our business, aimed at improving both traffic and conversion rates, while maintaining reliability.

Our platform is engineered to provide a personalized and secure experience to our travel customers. We invest heavily in understanding our travel customers’ behavior and intentions through a combination of detailed behavioral data collection and machine learning algorithms. Our machine learning algorithms also help us detect fraud attempts. We collect, maintain and analyze behavioral data from all the devices our travel customers are using to interact with our platform. The insights derived from the analysis of this data form the basis of our enhanced conversion strategies. We use email, social media marketing and retargeting campaigns to remind travel customers of their searches.

We believe our technology can scale to accommodate significantly higher volumes of site traffic, customers, bookings and the overall growth in our business. We routinely test and expand the capacity of our servers so we are prepared to provide our travel customers with uninterrupted access to our sites during periods with high levels of user traffic, such as when we are offering promotions. Our information technology platform employs a horizontal architecture, which allows us to increase our processing capacity by adding more hardware in parallel with our existing servers. With this structure, we can grow our platform to accommodate the growth of our business with minimal disruption to the operation of our customer-facing platform and without having to replace our existing equipment.

Our system has been designed around an open architecture with a focus on robust reliability to reduce downtime in the event of outages or catastrophic occurrences. Our platform provides 24/7 availability, except during twice-monthly planned maintenance periods. Our system hardware, which we own, is hosted by a third-party data center in Miami, Florida, which also provides redundant communications lines and emergency power backup.

We believe our technology infrastructure is an important asset due to its robustness, cost-effectiveness and scalability. We continuously evaluate, research and develop new services, platforms infrastructure, and software to improve and solidify our technological systems further and provide a reliable, personalized, fast and secure experience to our travel customers.

For more information, see “—Intellectual Property” and “Item 3. Key Information — D. Risk Factors—Risks Related to Our Business—We may not be able to adequately protect and enforce our intellectual property rights; and we could potentially face claims alleging that our technologies infringe the property rights of others.”



## **Security, Privacy and Anti-Fraud**

We are committed to operating a secure online business. We use various security methods in an effort to protect the integrity of our networks and the confidential data collected and stored on our servers. For example, we use firewalls to protect access to our networks and to the servers and databases on which we store confidential data; we restrict access to our network by virtual private network (“VPN”) with two-factor authentication and conduct periodic audits of data access and modifications of our network; and we use password-protected encryption technology to protect our communication channels and sensitive travel customer data. In addition, we have developed and use internal policies and procedures to protect the personal information of our travel customers, and we comply with the Payment Card Industry Data Security Standard (“PCI DSS”). To enforce our security framework we have a dedicated cybersecurity team that conducts penetration testing and application security analysis, develops policies and standards, and ensures compliance with those policies and standards.

We believe that issues relating to privacy and the use of personally identifiable information are becoming increasingly important as the internet and its commercial use continue to grow. We have adopted what we believe is a detailed privacy policy that complies with local legal requirements in each of the Latin American countries in which we operate and outlines the information that we collect concerning our users and how we use it. Users must acknowledge and expressly agree to this policy when registering with our platform, signing up for our newsletters, or making a purchase.

Although we send marketing communications to our users periodically, we use our best efforts to ensure that we respect users’ communication preferences. For example, when users register with us, they can opt out of receiving marketing e-mails from us. Users can modify their communication preferences at any time in the “My Account” section of our sites.

We use information about our users for internal purposes in order to improve marketing and promotional efforts and in order to improve our content, product offerings and site layout. We may also disclose information about our users in response to legal requirements. All information is stored on our servers located in Miami, Florida.

Moreover, we are committed to detecting and deterring possible instances of fraudulent transactions before they are completed. The key components of our fraud-prevention strategy include: (1) a dedicated and specialized fraud prevention team that works closely with our IT staff; (2) engagement with key actors in the online travel industry, such as banks and airlines, which strengthens our early-detection capabilities, thereby reducing the exposure period to potential fraud events; and (3) machine learning systems that analyze multiple factors, including intelligence gathered from our industry relationships, to help us adapt better to changing market conditions and detect and address fraudulent transactions. Our in-house team works with third-party vendors, allowing us to leverage best practices and scale quickly.

## **Competition**

We operate in a highly competitive and evolving market. Travelers have a range of options, both online and offline, to research, find, compare, plan and book air, packages, hotels and other travel products.

Our competitors include:

- global OTAs with presence in Latin America, such as Booking.com and Expedia and travel metasearch sites;
- search websites and apps, such as Google and its travel businesses, and e-commerce and group buying websites and apps;
- alternative accommodation and vacation rental businesses, such as Airbnb;
- local offline travel agency chains and tour operators, such as CVC Brasil Operadora e Agência de Viagens; and
- smaller online travel agencies lacking a pan-regional presence.

In addition, our travel customers have the option to book travel directly with travel suppliers, including airlines, hotels and other travel service providers via online and offline channels. See “Item 3. Key Information — D. Risk Factors—Risks Related to Our Business—We operate in a highly competitive and evolving market, and pressure from existing and new companies may adversely affect our business and results of operations” for more information.

We believe that the primary competitive factors in the travel industry, in particular as consumers increasingly research, plan and book travel online, are, among other things, brand recognition, price, availability and breadth of choice of travel services and products, customer service, ease of use, fees charged to travelers, accessibility and reliability. We believe our brands, scale, operational and technological capabilities, including our local knowledge and marketing expertise, provide us with a sustainable competitive advantage.

### **Intellectual Property**

We regard our intellectual property as critical to our future success and rely on a combination of trademark laws and contractual restrictions to establish and protect our proprietary rights in our products. Our intellectual property includes trademarks and domain names associated with the names “Despegar.com” and “Decolar.com.” To protect our platform and technology, we have entered into confidentiality and invention assignment agreements with our employees and certain contractors and suppliers. We own our technology platform, which is comprised of applications that we develop in-house using primarily open source software. We have not registered our technology, however, because we believe it would be difficult to replicate and that it is adequately protected by the agreements we have in place. Additionally, our technology is constantly evolving and any registration may run the risk of protecting outdated technology. We cannot assure you that all our intellectual property is fully protected and enforceable vis-à-vis third parties under all applicable laws in Latin America. For more information, see “Item 3. Key Information — D. Risk Factors—Risks Related to our Business—We may not be able to adequately protect and enforce our intellectual property rights; and we could potentially face claims alleging that our technologies infringe the property rights of others.”

### **Seasonality**

See “Item 5. Operating and Financial Review and Prospects — Operating Results.”

### **Regulation**

#### ***Regulations Related to the Travel Industry***

The laws and regulations applicable to the travel industry affect us and our travel suppliers in the jurisdictions in which we operate, the jurisdictions in which our travel customers reside and the jurisdictions of their destinations. We are also required to be accredited by the International Air Transport Association (“IATA”) in order to promote and sell tickets for airlines connected to IATA.

#### **Brazil**

In addition to the standard licenses and permits required for all companies to operate in the travel industry in Brazil, we are subject to a specific registration of tourism providers with the Ministry of Tourism (“CADASTUR”). In Brazil, there are four main norms that govern the activities related to tourism, as well as the enrollment of services providers in the tourism industry: (i) Law No. 11,771/2008, which regulates the National Tourism Policy and defines the responsibilities of the federal government in planning, developing and stimulating the tourism sector; (ii) Decree No. 7,381/2010, which regulates Law No. 11,771/2008; (iii) Ordinance No. 130/2011 from the Ministry of Tourism, which establishes the CADASTUR, the CADASTUR’s consulting committee and regulates other measures; and (iv) Law No. 12,974/2014, which regulates the activities of tourism agencies.

### Argentina

As a travel agency in Argentina, Despegar.com.ar must be registered with the Registry of Travel Agents (*Registro de Agentes de Viajes*) created by Section 5 of Decree No. 2,182/72. The local regulation on commercial tourism activities is comprised of: (i) Law 25,997 and its applicable regulation which governs the development and promotion of tourism in Argentina; (ii) Law 18,829 which defines the regulations applicable to travel agents; (iii) the resolutions issued by the Secretariat of Tourism; and (iv) Law 24,240 as amended, which sets forth the provisions for the protection of consumers.

### *Regulations that apply to the E-Commerce Industry*

We are also subject to a variety of laws, decrees and regulations that affect companies conducting business on the internet in the countries where we operate related to e-commerce, electronic or mobile payments; data collection; data protection; privacy; information requirements for internet providers; taxation (including value added taxes (“VAT”) or sales tax collection obligations); obligations to provide information to certain authorities; and other legislation which also applies to other companies conducting business in general. It is not clear how existing laws in Latin America governing issues such as general commercial activities, property ownership, copyrights and other intellectual property issues, taxation, consumer protection, digital signatures and personal privacy, apply to online businesses. Some of these laws were adopted before the internet was available and, as a result, do not contemplate or address the unique issues of the internet. Due to these areas of legal uncertainty, and the increasing popularity and use of the internet and other online services in our markets, it is possible that new laws and regulations will be adopted with respect to the internet or other online services. These regulations could cover a wide variety of issues, including e-commerce; internet service providers’ responsibility for third-party content hosted in their servers; user privacy; electronic or mobile payments; pricing, content and quality of products and services; taxation (including VAT or sales tax collection obligations, obligation to provide certain information about transactions that occurred through our platform, or about our users); advertising; intellectual property rights; consumer protection and information security. See “Item 3. Key Information — D. Risk Factors—Risks Related to our Business—We process, store and use personal information, card payment information and other consumer data, which subjects us to risks stemming from possible failure to comply with governmental regulation and other legal obligations” and “Item 3. Key Information — D. Risk Factors—Risks Related to our Business—Internet regulation in the countries where we operate is scarce, and several legal issues related to the internet are uncertain” for more information.

### Brazil

Resolution (*Circular*) issued by the Central Bank of Brazil No. 3,682 regulates the payment arrangement (*arranjos de pagamento*) services in Brazil (“Payment Arrangement Services Rule”). On July 27, 2017 and March 26, 2018, the Central Bank of Brazil revoked and amended certain provisions and included new provisions to the Payment Arrangement Services Rule, which introduced a definition of sub accrediting entities (*subrecediador*) and determined that all participants of the payment arrangements should be subject to a centralized settlement system not later than September 28, 2018.

Pursuant to Payment Arrangement Services Rule, among other provisions, sub-accrediting entity is defined as a party of the payment arrangement that accredits a recipient to accept a payment instrument issued by a payment institution or a financial institution that is a party to the same payment arrangement, but that does not participate in the settlement process of transactions as creditor in relation to the issuer. The definition of sub-accrediting entity provided by the Payment Arrangement Services Rule is not precise enough to confirm that our Brazilian subsidiary would be subject to it. After carrying out several discussions with the Central Bank of Brazil, financial institutions and other participants involved in the payments arrangements, our Brazilian brand Decolar demonstrated to the Central Bank of Brazil that: (i) Resolution 3,682 does not apply to its business; (ii) Decolar should not be deemed a subaccrediting institution; and (iii) it should not be obliged to integrate its activities into the payment arrangement Services, nor be subject to the payment arrangement rules issued by the Central Bank of Brazil, which on September 2018 issued a list of the entities and companies which should not be subject to Resolution 3,682 as well as their classification. Decolar has been classified as a non-subaccreditor, this is a simple business establishment, and not as a marketplace entity as provided in the Resolution.

### ***Regulations Related to Consumer and Data Protection***

We are subject to consumer and data protection laws in every country where we have a website.

#### **Brazil**

There are several laws in Brazil dealing with privacy and data protection, including: (i) the Brazilian Federal Constitution, which provides for the protection of individuals' fundamental and inviolable rights of intimacy/privacy, private life and image; (ii) the Brazilian Civil Code (Law No. 10,406/2002), which reaffirms the Federal Constitution's provision of fundamental rights, and provides for the right to act against violators in order to cease the violation and seek compensation for suffered damage; (iii) the Consumer Protection and Defense Code (Law No. 8,078/1990), which provides for consumer-related databases, data collection and penalties related therewith; (iv) the Brazilian Internet Act (Law No. 12,965/2014), which establishes principles, guarantees, rights and obligations related to the use of the internet in Brazil; and (v) the Brazilian Internet Act Regulation (Decree No. 8,771/2016), which sets forth security standards to be complied with by internet connection and application providers (online platform operators) when storing personal data.

Brazilian consumer protection authorities and courts take the view that the express consent of the consumer must be obtained before the collection, treatment, sharing and transmission of personal data. With regard to data collection, the Brazilian Internet Act provides that personal data collection, use, storage, sharing, transmission and treatment must be authorized previously and expressly by the individual, consistent with the general privacy principle set forth by the Federal Constitution and Consumer Defense Code. For the purposes of the Brazilian Internet Act and its regulation, personal data is deemed any data related to an identified or identifiable individual, including identifying numbers, location data or electronic identifiers, when related to an individual.

In addition, Law No. 9,507/1997 regulates privacy requirements and the habeas data process, by which individual citizens can ask a court to issue an order to protect, correct or remove their personal data, and recognizes consumers' rights to access, correct and update their personal information stored in governmental or public databases. For the purposes of this law, a public database is composed by information that either: (i) is and/or may be transmitted to third parties; or (ii) is not exclusively used by the governmental agency or legal entity generating or managing the information.

As an internet-based retailer, we are also subject to several laws and regulations designed to protect consumer rights—most importantly the Consumer Protection and Defense Code, which regulates commercial practices, product and service liability, strict liability of the supplier of products or services, reversal of the burden of proof to the benefit of consumers, joint and several liability of all companies within the supply chain, abuse of rights in contractual clauses, and advertising and information on products and services offered to the public. The Consumer Protection and Defense Code establishes the legal framework for the protection of consumers, setting out certain basic rights, including the right to clear and accurate information about products and services offered in the consumer market, with correct specification of characteristics, structure, quality and price and the risks they pose. In addition, Executive Decree No. 7.962/13 applies with regards to retaining of service in an online environment. This legislation describes, among others, the rules on disclosure of information, consumer service, payment protection and other procedures for the rendering of online services.

#### **Brazilian General Data Protection Law No. 13.709/2018**

The Brazilian General Data Protection Law (Law No. 13.709/2018 – “LGPD”) was approved in August 2018 and it will be effective as of August, 2020. The grace period was proposed in order to provide public and private institutions with a period for them to adapt to the LGPD. The LGPD is applicable to any individual or legal entity governed by public or private law treating personal data (i) in the Brazilian territory; or (ii) for the purposes of offering or supplying goods or services or treating information of data subjects located in Brazil; or (iii) if personal data has been collected in the Brazilian territory.

According to the LGPD, personal data can only be processed (i) upon data subject consent; (ii) in compliance with statutory or regulatory obligations; (iii) by public administration; (iv) for development of studies by research

entities; (v) by contractual and preliminary contractual relationship; (vi) through lawsuits; (vii) for the protection of life and health; (viii) to legitimate interest of the controller; or (ix) for credit protection. The treatment of sensitive personal data (e.g., regarding ethnical or racial origin, religion, political opinion or affiliation, health information, sexual orientation) is subject to a higher scrutiny. The LGPD also provides liability obligations if damages are produced while processing personal data in violation of the provisions of the LGPD.

According to the LGPD, the eight situations in which the international transfer of data is allowed are: (i) when the data subject has provided specific and highlighted consent for such transfer; (ii) when countries or international organizations provide the appropriate level of protection of Personal Data established by Brazilian law; (iii) when controller provides and demonstrates safeguards of compliance with the principles, rights of the data subject and data protection regime established in the law, in the form of specific contractual clauses for a given transfer, among others; (iv) when the transfer is required for international legal cooperation between public bodies of intelligence; (v) when the transfer is required for life protection of the data subject or any third party; (vi) when the national authority authorizes such transfer; (vii) when the transfer results in a commitment undertaken under an international cooperation agreement; or (viii) when the transfer is required for enforcement of a public policy.

Provisional Measure No. 869/2018 of December 27, 2018 (MP 869/2018) created the National Data Protection Authority (“ANPD”), with powers –among others– to ensure the protection of personal data, construe the provisions of the LGPD, and supervise, monitor and apply sanctions in relation to the compliance of LGPD regulation. In order to gain definitive effectiveness, MP 869/2018 must be converted into law.

### Argentina

In Argentina, we are subject to e-commerce laws such as Resolution No. 104/05 adopted by the Ministry of Economy and the Argentine Consumer Protection Agency, which establishes certain information requirements for internet providers, and Law No. 25,326, as amended, and its corresponding regulations, which mandate the registration of databases with the Data Protection Agency and regulate, among other things, the type of information that can be collected, and how such information can be used.

Moreover, Law No. 24,240, as amended (the “Consumer Protection Law”), sets forth certain rules and principles designed to protect consumers. The Consumer Protection Law was amended on March 12, 2008 by Law No. 26,361 in several respects, including: (i) an increase in the size of the overall group of persons deemed to be consumers, or recipients of the protections of the Consumer Protection Law; (ii) an increase in the maximum penalties applicable to providers that breach the law to AR\$5 million, as discussed below, and the granting of power to the administrative authority to require the payment of direct damages by any provider; (iii) requirements that providers pay punitive damages to consumers (which may not exceed AR\$5 million); and (iv) regulations regarding the possibility for consumer associations to initiate class actions on behalf of consumer groups. The Argentine Secretary of Commerce, which is part of the Argentine Ministry of Economy, is the national enforcement authority of the Consumer Protection Law, while the Autonomous City of Buenos Aires and the provinces act as local enforcement authorities.

### ***Regulations Related to Taxation***

#### Brazil

In Brazil, between 2011 and 2015, our Brazilian subsidiary was exempt from collection of withholding income tax (“WHT”) on remittances to cover travel expenses of Brazilian individuals abroad, within the parameters established by applicable law. From January 1, 2016 to March 1, 2016, the applicable WHT for payments, credits, delivery, use by or remittance of these amounts to foreign persons was 25%. In February 2016, our Brazilian subsidiary filed a writ of mandamus (a judicial complaint) against the federal tax authority claiming that WHT should not be applicable due to a provision of “non-imposition” contained in the Income Tax Regulations. In March 2016, the court granted our Brazilian subsidiary a preliminary injunction on the writ of mandamus, which allowed our Brazilian subsidiary to make remittances free of WHT while the preliminary injunction was in place. In December 2016, the court published a decision on the merits of the case, against our Brazilian subsidiary (which terminated the effects of the preliminary injunction). Also in December 2016, our Brazilian subsidiary filed a motion for clarification, in an attempt to request the court to issue an opinion on the possible application of tax treaties to allow our Brazilian subsidiary to not collect WHT on the basis of their provisions.

Since March 2, 2016, the former WHT exemption was converted into a WHT imposition of 6% on remittances to cover travel expenses of Brazilian individuals abroad, within the parameters established by applicable law. This reduced WHT rate was effective until December 31, 2019. During 2018, while the motion for clarification was still pending, our Brazilian subsidiary deposited (via judicial deposits) the withheld amounts before the court in order to guarantee that (i) if the company is not successful in the plea before the court, the applicable WHT will be converted into income of the federal revenue, without the imposition of any fines or interest and (ii) if the company is successful in its plea, the amount corresponding to the WHT will be returned to our Brazilian subsidiary with monetary adjustments. The new Income Tax Regulation RIR/18 came into effect on November 23, 2018, repealing former Decree No. 3,000/1999. Under the new RIR/18, non-incidence of income tax withholdings on remittances abroad was reconsidered. On January 2020, our Brazilian subsidiary submitted a partial withdrawal from the writ of mandamus (judicial complaint), and abandoned the discussion in court, for the upcoming periods.

On November 26, 2019 a new *Medida Provisoria* 907 came into effect. According to the new regulation, new withholding tax rates were established for remittances to cover travel expenses of Brazilian individuals abroad, with progressively increased rates starting with 7.9% in 2020, 9.8% in 2021, 11.7% in 2022, 13.7% in 2023 and 15.5% in 2024.

## Argentina

### IT District Parque Patricios

Since 2013 we have been the beneficiary of a partial tax exemption, applicable until January 30, 2029, under Buenos Aires Municipal Law No. 2,972, which includes, among others, the turnover tax reduction. This benefit implies the reduction, from the turnover tax, of any revenue directly connected to services performed through software applied to e-commerce that are performed within the designated IT district located in *Parque Patricios* in the city of Buenos Aires, only when: (i) said entity/person is registered under the Information and Communications Technologies Registry; and (ii) the entity/person keeps or increases the number of employees hired at the time of registration.

### Software Law Benefits & Knowledge-based-Economy Promotional Regime

On August 18, 2017, the Argentine National Ministry of Production issued Disposition 82-E/2017, accepting the registration of our Argentine subsidiary in the National Registry of Software Producers, created by Decree 1315/13. As a result of this registration and pursuant to Argentine National Law No. 25,922, as amended, and its corresponding regulations (the “Software Promotion Law”), our Argentine subsidiary has been granted several tax benefits through December 31, 2019. These benefits include (i) a fixed national tax rate, (ii) a fiscal bond equivalent to 70% of the value of 75.14% of the Company’s social security tax contribution payments under Laws 19,032, 24,013 and 24,241, which can be used as a tax credit to offset national taxes; provided that not more than 13.83% of this tax credit may be used by the company to cancel Argentine corporate income tax; (iii) exemption from value-added tax withholding regimes; and (iv) a 60% reduction in the total amount of corporate income tax as applied to income from the activities of creation, design, development, production, implementation or adjustment (upgrade) of developed software systems and their associated documents.

On June 10, 2019, the Argentine government enacted Law No. 27,506 (knowledge-based economy promotional regime), which established a regime that provides certain tax benefits for companies that meet specific criteria, such as companies that derive at least 70% of their revenues from certain specified activities. Law No. 27,506 allows companies currently benefiting from the software development law, to apply for tax benefits under Law No. 27,506, which will be effective from January 1, 2020 to December 31, 2029. Eligible companies are entitled to (i) a 15% corporate income tax rate (instead of the otherwise applicable 30% corporate income tax rate), (ii) a freeze on the taxpayer’s overall federal tax burden, (iii) a reduction in employer social security contributions and (iv) a tax credit in the amount of 1.6 times the amount payable as social security contributions. The tax credit may be used to offset federal taxes, such as value-added tax and income tax.

The above mentioned regime, however, was suspended on January 20, 2020 through a new resolution issued by Argentina's Ministry of Productive Development until new rules for the application of the knowledge-based economy promotional regime are issued. We will analyze whether we will be eligible to benefit from the law and its related tax benefits once the new regulations are issued.

#### Income Tax Reform

On December 27, 2017, the Argentine Congress approved a comprehensive income tax reform effective since January 1, 2018. Among the key features, the bill: (i) reduces the 35% income tax rate to 30% for 2018 and 2019, and to 25% as from 2020; (ii) imposes a dividend withholding tax paid by an Argentine entity of 7% for 2018 and 2019, increasing to 13% as from 2020; and (iii) repeals the "equalization tax" (i.e., 35% withholding applicable to dividends distributed in excess of the accumulated taxable income) for income accrued from January 1, 2018.

On December 23, 2019, the Argentine Congress enacted a law which maintains the corporate income tax rate of 30% for two more years, instead of reducing the rate to 25% as established under the previous law. The law also maintains the dividend withholding tax rate of 7% for two more years, instead of applying the 13% rate as previously established.

#### Tax on Export of Services

In September 2018, the Argentine government issued the Decree 793/2018 which established a temporary withholding on exports of services of 12% with a maximum limit of AR\$ 4 per each dollar of the export invoice amount. This withholding on exports of services was applicable for exports of years 2019 and 2020. On December 2019, Decree No. 99/2019 reduced the percentage from 12% to 5% without limit of Argentine pesos per dollar, to become effective since January 1, 2020 until December 31, 2021.

#### New Tax for an Inclusive and Solidarity Argentina (PAIS)

Effective as of December 23, 2019, a new tax (Tax for an Inclusive and Solidarity Argentina (PAIS)) was created in Argentina. The new 30% tax applies on the purchases by Argentinean residents of foreign services through credit and debit cards; services to be provided outside Argentina, contracted through Argentine travel and tourism agencies –wholesale or retailers–; and the acquisition of international passenger transport services (by land, air, aquatic and road).

#### Uruguay and Others

We operate as a free trade zone user of the Zonamerica Free Trade Zone in Montevideo, Uruguay (the "Free Trade Zone"), under Law No. 15,921 and its corresponding regulations. No domestic Uruguayan tax whatsoever applies in the Free Trade Zone, except for social security contributions for any Uruguayan employees. No social security contributions are required for non-Uruguayan employees, so long as they do not exceed 25% of the personnel working in the facility located in the Free Trade Zone. In addition, the inflow of goods and services to the Free Trade Zone, as well as their outflow abroad, are tax exempt. The movement of goods and services into a Free Trade Zone from a non-Free Trade Zone Uruguayan territory is treated as an export and therefore also exempt from VAT and the Specific Internal Tax (*Impuesto Específico Interno* or "IEI"). On the other hand, if goods are introduced into a non-Free Trade Zone Uruguayan territory from a Free Trade Zone, the corresponding import tax will apply. Exporting services from a Free Trade Zone to a non-Free Trade Zone Uruguayan territory is generally prohibited. However, in 2016, our Uruguay subsidiary located in the Free Trade Zone was authorized by the Ministry of Economy in Uruguay to have limited operations with a related party located in Uruguay. By law, the Uruguayan state is liable for damages if the tax exemptions, benefits and rights of users of Free Zones granted pursuant to the law are not fulfilled during the term of their contracts.

We operate as a free trade zone user in Bogotá, Colombia under Decree 2147. Based on the regime, we receive certain tax benefits, consisting primarily of a reduced income tax rate.



### ***Regulations Related to Foreign Currency and Exchange Rates***

There are also laws and regulations that address foreign currency and exchange rates in many of the countries in which we operate. In certain countries where we operate, we need governmental authorization to pay invoices to a foreign supplier or send money abroad due to foreign exchange restrictions. See “Item 3. Key Information — D. Risk Factors—Risks Related to Latin America—We are subject to significant foreign currency exchange controls in certain countries in which we operate.”

### ***Other Recent Argentine Regulations***

***Productive Financing Law.*** The Argentine Congress passed Law No. 27,440 on May 9, 2018, which amends the existing Argentine Capital Markets Law, the Mutual Funds Law No. 24,083 and the Argentine Negotiable Obligations Law No. 23,576, among other complementary and relevant legislation, in an effort to update the applicable legal framework and fostering the development of the Argentine capital markets. Law No. 27,440 seeks to increase the base of investors and companies which take part in the capital markets, promoting productive financing for all players in the market but with special focus on micro-, small- and medium-sized companies, creating a regimen which promotes and eases financing to such companies. Furthermore, the Law No. 27,440 amends certain tax provisions, derivatives regulations and certain financial inclusion program.

***Corporate Criminal Liability Law.*** On November 8, 2017, the Argentine Congress passed the Corporate Criminal Liability Law as Law No. 27,401, which implements certain international standards to penalize criminal offenses against public administration and cross-border bribery committed by, companies’ shareholders, attorneys-in-fact, directors, managers, employees, or representatives, among others. The Corporate Criminal Liability Act entered into effect on March 1, 2018.

***Welfare Reform Law.*** On December 18, 2017, the Argentine Congress passed the Welfare Reform Law as Law No. 27,426 which seeks to comprehensively reform of the Argentine welfare system, including modifications to the basic formula for the periodic adjustment of retirement earnings, pensions and social plans. The Welfare Reform Law also modified the Labor Law No. 24,241 by establishing that employers may request employees who have reached 70 years of age to initiate retirement proceedings.

***Tax Reform.*** On December 27, 2017, the Argentine Congress approved a Tax Reform as Law No. 27,430, which is intended to eliminate certain of the existing complexities and inefficiencies of the Argentine tax regime, reduce tax evasion, increase the coverage of income tax as applied to individuals and encourage investment while sustaining its medium- and long-term efforts aimed at restoring fiscal balance. The reforms will gradually come into effect within a five-year term from 2018 until 2022, as part of a larger program to increase the competitiveness of the Argentine economy as well as employment and diminish poverty on a sustainable basis.

***Fiscal Consensus Laws.*** On December 21, 2017, the Argentine Congress passed the Fiscal Consensus Law No. 27,429. This law was based on an agreement signed on November 16, 2017 between the Argentine government and representatives from 23 out of Argentina’s 24 provinces, with the goal of implementing measures that favor sustained growth in economic activity, productivity and employment. On December 4, 2018, the Argentine Congress passed a new Fiscal Consensus Law, as Law No. 27,469, which modifies some aspects of the previous Law, such as the suspension of the prohibition on increasing the tax rate of the personal assets tax and it also suspends, for a period of one year, the commitment of the provinces to reduce the stamp tax rates. Additionally, on January 29, 2020 by means of Law No. 27,542, the Argentine Congress approved the agreement reached between the federal government and provincial governments on December 17, 2019, amending the tax consensus in order to suspend reductions on certain provincial taxes until December 31, 2020.

***Decree No. 27/2018 (Decreto de Necesidad y Urgencia) on Debureaucratization and Simplification:*** On January 2018, the Executive Branch issued necessity and urgency Decree No. 27/2018 on Debureaucratization and Simplification. With this measure, the Argentine government seeks to reduce the amount of processes companies must complete to be able to operate in the country, seeking to be more efficient and accelerate processing. On May 30, 2018, the Argentine Congress passed the Law 27,444, Law 27,445 and Law 27, 446 in replacement of the Decree No. 27/2018. Although such Laws maintain most of the basic modifications introduced by the Decree, certain measures were left aside of the laws’ content and therefore, repealed.



## Legal Proceedings

From time to time, we are involved in disputes and legal and administrative proceedings that arise in the ordinary course of our business. We are currently engaged in several legal proceedings, including consumer protection, tax, labor and other proceedings. Any claims against us, regardless of whether meritorious, can be time-consuming, result in costly litigation, require significant management time and result in the diversion of significant operational resources.

We have established provisions for such disputes and proceedings in an aggregate amount of \$6.4 million as of December 31, 2019. We record a provision in our balance sheet for losses arising from litigation based on an evaluation of the likelihood of loss by our external and internal legal counsel, the progress of related proceedings, the history of losses in similar cases and the individual analysis of each contingency. We record provisions for contingencies based on probable loss or when so required under accounting rules. We do not reserve provisions for possible and remote losses.

We are currently not a party to any legal, arbitration or administrative proceedings that, in the opinion of our management, is likely to have a material and adverse effect on our business, financial condition and results of operations, other than as set forth below.

### Brazil

On June 25, 2014, the National Association of Citizenship and Consumer Defense (“ANADEC”) filed a public civil action against our Brazilian subsidiary to (i) dispute the validity of cancellation clauses which establish a penalty in a percentage higher than 20% of the price paid by the consumer; and (ii) request the return of the amounts paid by all consumers above this percentage. We successfully defended this claim in the trial court and the ANADEC appealed the decision. On May 10, 2018, in the context of another civil class action filed by the Public Attorney’s Office of São Paulo against ANADEC, an Appeal Court decided to dissolve ANADEC.

Between May and July 2016, Booking.com filed several complaints against us before various public offices: Public Prosecution Office of the State of Rio Grande do Sul, Public Prosecution Office of the State of São Paulo, Consumer Defense Office of the State of Rio de Janeiro, Consumer Defense Office of the State of São Paulo (“PROCON”), Consumer Defense Office of the Department of Justice, Consumer Defense Committee of the Legislative Assembly of the State of Rio de Janeiro and the Public Prosecution Office of the State of Rio de Janeiro. Booking.com alleged that (i) we offered higher prices to Brazilian consumers than those offered to foreign consumers for the same accommodation during the same period of time (“geopricing”) and (ii) we made accommodations unavailable for Brazilian consumers whereas foreign consumers were allowed to book the same accommodations (“geoblocking”). Based on these allegations, Booking.com requested that the public prosecution offices order us to pay penalties and/or to initiate public civil actions against us in order to prevent the alleged practices. We presented our administrative defenses to all claims. Such complaints resulted in investigation proceedings with the respective authorities.

In June 2018 the Consumer Defense Office of the Department of Justice issued a decision against Decolar and condemned it to pay a fine in the amount of R\$7.5 million, on the grounds of alleged geopricing and geoblocking practices and obligated Decolar to cease such practices. We appealed such decision. The proceeding filed before PROCON originally closed in favor of Decolar; however, on January 23, 2020, the same Office issued a new resolution imposing a fine against Decolar in the amount of R\$1.2 million. As of the date of this Annual Report, Decolar already filed its defense, which evidences the inconsistencies in PROCON’S resolution, especially considering the former favorable decision. We are currently waiting for PROCON’s the decision.

In January 2018, the Public Prosecutor’s Office of the State of Rio de Janeiro filed a public civil action against us in the Rio de Janeiro court. This complaint also refers to the alleged geopricing and geoblocking practices in detriment to Brazilian consumers and seeks the cessation of the practice and payment of damages. We filed our defense on

March 20, 2018 and provided evidence that we weren't engaging in those alleged practices, however the Rio de Janeiro Public Attorney Office requested to the court the suspension of the injunction granted to Decolar, not to seal (classify) Decolar's defense, and make public available Decolar's defense documentation. Decolar appealed and the court kept its defense sealed and private; however the court decided to start the phase of "expert examination", which has not started yet.

Although we believe our Brazilian subsidiary has meritorious defenses to this lawsuit and administrative proceedings, we cannot assure you what the ultimate outcome of this matter will be. The final resolution of these claims, which could take several years, is not likely to have a material effect on our financial position or results of operations.

### Argentina

On June 28, 2017, the *Sindicato Empleados de Comercio de Capital Federal* (Union for Employees of the Commercial Sector in the City of Buenos Aires, or "SECCF") filed a lawsuit against our Argentine subsidiary, Despegar.com.ar, in which SECCF demanded the application of its collective labor agreement to all of the employees of the subsidiary. According to SECCF's claim, Despegar.com.ar should have withheld and transferred to SECCF an amount equal to 2% of the gross monthly salaries of all of its employees for the period from October 2011 through October 2016. As a result, SECCF seeks payment of approximately AR\$18 million. On April 19, 2018 SECCF filed a new claim, similar to the previous one, but against La Inc S.A.—an Argentine subsidiary company that had already been merged with Despegar.com.ar several months before. In this new claim, SECCF sought an amount equal to the 0.5% of the gross monthly salaries of La Inc's employees for certain periods (July and August, 2012; September, 2013; and March, 2015 to the present).

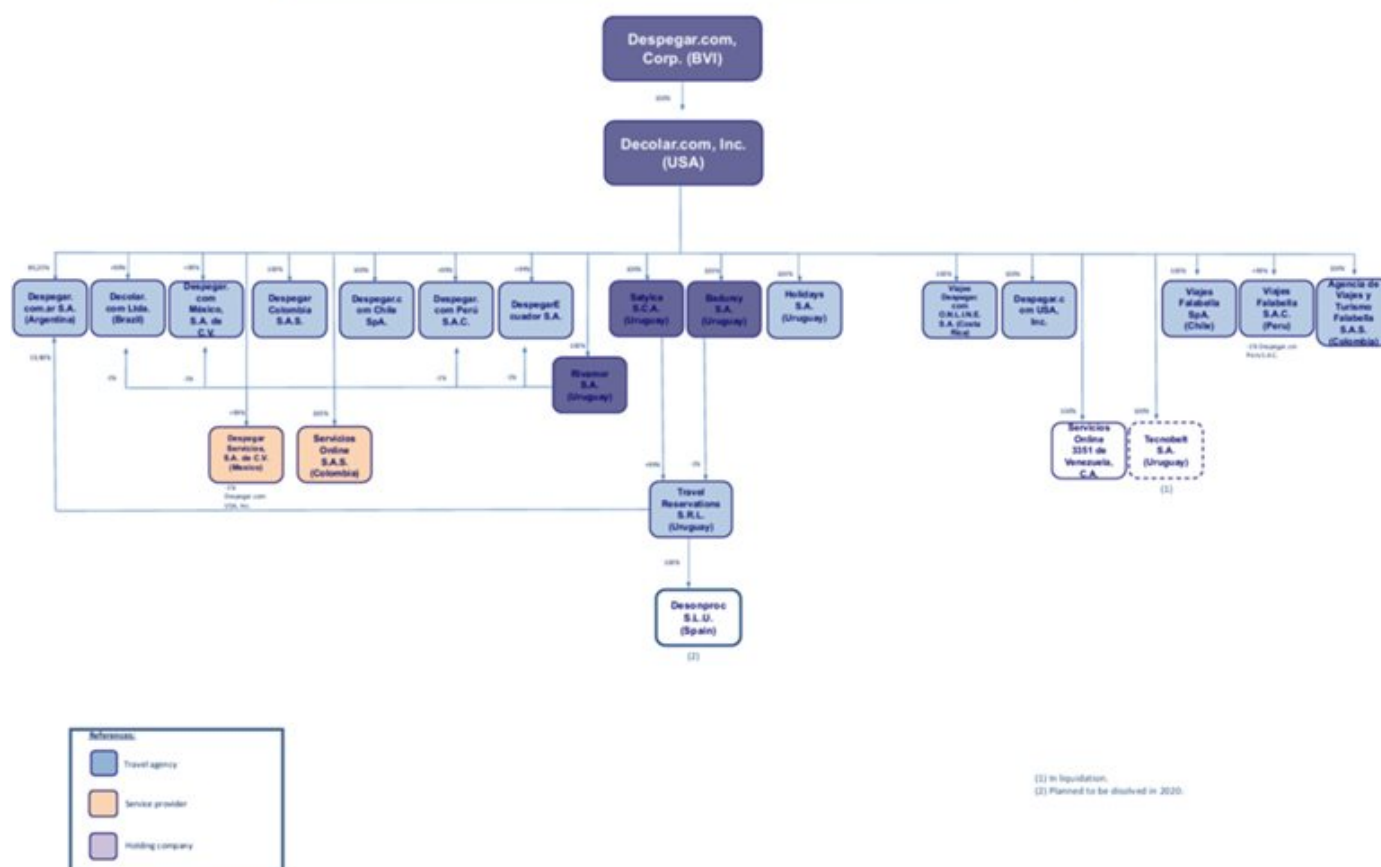
We filed both responses in a timely manner, rejecting all the claims, with similar defenses. On May, 2019 we reached a settlement with SECCF in both proceedings, in which we accepted to execute a new labor collective agreement with the union, including certain employees, and the union agreed to withdraw these claims. The new collective agreement comes into effect beginning as of April 2020.

As in Brazil, Booking.com filed two claims in Argentina accusing our Argentinian subsidiary of carrying out certain illegal practices (geopricing and geoblocking) by favoring foreign consumers versus local consumers. The claims were filed before the National Consumer Protection Office (August 2019), and the National Unfair Competition Office (November 2019). In the first claim, Despegar filed its response rejecting plaintiff's allegation and introducing a counterclaim, asserting that it was Booking.com and not Despegar who carried out misleading practices against consumers. We also accused Booking of lacking the compulsory license granted by the Tourism Ministry to sell tourism products in Argentina. On December 23, 2019 the National Consumer Protection Office rejected the claim filed by Booking and ordered an investigation against it, to be carried out before the National Ministry of Tourism; however, the decision may still be appealed by Booking. In the second claim (filed before the National Unfair Competition Office in November 2019) we filed our response rejecting plaintiff's allegation on the same basis used on the case before the Consumer Protection Office. The Unfair Competition Office is in the process of collecting evidence. We believe that the final resolution of this claim is not likely to have a material effect on our financial position or results of operations.

### **C. Organizational Structure**

Despegar.com, Corp. is a holding company organized in the British Virgin Islands, which owns, directly or indirectly, all of our operating subsidiaries. The diagram below depicts the organizational structure of our key subsidiaries:

## Despegar Group corporate structure (as of February 2020)



### D. Property, Plants and Equipment

The following table shows the location of our significant leased offices and customer service centers, and the term of the leases under which they operate.

City, Country	Facility	Address	Approximate Square Meters	Agreement Expiration Date
Buenos Aires Argentina	Argentina operation and regional functions	Avenida Corrientes 746	2,030	02/28/2023
Buenos Aires, Argentina	Argentina operation and regional functions	Juana Manso 999, 2 Floor	4,422	08/31/2021
Buenos Aires, Argentina	Argentina operation and regional functions	Juana Manso 1069, 5 Floor	1,203	05/21/2022
La Plata, Buenos Aires Argentina	Argentina operation	Camino Centenario esq. 511, La Plata	2,600	08/31/2022
Bogotá, Colombia	Colombia operation and customer service center	Interior 101, Manzana 15, Carretera 106 Nbr. 15A-25, Free Trade Zone	1,754	02/23/2021

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Montevideo, Uruguay	International Hotels, Packages and Other Travel Products operations and Shared service center	Ruta 8 Km. 17,500, local 318, edificio 300, Zonamerica	2,092	09/14/2020
Sao Paulo, Barueri, Brazil	Brazil operation	Alameda Grajuá 219	5,600	08/16/2023

We also own two properties: (i) an approximately 2,077 square meter facility at Jujuy 2013 in the Parque Patricios tech district of Buenos Aires, Argentina, which houses part of our Argentina operations including IT support, and (ii) an approximately 223 square meter facility on Avenida Francisco de Miranda in Caracas, Venezuela, which houses our Venezuela operations.

#### **ITEM 4A. UNRESOLVED STAFF COMMENTS**

None.

#### **ITEM 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

##### **A. Operating Results**

###### **Overview**

We are the leading online travel company in Latin America, known by our two brands, Despegar, our global brand, and Decolar, our Brazilian brand. We have a comprehensive product offering, including airline tickets, packages, hotels and other travel-related products, which enables consumers to find, compare, plan and purchase travel products easily through our marketplace. We provide our network of travel suppliers a technology platform for managing the distribution of their travel products and access to our travel customers.

During 2019, 2018 and 2017, we had approximately 5.2 million, 5.3 million and 4.6 million travel customers, respectively. For the years ended December 31, 2019, 2018 and 2017, our gross bookings were \$4.7 billion, \$4.7 billion and \$4.4 billion, respectively.

We organize our business into two segments: (1) Air, which consists of the sale of airline tickets, and (2) Packages, Hotels and Other Travel Products, which consists of travel packages (which can include airline tickets and hotel rooms), as well as stand-alone sales of hotel rooms (including vacation rentals), car rentals, bus tickets, cruise tickets, travel insurance and destination services. In 2019, 38% and 62% of our total revenue derived from our Air and our Packages, Hotels and Other Travel Products segments, respectively. In 2018, 40% and 60% of our total revenue derived from our Air and our Packages, Hotels and Other Travel Products segments, respectively, while in 2017, 46% and 54% of our total revenue derived from our Air and our Packages, Hotels and Other Travel Products segments, respectively.

We primarily generate revenue as a result of our facilitation services to our travel suppliers and travel customers.

Our primary sources of revenue are:

- commissions earned from facilitation services to travel suppliers, including facilitating reservations of flight tickets, hotel accommodations, car rentals, vacation packages and other travel-related products and services;
- service fees charged to travel customers for facilitation services including the handling and processing selected travel products, the facilitation of payment processing, and limited post-booking services related to handling minor inquiries or minor administrative changes;

- override commissions or incentives from travel suppliers and GDS providers if certain performance conditions are met; and
- advertising revenues from the sale of advertising placements on our websites.

We operate under two business models: the Pre-Pay/Merchant Business Model and the Pay-at-Destination/Agency Business Model. Under the Pre-Pay/Merchant Business Model, we generally receive the entire amount of the travel product sold up front at the time of booking, which comprises (i) the value of the travel product set and offered by the travel supplier, of which we retain the commission agreed with the travel supplier, and (ii) the service fee amount we charged to travel customers for the facilitation services. Under the Pay-at-Destination/Agency Business Model, except for the amount corresponding to service fees charged by the travel supplier which is paid upfront, travel customers pay the travel supplier directly at destination. Commissions from travel suppliers are paid directly to us by travel suppliers, generally after they use the travel service.

For the years ended December 31, 2019, 2018 and 2017, we generated:

- revenue of \$524.9 million, \$530.6 million and \$523.9 million, respectively;
- operating (loss) / income of \$(8.9) million, \$45.4 million and \$71.2 million, respectively;
- net (loss) / income of \$(20.9) million, \$19.2 million and \$42.4 million, respectively; and
- Consolidated Adjusted EBITDA of \$25.6 million, \$67.6 million and \$89.4 million, respectively.

In May 2017, the stockholders of our predecessor, Decolar.com, Inc., a Delaware corporation, exchanged their shares for ordinary shares of Despegar.com, Corp., a business company incorporated in the British Virgin Islands to create a BVI holding company. Following the exchange, our shareholders own shares of Despegar.com, Corp. and Decolar.com, Inc. is a subsidiary of Despegar.com, Corp. The consolidated financial information as of December 31, 2016 and 2015, and for the three years ended December 31, 2017, 2016 and 2015, to the extent related to the events and periods prior to May 3, 2017, are the consolidated financial information of Decolar.com, Inc., which is our predecessor for accounting purposes.

### **Novel Coronavirus 2019 (COVID-19)**

The ongoing COVID-19 pandemic is disrupting the global economy and the travel industry, and consequently adversely affecting our business, results of operations and cash flows. As conditions are recent, uncertain and changing rapidly, it is difficult to predict the full extent of the impact that the pandemic will have on our Company.

The recent outbreak of COVID-19, which has been declared by the World Health Organization to be a “public health emergency of international concern,” has rapidly spread across the globe and is impacting worldwide economic activity and—in particular—the travel industry. Countries around the world, including in Latin America, have adopted extraordinary measures to stem the spread of COVID-19, including imposing travel restrictions and bans, closing borders, establishing restrictions on public gatherings, instructing residents to practice social distancing, requiring closures of non-essential businesses, issuing stay at home advisories and orders, implementing quarantines and similar actions. Depending on how the spread of the virus evolves, governments may extend these measures for longer periods.

The impact to date of the COVID-19 pandemic on global economic conditions and on the travel industry has been sudden and severe. The pandemic has significantly increased economic uncertainty and is likely to cause a global recession. Moreover, leisure travel across the world has come to a virtually immediate and complete halt during the past weeks. We cannot predict how long the COVID-19 pandemic will continue or how long current or future travel restrictions will remain in place.

Demand for travel began showing early initial signs of weakness by the beginning of March 2020. Within a matter of days, with more news of the potentially extensive spreading of the virus to other parts of the world, travel demand

began to decline significantly, and then the decline accelerated precipitously as governments implemented measures to limit the spread of the virus. Since mid-March, we began experiencing—and continue to experience—an almost complete stoppage in new travel booking, and a spike in customer cancellations or reschedulings of existing bookings for substantially all near term travel. During the second half of the month of March of this year, our gross bookings have declined by over 95% as compared to the comparable period of last year. We estimate that revenues for the month of March 2020 amounts to approximately \$2.2 million, a decline of 93% as compared to the previous month, and revenues for the first quarter of 2020 amounts to approximately \$78.2 million, a decline of 41% as compared to the same quarter of the previous year. See note 26 to our consolidated financial statements. In addition, we have incurred additional customer service costs in connection with servicing travelers affected by the outbreak, which also has a negative impact on our results of operations. We are also evaluating impairments on goodwill and investments, and we may recognize allowances in relation to advance payments to travel suppliers. Consequently, despite strong results during the months of January and February, we expect that our net income, Adjusted EBITDA and cash flows from operating activities will be adversely affected during the first quarter of 2020.

On March 20, 2020, we withdrew our guidance for the first quarter of 2020, until there is a better understanding of the duration and depth of significantly reduced travel demand resulting from the COVID-19 pandemic and governments' extraordinary measures. Because the extent of the COVID-19 pandemic and its impact on travel across the world cannot be predicted at this time, the full extent to which COVID-19 will impact our business, results of operations and cash flows is currently unknown. Although we have not previously experienced such an unprecedented decline in travel demand, we believe that the severity of the impact on our Company will depend, to a large extent, on how long the crisis continues. Based on current conditions and the foreseeable scope and extension of the governments' measures, we expect a more significant impact to our financial performance for the second quarter of 2020, primarily because we expect the crisis to continue for at least significant part of the second quarter. We do not expect our financial performance to improve until travel consumers are able and willing to resume travel plans and travel suppliers are able and willing to resume their operations and product offerings, which will depend to a large degree, on health concerns from the pandemic subsiding and on the recovery of economic conditions.

We are taking significant measures to mitigate the impact of the crisis on our Company. Among other measures, we are prioritizing the health and safety of our employees, which have been working remotely since the middle of March, even before mandatory quarantines were imposed. We are also focusing on our customer service efforts to address the increased need of our travel customers, in particular with changes to their travel plans and arrangements. For that purpose, the Company has (i) reallocated employees to customer support care, doubling the number of representatives handling inbound calls; (ii) improved the automation capabilities of digital channels to assist clients; and (iii) provided customers with flexible conditions to reschedule their travel plans and, in some cases, cancelling their existing travel bookings.

Additionally, we are taking steps to significantly reduce non-critical expenditures and readjusting structural costs to deliver savings and preserve cash, including (i) temporarily reducing salaries of the senior and middle management; (ii) suspending bonuses to all employees; (iii) reducing part of our workforce and implementing a hiring freeze and limiting inflation salary increases; (iv) reducing working hours and implementing unpaid leave in certain locations; (v) accelerating the capture of synergies from the acquisitions of Viajes Falabella; (vi) renegotiating supplier payment terms and conditions; (vii) reviewing all contracts and commitments; and (viii) deferring non-critical capital expenditures. In addition, the Company has also reduced its marketing investments. We expect these measures to significantly reduce our expenses during 2020.

### **Key Trends and Factors Affecting Our Business**

We believe that our results of operations and financial performance will be driven primarily by the following long-term trends:

- *Growth in and Retention of our Customer Base:* A key driver of our revenue will be the number of customer transactions and the growth in our customer base. We have grown our travel customer base from 2.7 million travel customers booking travel with us in 2012 to 5.2 million in 2019. One important driver of growth in our travel customer base is consumer awareness of our brand which we foster via our online and offline marketing throughout our target markets in Latin America. We also benefit from network effects, in that a larger customer base helps us to attract additional travel suppliers and, in

turn, a larger network of travel suppliers helps us to attract new travel customers as well as drive retention and repeat purchases. We focus on maintaining strong customer satisfaction to build long-term customer relationships. In 2019 and 2018, approximately 64% and 61%, respectively, of our travel customers had completed previous purchases on our platform.

- *Cross-Selling:* Our financial results are also driven by our ability to cross-sell and increase the number of products that we are able to sell in connection with each trip, which allows us to increase our revenue from each transaction without incurring the costs of acquiring additional travel customers.
- *Changes in Product Mix and New Product Offerings:* In addition to the total volume of transactions, our operating results also vary depending on product mix. In particular, packages and hotels tend to have higher margins than air travel. In addition, we continually seek to expand our product offerings, whether by adding new product categories, such as our introduction of our bus, local concierge and vacation rentals products, which may have higher or lower margins than our overall business, or by the ongoing expansion of our travel supplier base.
- *Packages as a driver of business growth:* A key strategy of our business for the coming years, is to increase our proprietary activities, in both forms allotments and tour operations, which allow us to generate higher margins, but is associated with inventory risk. We believe we have the capability to appropriately manage this inventory.
- *Shift to Mobile Transactions:* As smart phone penetration in Latin America continues to increase, Latin American consumers have begun to make greater use of mobile devices to transact online. Mobile is an increasingly important part of our business, as consumers are quickly able to access and browse our real-time travel offerings, compare prices and make purchases through their mobile devices. During 2019 and 2018, mobile accounted for approximately 60% and 61%, respectively, of all of our user visits, and approximately 39% and 34%, respectively, of our transactions were completed on our mobile platform, complementing our desktop website traffic. In addition, the number of transactions via mobile and other platforms increased by approximately 17.6% in 2019 compared to 2018. During 2019, we increased our travel customers in mobile devices by approximately 14%. Our strategic focus on mobile enables us to remain connected to travel customers and provides the opportunity for travel customers to access our platform after they have arrived at their destination to purchase additional products, such as rental cars, destination services and travel insurance, or make last-minute hotel or air travel bookings.
- *Selling and Marketing Expenditures:* Our number of transactions and gross bookings, and consequently our revenue and results of operations, are impacted by the level of our selling and marketing expenditures. We monitor our selling and marketing expenditures and their impact on our revenue in many cases virtually in real-time, as a significant amount of our selling and marketing expenditures relate to online advertising for which we can obtain real-time click-through data. As a result, we are able to adjust our selling and marketing expenditures to respond rapidly to changing market conditions. During 2019, our selling and marketing expenditures increased 8% compared to 2018.

## Key Business Metrics

We regularly review the following key metrics to evaluate our business, measure our performance, identify trends in our business, prepare financial projections and make strategic decisions.

	Year Ended December 31,					
	2019	2018	% Change	2018	2017	% Change
	(in thousands)			(in thousands)		
Operational						
Number of transactions						
By country						
Brazil	4,121	4,230	(3)	4,230	3,713	14

	Year Ended December 31,					
	2019	2018	% Change	2018	2017	% Change
	(in thousands)			(in thousands)		
Argentina	2,324	2,378	(2)	2,378	2,264	5
Other	4,233	3,785	12	3,785	3,079	23
Total	10,678	10,393	3	10,393	9,056	15
By segment						
Air	6,220	5,945	5	5,945	5,285	12
Packages, Hotels and Other Travel						18
Products	4,458	4,448	NM	4,448	3,771	
Total	10,678	10,393	3	10,393	9,056	15
Gross bookings	\$4,734,257	\$4,715,325	NM	\$4,715,325	\$4,454,548	6

#### Financial

Consolidated adjusted EBITDA (unaudited)	\$ 25,562	\$ 67,644	(62)	\$ 67,644	\$ 89,354	(24)
Adjusted Segment EBITDA						
Air	3,346	27,790	(88)	27,790	58,397	(52)
Packages, Hotels and Other Travel						
Products	36,546	37,739	NM	37,739	31,341	20
Unallocated	(14,330)	2,115	NM	2,115	(384)	NM

Note: "NM" denotes not meaningful.

#### Number of Transactions

The number of transactions for a period is an operating measure that represents the total number of travel customer orders completed on our platform in such period. We monitor the total number of transactions, as well as the number of transactions in each of our segments and the number of transactions with travel customers in each of the countries where we operate. The number of transactions is an important metric because it is an indicator of the level of engagement with our travel customers and the scale of our business from period to period but, unlike gross bookings and our financial metrics, the number of transactions is independent of the average selling price of each transaction, which can be significantly influenced by fluctuations in currency exchange rates.

#### Gross Bookings

Gross bookings is an operating measure that represents the aggregate purchase price of all travel products booked by our travel customers through our platform during a given period. We generate substantially all of our revenue from commissions and other incentive payments paid by our travel suppliers and service fees paid by our travel customers for transactions through our platform, and, as a result, we monitor gross bookings as an important indicator of our ability to generate revenue.

#### Adjusted Segment EBITDA

We measure our segment's performance by our Adjusted Segment EBITDA. We use Adjusted Segment EBITDA for purposes of making decisions about allocating resources to our segments and to internally evaluate their financial performance because we believe Adjusted Segment EBITDA reflects current core operating performance of each segment and provides an indicator of each segment's ability to generate cash. Adjusted Segment EBITDA is calculated, with respect to each segment, as our net income / (loss) exclusive of financial income / (expense), income tax, depreciation, amortization, impairment of long-lived assets and stock-based compensation expense. See note 24 to our audited consolidated financial statements for our Adjusted Segment EBITDA information and segment information.

#### Consolidated Adjusted EBITDA

We define Consolidated Adjusted EBITDA as net income / (loss) exclusive of financial income / (expense), income tax, depreciation, amortization, impairment of long-lived assets and stock-based compensation expense.



We believe that Consolidated Adjusted EBITDA, a non-GAAP financial measure, provides useful supplemental information to investors about us and our results. Consolidated Adjusted EBITDA is among the measures used by our management team to evaluate our financial and operating performance and make day-to-day financial and operating decisions. In addition, Consolidated Adjusted EBITDA is frequently used by securities analysts, investors and other parties to evaluate companies in the online travel industry. We also believe that Consolidated Adjusted EBITDA is helpful to investors because it provides additional information about trends in our core operating performance prior to considering the impact of capital structure, depreciation, amortization, and taxation on our results.

Consolidated Adjusted EBITDA should not be considered in isolation or as a substitute for other measures of financial performance reported in accordance with U.S. GAAP. Consolidated Adjusted EBITDA has limitations as an analytical tool, including:

- Consolidated Adjusted EBITDA does not reflect changes in, including cash requirements for, our working capital needs or contractual commitments;
- Consolidated Adjusted EBITDA does not reflect our financial expenses, or the cash requirements to service interest or principal payments on our indebtedness, or interest income or other financial income;
- Consolidated Adjusted EBITDA does not reflect our income tax expense or the cash requirements to pay our income taxes;
- although depreciation and amortization are non-cash charges, the assets being depreciated or amortized often will need to be replaced in the future, and Consolidated Adjusted EBITDA does not reflect any cash requirements for these replacements;
- although stock-based compensation is a non-cash charge, Consolidated Adjusted EBITDA does not consider the potentially dilutive impact of stock-based compensation; and
- other companies may calculate Consolidated Adjusted EBITDA differently, limiting its usefulness as a comparative measure.

We compensate for the inherent limitations associated with using Consolidated Adjusted EBITDA through disclosure of these limitations, presentation of our consolidated financial statements in accordance with U.S. GAAP and reconciliation of Consolidated Adjusted EBITDA to the most directly comparable U.S. GAAP measure, net income.

The table below provides a reconciliation of our net (loss) / income to Consolidated Adjusted EBITDA:

	<b>Year Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>		
Net (loss) / income	\$ (20,910)	\$ 19,154	\$ 42,366
Add (deduct):			
Financial expense/ (income), net	17,215	19,167	16,879
Income tax (benefit) / expense	(5,225)	7,069	11,994
Depreciation expense	6,659	4,985	5,075
Impairment of long-lived assets	—	363	—
Amortization expense	16,137	10,140	8,751
Stock-based compensation expense	11,686	6,766	4,289
Consolidated Adjusted EBITDA (unaudited)	<u>\$ 25,562</u>	<u>\$ 67,644</u>	<u>\$ 89,354</u>

## Components of Results of Operations

### *Revenue*

Our revenue is primarily generated from the commissions we charge for the facilitation services we provide to travel suppliers and travel customers, to book reservations of flight tickets, hotel accommodations, car rentals, vacation packages and other travel-related products and services, which include (i) the handling and processing of selected travel products, (ii) the facilitation of payment processing, and (iii) limited post-booking services related to handling minor inquiries or minor administrative changes. To a lesser extent, we also derive our revenue from override commissions or incentives from travel suppliers and GDS providers (if certain performance conditions are met), and the sale of advertisement spaces in our website.

The structure of our fees and commissions varies significantly by product. Travel supplier incentives take several forms, including upfront commissions, back-end commissions and other bonuses based on satisfying volume targets for certain travel suppliers, as well as certain payments from our GDS suppliers and other travel suppliers. Service fees from our travel customers may vary based on a number of factors, including the type of product, destination and point of sale and promotional activities.

We operate under two business models: the Pre-Pay/Merchant Business Model and the Pay-at-Destination/Agency Business Model. Under the Pre-Pay/Merchant Business Model, we generally receive the entire amount of the travel product sold upfront at the time of booking, which comprises (i) the value of the travel product set and offered by the travel supplier, from which we retain the commission agreed with the travel supplier, plus (ii) the service fee we charge to travel customers for the facilitation services. Under the Pay-at-Destination/Agency Business Model—except for the service fees which are charged upfront—, travel customers pay the travel supplier directly at destination. Commissions from travel suppliers are paid directly to us by travel suppliers, generally after the travel customer uses the travel service. Under both business models, we recognize revenue upon the transfer of control of the promised facilitation services to travel customers and travel suppliers, in an amount that reflects the consideration we expect to be entitled to, in exchange for those facilitation services. We have determined that our customers (travelers and travel suppliers) obtain control of the promised facilitation services at the time the corresponding booking is completed. See Note 3 to our audited consolidated financial statements.

Payments received for cancellable or refundable transactions (pursuant to the terms and conditions of the travel products set by travel suppliers), are considered as “variable”, and we record a provision for cancellations against such revenue, based on past objective historical experience.

Under both business models, we have determined that net presentation (the amount billed to the traveler minus the amount paid to the travel supplier) is appropriate for the majority of our revenue transactions because the travel supplier is primarily responsible for providing the underlying travel services. We do not control the service or travel product provided by the travel supplier to the traveler, and we do not bear inventory risk. Taxes assessed by a government authority, if any, are excluded from the measurement of transaction prices that are imposed on the travel related services or collected from travel customers (which are therefore excluded from revenue). We occasionally present our revenue on a gross basis for some bookings where we pre-purchase flight seats. These transactions have been limited to date.

We seek to develop and maintain long-term relationships with travel suppliers, GDSs and other intermediaries. Our travel supplier management personnel work directly with travel suppliers to optimize access to their travel products for visitors to our platform, including through promotional activity, and maximize our revenue. In most cases, we enter into non-exclusive contracts with our travel suppliers, although in the case of some travel suppliers we may have informal arrangements without written contracts. Typically, supplier payment terms are negotiated on a regular basis. We have a contract with Expedia and its affiliates to offer through our platform hotel and other lodging products for all countries outside of Latin America. The contract establishes agreed payment terms. In each of the years 2019, 2018 and 2017, 8.4%, 9.2% and 9.1% of our gross bookings, respectively, were attributable to supply provided by affiliates of Expedia. For more information about our relationships with Expedia, see “Item 7. Major Shareholders and Related Party Transactions —B. Related Party — Relationship with Expedia” and note 17 of our audited consolidated financial statements. Given the fragmentation in travel suppliers in our markets, the frequency of negotiations of payment terms and competitive conditions, we have experienced what we consider to be limited volatility related to our arrangements with travel suppliers; however, we cannot assure you that we will not experience more volatility in the future.

### ***Cost of Revenue***

Cost of revenue consists of (1) credit card processing fees, (2) fees that we pay to banks relating to the travel customer financing installment plans that we offer, (3) the costs of operating our fulfillment center, customer service and risk management, (4) costs borne by us as a result of credit card chargebacks, including those related to fraud, (5) claims against us under consumer protection laws, (6) certain transaction-based taxes, other than income taxes (which are included under income tax expense) and sales taxes (which are deducted from our revenue) (7) a portion of overhead expenses distributed based on the percentage of our employees attributable to cost of revenue, and (8) depreciation of property, plant and equipment related to our operation.

### ***Selling and Marketing***

Selling and marketing expense is comprised of direct costs, including online marketing such as search engine and social media marketing, and offline marketing, such as television and print advertising. It also includes expenses of our selling and marketing personnel, and related overhead usually distributed based on the percentage of our employees attributable to selling and marketing (for example, rent, facilities, depreciation etc.) Selling and marketing expense also includes commissions paid to certain third-party affiliates for sales that they generate through our systems. Reductions on a *per transaction* basis are expected to continue as the economy scales. However, the impact on operating contribution will vary with the level of activity and average selling prices.

### ***General and Administrative***

General and administrative expense consists primarily of personnel expenses for management, including both senior management and local managers, and employees involved in general corporate functions, including finance, accounting, tax, legal, human resources and commercial analysts, our stock-based compensation expenses for grants to members of our management team and professional and consulting fees. General and administrative expense also includes a portion of the overhead distributed based on the percentage of our employees attributable to general and administrative (for example, rent, facilities and depreciation). General and administrative expense also includes bad debt expense that we recognize relating to the risk that we are unable to collect receivables from certain travel suppliers.

### ***Technology and Product Development***

Technology and product development expense includes the costs of developing our platform, as well as information technology costs to support our infrastructure, back-office operations and overall monitoring and security of our networks. This expense is principally comprised of personnel, and depreciation and amortization of technology assets, including hardware, and purchased and internally-developed software. Technology and product development expense also includes a portion of the overhead expense for our facilities, based on the percentage of our employees attributable to technology and product development. During 2019, 2018 and 2017, we capitalized \$22.9 million, \$13.5 million and \$12.9 million, respectively, for internal-use software and website development costs.

We classify our supplier relationships as a component of the products that we offer to our travel customers and, accordingly, our costs of acquiring and maintaining supplier relationships, including the costs of our personnel engaged in supplier relationships, are included as a component of technology and product development expense.

### ***Financial Income / (Expense)***

Our functional currency and the functional currency of certain of our subsidiaries, including our U.S., Uruguay, Ecuador, Venezuela and Argentina (beginning July 1, 2018) subsidiaries, is the U.S. dollar. The functional currency of our other subsidiaries is their respective local currency. Gains and losses resulting from transactions by each subsidiary in non-functional currency are included in financial income / (expense). Financial income / (expense) also includes gains and losses on certain derivative financial instruments that we use from time to time, to manage our exposure to foreign exchange volatility.

In addition, our assets and liabilities are translated from local currencies into dollars at the end of each period. However, any gains and losses resulting from such translations are reflected in our consolidated statement of comprehensive income / (loss) and are not reflected in our consolidated statements of operations. See also “Item 11. Quantitative and Qualitative Disclosures about Market Risk—Foreign Exchange Risk.”

Our travel customers typically finance their purchases by using installment plans offered by third-party financial institutions. Our agreements with local and regional banks allow us to offer travel customers the possibility of installment payment plans without assuming collection risk from the travel customers and receive payment in full (provided we choose not to factor such installment payments). We do not provide any type of financing by ourselves. Our partnering local and regional banks establish, offer and administer any financing plan to travelers. When travel customers make purchases using installment plans, the facilitating bank bears the full risk that the travel customer will actually make the required installment payments.

Regardless of any financing or installment agreement offered by the banks, for transactions in certain territories, we generally receive full payment of our commissions and service fees within less than one month after the travel customer completes the booking in our platforms, in an amount that reflects its cash-selling price. We typically receive payment before travel occurs. In other territories, such as in Brazil, we generally receive payment from the financing bank only after each scheduled payment is due from the travel customer regardless of the fact that the travel customer actually makes the scheduled payments. We generally receive payment before or when the travel occurs. In some cases, we elect to factor or discount installment receivables, allowing us to receive the payment of the purchase price more quickly.

For the years ended December 31, 2019 and 2018, more than 57% of our transactions were completed using an installment plan offered by a financial institution.

We maintain revolving credit facilities in certain jurisdictions, and the associated interest expense is also included in financial income / (expense). As of December 31, 2019, we had outstanding borrowings of \$19.2 million under these facilities.

### *Income Tax Expense*

As a Delaware corporation, our predecessor and subsidiary Decolar.com, Inc. is subject to taxation in the United States. In May 2017, the stockholders of Decolar.com, Inc. exchanged their shares for newly issued shares of Despegar.com, Corp. Although Despegar.com, Corp. is organized in the BVI, as a result of the exchange, under the “anti-inversion” rules of Section 7874 of the U.S. Internal Revenue Code, Despegar.com, Corp. is treated for U.S. federal tax purposes as a U.S. corporation and, accordingly, Despegar.com, Corp. is subject to U.S. federal income tax on its worldwide income, at a maximum rate which was reduced from 35% to 21% effective January 2018.

We are subject to foreign taxes in the multiple jurisdictions where we operate. In Brazil and Argentina, the income tax statutory rates are 34% and 30%, respectively. In certain jurisdictions, we have outstanding net operating losses from prior periods.

### **Results of Operations**

#### *Year Ended December 31, 2019 Compared to Year Ended December 31, 2018*

	Year Ended December 31,				% Change
	2019	(in thousands)	2018		
		% of Revenue		% of Revenue	
<b>Revenue</b>					
Air	\$201,638	38.4	\$214,804	40.5	(6.1)
Packages, Hotels and Other Travel Products	323,238	61.6	315,810	59.5	2.4
<b>Total revenue</b>	524,876	100.0	530,614	100.0	(1.1)
Cost of revenue	179,565	34.2	172,110	32.4	4.3
<b>Gross profit</b>	345,311	65.8	358,504	67.6	(3.7)
<b>Operating expenses</b>					
Selling and marketing	187,894	35.8	174,357	32.9	7.8

	Year Ended December 31,				
	2019		2018		
	(in thousands)				
General and administrative	92,962	17.7	67,240	12.7	38.3
Technology and product development	73,375	14.0	71,154	13.4	3.1
Impairment of long-lived assets	—	—	363	0.1	NM
<b>Total operating expenses</b>	<b>354,231</b>	<b>67.5</b>	<b>313,114</b>	<b>59.0</b>	<b>13.1</b>
<b>Operating (loss) / income</b>	<b>(8,920)</b>	<b>(1.7)</b>	<b>45,390</b>	<b>8.6</b>	<b>NM</b>
Financial income	7,944	1.5	7,621	1.4	4.2
Financial expense	(25,159)	(4.8)	(26,788)	(5.0)	(6.1)
<b>Net (loss) / income before income taxes</b>	<b>(26,135)</b>	<b>(5.0)</b>	<b>26,223</b>	<b>4.9</b>	<b>NM</b>
Income tax benefit / (expense)	5,225	1.0	(7,069)	(1.3)	NM
<b>Net (loss) / income</b>	<b>\$ (20,910)</b>	<b>(4.0)</b>	<b>\$ 19,154</b>	<b>3.6</b>	<b>NM</b>

Note: “NM” denotes not meaningful.

### Revenue

Revenue decreased from \$530.6 million in 2018 to \$524.9 million in 2019, primarily a result of:

- a decrease of \$18.4 million in commission and service fees, especially in hotels products, due to a decrease in demand caused principally by the challenging macroeconomics conditions in Argentina, Brazil and Chile during 2019, which included currency devaluations of 59%, 4% and 8%, respectively, and, to a lesser extent, due to a reduction in travel customer fees and discounts in packages transactions to support market share growth;
- a decrease of \$10.0 million in incentives received from airlines and hotel, as a result of lower demand, especially during the first half of 2019 due to the Argentine peso devaluation and the suspension of operations of a Brazilian low cost airline; and
- an increase in deferred revenues of \$1.6 million generated from the launch in August 2019 of our loyalty program in Brazil.

The decrease was partially offset by:

- the consolidation of Viajes Falabella business since the dates of acquisition in June and July of 2019, which generated an increase of \$20.5 million in revenue; and
- an increase of \$3.4 million in breakage revenue of car rentals and destination services suppliers.

The following is a discussion of our revenue broken down by our two business segments: Air; and Packages, Hotels and Other Travel Products.

*Air Segment.* The revenue in our Air segment decreased by 6%, to \$201.6 million in 2019 from \$214.8 million in 2018, primarily due to:

- the decrease of \$11.6 million in commission and service fees, mainly due to lower pricing offered by airlines which affected our commission, causing a decrease of 10% in average revenue per transactions; and
- the decrease of \$5.9 million in incentives received from airlines, as a result of less volume bonus due to lower travel demand.

The decrease was partially offset by \$4.8 million of revenues from the consolidation of Viajes Falabella since the dates of the acquisition.

*Packages, Hotels and Other Travel Products Segment.* The revenue in our Packages, Hotels and Other Travel Products segment increased by 2%, to \$323.2 million in 2019 from \$315.8 million in 2018. The increase was primarily generated due to:

- \$15.7 million of revenues from the consolidation of Viajes Falabella since the dates of acquisition; and
- an increase of \$3.4 million in breakage revenue from car rentals and destination services suppliers.

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This increase was partially offset by:

- a decrease of \$8.4 million in commission and service fees, due to lower prices, especially in hotels transactions, and discounts in packages transactions; and
- a decrease of \$4.1 million in incentives received from suppliers, as a result of less volume bonus due to lower travel demand.

The following presents a breakdown of our revenue by: commissions, incentives and fees; advertising; commissions for the release of aged payables; and deferred revenue.

	<b>Year Ended December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<b>(in thousands)</b>	
Commissions, incentives and fees(1)	\$ 495,867	\$ 504,287
Advertising(1)	15,063	15,170
Breakage revenue	9,871	6,476
Sales as principal	5,694	4,681
Deferred revenue	(1,619)	—
<b>Total revenue</b>	<b>\$ 524,876</b>	<b>\$ 530,614</b>

(1) Net of sales tax.

The following table presents a breakdown of our revenue for commissions, incentives and fees by: pre-pay model; pay-at-destination model; and other.

	<b>Year Ended December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<b>(in thousands)</b>	
Pre-pay model	\$ 407,258	\$ 415,812
Pay-at-destination model	13,130	20,143
Other(1)	75,479	68,332
<b>Total commissions, incentives and fees revenue</b>	<b>\$ 495,867</b>	<b>\$ 504,287</b>

(1) Primarily includes incentives from our travel suppliers, primarily airlines and GDSs.

Our revenue from our pre-pay model decreased by 2% in 2019 mainly due to lower prices and currency devaluation in Argentina, Brazil and Chile; partially offset by our increased promotional activity to take advantage of higher demand for sales in installments.

Our revenue from our pay-at-destination model decreased by 35% in 2019, mainly due to a decrease in the revenue per transaction caused by the currency devaluation in Argentina, Brazil and Chile, a decrease in the number of transactions, and a shift from international to domestic transactions, which frequently involve pre-pay transactions.

Other revenue increased by 10% in 2019, mainly due to an increase in revenue from GDSs and an increase of international transactions, especially during December 2019 when Argentine travel customers purchased tickets and booked hotels in advance, before the implementation of the new tax PAIS, which led to an increase of incentives.

### *Cost of Revenue*

Cost of revenue increased 4% from \$172.1 million in 2018 to \$179.6 million in 2019. The increase was primarily a result of:

- an increase of \$3.6 million in the cost of installments in Argentina, as a consequence of the application of higher interest rates applied due to the challenges of the country's macroeconomic conditions, combined with the increase of purchases in installments by Argentine travel customers;

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- an increase of \$4.2 million due to the consolidation of Viajes Falabella from the dates of acquisition; and
- an increase of \$2.3 million in expenses generated for the rescheduling of passengers that were affected by the suspension of operations of a Brazilian low cost airline.

This was partially offset by the decrease of \$3.2 million in operations costs, due to the implementation of cost reduction efforts beginning in October 2019.

As a percentage of revenue, cost of revenue represented 32.4% in 2018 and 34.2% in 2019.

### *Gross Profit*

Gross profit decreased 4% from \$358.5 million in 2018 to \$345.3 million in 2019, mainly due to:

- lower commissions and service fees which were affected by macroeconomic conditions and currency depreciation;
- lower incentives as a consequence of the lower travel demand, which prevented us from achieving our incentive targets; and
- the losses generated from travel customer claims in Brazil due to the suspension of operations of a Brazilian low cost airline.

As a percentage of revenue, gross profit represented 67.6% in 2018 and 65.8% in 2019.

### *Selling and Marketing*

Selling and marketing expense increased from \$174.4 million in 2018 to \$187.9 million in 2019, an increase of 8%. The increase was mainly a result of our continued investments to build brand awareness and to increase market share, partially offset by the effects of currency depreciation on costs, lower marketing expenditures, and the implementation of some efficiencies in our marketing strategy.

In addition, during 2019 we began consolidating Viajes Falabella since the dates of acquisition, which resulted in a \$9.1 million increase in expenses, and launched the new Despegar brand (new logo and corporate image), which required an investment of \$8.6 million in communications and advertising campaigns. This was partially offset by a reduction of \$4.2 million in expenses from the implementation of efficiencies in our marketing strategy.

As a percentage of revenue, selling and marketing expense increased from 32.9% in 2018 to 35.8% in 2019.

### *General and Administrative*

General and administrative expense increased 38% from \$67.2 million in 2018 to \$93.0 million in 2019. The increase was due to:

- an increase of \$7.3 million relating to the new tax for export of services implemented in Argentina in 2019;
- an increase of \$6.6 million relating to the consolidation of Viajes Falabella since the dates of acquisition;
- an increase of \$4.9 million in stock based compensations expense, due to new grants during 2019;
- an increase of \$2.5 million in allowances related to receivables from a Brazilian low cost airline which stopped operations at the beginning of 2019;
- an increase of \$1.7 million in legal fees related to the actions that we are pursuing to recover the remaining exposure with the Brazilian low cost airline; and
- an increase of \$1.7 million in severance expenses related to a restructuring process that began in October 2019.

As a percentage of revenue, general and administrative expense increased represented 12.7% in 2018 and 17.7% in 2019.

### *Technology and Product Development*

Technology and product development expense increased from \$71.2 million in 2018 to \$73.4 million in 2019, an increase of 3%. The increase was mainly a result of:

- higher amortization expenses of \$4.7 million related to the increase in internally developed software;

- an increase of \$3.4 million from the consolidation of the Viajes Falabella since the dates of acquisition; and
- an increase of \$0.9 million in severance expenses related to a restructuring process that began in October 2019.

This was partially offset by \$7.7 million in salary expenses which were accounted for as an intangible asset since were invested in the development and improvement of our technological platform.

As a percentage of revenue, technology and product development expense represented 13.4% in 2018 and 14.0% in 2019.

### *Operating Income*

In 2019, we had operating expense of \$8.9 million, compared to operating income of \$45.4 million in 2018, or a decrease in operating results of \$54.3 million. As a percentage of revenue, our operating results represented 8.6% in 2018 and (1.7) % in 2019. The following table presents a breakdown of our operating income by our two business segments.

	<b>Year Ended December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<b>(in thousands)</b>	
Air	\$ (4,370)	\$ 23,160
Packages, Hotels and Other Travel Products	28,830	33,157
Unallocated corporate expenses	(33,380)	(10,927)
Total operating (loss) / income	\$ (8,920)	\$ 45,390

Unallocated corporate expenses increased because the expenses of Viajes Falabella, consolidated since the dates of acquisition were allocated to Unallocated corporate expenses, rather than Air or Packages, Hotels and Other Travel Products.

*Air Segment.* Our operating income from our Air segment decreased from \$23.2 million in 2018 to \$(4.4) million, primarily due to a decrease in Air revenue caused by lower demand and currency devaluation in key markets, a decline in prices which affected our commission as well as the allocation of revenues derived from booked flights in packages to the “Packages, Hotels and other Travel Products” segment. As a percentage of revenue, the operating (loss) / income from our Air segment represented 11% in 2018 and (2)% in 2019.

*Packages, Hotels and Other Travel Products Segment.* Our operating income from our Packages, Hotels and Other Travel Products segment decreased from \$33.2 million in 2018 to \$28.8 million in 2019, primarily due to lower prices and discounts in packages. As a percentage of revenue, the operating income from our Packages, Hotels and Other Travel Products segment represented 11% in 2018 and 9% in 2019.

### *Financial Income / (Expense)*

Financial expense decreased by 10%, from \$19.2 million in 2018 to \$17.2 million in 2019. The decrease was primarily a result of an increase of \$5.5 million in interest income due to short-term cash investments and foreign exchange income generated by non-deliverable forward contracts, partially offset by an increase of \$3.2 million in factoring expense in Brazil as a result of the increase in the number of transactions and gross bookings and consequent increase of credit card receivables, and by the consolidation of a loss of \$0.7 million from Viajes Falabella since the dates of acquisition.

### *Income Tax Expense*

We are subject to taxes in the multiple jurisdictions where we operate. Our tax obligations include current and deferred income taxes and withholding taxes incurred in these jurisdictions. Income tax expense decreased from an expense of \$7.1 million in 2018 to a benefit of \$5.2 million in 2019. Our effective tax rate in 2019 was 20%, compared to 27% in 2018. The lower effective rate in 2019 was due primarily to the decrease in non-taxable income and valuation allowance.



*Year Ended December 31, 2018 Compared to Year Ended December 31, 2017*

	Year Ended December 31,				
	2018		2017		
	(in thousands)				
		% of Revenue		% of Revenue	% Change
Revenue					
Air	\$214,804	40.5	\$241,015	46.0	(10.9)
Packages, Hotels and Other Travel Products	315,810	59.5	282,925	54.0	11.6
Total revenue	530,614	100.0	523,940	100.0	1.3
Cost of revenue	172,110	32.4	142,479	27.2	20.8
Gross profit	358,504	67.6	381,461	72.8	(6.0)
Operating expenses					
Selling and marketing	174,357	32.9	166,288	31.7	4.9
General and administrative	67,240	12.7	72,626	13.9	(7.4)
Technology and product development	71,154	13.4	71,308	13.6	(0.2)
Impairment of long-lived assets	363	0.1	NM	—	NM
Total operating expenses	313,114	59.0	310,222	59.2	0.9
Operating income / (loss)	45,390	8.6	71,239	13.6	(36.3)
Financial income	7,621	1.4	2,389	0.5	219.0
Financial expense	(26,788)	(5.0)	(19,268)	(3.7)	39.0
Net income / (loss) before income taxes	26,223	4.9	54,360	10.4	(51.8)
Income tax benefit / (expense)	(7,069)	1.3	(11,994)	2.3	(41.1)
Net income	\$ 19,154	3.6	\$ 42,366	8.1	(54.8)

Note: "NM" denotes not meaningful.

*Revenue*

Revenue increased from \$523.9 million in 2017 to \$530.6 million in 2018. The increase in revenue was primarily a result of 15% increase in the number of transactions from 9.1 million in 2017 to 10.4 million in 2018, and a 6% increase in gross bookings from \$4,455 million in 2017 to \$4,715 million in 2018.

The increase in revenues is primarily due to:

- an increase of \$ 6.2 million in other incentive, mainly from hotels and car rentals, partially offset by a decrease of \$5.2 million in back end incentives due to the decrease in international flights;
- an increase of \$ 4.7 million generated from the launch of our proprietary activities (tour operations and allotments);
- an increase of \$10.8 million resulting from the change in revenue recognition from the adoption of the new standard ASC 606, as described below; and
- an increase of \$0.8 million and \$ 0.3 million in media revenue and breakage revenue, respectively.

This was partially offset by:

- A decrease in travel customer fee and upfronts of \$10.9 million generated by the challenging macroeconomic conditions in Argentina and currency depreciation, and by the shift from international to domestic travel across key markets, especially Brazil.

As of January 1, 2018, we changed the revenue recognition of our Packages, Hotels and Other Travel Products, reimbursable, and paid-at-destination bookings, from check-out to booking in the context of the new revenue recognition standard ASC 606. We elected to adopt the new standard using the modified retrospective approach for all contracts reflecting the aggregate effect of modifications prior to the date of adoption. Results for reporting periods beginning after January 1, 2018 are presented under the new guidance, while prior period amounts were not adjusted and continue to be reported under the accounting standards in effect for those periods.

The following is a discussion of our revenue broken down by our two business segments: Air; and Packages, Hotels and Other Travel Products.

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*Air Segment.* The revenue in our Air segment decreased by 11%, to \$214.8 million in 2018 from \$241.0 million in 2017, primarily due to a decrease of 21% in the average revenue per transaction for the segment, resulting primarily from a decrease in our rate of commissions, incentives and fees for an amount of \$26.2 million, due to a commercial strategy to increase sales opportunities and a change in the mix-shift from international to domestic travel across key markets.

*Packages, Hotels and Other Travel Products Segment.* The revenue in our Packages, Hotels and Other Travel Products segment increased by 12%, to \$315.8 million in 2018 from \$282.9 million in 2017, primarily due to:

- an increase of 12% in the number of transactions in this segment;
- an increase of \$13.9 million in commission and customer fees;
- an increase of \$1.4 million in incentives, all related to our strategy to increase market share in packages and the investment in marketing to increase packages growth; and
- the launch of our proprietary activities (tour operations and allotments), which generated an increase of \$4.7 million.

This was partially offset by a decrease of 5% in the revenue per transaction, resulting primarily from a greater product mix of domestic travel due to currency depreciation, accompanied by the slower macroeconomic environment and price discounts.

Additionally, as mentioned in the previous paragraph, we changed the revenue recognition of the Packages, Hotels and Other Travel Products reimbursable and paid-at-destination bookings, from check-out to booking.

The following presents a breakdown of our revenue by: commissions, incentives and fees; advertising; commissions for the release of aged payables; and deferred revenue.

	<b>Year Ended December 31,</b>	
	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>	
Commissions, incentives and fees <sup>(1)</sup>	\$ 504,287	\$ 514,126
Advertising <sup>(1)</sup>	15,170	14,277
Commissions for release of aged payables	6,476	6,147
Sales as Principal	4,681	—
Deferred revenue	—	(10,610)
<b>Total revenue</b>	<b>\$ 530,614</b>	<b>\$ 523,940</b>

(1) Net of sales tax.

The following table presents a breakdown of our revenue for commissions, incentives and fees by: pre-pay model; pay-at-destination model; and other.

	<b>Year Ended December 31,</b>	
	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>	
Pre-pay model	\$ 415,812	\$ 412,679
Pay-at-destination model	20,143	23,710
Other <sup>(1)</sup>	68,332	77,737
<b>Total revenue</b>	<b>\$ 504,287</b>	<b>\$ 514,126</b>

(1) Primarily includes incentives from our travel suppliers, primarily airlines and GDSs.

Our revenue from our pre-pay model increased by 1% in 2018 mainly due to our increased promotional activity to take advantage of higher demand for sales in installments. Our revenue from our pay-at-destination model decreased by 15% in 2018, mainly due to a decrease in the revenue per transaction, due to mix-shift from international to

domestic destinations. Other revenue decreased by 12% in 2018, due to a decrease in revenue from GDSs and other incentives caused by the decreased in international transactions, which generates higher incentives than domestic transactions.

#### *Cost of Revenue*

Cost of revenue increased from \$142.5 million in 2017 to \$172.1 million in 2018, an increase of 21%. This increase was primarily due to:

- \$ 12.7 million or 49% increase in the commissions to banks to offer travelers the possibility of purchasing travel-related products under installment plans related to the increase in (i) the number of transactions and (ii) an average increase in commissions percentage of 1% from the third party banks which provide the installment plans;
- \$9.0 million or 21% increase in credit card processing fees due to the higher volume of transaction in 2018 versus 2017 where we act as merchant;
- \$4.7 million or 11% increase in salaries and employees benefits due to higher salaries and benefits and the incorporation of new employees and an increase in the call center expenses due to the launch of new sales channels due to the hiring of outsourced call centers in several countries where we operate.

The increase was partially offset by:

- \$ 1.5 million or 9% decrease in the fraud expense due to our implementation of more effective anti-fraud protocol at the beginning of 2016;
- \$ 1.8 million or 23% decrease in taxes due to the benefit granted by the Argentine government under the Software Promotion Law during 2018, as mentioned in Item 4.B – Regulations Related to Taxation.

As a percentage of revenue, cost of revenue increased from 27.2% in 2017 to 32.4% in 2018.

#### *Gross Profit*

Gross profit decreased from \$381.5 million in 2017 to \$358.5 million in 2018, or a decrease of 6%, mainly due to the initiatives to accelerate market share growth, cost related to the recent launch of the proprietary business, including tour operation activities and allotments, along with investments to support improving travel customer satisfaction levels. As a percentage of revenue, gross profit decreased from 72.8% in 2017 to 67.6% in 2018.

#### *Selling and Marketing*

Selling and marketing expense increased from \$166.3 million in 2017 to \$174.4 million in 2018, an increase of 5%. The increase of \$8.1 million was a result of our continued investments to build brand awareness and to increase market share, partially offset by the regional currency depreciation on costs, lower level marketing investments and improving efficiencies. As a percentage of revenue, selling and marketing expense increased from 31.7% in 2017 to 32.9% in 2018.

#### *General and Administrative*

General and administrative expense decreased from \$72.6 million in 2017 to \$67.2 million in 2018, or a decrease of 7%. The decrease of \$2.3 million was a benefit from the local currency depreciation, mainly in Argentina and a decrease in employee benefits of \$8.0 million due to a higher bonuses paid in 2017 for the accomplishment of certain metrics. This was partially offset by \$2.5 million of higher stock-based compensation expense, as well as an increase of \$3.0 million related to general expenses. As a percentage of revenue, general and administrative expense declined from 13.9% in 2017 to 12.7% in 2018.

### *Technology and Product Development*

Technology and product development expense decreased from \$71.3 million in 2017 to \$71.2 million in 2018. The decrease was a result of higher personnel costs of \$1.6 million, almost completely offset by \$1.8 million salary expenses which were accounted for as intangible asset since were invested in the development and improvement of our technological platform.

As a percentage of revenue, our technology and product development expense decreased from 13.6% in 2017 to 13.4% in 2018.

### *Operating Income*

In 2018, we had operating income of \$45.4 million as compared to operating income of \$71.2 million in 2017, or a decrease in operating income of \$25.8 million. As a percentage of revenue, our operating income decreased from 13.6% in 2017 to 8.6% in 2018.

The following table presents a breakdown of our operating income by our two business segments.

	<b>Year Ended December 31,</b>	
	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>	
Air	\$ 23,160	\$ 56,532
Packages, Hotels and Other Travel Products	33,157	28,785
Unallocated corporate expenses	(10,927)	(14,078)
<b>Total operating income</b>	<b>\$ 45,390</b>	<b>\$ 71,239</b>

Corporate expense allocation is based on the expenses planned in the annual budget, and variances to the budget are also recorded in unallocated corporate expenses. Unallocated corporate expenses in 2017 were more than expected as compared to the annual budget which is used as the basis of allocation. Expenses were more than budgeted due to an increase in stock compensation expense, consulting expenses, management bonus accrual and management personnel expense as compared to the annual budget.

*Air Segment.* Our operating income from our Air segment decreased from \$56.5 million in 2017 to \$23.2 million, primarily due to a decrease in Air revenue caused by the change in the mix-shift from international to domestic travels and currency devaluation in key markets. As a percentage of revenue from our Air segment, our operating income from our Air segment decreased from 23.5% in 2017 to 10.8% in 2018.

*Packages, Hotels and Other Travel Products Segment.* Our operating income from our Packages, Hotels and Other Travel Products segment increased from \$28.8 million in 2017 to \$33.2 million in 2018, primarily due to an increase in revenue from this segment. As a percentage of revenue, the operating income from our Packages, Hotels and Other Travel Products segment increased from 10.2% in 2017 to 10.5% in 2018.

### *Financial Income / (Expense)*

Financial expense increased by 14%, from \$16.9 million in 2017 to \$19.2 million in 2018. The increase of \$2.3 million was primarily a result of increased factoring activity in Brazil related to the increase in number of transactions and gross bookings, an increase on warranty charges due to the replacement of cash collaterals during the year, partially offset by the increase in interest income due to short-term cash investments.

### *Income Tax Expense*

We are subject to taxes in the multiple jurisdictions where we operate. Our tax obligations included current and deferred income taxes and withholding taxes incurred in these jurisdictions. Income tax expense decreased from \$12.0 million in 2017 to \$7.1 million in 2018. Our effective tax rate in 2018 was 27%, compared to 22% in 2017. The higher effective rate in 2018 was due primarily to the decrease in non-taxable income. Moreover, a lower rate in 2017 was mainly caused by the recognition of deferred tax assets and by a reversal of a tax contingency due to the expiration of the statute of limitations.

## Seasonality

We generally experience seasonal fluctuations in our financial results. Latin American travelers, particularly leisure travelers who are our primary travel customers, tend to travel most frequently at the end of the fourth quarter and during the first quarter of each year. Leisure travel is more common in Latin America at that time because those quarters include the summer months in the southern hemisphere, along with many school holidays and the Christmas holiday season.

## Quarterly Information

The following table sets forth our unaudited quarterly results and certain key business metrics for each fiscal quarter in the years ended December 31, 2019 and 2018. The unaudited quarterly results set forth below have been prepared on a basis consistent with our audited consolidated financial statements, and we believe they include all normal recurring adjustments necessary for a fair statement of the financial information presented below. The following table should be read in conjunction with our audited consolidated financial statements included elsewhere in this Annual Report.

	March 31, 2018	June 30, 2018	September 30, 2018	December 31, 2018	March 31, 2019	June 30, 2019	September 30, 2019	December 31, 2019
(in thousands)								
<b>Revenue</b>	148,593	128,259	121,247	132,515	133,114	114,087	132,048	145,627
Cost of revenue	(43,646)	(42,088)	(36,673)	(49,703)	(45,245)	(40,342)	(42,591)	(51,387)
<b>Gross profit</b>	<b>104,947</b>	<b>86,171</b>	<b>84,574</b>	<b>82,812</b>	<b>87,869</b>	<b>73,745</b>	<b>89,457</b>	<b>94,240</b>
<b>Operating expenses</b>								
Selling and marketing	(46,410)	(43,450)	(41,572)	(42,925)	(40,933)	(50,701)	(46,656)	(49,604)
General and administrative	(15,888)	(16,986)	(17,130)	(17,599)	(20,638)	(21,254)	(25,090)	(25,980)
Technology and product development	(19,225)	(18,732)	(16,821)	(16,376)	(18,713)	(18,077)	(17,922)	(18,663)
<b>Total operating expenses</b>	<b>(81,523)</b>	<b>(79,168)</b>	<b>(75,523)</b>	<b>(76,900)</b>	<b>(80,284)</b>	<b>(90,032)</b>	<b>(89,668)</b>	<b>(94,247)</b>
<b>Operating income / (loss)</b>	<b>23,424</b>	<b>7,003</b>	<b>9,051</b>	<b>5,912</b>	<b>7,585</b>	<b>(16,287)</b>	<b>(211)</b>	<b>(7)</b>
Net financial income / (expense)	(2,831)	(5,292)	(11,026)	(18)	(5,220)	(1,663)	(3,627)	(6,705)
<b>Net income / (loss) before income taxes</b>	<b>20,593</b>	<b>1,711</b>	<b>(1,975)</b>	<b>5,894</b>	<b>2,365</b>	<b>(17,950)</b>	<b>(3,838)</b>	<b>(6,712)</b>
Income tax (expense) / benefit	(4,235)	(471)	501	(2,864)	(479)	1,483	154	4,067
<b>Net income / (loss)</b>	<b>\$ 16,358</b>	<b>\$ 1,240</b>	<b>\$ (1,474)</b>	<b>\$ 3,030</b>	<b>\$ 1,886</b>	<b>\$ (16,467)</b>	<b>\$ (3,684)</b>	<b>\$ (2,645)</b>

## Key Business Metrics:

<b>Operational</b>								
Number of transactions	2,514	2,607	2,596	2,676	2,652	2,448	2,723	2,855
Gross bookings	\$1,231,497	\$1,184,355	\$ 1,092,287	\$ 1,207,186	\$1,157,512	\$1,118,134	\$ 1,177,728	\$ 1,280,883
<b>Financial</b>								
Consolidated Adjusted EBITDA (unaudited)	\$ 27,284	\$ 11,972	\$ 14,520	\$ 13,868	\$ 15,182	\$ (7,323)	\$ 9,410	\$ 8,293
Net income / (loss)	\$ 16,358	\$ 1,240	\$ (1,474)	\$ 3,030	\$ 1,886	\$ (16,467)	\$ (3,684)	\$ (2,645)
Add (deduct):								
Financial Income	(1,534)	(1,438)	(2,035)	(2,614)	(1,836)	(2,381)	(2,502)	(1,225)
Financial Expense	4,365	6,730	13,061	2,632	7,056	4,044	6,129	7,930
Income tax expense / (benefit)	4,235	471	(501)	2,864	479	(1,483)	(154)	(4,067)
Depreciation expense	859	1,475	1,338	1,313	845	2,683	2,036	1,095
Impairment of long-lived assets	—	—	—	363	—	—	—	—
Amortization expense	2,018	2,228	2,738	3,156	3,753	3,089	4,195	5,100
Stock-based compensation expense	983	1,266	1,393	3,124	2,999	3,192	3,390	2,105
<b>Consolidated Adjusted EBITDA (unaudited)</b>	<b>\$ 27,284</b>	<b>\$ 11,972</b>	<b>\$ 14,520</b>	<b>\$ 13,868</b>	<b>\$ 15,182</b>	<b>\$ (7,323)</b>	<b>\$ 9,410</b>	<b>\$ 8,293</b>

### **Critical Accounting Policies and Use of Estimates**

Critical accounting policies and estimates are those that we believe are important in the preparation of our consolidated financial statements because they require that we use judgment and estimates in applying those policies. We prepare our consolidated financial statements and accompanying notes in accordance with U.S. GAAP.

Preparation of the consolidated financial statements included elsewhere in this Annual Report requires that we make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the consolidated financial statements as well as revenue and expenses during the periods reported. We base our estimates on historical experience, where applicable, and other assumptions that we believe are reasonable under the circumstances. Actual results may differ from our estimates under different assumptions or conditions.

An accounting policy is considered to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, and if different estimates that reasonably could have been used, or changes in the accounting estimates that are reasonably likely to occur periodically, could materially impact the consolidated financial statements. We believe that the following critical accounting policies reflect the more significant estimates and assumptions used in the preparation of our consolidated financial statements. You should read the following descriptions of critical accounting policies, judgments and estimates in conjunction with our audited consolidated financial statements and the notes thereto included elsewhere in this Annual Report.

There are certain critical estimates that we believe require significant judgment in the preparation of our consolidated financial statements. We consider an accounting estimate to be critical if:

- it requires us to make an assumption because information was not available at the time or it included matters that were highly uncertain at the time we were making the estimate; and
- changes in the estimate or different estimates that we could have selected may have had a material impact on our financial condition or results of operations.

For more information on each of these policies, see note 3 —Summary of Significant Accounting Policies, in the notes to our audited consolidated financial statements included elsewhere in this Annual Report. We discuss information about the nature and rationale for our critical accounting estimates below.

#### ***Recoverability of Goodwill and Indefinite and Definite-Lived Intangible Assets***

**Goodwill.** We assess goodwill for impairment annually as of December 31, or more frequently if events and circumstances indicate impairment may have occurred. In the evaluation of goodwill for impairment, we typically first perform a qualitative assessment to determine whether it is more likely than not that the fair value of the reporting unit is less than the carrying amount. If so, we perform a quantitative assessment and compare the fair value of the reporting unit to the carrying value. If the carrying value of a reporting unit exceeds its fair value, the goodwill of that reporting unit is potentially impaired and we proceed to step two of the impairment analysis. In step two of the analysis, we will record an impairment loss equal to the excess of the carrying value of the reporting unit's goodwill over its implied fair value should such a circumstance arise. Periodically, we may choose to forgo the initial qualitative assessment and perform quantitative analysis to assist in our annual evaluation.

We generally base our measurement of fair value of reporting units on an analysis of the present value of future discounted cash flows. The discounted cash flows model indicates the fair value of the reporting units based on the present value of the cash flows that we expect the reporting units to generate in the future. Our significant estimates in the discounted cash flows model include: our weighted average cost of capital, long-term rate of growth and profitability of our business and working capital effects.

We believe the weighted use of discounted cash flows is the best method for determining the fair value of our reporting units because these are the most common valuation methodology used within the travel and internet industries.

***Indefinite-Lived Intangible Assets.*** We base our measurement of fair value of indefinite-lived intangible assets, which primarily consist of brands and domains, using the relief-from-royalty method. This method assumes that the brands and domains have value to the extent that their owner is relieved of the obligation to pay royalties for the benefits received from them. This method requires us to estimate the future revenue for the related brands, the appropriate royalty rate and the weighted average cost of capital.

***Definite-Lived Intangible Assets.*** We review the carrying value of long-lived assets or asset groups to be used in operations whenever events or changes in circumstances indicate that the carrying amount of the assets might not be recoverable. Factors that would necessitate an impairment assessment include a significant adverse change in the extent or manner in which an asset is used, a significant adverse change in legal factors or the business climate that could affect the value of the asset, or a significant decline in the observable market value of an asset, among others. If such facts indicate a potential impairment, we would assess the recoverability of an asset group by determining if the carrying value of the asset group exceeds the sum of the projected undiscounted cash flows expected to result from the use and eventual disposition of the assets over the remaining economic life of the primary asset in the asset group. If the recoverability test indicates that the carrying value of the asset group is not recoverable, we will estimate the fair value of the asset group using appropriate valuation methodologies, which would typically include an estimate of discounted cash flows. Any impairment would be measured as the difference between the asset groups carrying amount and its estimated fair value.

The use of different estimates or assumptions in determining the fair value of our goodwill, indefinite-lived and definite-lived intangible assets may result in different values for these assets, which could result in an impairment or, in the period in which an impairment is recognized, could result in a materially different impairment charge.

### ***Income Taxes***

We record income taxes under the liability method. Deferred tax assets and liabilities reflect our estimation of the future tax consequences of temporary differences between the carrying amounts of assets and liabilities for book and tax purposes. We determine deferred income taxes based on the differences in accounting methods and timing between financial statement and income tax reporting. Accordingly, we determine the deferred tax asset or liability for each temporary difference based on the enacted tax rates expected to be in effect when we realize the underlying items of income and expense. We consider many factors when assessing the likelihood of future realization of our deferred tax assets, including our recent earnings experience by jurisdiction, expectations of future taxable income, and the carryforward periods available to us for tax reporting purposes, as well as other relevant factors. We may establish a valuation allowance to reduce deferred tax assets to the amount we believe is more likely than not to be realized. Due to inherent complexities arising from the nature of our businesses, future changes in income tax law, tax sharing agreements or variances between our actual and anticipated operating results, we make certain judgments and estimates. Therefore, actual income taxes could materially vary from these estimates.

### ***Other Long-Term Liabilities***

***Various Legal and Tax Contingencies.*** We record liabilities to address potential exposures related to business and tax positions we have taken that have been or could be challenged by taxing authorities. In addition, we record liabilities associated with legal proceedings and lawsuits. These liabilities are recorded when the likelihood of payment is probable and the amounts can be reasonably estimated. The determination for required liabilities is based upon analysis of each individual tax issue, or legal proceeding, taking into consideration the likelihood of adverse judgments and the range of possible loss. In addition, our analysis may be based on discussions with outside legal counsel. The ultimate resolution of these potential tax exposures and legal proceedings may be greater or less than the liabilities recorded.

### ***Stock-Based Compensation***

Our primary form of employee stock-based compensation is stock option awards. We measure the value of stock option awards on the date of grant at fair value using the appropriate valuation techniques, including the Black-Scholes and Monte Carlo option-pricing models. We amortize the fair value over the remaining term on a straight-line basis. We account for forfeitures as they occur. The pricing models require various highly judgmental assumptions including volatility and expected option term. If any of the assumptions used in the models change significantly, stock-based compensation expense may differ materially in the future from that recorded in the current period.

### **Recently Issued and Not Yet Adopted Accounting Pronouncements under U.S. GAAP**

For information on recently issued accounting pronouncements under U.S. GAAP, see note 3 to our audited consolidated financial statements.

### **B. Liquidity and Capital Resources**

As of December 31, 2019, we had unrestricted cash and cash equivalents of \$309.2 million. Additionally, as of December 31, 2019, we had restricted cash of \$4.5 million, which primarily consisted of amounts held in restricted accounts to secure our obligations to various suppliers. For the year ended December 31, 2019, we generated \$44.2 million of cash flows from operations, as further discussed below. We also maintain revolving credit facilities in certain jurisdictions to cover short-term working capital requirements. As of December 31, 2019, we had outstanding borrowings of \$19.2 million.

Based on preliminary management estimates, as of March 31, 2020, we had unrestricted cash and cash equivalents of \$221.7 million. On the same basis, as of March 31, 2020, our travel suppliers payable plus our related party payables and our accounts payable and accrued expenses, minus our accounts receivable net of allowances and our related party receivables amounted to aggregate payables of \$42.5 million, compared to aggregate payables of \$120.1 million as of December 31, 2019. In addition, we are working on the implementation of different strategies to assist our travel customers with refunds and reschedulings, including through the issuance of vouchers to be used by our travel customers during 2020 or in some cases early 2021. If a travel customer does not accept the voucher, according to our standard commercial terms and conditions, the corresponding refund is typically payable within 120 days from the date the refund is requested.

Our business cash cycle provides a positive source of working capital for our operations. Our pre-pay model allows us to collect cash amounts from transactions with our travel customers well before we are required to make payments to our travel suppliers, which allows us to use the cash for other business purposes in the interim and reduces our need to use external sources of financing. Under our pre-pay model, we receive cash payments through credit card companies used by travel customers at or near the time of booking, and we are required to make payments related to the booking to the relevant travel suppliers generally two to three months afterwards, typically after the travel customer uses the reservation and the travel supplier invoices us.

As of December 31, 2019, we had deferred merchant bookings of \$141 million and our working capital (calculated as current assets minus current liabilities, except short-term debt and contingent liabilities), was \$201.1 million. During 2019, our pre-pay model represented 78% of our revenues compared to 2% represented by our pay-at-destination model. If our pre-pay model declines relative to our pay-at-destination model or our overall business, or if there are changes to the pre-pay model (such as changes in booking patterns, or travel customer or travel supplier payment terms), our overall working capital benefits could be reduced. In such event, we could be required to obtain additional working capital financing, including using factoring, which would increase our financial expense. In addition, in the event of a significantly contracting market or a prolonged market disruption, or a prolonged disruption to our platform (as has been the case since mid-March with the COVID-19 pandemic) we could face liquidity constraints if we have used cash received from travel customers in our business and are not able to obtain cash through our operations or from financing to make subsequent payments to travel suppliers. In addition, a significant change in currency values could affect our payment obligations to travel suppliers, although we believe that our hedging policies mitigate our exposure to currency fluctuations.



Since the middle of March 2020, we have been taking actions to improve our liquidity and mitigate the potential effects on our Company by significantly reducing non-critical expenditures and readjusting structural costs to deliver savings and preserve cash, including (i) temporarily reducing salaries of the senior and middle management; (ii) suspending bonuses to all employees; (iii) implementing a hiring freeze and limiting inflation salary increases; (iv) reducing working hours and implementing unpaid leave in certain locations; (v) accelerating the capture of synergies from the acquisitions of Viajes Falabella; (vi) renegotiating supplier payment terms and conditions; (vii) reviewing all contracts and commitments; and (viii) deferring non-critical capital expenditures. In addition, we have also reduced our marketing investments. We expect these measure to significantly reduce our expenses during 2020. We are also evaluating additional potential financing sources to preserve cash during this period of disruption in our industry, which could include equity, equity-linked and debt financing.

We believe that our existing cash and cash equivalents together with expected cash flows generated from operating activities, will be sufficient to meet our currently-anticipated cash needs for the next twelve months. As conditions are recent, uncertain and changing rapidly, we cannot assure you that our business will not require additional funds for operating activities in the future, nor whether the conditions of the global economy and financial markets will allow for us to access to those financing options, particularly if the effects of the pandemic persist significantly longer.

In addition, from time to time, once the crisis subsides, we may evaluate new acquisitions and other strategic opportunities. If we elect to pursue any such investments, we may fund them with internally generated funds, part of the proceeds from our initial public offering, bank financing, the issuance of debt or equity or a combination thereof.

## Cash Flows

### *Cash Flows for the Year Ended December 31, 2019 Compared to Year Ended December 31, 2018*

The following table sets forth certain consolidated cash flow information for the years ended December 31, 2019 and 2018.

	<b>Year Ended December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<b>(in thousands)</b>	
Net cash flows provided by / (used in) operating activities	\$ 44,238	\$ (17,620)
Net cash flows used in investing activities	(30,784)	(26,579)
Net cash flows used in financing activities	(53,180)	(1,257)
Effect of exchange rate changes on cash and cash equivalents	1,181	(13,132)
<b>Net (decrease) in cash and cash equivalents</b>	<b>(38,545)</b>	<b>(58,588)</b>

#### *Net Cash Flows provided by (Used in) Operating Activities*

Operating activities provided net cash of \$ 44.2 million in 2019, while in 2018 operating activities used net cash of \$17.6 million. The increase in generation of cash resulted mainly from:

- a reduction in pre-paid flight seats and cash advanced payments to travel suppliers;
- a reduction in accounts receivables; and
- slower growth in the Company's payables from travel supplier and related parties, as a consequence of the annual sales decrease.

#### *Net Cash Flows (Used in) / Provided by Investing Activities*

Investing activities used net cash of \$30.8 million in 2019 and \$26.6 million in 2018. The increase was mainly due to an increase in capital expenditures for software developed internally, and partially offset by a decrease in capital expenditures for improvements in our offices.

#### *Net Cash Flows (Used in) / Provided by Financing Activities*

Financing activities used net cash of \$53.2 million in 2019 and used net cash of \$1.3 million in 2018. The net cash flows used in financing activities in 2019 were primarily a result of the share buyback program in which we spent \$42.2 million. The net cash flows used in financing activities in 2018 were primarily a result of the share buyback program in which we spent \$26.0 million, offset by the increase in our borrowings under our revolving credit facilities for \$24.6 million.

#### *Currency Exchange Rates*

The translation effect of converting cash held in local currencies to dollars increased our cash and cash equivalents by \$1.2 million in 2019, and reduced our cash and cash equivalents by \$13.1 million in 2018.

#### **Cash Flows for the Year Ended December 31, 2018 Compared to Year Ended December 31, 2017**

The following table sets forth certain consolidated cash flow information for the years ended December 31, 2018 and 2017.

	<b>Year Ended December 31,</b>	
	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>	
Net cash flows (used in) / provided by operating activities	\$ (17,620)	\$ 61,226
Net cash flows used in investing activities	(26,579)	(21,675)
Net cash flows (used in) / provided by financing activities	(1,257)	254,114
Effect of exchange rate changes on cash and cash equivalents	(13,132)	(2,053)
<b>Net (decrease) / increase in cash and cash equivalents</b>	<b>(58,588)</b>	<b>291,612</b>

#### *Net Cash Flows (Used in) / Provided by Operating Activities*

Operating activities used net cash of \$17.6 million in 2018 and provided net cash of \$61.2 million in 2017. The increase in usage of cash resulted mainly from an increase in pre-paid flight seats and cash advances to travel suppliers, lower net income and slower growth in the company's travel supplier payables and related party payables resulting from lower year-over-year sales, partially offset by the collection of GDS incentives received in advance.

#### *Net Cash Flows (Used in) Investing Activities*

Investing activities used net cash of \$21.7 million in 2017 and \$26.6 million in 2018. The increase was mainly due to an increase in capital expenditures for improvements in our offices in Argentina and Brazil.

#### *Net Cash Flows (Used in) / Provided by Financing Activities*

Financing activities provided net cash of \$254.1 million in 2017 and used net cash of \$1.3 million in 2018. The net cash flows provided by financing activities in 2017 were primarily a result of the completion of our initial public offering in September 2017. The net cash flows used in financing activities in 2018 were primarily a result of increased borrowings under our revolving credit facilities of \$ 24.6 million, offset by the share buyback program in which we spent \$26.0 million.

#### *Currency Exchange Rates*

The translation effect of converting cash held in local currencies to dollars reduced our cash and cash equivalents by \$13.1 million and \$2.1 million in 2018 and 2017, respectively.

### **C. Research and Development, Patents and Licenses**

Our technology and product development activities are primarily focused on the development of software, which we view as an important element of the investments we make in our technology and our business. Our primary software

development activities have been focused on providing an effective and engaging platform for our travel customers and on collecting and using data to better customize the user experience, pricing and marketing efforts for our travel customers. In 2019, 2018 and 2017, we spent \$73.4 million, \$71.2 million and \$71.3 million, respectively, on software development and other technology and product development activities.

## D. Trend Information

In addition to the information set forth in this section, additional information about the trends affecting our business can be found in “—A. Key Trends and Factors Affecting Our Business.” You should also read our discussion of the risks and uncertainties that affect our business in “Item 3. Key Information—D. Risk Factors.”

The ongoing COVID-19 pandemic is disrupting the global economy and the travel industry. Countries around the world, including across Latin America, have adopted extraordinary measures to limit the spread of COVID-19, including imposing travel restrictions and bans, closing borders, establishing restrictions on public gatherings, instructing residents to practice social distancing, requiring closures of non-essential businesses, issuing stay at home advisories and orders, implementing quarantines and similar actions. Depending on how the spread of the virus continues to evolve, governments may extend these measures for longer periods, as well as re-implement these measures in the future, in order to avoid relapses even after the virus is contained. The negative impact of COVID-19 may continue well beyond the containment of the pandemic. Moreover, the COVID-19 pandemic has significantly increased economic uncertainty and is likely to cause a global recession.

### *Macroeconomic and Political Environment Conditions in the Countries in which We Operate*

Our travel customers are primarily located in Latin America, particularly in Brazil and Argentina, and to a lesser extent, in Mexico and other countries in the region. Our results of operations and financial condition are significantly influenced by political and economic developments in the countries in which our travel customers reside and, to a lesser extent, in the countries to which our travel customers may travel, and the effect that these factors may have on the availability of credit, employment rates, disposable income, average wages and demand for travel in those countries. In the mid- to long-term, we believe that macroeconomic changes in the region will generally benefit us due to an expanding middle class, increasing disposable income, reduced unemployment and lower interest rates, among other factors.

### *Currency Exchange Rates*

We report our financial results in dollars, but most of our revenue and expenses are denominated in local currencies. Any changes in the exchange rates of any such currencies against the dollar will affect our reported financial results as translated into dollars. Furthermore, many of our travel customers travel internationally and any changes in the exchange rate between their home currency and the currency of their destination may influence their travel purchases.

### *Inflation*

Historically, certain countries in Latin America, such as Argentina, have experienced high rates of inflation. Changes in inflation rates can affect our pricing as well as our expenses, including employee salaries, and the inflation rates in the countries where we generate revenue in any period may be higher or lower than the inflation rates in the countries where we incur expenses. In addition, higher inflation may lead our travel customers to make more purchases using installments or other financing options, which may result in an increase in the costs associated with offering such financing options to our travel customers. Below is a summary of certain macroeconomic data for Brazil and Argentina, our two largest markets, for 2019, 2018, 2017, 2016 and 2015:

	2019	2018	Brazil 2017	2016	2015
Real GDP growth (decline)(1)	0.6%	1.1%	1.0%	(3.6)%	(3.8)%
Population (in millions)(1)	211.0	208.5	208	207	205
Inflation(1)	3.74%	3.8%	2.9%	6.3%	10.7%
Exchange rate(2)	4.03	3.87	3.31	3.26	3.90

(1) Source: Instituto Brasileiro de Geografia e Estatística (IBGE), measured in local currency.

(2) Source: Banco Central do Brasil. Data as of December 31 of each year.

	2019	2018	Argentina 2017	2016	2015
Real GDP growth (decline)(1)	(3.1)%	(2.5)%	2.9%	(2.2)%	2.7%
Population (in millions)(1)	44.93	44.49	44.04	43.59	43.13
Inflation(1)	53.8%	47.6%	25%	41%	27%
Exchange rate(2)	59.87	38.60	18.90	16.10	13.30

(1) Source: Instituto Nacional de Estadística y Censos (INDEC), measured in local currency.

(2) Source: Banco de la Nación Argentina. Data as of December 31 of each year.

#### E. Off-Balance Sheet Arrangements

As of December 31, 2019, we did not have any material off-balance sheet arrangements.

#### F. Tabular Disclosure of Contractual Obligations

The following table represents our contractual commitments as of December 31, 2019:

	Payments Due by Period				
	Total	Within 1 Year	2-3 Years (in thousands)	4-5 Years	After 5 Years
Operating lease obligations	\$ 57,247	\$ 6,736	\$ 12,462	\$ 11,901	\$ 26,148
Financed portion of acquisitions	11,500	5,750	5,750	—	—
Other long-term liabilities(1)	125,000	—	—	—	125,000
<b>Total contractual obligations</b>	<b>\$193,747</b>	<b>\$12,486</b>	<b>\$ 18,212</b>	<b>\$ 11,901</b>	<b>\$151,148</b>

(1) We may be required to make a termination payment of \$125.0 million to Expedia if, among other things: we elect to terminate the Expedia Outsourcing Agreement on or after March 6, 2022; Expedia elects to terminate the Outsourcing Agreement if bookings sourced through Expedia are reduced such that the marketing fees payable back to us fall below \$5.0 million over a six-month period; or if a bookings shortfall occurs for any consecutive three months or any three months within a six-month period. The amount of the termination payment is reflected as a long-term liability on our balance sheet. For more information on our relationship of Expedia, see “Item 7. Major Shareholders and Related Party Transactions —B. Related Party — Relationship with Expedia.”

There have been no material changes to our contractual obligations since December 31, 2019.

#### G. Safe Harbor

See “Part I. Introduction – Forward-Looking Statements.”

### ITEM 6. DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES

#### A. Directors and Senior Management

##### Board of Directors

Our business and affairs are managed by, or under the direction or supervision of, our board of directors. Our board of directors has all the powers necessary for managing, and for directing and supervising, our business and affairs and may exercise all our company powers and do all such lawful acts and things as are not by applicable law or our memorandum and articles of association required to be exercised or done by our shareholders. Accordingly, our board of directors have significant discretion (and, regarding the vast majority of management and governance matters, exclusive discretion) in the management and control of our business and affairs.

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Our board of directors consists of six members. Our memorandum and articles of association authorize us to have up to seven directors or such other number of directors as is from time to time fixed by resolution of the board.

Our board of directors is divided into three classes designated as the “Class I Directors,” “Class II Directors” and “Class III Directors.” Pursuant to our memorandum and articles of association, each of our directors is appointed at an annual meeting of shareholders for a period of three years, with each director serving until the third annual meeting of shareholders following his or her election (except that the terms of the current Class I Directors, Class II Directors and Class III Directors will expire at our annual meetings in 2021, 2022 and 2020, respectively). Upon the expiration of the term of a class of directors, candidates will be elected (or re-elected, as the case may be) as directors of that particular class for three-year terms at the annual meeting of shareholders in the year of such expiration. Our directors are divided among the three classes as follows:

- the Class I Directors are Adam Jay and Michael James Doyle, and their terms will expire at the annual meeting of stockholders to be held in 2021;
- the Class II Directors are Martín Rastellino and Mario Eduardo Vázquez, and their terms will expire at the annual meeting of stockholders to be held in 2022; and
- the Class III Directors are Nilesh Lakhani and Damián Scokin, and their terms will expire at the annual meeting of stockholders to be held in 2020.

Elections for directors will take place by a plurality of the votes of the shares present in person or represented by proxy at the annual meeting and entitled to vote on the election of directors. No director may be elected or re-elected at any special meeting of our shareholders. Given the current restrictions related to the COVID-19 pandemic, we cannot assure you that we will not be required to delay or adjourn our annual meeting for 2020, or host an annual meeting that shareholders can only attend remotely or by proxy.

The following table presents the names and ages of the members of our board of directors:

Name	Age	Position
Nilesh Lakhani	60	Chairman of the Board and Director
Damian Scokin	53	Chief Executive Officer and Director
Adam Jay	43	Director
Martín Rastellino	48	Director
Mario Eduardo Vázquez	84	Director
Michael James Doyle II	49	Director

Our board of directors has the exclusive power to fill any vacancy arising on the board from time to time and to increase the size of the board of directors from time to time and appoint additional directors in connection therewith. Our shareholders may not vote to fill any vacancy or to change the size of our board.

A director of the Company may only be removed: (i) with cause, by a resolution approved by shareholders holding not less than two-thirds of the voting rights at a meeting of shareholders called for the stated purpose of removing the director or for stated purposes including the removal of the director, or (ii) with cause, by a resolution approved by directors holding not less than two-thirds of the voting rights of all of those directors entitled to vote on the resolution at a meeting of directors or by way of unanimous written consent of those directors entitled to vote on the removal. See “Item 16G. Corporate Governance—Differences in Corporate Law” for further information.

The following is a brief summary of the business experience of our directors. The current business addresses for our directors is Juana Manso 999, Ciudad Autónoma de Buenos Aires, Argentina (C1107CBR).

*Nilesh Lakhani* has served as a member of our board of directors since October 2012 and as chairman of our board of directors since March 2019. Mr. Lakhani served on the board of directors of Netshoes (Cayman) Limited (NYSE: NETS) from 2013 to 2019. He also served as an independent director on the board of directors of QIWI plc (Nasdaq: QIWI) from 2013 to 2014. Mr. Lakhani was an Operating Partner at Lumia Capital LLC, an emerging markets focused technology venture fund from 2015 to 2018. He has also held key executive positions with growth companies in the technology, media and financial services industries. From 2010 to 2012, he was the Chief Financial Officer of oDesk Corporation. Prior to that, from 2007 to 2010, he was the Chief Financial Officer of Yandex N.V. (Nasdaq: YNDX). He also served as Chief Financial Officer of CTC Media, Inc. (Nasdaq: CTCM) from 2004 to 2007. Prior to that, Mr. Lakhani was the Chief Financial Officer of Pogo.com, and was Vice President of Global Operations at Electronic Arts after it acquired Pogo.com. Mr. Lakhani also served as senior vice president with Transamerica Corporation from 1991 to 1997, and worked with GE Capital from 1984 to 1991. Mr. Lakhani received a Bachelor of Arts in Economics from the University of Manchester and a Master of Business Administration from the University of San Francisco.

*Damián Scokin* joined Despegar in December 2016 and has served as our Chief Executive Officer (“CEO”) since February 2017 and as a member of our board of directors since April 2017. From November 2014 to November 2016, prior to becoming our CEO, Mr. Scokin was the CEO of Ultrapetrol (Bahamas) Limited (“Ultrapetrol”), where he continues to be a member of the company’s board of directors. Mr. Scokin helped navigate Ultrapetrol through its negotiations with creditors as a result of adverse market conditions in the energy and natural resources sectors, which, subsequent to his departure as CEO of the company, resulted in the filing of a Chapter 11 prepackaged reorganization plan agreement with a U.S. bankruptcy court at the beginning of 2017. From 2005 to 2014, Mr. Scokin held several positions within the LATAM Airlines Group. From 2012 to 2014, Mr. Scokin served as CEO for LATAM’s International Business Unit, where he was in charge of leading the merger and integration process of LAN Airlines, the biggest airline in Chile, and TAM Linhas Aereas, one of Brazil’s leading airlines. Prior to the merger process, Mr. Scokin worked as CEO for the International Business Unit of Lan Airlines in Chile and as CEO for LAN Argentina before that, where he was in charge of the company’s startup and early development in Argentina. Mr. Scokin started his career in 1995 as an associate of McKinsey & Company in Boston, where he eventually became partner. Mr. Scokin holds Bachelor degrees in Economics and Industrial Engineering from the University of Buenos Aires and a Masters in Business Administration from Harvard Business School.

*Adam Jay* has served as a member of our board of directors since March 2018. Mr. Jay is President at Hotels.com, an Expedia Group, Inc. brand. Mr. Jay joined Expedia Group in February 2012. From 2007 until 2012, he served as VP of Strategy and Global Transformation at Travelport plc. Prior to that, he led Product for Avis Europe plc (now Avis Budget Group) and also spent a number of years at Boston Consulting Group. Mr. Jay currently serves on the board of Checktrade.com, a UK-based subsidiary of Homeserve plc. He has an MBA from INSEAD and an MA (Hons) in Politics, Philosophy and Economics from Oxford University.

*Martín Rastellino* has served as a member of our board of directors since June 2017. Mr. Rastellino is a co-founder of the Company and has been extensively involved in the management of the Company from 1999 until June 2017. He has served as our Chief Operating Officer and Head of Hotels Business, among other key managerial positions. Prior to joining the Company, Mr. Rastellino served as a Manager for Teleglobe in the United States and has also worked as an auditor for Arthur Andersen in Argentina between 1993 and 1997. Mr. Rastellino received a Bachelor degree in Public Accounting from the University of Buenos Aires and a Masters in Business Administration from Duke University.

*Mario Eduardo Vázquez* has served as a member of our board of directors since August 2014. From June 2003 to November 2006, he served as the Chief Executive Officer of Grupo Telefónica in Argentina. Prior to that, Mr. Vázquez worked in auditing for Arthur Andersen for 33 years, including as a partner and general director covering Latin American markets, including Argentina, Chile, Uruguay, and Paraguay. Mr. Vázquez previously taught as a professor of Auditing at the Economics School of the Universidad de Buenos Aires. Mr. Vázquez also serves on the board of directors and is president of the Audit Committee of Globant S.A. (NYSE: GLOB) and MercadoLibre, Inc. (NYSE: MELI) He has also served as a member of the board of directors of Telefónica Argentina S.A., Telefónica Holding Argentina S.A., Telefónica S.A. (Spain), Banco Santander Río S.A., Banco

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Supervielle Societe General S.A., and CMF Banco S.A., and as alternate member of the board of directors of Telefónica de Chile S.A. Mr. Vázquez also previously served as a member of the board of directors and as the president of the Audit Committee of YPF, S.A. (NYSE: YPF) Mr. Vázquez received a Bachelor degree in Public Accounting from the Universidad de Buenos Aires.

*Michael Doyle* has served as a member of our board of directors since September 2018. Mr. Doyle is the Chief Financial Officer of Nextdoor, a neighborhood social network based in San Francisco, California. He was Chief Financial Officer of Despegar from 2013 until 2018. Prior to becoming our Chief Financial Officer, Mr. Doyle was the Chief Financial Officer of eLong, Inc, a formerly Nasdaq-listed, online travel company in China. Mr. Doyle was the Chief Financial Officer of Expedia Asia Pacific, a division of Expedia, based in Hong Kong and Seattle. Prior to Expedia, Mr. Doyle worked as Chief Financial Officer of Teledesic, a Seattle-based broadband communications company. Mr. Doyle started his career in the investment banking division of Morgan Stanley & Company in New York and Singapore. He also worked in the private equity direct investment group of GIC, Singapore's sovereign wealth fund. Mr. Doyle holds a Bachelor degree in Finance from Southern Methodist University and a Masters in Business Administration from Harvard Business School.

### **Executive Officers**

The following table lists the current executive officers of our group:

<b>Name</b>	<b>Age</b>	<b>Position</b>
Damián Scokin	53	Chief Executive Officer
Alberto Lopez Gaffney	48	Chief Financial Officer
Mariano Scagliarini	47	General Counsel
Gonzalo García Estebarena	40	Chief Commercial Director
Sebastián Mackinnon	48	Executive VP Travel Partners & Corporate Affairs
Pablo Montivero Araya	49	Chief Business Development Officer

The following is a brief summary of the business experience of our executive officers who are not also directors. Unless otherwise indicated, the current business addresses for our executive officers is Juana Manso 999, Ciudad Autónoma de Buenos Aires, Argentina (C1107CBR).

*Alberto López Gaffney* has served as our Chief Financial Officer since November 2018. From 2017 to October 2018, Mr. López Gaffney served as Chief Financial Officer of TGLT, a leading real estate company in Argentina. From 2012 through 2017, he was employed at Itaú BBA as Managing Director & Head of Investment Banking for LatAm ex-Brazil. Prior to that, Mr. López Gaffney worked between 1999 and 2012 with Morgan Stanley, in the Mergers & Acquisitions Group and later as Managing Director & Head of Southern Cone. He began his business career as a business analyst at McKinsey in 1996. Mr. López Gaffney has an MBA from Harvard University and a Masters in Science in Industrial Engineering from Universidad Católica Argentina.

*Mariano Scagliarini* has served as our General Counsel since November 2019. From 2013 to 2019, Mr. Scagliarini served as Chief Counsel for LatAm and Iberia at Thomson Reuters. From 2003 to 2013, Mr. Scagliarini served in different positions at Praxair Inc. and Citibank N.A. Mr. Scagliarini holds a Bachelor degree in Law from Universidad Católica Argentina and a Master of Laws degree from Cornell University.

*Gonzalo García Estebarena* has served as our Chief Commercial Director, overseeing Air and Packages, Hotels and Other Travel Products, since September 2017. Prior to joining us, he held several positions at LATAM Airlines Group from 2011 to 2017, including Vice President of International Revenue Management and Global Head of Sales. Prior to that, Mr. García Estebarena was a management consultant with McKinsey & Company from 2003 to 2011. Mr. García Estebarena received a Bachelor degree in Electronic Engineering from the Instituto Tecnológico de Buenos Aires (ITBA) and a Masters in Business Administration with Distinction from Harvard Business School.

*Sebastián Mackinnon* has served as our Executive VP Travel Partners & Corporate Affairs since October 2018. From March until October 2018 he served as interim Country Manager for Brazil Operations, and from December 2015 until March 2018 he served as our Head of Air, with a regional scope. From October 2001 to December 2015, Mr. Mackinnon served in various positions at Diageo plc, an international alcoholic beverages company, mostly recently as General Manager covering Perú, Bolivia and Ecuador. Prior to that, Mr. Mackinnon held various positions at Mondeléz International and Kimberly-Clark Corporation. Mr. Mackinnon received a high school diploma from Colegio Cardenal Newman, a Bachelor degree in Business Administration from the Pontificia Universidad Católica Argentina and a Masters in Business Administration from the CEMA University in Buenos Aires.

*Pablo Montivero Araya* has served as our Chief Business Development Officer since February 2015 with responsibilities for overseeing all countries as well as distribution channels and loyalty programs. Prior to joining us, he served in various positions at PepsiCo, Inc., most recently as Senior Vice President and General Manager for PepsiCo Foods South Cone. Mr. Montivero Araya received a Bachelor degree in Industrial Engineering from the Universidad de Buenos Aires and a Masters in Business Administration in International Business from the Thunderbird School of Global Management at Arizona State University. Mr. Montivero Araya is based in Montevideo, Uruguay.

## **Family Relationships**

There are no family relationships among any of our directors or executive officers.

## **B. Compensation**

### **Compensation of Directors and Executive Officers**

For the years ended December 31, 2019, 2018 and 2017, the aggregate compensation to the officers and members of our board of directors amounted to \$4,051,274, \$7,235,508 and \$6,259,454, respectively. We did not pay any compensation to the remaining directors in 2019, 2018 and 2017, and did not pay any other cash compensation or benefits in kind to our directors in 2019, 2018 and 2017, other than the equity awards described under “—Equity Incentive Plans.” Our officers receive comparable benefits generally provided to our employees, such as pension, retirement and health insurance coverage, with some variations with regard to company car benefits and levels of health insurance coverage. For information regarding share options and RSUs granted to our current officers and directors, see “—Equity Incentive Plans.”

### **Equity Incentive Plans**

Our board of directors has adopted two stock incentive plans, namely, the 2015 Stock Option Plan (the “2015 Plan”) and Amended and Restated 2016 Stock Incentive Plan (the “2016 Plan” and, together with the 2015 Plan, the “Plans”). The terms of the 2015 Plan and the 2016 Plan are substantially similar, although no further awards are being granted under the 2015 Plan. The purpose of these plans is to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to employees, outside directors and consultants, and to promote the success of our business. Our board of directors believes that our Company’s long term success is dependent upon our ability to attract and retain superior individuals who, by virtue of their ability and qualifications, make important contributions to our business.

We have reserved 5,461,777 ordinary shares for issuance under our 2016 Plan, of which 315,425 shares remain available for future grants under the 2016 Plan as of March 31, 2020.

On December 24, 2018, the then outstanding stock options under the 2016 Plan were repriced to make the plan more competitive to retain our key employees and attract the best candidates for our management positions. This repricing consisted of amending the original strike price of \$26 per share to the following escalating strike price schedule: \$12 per share for stock options exercised prior to December 2021; \$20 for stock options exercised between December 2021 and December 2022 and \$26 for stock options exercised after December 2022. There were no incremental compensation costs resulting from this repricing.



*Administration.* The Plans are administered by our board of directors or a committee designated by our board of directors constituted to comply with applicable laws. In each case, our board of directors or the committee it designates will determine the provisions, terms and conditions of each award.

*Eligibility.* Only employees, outside directors and consultants are eligible for the grant of non-incentive stock options (“NSOs”), and the direct award or sale of shares or RSUs or other share-based awards, in the case of the 2016 Plan. Only employees are eligible for the grant of incentive stock options (“ISOs”). The term “option” as used in this section refers to both NSOs and ISOs.

Moreover, a person who owns more than 10% of the total combined voting power of all classes of our outstanding share capital is not eligible for ISO grants unless (i) the exercise price is at least 110% of the fair market value of a share on the date of the grant and (ii) such ISO by its terms is not exercisable after the expiration of five years from the date of the grant.

*Vesting Schedule.* Options, other share-based awards and RSUs may be subject to vesting requirements, as set forth in the applicable award agreement. The RSUs that were authorized for granting by our board in March 2018 are subject to a time-based service requirement by which vesting occurs in installments over five years. The options granted under the 2016 Plan also feature a time-based service requirement, by which vesting occurs in installments over five years. In addition, in the case of RSUs granted under the 2016 Plan, if the optionee is subject to an involuntary termination without cause within 12 months after a change of control event occurs, then his or her options immediately vest and become exercisable with respect to all then-unvested shares upon such termination, and the time-based service requirement is deemed to have been satisfied with respect to all shares subject to those options. This change of control provision was extended to all the optionees in the amendment of December 24, 2018 as until that amendment it only applied to our Chief Executive Officer and his direct reports.

*Award Agreement.* Awards granted under the Plans are evidenced by an award agreement providing for the number of ordinary shares subject to the award, and the terms and conditions of the award.

*Transfer Restrictions.* Options, other share-based awards and RSUs may not be transferred other than by will or the laws of succession or by gift or domestic relations order to an immediate family member of the optionee or, in the case of options under the 2016 Plan, a trust established by the optionee for the benefit of the optionee and/or one or more of the optionee’s immediate family, and are exercisable during the lifetime of the optionee only by the optionee or by the optionee’s guardian or legal representative.

*Exercise of Awards.* The term of options may not exceed ten years from the date of grant. The consideration to be paid for our ordinary shares upon exercise of an option will be determined by the stock option plan administrator and may include cash or cash equivalents, a promissory note, ordinary shares, delivery of an irrevocable direction to a securities broker appointed by us to sell the shares and deliver all or part of the proceeds to us, consideration received by us under a cashless exercise program implemented by us, or any other form of payment permitted by applicable law. No cash consideration is required of the recipient in connection with the grant of the RSUs.

*Termination of Awards.* Where the option agreement permits the exercise of the options granted for a certain period of time following the recipient’s termination of service with us, or the recipient’s disability or death, the options will terminate to the extent not exercised on the last day of the specified period or the last day of the original term of the options, whichever occurs first. Unvested RSUs are forfeited to us upon the recipient’s termination of service with us. Treatment of other share-based awards upon a termination of service are as set forth in the award agreement.

*Third-Party Acquisition.* If a third-party acquires us through the purchase of all or substantially all of our assets, a merger or other business combination, all outstanding awards will be treated in the manner described in the definitive transaction agreement (or, in the event the transaction does not entail a definitive agreement to which we are party, in the manner determined by our board of directors in its capacity as administrator of the Plans, with such determination having final and binding effect on all parties), which agreement or determination need not treat all awards (or all portions of an award) in an identical manner.

*Amendment, Suspension or Termination.* Our board of directors has the authority to amend, suspend or terminate the Plans at any time and for any reason, without shareholder approval, except to the extent required by applicable law. Unless terminated earlier, the Plans will terminate automatically ten years from the later of (i) the date when the Plan was adopted or (ii) the date when our board of directors approved the most recent increase in the number of shares reserved for issuance; provided that the ability to grant ISOs under the 2016 Plan will terminate on the tenth anniversary of the date when the maximum number of shares reserved for ISOs was approved by our shareholders. As noted above, no further awards will be granted under our 2015 Plan.

### **C. Board Practices**

For information about the date of expiration of the current term of office and the period during which each director and executive officer has served in such office, see “—A. Directors and Senior Management.” For information about contracts for benefits upon termination of employment, see “—B. Compensation.”

#### ***Board Committees***

Our board of directors may establish committees from time to time with such responsibilities as determined by our board. Members will serve on these committees until their resignation or until otherwise determined by our board. Our board of directors have established an audit committee, as described below.

#### **Audit Committee**

Our audit committee consists of Mr. Mario Eduardo Vázquez, Mr. Michael Doyle and Mr. Martín Rastellino, with Mr. Vázquez serving as chair. Messrs. Vázquez, Doyle and Rastellino each satisfy the independence requirements of Rule 10A-3 under the Exchange Act. Our board of directors also has determined that Messrs. Vázquez, Doyle and Rastellino qualify as audit committee financial experts within the meaning of the SEC rules. Our audit committee oversees our accounting and financial reporting processes and the audits of our consolidated financial statements. Our audit committee is responsible for, among other things:

- selecting our independent auditors and pre-approving all auditing and non-auditing services permitted to be performed by our independent auditors;
- regularly reviewing the independence of our independent auditors;
- reviewing all related party transactions on an ongoing basis;
- discussing the annual and quarterly audited consolidated financial statements with management and our independent auditors;
- periodically reviewing and reassessing the adequacy of our audit committee charter;
- meeting separately and periodically with management and our internal and independent auditors;
- reporting regularly to our full board of directors; and
- such other matters that are specifically delegated to our audit committee by our board of directors from time to time.

## Nomination and Compensation Committee

On February 28, 2019 our Board of Directors formed a nomination and compensation committee. The nomination and compensation committee is composed of three members, Mr. Mario Eduardo Vázquez, Mr. Nilesh Lakhani and Mr. Martin Rastellino. The nomination and compensation committee is responsible for, among other things:

- carrying out the Board's responsibilities in relation to compensation of the Company's CEO and his direct reports (including plans, policies and programs), overseeing the implementation of the Company's compensation policy, and providing such guidance with respect to compensation matters as the Committee deems appropriate;
- (i) identifying individuals to become Directors of the Company, (ii) nominating qualified individuals for election to the Board at the annual meeting of shareholders, (iii) recommending to the Board the individual directors to serve on the committees of the Board, and (iv) recommending the Board a set of corporate governance principles applicable to the Company; and
- any such other duties as may be from time to time assigned to it by the Board or required by the rules and regulations of the SEC or the New York Stock Exchange.

## Strategy Committee

In May 2, 2019, our board of directors formed a strategy committee. The strategy committee is composed of three members, Mr. Nilesh Lakhani, Mr. Martín Rastellino and Mr. Michael Doyle. The strategy committee is responsible for, among other things:

- assist and consult with the Board of Directors on the objectives for the Company's strategic plans, and review management's recommendations with respect to the strategic direction of the Company, oversee management's implementation of the Company's strategy and regularly report to the Board of Directors with respect thereto;
- identify significant opportunities and challenges facing the Company, including potential transactions, the impact of external developments and factors on the Company's corporate strategy and its execution, such as the changes in economic and market conditions, competition in the industry, regulations, among others; and
- Review and make recommendations to the Board of Directors, with respect to any mergers, acquisitions, joint ventures, minority investments, and other strategic investments, as well as financing for those strategic investments in case they require approval of the Board of Directors.

## D. Employees

As of December 31, 2019, we had 3,029 employees. We also contracted with certain third-party providers to support our call center employees. The following tables show a breakdown of our employees as of December 31, 2019, 2018 and 2017 by category of activity.

<u>Division/Function</u>	<u>Number of Employees as of December 31,</u>		
	<u>2019</u>	<u>2018</u>	<u>2017</u>
Operations and customer service	1,150	1,349	1,068
Sales and marketing	355	263	201
Technology and content	1,172	1,227	1,081
General and administrative <sup>(1)</sup>	352	559	566
<b>Total</b>	<b><u>3,029</u></b>	<b><u>3,398</u></b>	<b><u>2,916</u></b>

(1) Includes business development, administration, finance and accounting, legal and human resources.

As of December 31, 2019, 380 of our employees in Argentina, all of our employees in Brazil and all of our employees in Mexico were represented by labor unions. We believe that our relations with our employees are good and we implement a variety of human resources practices, programs and policies that are designed to hire, retain, develop and compensate our employees.

We have attracted and retained outstanding individuals over the years and we strive to bring more talent by hiring individuals with internet-related experience. We believe our future success will depend on our ability to attract and retain capable professionals.

## E. Share Ownership

The following table sets forth information regarding the beneficial ownership of our ordinary shares as of March 31, 2020 by (1) each of our directors and executive officers and (2) all of our directors and executive officers as a group.

In computing the number of ordinary shares beneficially owned by a person or entity and the percentage ownership of that person or entity, we deemed to be outstanding all ordinary shares subject to options or RSUs held by that person or entity that are currently exercisable or that will become exercisable or vested, as applicable, within 60 days of March 31, 2020. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person or entity. Unless otherwise indicated, the address of each beneficial owner listed in the table below is Juana Manso 999, Ciudad Autónoma de Buenos Aires, Argentina (C1107CBR).

Name of Beneficial Owner	Outstanding Ordinary Shares as of March 31, 2020	
	Number	%
<b>Directors and Executive Officers:</b>		
Nilesh Lakhani <sup>(1)</sup>	39,533	*
Damián Scokin <sup>(2)</sup>	60,740	*
Adam Jay	—	—
Martín Rastellino <sup>(3)</sup>	529,504	*
Mario Eduardo Vázquez <sup>(4)</sup>	7,150	*
Michael Doyle II <sup>(5)</sup>	165,392	*
Alberto Lopez Gaffney <sup>(6)</sup>	17,056	*
Mariano Scagliarini <sup>(7)</sup>	4,000	*
Gonzalo García Estebarena <sup>(8)</sup>	36,197	*
Sebastián Mackinnon <sup>(9)</sup>	31,303	*
Pablo Montivero Araya <sup>(10)</sup>	47,223	*
<b>Directors and Executive Officers as a Group (11 persons)</b>	<b>938,098</b>	<b>1.3</b>

\* Represents beneficial ownership of less than 1%.

- (1) Consists of 39,533 ordinary shares held by Mr. Lakhani, Chairman and member of our board of directors.
- (2) Consists of 60,740 ordinary shares held by Mr. Scokin, our Chief Executive officer and a member of our board of directors. Mr. Scokin also holds: (a) 260,501 options: (i) 5% of which vested on December 1, 2017; (ii) 10% of which vested on December 1, 2018; (iii) 15% of which vested on December 1, 2019; (iv) 20% of which will vest on December 1, 2020; (v) 25% of which will vest on December 1, 2021 and (vi) 25% of which will vest on December 1, 2022, (b) 162,172 RSUs which vest in three installments on December 1, 2020, December 1, 2021 and December 1, 2022, and (c) 77,923 RSUs which vest in three installments on June 1, 2020, June 1, 2021 and June 1, 2022; in each case provided that Mr. Scokin remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”
- (3) Consists of 7,150 ordinary shares held by Mr. Rastellino, a member of our Board of Directors, and 522,354 ordinary shares held by Birbey S.A. Mr. Rastellino has sole voting and dispositive control over such shares and directly or indirectly owns 100% of the share capital of Birbey S.A. Mr. Rastellino also holds 5,212 RSUs which will vest on December 1, 2020; provided that Mr. Rastellino remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”
- (4) Consists of 7,150 ordinary shares held by Mr. Vázquez, a member of our Board of Directors. Mr. Vázquez also holds 5,212 RSUs which will vest on December 1, 2020; provided that Mr. Vázquez remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”

- (5) Consists of 165,392 ordinary shares held by Mr. Doyle, a member of our Board of Directors. Mr. Doyle also holds (a) 43,475 RSUs which vest in December 1, 2020, and (b) 100,000 RSUs which vest in two equal installments on December 1, 2021 and December 1, 2022; in each case provided that Mr. Doyle remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”
- (6) Consists of 17,056 ordinary shares held by Mr. Lopez Gaffney, our Chief Financial Officer. Mr. Lopez Gaffney also holds: (a) 145,700 options: (i) 15% of which vested on December 1, 2018; (ii) 15% of which vested on December 1, 2019; (iii) 20% of which will vest on December 1, 2020; (iv) 25% of which will vest on December 1, 2021 and (v) 25% of which will vest on December 1, 2022, (b) 33,032 RSUs which vest in three installments on December 1, 2020, December 1, 2021 and December 1, 2022, (c) 26,421 RSUs which vest in three installments on June 1, 2020, June 1, 2021 and June 1, 2022, respectively, and (d) 3,750 RSUs which vest on June 1, 2023; in each case provided that Mr. Lopez Gaffney remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”
- (7) Consists of 4,000 ordinary shares held by Mr. Scagliarini, our General Counsel. Mr. Scagliarini also holds: (a) 1,202 RSUs which vest in three installments on December 1, 2020, December 1, 2021 and December 1, 2022, and (b) 6,812 RSUs which vest in four equal installments on June 1, 2020, June 1, 2021, June 1, 2022 and June 1, 2023; in each case provided that Mr. Scagliarini remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”
- (8) Consists of 36,197 ordinary shares held by Mr. García Estebarena, our Chief Commercial Director. Mr. García Estebarena also holds: (a) 132,638 options: (i) 5% of which vested on December 1, 2017; (ii) 10% of which vested on December 1, 2018; (iii) 15% of which vested on December 1, 2019; (iv) 20% of which will vest on December 1, 2020; (v) 25% of which will vest on December 1, 2021 and (vi) 25% of which will vest on December 1, 2022, (b) 64,176 RSUs which vest in three installments on December 1, 2020, December 1, 2021 and December 1, 2022, (c) 42,711 RSUs which vest in three equal installments on June 1, 2020, June 1, 2021 and June 1, 2022, and (d) 1,250 RSUs which vest in June 1, 2023; in each case provided that Mr. García Estebarena remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”
- (9) Consists of 31,303 ordinary shares held by Mr. Mackinon, our Executive VP Travel Partners & Corporate Affairs. Mr. Mackinon also holds: (a) 130,251 options: (i) 5% of which vested on December 1, 2017; (ii) 10% of which vested on December 1, 2018; (iii) 15% of which vested on December 1, 2019; (iv) 20% of which will vest on December 1, 2020; (v) 25% of which will vest on December 1, 2021 and (vi) 25% of which will vest on December 1, 2022, (b) 34,121 RSUs which vest in three installments on December 1, 2020, December 1, 2021 and December 1, 2022, and (c) 38,961 RSUs which vest in three equal installments on June 1, 2020, June 1, 2021 and June 1, 2022; in each case provided that Mr. Mackinon remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”
- (10) Consists of 47,223 ordinary shares held by Mr. Montivero, our Chief Business Development Officer. Mr. Montivero also holds (a) 130,251 options: (i) 5% of which vested on December 1, 2017; (ii) 10% of which vested on December 1, 2018; (iii) 15% of which vested on December 1, 2019; (iv) 20% of which will vest on December 1, 2020; (v) 25% of which will vest on December 1, 2021 and (vi) 25% of which will vest on December 1, 2022, (b) 46,448 RSUs which vest in three installments on December 1, 2020, December 1, 2021 and December 1, 2022, and (c) 38,961 RSUs which vest in three equal installments on June 1, 2020, June 1, 2021 and June 1, 2022; in each case provided that Mr. Montivero remains in continuous service as an employee, director or consultant of the Company through each applicable date. See “Item 6—B. Compensation.”

For information regarding share options and RSUs held by the persons listed above, see “—Equity Incentive Plans.”

## ITEM 7. MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS

### A. Major Shareholders

The following table sets forth information regarding the beneficial ownership of our ordinary shares as of March 31, 2020 by each person known to us to beneficially own more than 5% of any class of our outstanding voting securities.

In computing the number of ordinary shares beneficially owned by a person or entity and the percentage ownership of that person or entity, we deemed to be outstanding all ordinary shares subject to options or RSUs held by that person or entity that are currently exercisable or that will become exercisable or vested, as applicable, within 60 days of March 31, 2020. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person or entity.

<u>Name of Beneficial Owner</u> <u>% Shareholders:</u>	<u>Outstanding Ordinary Share</u> <u>as of March 31, 2020</u>	
	<u>Number</u>	<u>%</u>
Funds Affiliated with Tiger Global <sup>(1)</sup>	9,256,550	13.29
Expedia, Inc. <sup>(2)</sup>	9,590,623	13.77

- (1) Based on that certain Schedule 13G/A filed on February 14, 2019, consists of ordinary shares held by Tiger Global Investments, L.P., Charles P. Coleman III, Tiger Global Performance, LLC, Tiger Global Management, LLC, Charles P. Coleman III and Scott Shleifer. The business address for Tiger Global Investments, L.P. is c/o Citco Fund Services (Cayman Islands) Limited, 9 West 57th Street, 35th Floor, New York, NY 10019, and the address for each other entity is c/o Tiger Global Management, LLC, 9 West 57th Street, 35th Floor, New York, NY 10019.
- (2) Consists of ordinary shares held by Expedia, Inc. (“Expedia”), a Washington corporation, a direct wholly owned subsidiary of Expedia Group, Inc., a Delaware corporation. The principal business address for Expedia is 333 108th Avenue NE, Bellevue, WA 98004.

### Significant Changes in Percentage Ownership

Except as disclosed below, to our knowledge, there has been no significant changes in the percentages of ownership held by the major shareholders listed below.

On May 3, 2017, the stockholders of our predecessor, Decolar.com, Inc., a Delaware corporation, exchanged their shares for newly issued ordinary shares of Despegar.com, Corp. to create a BVI holding company.

On March 6, 2015, Expedia purchased 9,590,623 shares of common stock (the “2015 Expedia Shares”) from our predecessor, Decolar.com, Inc., representing 16.4% of its capital stock, for an aggregate purchase price of \$270.0 million.

On September 19, 2017, we completed our initial public offering on the New York Stock Exchange. We sold an aggregate of 14,685,500 ordinary shares (including 10,578,931 ordinary shares sold by us, including the full exercise of the over-allotment option by the underwriters to purchase up to an additional 1,915,000 ordinary shares, and 4,106,569 ordinary shares sold by our selling shareholders). The price per ordinary share was \$26.00. In this initial public offering, Tiger Global sold 3,356,020 ordinary shares, reducing its ownership percentage from 57.3% to 43.7%. In turn, in the context of this initial public offering, Expedia was diluted from 16.4% to 13.9%.

On August 9, 2018, the Company’s board of directors approved a share repurchase program that enabled the Company to repurchase up to \$75 million of its shares effective immediately and expiring in one year. During 2018 and 2019, the Company repurchased 1,544,475 ordinary shares with a weighted average cost per share of \$16.84, and 1,525,632 shares with a weighted average cost per share of \$13.54, respectively.

On August 21, 2018, the SEC declared effective our registration statement on Form F-1, which was filed for the purposes of registering ordinary shares for Tiger Global, our largest shareholder at the time and an affiliate of Jason Lenga, a member of our board of directors, pursuant to which Tiger Global could elect to make in-kind distributions to its members, partners or shareholders or otherwise dispose of the ordinary shares owned by Tiger Global. Such registration statement was amended pursuant to a post-effective amendment on Form F-3, which was declared effective by the SEC on December 19, 2018.

On August 1, 2019, the Company's board of directors approved a new share repurchase that enables the Company to repurchase up to \$100 million of its shares. The program became effective on August 8, 2019, and expires one year thereafter. Share repurchases may be undertaken through a variety of methods, including pursuant to trading plans adopted in accordance with Rule 10b5-1 of the Exchange Act, or through open market or privately negotiated transactions, in accordance with applicable law. During 2019, the Company repurchased 1,938,200 ordinary shares with a weighted average cost per share of \$11.13.

## **B. Related Party Transactions**

### **Relationship with Expedia**

#### ***Expedia Outsourcing Agreement***

We entered into the Expedia Outsourcing Agreement with affiliates of Expedia on March 6, 2015. The agreement has been amended and restated, most recently on November 14, 2019. Expedia is the beneficial owner of 13.77% of our ordinary shares outstanding as of December 31, 2019.

Substantially all of the hotel and other lodging reservations that we offer through our platform for all countries outside Latin America are provided to us by Expedia pursuant to the Expedia Outsourcing Agreement. Under the agreement, Expedia is also the preferred provider to us of hotel and other lodging reservations inside Latin America.

Pursuant to the Expedia Outsourcing Agreement, Expedia pays monthly marketing fees to us, which are calculated as a percentage of the gross booking value of the bookings that we sourced through Expedia during that month. We are required to maintain a level of bookings through Expedia such that those marketing fees equal at least \$5.0 million in a six-month period; otherwise, Expedia may require us to pay a \$125.0 million termination fee. For 2019 and 2018, marketing fees paid by Expedia to us under the Expedia Outsourcing Agreement, net of fees we paid to Expedia under the Despegar Outsourcing Agreement (described below), amounted to \$38.8 million and \$44.0 million, which represented 7.4% and 8.3% of our revenue for the year, respectively. From time to time, under the Expedia Outsourcing Agreement, our fees have been supplemented by one-time incentives paid to us for reaching certain booking targets during a specified time period. As of December 31, 2019, our payables to Expedia under the Expedia Outsourcing Agreement were \$86.6 million. For more information, see note 17 to our consolidated financial statements.

Given the uncertainty caused by the ongoing COVID-19 pandemic, we cannot assure you that we will be able to meet this requirement in the future. As a result, we have initiated discussions with Expedia regarding a potential temporary suspension of this requirement under the Expedia Outsourcing Agreement, although, in the event that we are not able to meet this requirement in the future due to the effects of the pandemic, we believe that the termination fee would not apply as a result of the force majeure provision under the contract.

In addition, the agreement was amended and restated on November 14, 2019 in order to, among other things, allow us to source hotel bookings without Expedia on certain pre-agreed properties outside of Latin America, which transactions are limited to an agreed percentage of the transactions we source outside of Latin America. If such transactions exceed the agreed percentage threshold during a six-month period, we may be required to pay Expedia compensation; and if our non-Expedia sourced bookings outside of Latin America exceed the agreed percentage of gross bookings outside of Latin America for two consecutive quarters, or an agreed higher percentage threshold in one quarter, Expedia may elect to become our exclusive provider outside of Latin America once again. If such transactions exceed an agreed percentage of the minimum bookings percentage set forth therein for any three consecutive months or any three months within a six-month period, then Expedia may require us to pay a \$125.0 million termination fee.

The term of the Expedia Outsourcing Agreement automatically renews annually unless terminated in certain cases, including (1) by mutual consent or by a party in the case of a material breach by the other party (with a \$125.0 million termination payment if terminated by Expedia due to our breach or our failure to meet certain minimum performance requirements), (2) unilaterally by us without cause after March 6, 2022 upon payment to Expedia of a \$125.0 million termination payment, and (3) unilaterally by Expedia in the event of a change of control of our



Company. A change of control under the agreement is defined as the sale, lease or transfer of all or substantially all of our assets to or acquisition of more than 50% of voting or economic power in our Company or any parent of our Company by an entity in the consumer or corporate travel industry or an internet-enabled provider of travel search or information services. Unilateral termination of the Expedia Outsourcing Agreement by us as described in (2) above, in addition to triggering the termination payment, also gives Expedia the right to sell the 2015 Expedia Shares back to us for fair market value under the Shareholder Agreements described below.

We may also terminate the agreement if Expedia ceases to hold all of the 2015 Expedia Shares unless the disposition of those shares was (1) approved by a majority of members of our Board of Directors that were not designated by Expedia, (2) involuntary or (3) the result of an action taken by us or any of our affiliates.

The foregoing description of the Expedia Outsourcing Agreement, as amended and restated by means of document executed on November 14, 2019, is filed as Exhibit 4.1 to this Annual Report.

### ***Despegar Outsourcing Agreement***

We entered into the Despegar Outsourcing Agreement with certain affiliates of Expedia on August 17, 2016. Under the Despegar Outsourcing Agreement, we are required to make our hotel reservations available to certain affiliates of Expedia. The relevant Expedia Affiliate receives compensation equal to a percentage of the revenue earned by us from the property owner.

The agreement has a three-year term that automatically renews for one-year periods, unless either party elects not to renew. We are required to indemnify Expedia and/or its affiliates for losses derived from end user claims. However, if during any contract year Expedia and/or its affiliates suffer losses derived from end user claims exceeding 1% of the annual aggregate room price of the bookings made by the Company during such year, we may terminate the agreement.

As of December 31, 2019, our receivables with Expedia under the Despegar Outsourcing Agreement were \$19.6 million.

The foregoing description of the Despegar Outsourcing Agreement is qualified in its entirety by reference to the Despegar Outsourcing Agreement, which was filed as an exhibit to the registration statement filed with the SEC on August 31, 2017.

### **Shareholder Agreements**

We are party to the following agreements with our shareholders: (i) the Sixth Amended and Restated Investors' Rights Agreement, dated as of August 29, 2017, by and among the Company, (1) Tiger Global Private Investment Partners IV, L.P., Tiger Global Investments, L.P., The Scott Shleifer 2011 Descendants' Trust pursuant to an agreement dated as of January 20, 2011, LFX Trust under an agreement dated as of January 26, 2011 and Ventoux V LLC (together, the "Tiger Global Shareholders"), (2) Porto Palma S.A., Vistamare S.A., Tielis Park S.A., Prosventure S.A., Pausania S.A., Bynum Company S.A., Birbey S.A., Prefisul S.A., Pranaguspi S.A. (together, the "Former Management Shareholders"); (3) SC US GF V HOLDINGS, LTD., SCGE FUND, L.P., SCHF (M) PV, L.P. (together, the "Sequoia Shareholders"), Insight Venture Partners VII, LP, Insight Venture Partners VII (CoInvestors), LP, Insight Venture Partners (Cayman) VII LP, Insight Venture Partners (Delaware) VII LP (together, the "Insight Shareholders"), Accel Growth Fund II L.P., Accel Growth Fund II Strategic Partners L.P., Accel Growth Fund 2012 Investors L.L.C. (together, the "Accel Shareholders"), General Atlantic Partners (Bermuda) II, L.P., GAPCO GmbH & Co. KG, GAP Coinvestments CDA, L.P., GAP Coinvestments III, LLC, GAP Coinvestments IV, LLC (together, the "General Atlantic Shareholders" and, together, with the Sequoia Shareholders, the Insight Shareholders and the Accel Shareholders, the "Other Investor Shareholders"); and (4) Expedia (together, with the Tiger Global Shareholders, the Former Management Shareholders and the Other Investor Shareholders, the "Principal Shareholders") (the "Sixth Amended and Restated Investors' Rights Agreement"); (ii) the Fourth Amended and Restated Voting Agreement dated as of August 29, 2017, by and among the Company, the Principal Shareholders, Nilesh Lakhani, Edgardo Sokolowicz, Alipio Camanzano, Martin Molinari (through investment vehicles), Christian Adonajlo, Cristian Camsen, Daniel Goldstein and Michael Doyle



(together, the “Additional Shareholders”) (the “Fourth Amended and Restated Voting Agreement”); and (iii) the Fourth Amended and Restated First Refusal and Co-Sale Agreement dated as of August 29, 2017, by and among the Company, the Principal Shareholders and the Additional Shareholders (the “Fourth Amended and Restated First Refusal and Co-Sale Agreement”). For purposes of this Annual Report we refer to the Sixth Amended and Restated Investors’ Rights Agreement, the Fourth Amended and Restated Voting Agreement and the Fourth Amended and Restated First Refusal and Co-Sale Agreement as the “Shareholder Agreements.” The Shareholder Agreements provide Expedia and the Tiger Global Shareholders with the rights and obligations described below.

#### ***Expedia Preemptive Rights***

As long as Expedia beneficially owns at least 5% of our share capital (calculated on a fully-diluted basis), it has preemptive rights to purchase newly issued shares to maintain its percentage ownership in all future offerings by us of our shares or of securities convertible into, or exchangeable or exercisable for, any of our shares, subject to certain limited exceptions.

#### ***Expedia Standstill***

Until September 19, 2020, Expedia and its affiliates are prohibited from acquiring more than 35% of the voting or economic power of our outstanding shares, except by a tender offer, exchange offer or other offer for all of the outstanding shares, directly or indirectly, in which case they are only permitted to consummate such offer if it would result in their owning more than 75% of the voting or economic power of our outstanding shares entitled to vote in the election of our board of directors. In addition, if (1) we enter into a definitive agreement providing for a Liquidation Event (as defined in the Shareholder Agreements), (2) a tender or exchange offer which if consummated would constitute a Liquidation Event is made (by a person other than Expedia) for our securities and our board of directors either accepts such offer or fails to recommend that our shareholders reject such offer within ten business days, or (3) our board of directors resolves to engage in a formal process which is intended to result in a transaction which, if consummated, would constitute a Liquidation Event, then, notwithstanding the above restriction, with respect to clauses (1) and (2), Expedia is entitled to make an offer for and acquire our shares in a transaction for at least as many shares or equivalent as contemplated in the relevant Liquidation Event, and, with respect to clause (3), Expedia is entitled to participate in such process on the same terms and conditions as the other participants.

#### ***Expedia Put Right***

We are required to buy back from Expedia, or in certain circumstances facilitate the sale of, the 2015 Expedia shares for fair market value, if we exercise our right to terminate the Expedia Outsourcing Agreement on or after March 6, 2022 and make the required termination payment of \$125.0 million to Expedia in connection therewith. If we remain a public company with securities traded on a recognized securities exchange at the time we receive notice that Expedia is exercising its put right, then we are required to (1) use our best efforts to prepare and file with the SEC a registration statement covering the 2015 Expedia Shares, (2) request, in conjunction with Expedia, quotes from five internationally-recognized underwriting banks for a firm and fully underwritten sale of the 2015 Expedia Shares and (3) assist Expedia in its sale of the 2015 Expedia Shares on a recognized securities exchange or market or otherwise. If the 2015 Expedia Shares cannot be sold in this manner, we are required to purchase the 2015 Expedia Shares at the highest quoted price then available from the aforementioned underwriting banks. If we are no longer a public company with securities traded on a recognized securities exchange, fair market value will be a price agreed upon by the Company and Expedia or, if the parties cannot agree, a price determined through the assistance of third-party valuation experts.

#### ***Expedia Non-Solicitation Restriction***

Expedia is also prohibited from soliciting certain of our employees, and vice versa, until one year after Expedia beneficially owns less than 10% of our share capital. A similar non-solicitation covenant applies during the term of the Expedia Outsourcing Agreement.

### ***Expedia Director Business Opportunities***

Subject to applicable confidentiality obligations, directors who have or currently serve as directors, officers, employees or agents of Expedia (the “Expedia Directors”) are not precluded from referring potential business opportunities in which we could have an interest to Expedia. If the Expedia Directors do so, we would be considered to have renounced our interest in such opportunity, unless the opportunity in question was presented to the director solely in his or her capacity as our director or for our benefit, in which case it can only be referred to Expedia if a majority of our board of directors (excluding the Expedia Directors) has formally declined the opportunity pursuant to a resolution.

### ***Expedia Director Potential Conflicts of Interest***

The Expedia Directors may be excluded from the relevant portion of any board or committee meeting or relevant resolutions of directors relating to any transaction, agreement or arrangement with respect to which (1) Expedia or any of its affiliates is a counterparty or has a material economic interest in the counterparty or (2) in the reasonable opinion of a majority of the members of the board that are not designated or nominated by, or employed by, Expedia or any of its affiliates, there would exist a conflict of interest between the interests of Expedia or its affiliates, on the one hand, and our interests, on the other (conflict of interest is defined for such purpose as a specific material economic or competitive interest of Expedia or any of its affiliates in a potential transaction, agreement or arrangement of the Company would be reasonably likely to materially impair the independence or objectivity of the Expedia Directors in the discharge of their responsibilities and duties to the Company, in light of their affiliation to Expedia).

### ***Registration Rights***

The Tiger Global Shareholders and Expedia are each entitled to two demand registrations as long as such holder owns 5% or more of our outstanding ordinary shares (calculated on a fully-diluted basis). Moreover, any other party to our Shareholder Agreements that owns 10% or more our outstanding ordinary shares (calculated on a fully-diluted basis) is also entitled to two demand registrations. We are also required to effect up to two registrations on Form F-3 in any twelve-month period, upon the request of any such shareholders that own 10% or more of our outstanding ordinary shares (calculated on a fully-diluted basis). The Shareholder Agreements also provide the shareholders party thereto with customary piggyback registration rights. Moreover, we are required to pay certain expenses relating to such registrations and indemnify such shareholders against certain liabilities that may arise under the Securities Act. In addition, as previously described, we may also be required to facilitate the sale by Expedia of the 2015 Expedia Shares.

### ***Restrictions on Transactions and Transfers to Priceline***

Under the Sixth Amended and Restated Investors’ Rights Agreement and the Expedia Outsourcing Agreement, until September 19, 2020, we may not enter into any arrangement with the Priceline Group Inc. (currently known as ‘Booking Holdings Inc.’) or any of its affiliates (“Priceline”) or the respective businesses of Booking.com, Agoda.com, Kayak.com and RentalCars.com (the “Specified Priceline Operations”), whether or not such businesses remain a part of the operations of Priceline, or any future business of Priceline which is similar in size and nature to the Specified Priceline Operations, whether or not such business remains a part of the operations of Priceline. In addition, until September 19, 2020, certain restrictions apply to transfers of our securities by us or by the Principal Shareholders to Priceline.

However, these restrictions cease to apply if the Expedia Outsourcing Agreement has been validly terminated in accordance with its terms, except if such termination was due to a failure by us to meet certain minimum performance requirements or a material breach by us, in which case these restrictions will continue to apply until the earliest of (1) September 19, 2020, (2) the seventh anniversary of the Expedia Outsourcing Agreement (provided that we make the required termination payment of \$125.0 million), (3) the date on which Expedia sells the 2015 Expedia Shares unless the disposition of such shares was (a) approved by a majority of our board of directors that were not designated by Expedia, (b) involuntary, or (c) the result of an action taken by us or any of our affiliates (e.g., a stock buyback, reverse stock split, merger, share exchange or other transaction resulting in the change in form of the 2015 Expedia Shares); or (4) a material and uncured breach by Expedia of its agreement not to acquire

more than 35% of the voting or economic power of our outstanding share capital prior to September 19, 2020 other than by means of a tender offer, exchange offer or other offer that if consummated would result in Expedia being the beneficial owner of more than 75% of the voting or economic power of our outstanding share capital entitled to vote in the election of the board of directors.

The foregoing description of the Shareholder Agreements and the rights contained therein is qualified in its entirety by reference to the Shareholder Agreements, which were filed as exhibits to the registration statement filed with the SEC on August 31, 2017.

#### **Statement of Policy Regarding Transactions with Related Persons**

Our board of directors has adopted a written statement of policy regarding transactions with related persons, which we refer to as our “related person policy.” Our related person policy requires that a “related person” (as defined as in paragraph (a) of Item 404 of Regulation S-K) must promptly disclose to our general counsel any “related person transaction” (defined as any transaction that is anticipated would be reportable by us under Item 404(a) of Regulation S-K in which we were or are to be a participant and the amount involved exceeds \$120,000 and in which any related person had or will have a direct or indirect material interest) and all material facts with respect thereto. The head of compliance will then promptly communicate that information to our board of directors. No related person transaction will be executed without the approval or ratification of our board of directors. It is our policy that directors interested in a related person transaction will recuse themselves from any vote of a related person transaction in which they have an interest. Our policy does not specify the standards to be applied by directors in determining whether or not to approve or ratify a related person transaction and we accordingly anticipate that these determinations will be made in accordance with principles of the laws of the BVI generally applicable to directors of a BVI company.

#### **C. Interests of Experts and Counsel**

Not applicable.

### **ITEM 8. FINANCIAL INFORMATION**

#### **A. Consolidated Statements and Other Financial Information**

See Exhibits.

#### **Legal Proceedings**

See “Item 4. Information on the Company — Business Overview — Legal Proceedings.”

#### **Dividend Policy**

In 2019, 2018 and 2017, no dividends were declared or paid on our ordinary shares or on the common stock of our predecessor, Decolar.com, Inc. We currently intend to retain our available funds and future earnings, if any, to finance the development and growth of our business and operations as well as expand our business and do not currently anticipate paying dividends on our ordinary shares in the near future.

The declaration, amount and payment of any future dividends will be at the sole discretion of our board of directors, subject to compliance with applicable BVI laws regarding solvency. Our board of directors will take into account general economic and business conditions, our financial condition and results of operations, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax and regulatory restrictions and other implications on the payment of dividends by us to our shareholders or by our subsidiaries to us, and such other factors as our board of directors may deem relevant.

As we are a holding company, we rely on dividends paid to us by our subsidiaries for our cash requirements, including funds to pay any dividends and other cash distributions to our shareholders, service any debt we may incur and pay our operating expenses. Our ability to pay dividends to our shareholders will depend on, among other things, the availability of dividends from our subsidiaries.

Under BVI law, our board of directors may authorize payment of a dividend to shareholders at such time and of such an amount as they determine if they are satisfied on reasonable grounds that immediately following the dividend the value of our assets will exceed our liabilities and we will be able to pay our debts as they become due. There is no further BVI statutory restriction on the amount of funds which may be distributed by us by dividend.

Pursuant to our memorandum and articles of association:

- Subject to the Company satisfying the solvency test described above, our board of directors may authorize payment of a dividend or other distribution at such time and of such an amount and pursuant to such method or methods of payment or other distribution as it thinks fit. A dividend or other distribution may be paid wholly or partly by the distribution of specific assets (which may consist of our shares or securities of any other entity) and our board of directors may settle all questions concerning such distribution. Without limitation, our board of directors may fix the value of such specific assets, may determine that cash payments shall be made to some shareholders in lieu of specific assets and may vest any such specific assets in a liquidating or other trust on such terms as our board of directors thinks fit.
- Our board of directors may deduct from any dividend or other distribution payable to any shareholder any or all monies then due from such shareholder to us.
- All dividends and other distributions unclaimed for three years after having been declared may be forfeited by a resolution of directors for the benefit of the Company. All unclaimed dividends and other distributions may be invested or otherwise made use of by our board of directors for the benefit of the Company pending claim or forfeiture as aforesaid. No dividend or other distribution shall bear interest against the Company.
- A dividend or other distribution made to a shareholder at a time when, immediately after the dividend or other distribution, the value of the Company's assets did not exceed its liabilities and the Company was not able to pay its debts as they fell due, is subject to recovery in accordance with the provisions of the BVI Act.

## **B. Significant Changes**

There has been no significant subsequent event following the close of the last financial year up to the date of this Annual Report that is known to us and requires disclosure in this Annual Report for which disclosure was not made in this Annual Report.

## **ITEM 9. THE OFFER AND LISTING**

### **A. Offer and Listing Details**

Our ordinary shares trade on the New York Stock Exchange since September 19, 2017 under the symbol "DESP".

### **B. Plan of Distribution**

Not applicable.

### **C. Markets**

Our ordinary shares trade on the New York Stock Exchange under the symbol "DESP".

**D. Selling Shareholders**

Not applicable.

**E. Dilution**

Not applicable.

**F. Expenses of the Issue**

Not applicable.

**ITEM 10. ADDITIONAL INFORMATION**

**A. Share Capital**

Not applicable.

**B. Memorandum and Articles of Association**

We are a BVI business company incorporated with limited liability and our affairs are governed by the provisions of our memorandum and articles of association, as amended and restated from time to time, and by the provisions of applicable BVI law, including the BVI Act.

Our company number in the BVI is 1936519. As provided in regulation 4 of our memorandum of association, subject to BVI law, we have full capacity to carry on or undertake any business or activity, do any act or enter into any transaction and, for such purposes, full rights, powers and privileges. Our registered office is at Commerce House, Wickhams Cay 1, P.O. Box 3140, Road Town, Tortola, British Virgin Islands and our registered agent is Conyers Trust Company (BVI) Limited of Commerce House, Wickhams Cay 1, P.O. Box 3140, Road Town, Tortola, British Virgin Islands.

The transfer agent and registrar for our ordinary shares is Computershare Trust Company, N.A., which maintains the register of members of the Company at 480 Washington Boulevard, Jersey City, NJ 07310, USA. The shares of the Company are held in uncertificated (book-entry) form and no shareholder has the right to require issuance or provision to it at any time of any share certificate.

Our memorandum and articles of association are described in our Annual Report on Form 20-F for the fiscal year ended December 31, 2017 filed with the SEC on April 24, 2018 and has also been filed as an exhibit to the registration statement on Form F-1 filed with the SEC on August 31, 2017.

**C. Material Contracts**

For information regarding material contracts, see “Item 7. Major Shareholders and Related Party Transactions —B. Related Party.”

**D. Exchange Controls**

The following paragraphs summarize the exchange rates and exchange controls of Brazilian reais and Argentine pesos. See “Item 3. Key Information — D. Risk Factors—Risks Related to Latin America—Exchange rate fluctuations against the dollar in the countries in which we operate could negatively affect our results of operations” and “We are subject to foreign currency exchange controls in certain countries in which we operate” for more information.

## **Brazil**

The Brazilian foreign exchange system allows the purchase and sale of foreign currency and the international transfer of Brazilian reais by any person or legal entity, regardless of the amount, subject to certain regulatory procedures.

The Brazilian real depreciated against the dollar from mid-2011 to early 2016. In 2015, the Brazilian real depreciated 47.0% reaching R\$3.9048 per dollar on December 2015. In 2016, the Brazilian real fluctuated significantly, primarily as a result of Brazil's political instability, but appreciated 16.54%, reaching R\$3.2591 per \$1.00 on December 31, 2016. In 2017, the Brazilian Real depreciated 1.5% relative to the U.S. dollar, and in 2018, such depreciation reached 17.1% relative to the dollar. In 2019, the Brazilian Real depreciated 4% relative to the U.S. dollar.

The Brazilian Central Bank has intervened occasionally in the foreign exchange market to attempt to control instability in foreign exchange rates. We cannot predict whether the Brazilian Central Bank or the Brazilian government will continue to allow the Brazilian real to float freely or will intervene in the exchange rate market by re-implementing a currency band system or otherwise. The Brazilian real may depreciate or appreciate substantially against the dollar in the future. Furthermore, Brazilian law provides that, whenever there is a serious imbalance in Brazil's balance of payments or there are reasons to foresee a serious imbalance, temporary restrictions may be imposed on remittances of foreign capital abroad. We cannot assure you that the Brazilian government will not place restrictions on remittances of foreign capital abroad in the future.

On December 31, 2019, the exchange rate was R\$4.03 per \$1.00.

## **Argentina**

From April 1, 1991 until the beginning of 2002, Law No. 23,928 (the "Convertibility Law") established a regime under which the Argentine Central Bank was obliged to sell dollars at a fixed rate of one Argentine peso per dollar. On January 6, 2002, the Argentine Congress enacted Law No. 25,561 (as amended and supplemented, the "Public Emergency Law"), formally ending the regime of the Convertibility Law, abandoning over ten years of dollar-Argentine peso parity and eliminating the requirement that the Argentine Central Bank's reserves in gold, foreign currency and foreign currency-denominated debt be at all times equivalent to 100% of the monetary base.

The Public Emergency Law, which has been extended on an annual basis and is in effect until December 31, 2019, has granted the Argentine government the power to set the exchange rate between the Argentine peso and foreign currencies and to issue regulations related to the foreign exchange market. Following a brief period during which the Argentine government established a temporary dual exchange rate system, pursuant to the Public Emergency Law, the Argentine peso has been allowed to float freely against other currencies since February 2002. However, the Argentine Central Bank has had the power to intervene in the exchange rate market by buying and selling foreign currency for its own account, a practice in which it has engaged on a regular basis. Since 2011, the Argentine government has increased controls on exchange rates and the transfer of funds into and out of Argentina.

With the tightening of foreign exchange controls beginning in late 2011, in particular with the introduction of measures that restricted access to foreign currency for private companies and individuals, the implied exchange rate, as reflected in the quotations for Argentine securities that trade in foreign markets, compared to the corresponding quotations in the local market, increased significantly over the official exchange rate. Most of the foreign exchange restrictions have been gradually lifted by several communications issued by the Argentine Central Bank, starting with Communication "A" 5850 issued in December 2015. On August 9, 2016 the Argentine Central Bank issued Communication "A" 6037, which substantially modified the applicable foreign exchange regulations and eliminated the set of restrictions for accessing the Argentine Official Foreign Exchange Market ("MULC" for its acronym in Spanish, or the "FX Market"). Consequently, as a result of the elimination of the existing limitations on the amounts for the purchase of foreign currency without specific allocation and the elimination of prior approval requirements, the spread between the official exchange rate and the implicit exchange rate derived from securities transactions has substantially decreased.

After several years of moderate variations in the nominal exchange rate, in 2012 the Argentine peso lost approximately 14% of its value with respect to the dollar. This was followed in 2013 and 2014 by a devaluation of the Argentine peso with respect to the dollar that exceeded 30%, including a loss of approximately 23% in January 2014. In 2015, the Argentine peso lost approximately 52% of its value with respect to the dollar, including a 10% devaluation from January 1, 2015 to September 30, 2015 and a 38% devaluation during the last quarter of the year, mainly concentrated after December 16, 2015 when certain exchange controls were lifted.

On December 31, 2019, the exchange rate was AR\$59.87 per \$1.00.

### ***Exchange Controls in Argentina***

The enactment of the Public Emergency Law in 2002, among other things, authorized the Argentine government to implement a foreign exchange system and to enact foreign exchange regulations. Within this context, on February 8, 2002, pursuant to Decree No. 260/2002, the Argentine government (1) created the FX Market through which all transactions involving the exchange of foreign currency must be conducted, and (2) established that all foreign exchange transactions shall be made at the freely agreed exchange rate and in compliance with the requirements and regulations of the Argentine Central Bank (the main aspects of which are described below).

On June 9, 2005, by means of Decree No. 616/2005, the Argentine government established that (1) all inflows of funds into the FX Market arising from foreign debts incurred by Argentine residents, both individuals or legal entities of the private financial and non-financial sector, excluding export-import financings, and primary issues of debt securities sold through public offering and traded in authorized markets; (2) currency remittances made by non-Argentine-residents into the domestic foreign exchange market for the following purposes: holdings of Argentine currency, purchases of any kind of financial assets or liabilities of the financial or non-financial private sector, excluding direct foreign investments and primary issues of debt securities and shares sold through public offering and traded in self-regulated markets; and investments in public sector securities purchased in secondary markets, shall meet the following requirements: (a) currency remittances into the domestic foreign currency market shall only be transferred abroad upon the lapse of 365 calendar days computed as from the date of settlement of such funds into Argentine pesos (the “Minimum Stay Period”); (b) the proceeds of the exchange of the funds so remitted shall be deposited into an account in the local banking system; (c) an amount equal to 30.0% of the relevant amount shall be deposited in a registered, non-transferable and non-interest bearing account for a period of 365 calendar days, under the conditions established in the applicable regulations; and (d) such deposit shall be made in dollars with Argentine financial institutions, it shall not accrue any interest or other profit and shall not be used as security or collateral for any kind of credit transaction.

Any breach of the provisions of Executive Decree No. 616/05 or any other foreign exchange regulation is subject to criminal sanctions.

However, to date, the requirements set forth in (a), (c) and (d) above have been mitigated through resolutions issued by the Ministry of Treasury and Public Finance. On December 18, 2015, through Resolution No. 3/2015, the Ministry of Treasury and Public Finance amended Executive Decree No. 616/2005, reducing (i) the deposit percentage to zero and (ii) reducing the Minimum Stay Period from 365 to 120 calendar days. On January 5, 2017, through Resolution No. 1/2017, the Ministry of Treasury reduced the Minimum Stay Period to zero. In addition, on August 8, 2016, the Argentine Central Bank, by means of Communication “A” 6037, introduced material changes to the foreign exchange regime in force, which significantly eased access to the FX Market.

Furthermore, on May 19, 2017, the Argentine Central Bank issued Communication “A” 6244, which entered into effect on July 1, 2017, and pursuant to which new regulations regarding access to the foreign exchange market were established, essentially abrogating all prior regulations on the matter. Pursuant to these new regulations: (i) the principle of a free foreign exchange market is set. In accordance with section 1.1 of the communication, “All human or legal persons, assets and other universals may freely operate in the exchange market”; (ii) the obligation to carry out any exchange operation through an authorized entity (section 1.2) is maintained; (iii) restrictions regarding hours to operate in the FX Market, are eliminated; (iv) the obligation of Argentine residents to comply with the “Survey of foreign liabilities and debt issuances” (Communication “A” 3602 as supplemented) and the survey of direct investment (Communication “A” 4237 and complementary) are maintained, even if there has been no inflow of funds to the MULC and/or no future access to the MULC for operations to be declared; and (v) the obligation of Argentine residents to transfer to Argentina and sell in the FX Market the proceeds of their exports of goods within the applicable deadline remains in force.

Afterwards, by means of Decree No. 27/2018, dated January 11, 2018, the Free Exchange Market (“MELI” as per its acronym in Spanish) was created, as a replacement of the MULC, for purposes of providing additional flexibility to the market, enabling competition and allowing for the entry of new operators into the foreign exchange market, thus reducing systemic costs. Exchange operations will be conducted through the MELI by financial entities and other participants authorized by the Central Bank. On June 18, 2018, the National Congress enacted Law No. 27,444, which repeals Decree No. 27/2018, but confirms section 132, which created the MELI.

On September 1, 2019, due to various factors that impacted the evolution of the Argentine economy and the uncertainty caused in the financial markets by the presidential election that took place in 2019, by Emergency Decree No. 609/2019 and Communication “A” 6770 of the BCRA, the Macri administration re-implemented the exchange controls that had been lifted in 2016. Among other provisions, considerations, and exceptions set forth in such legislation, the most relevant aspects of the new foreign exchange rules (pursuant to Communication “A” 6844, as amended and supplemented), provide new regulation that impact the following areas and situations: (i) exports and imports of Services; (ii) payments of profits and dividends; (iii) sale of non-produced non-financial assets; (iv) external financial loans disbursed as of September 1, 2019; (v) repayment local notes offerings in dollars; (vi) payment of principal and interest external financial indebtedness; (vii) payments in foreign currency among residents; (viii) payments of External Financial Indebtedness by Collateral Trustees; (ix) purchase of foreign currency by individuals, entities, and non-residents; and (x) funding of debt services reserve accounts on external indebtedness.

## **E. Taxation**

### **British Virgin Islands Tax Considerations**

We are not liable to pay any form of taxation in the BVI and all dividends, interests, rents, royalties, compensations and other amounts paid by us to persons who are not persons resident in the BVI are exempt from all forms of taxation in the BVI and any capital gains realized with respect to any shares, debt obligations, or other securities of ours by persons who are not persons resident in the BVI are exempt from all forms of taxation in the BVI. The BVI is not party to any double tax treaties that are applicable to any payments made to or by us.

No estate, inheritance, succession or gift tax, rate, duty, levy or other charge is payable by persons who are not persons resident in the BVI with respect to any shares, debt obligation or other securities of ours.

Subject to the payment of stamp duty on the acquisition of property in the BVI by us (and in respect of certain transactions in respect of the shares, debt obligations or other securities of BVI incorporated companies owning land in the BVI), all instruments relating to transfers of property to or by us and all instruments relating to transactions in respect of the shares, debt obligations or other securities of ours and all instruments relating to other transactions relating to our business are exempt from payment of stamp duty in the BVI.

There are currently no withholding taxes or exchange control regulations in the BVI applicable to us or our shareholders.

### **U.S. Federal Income Taxation**

The following is a summary of certain material U.S. federal income and, in the case of a non-U.S. holder (as defined below), estate tax consequences of the purchase, ownership and disposition of our ordinary shares as of the date hereof. This summary deals only with our ordinary shares that are held as capital assets within the meaning of Section 1221 of the Code (as defined below) (generally, for investment purposes) by a beneficial owner.

As used herein, a “U.S. holder” means a beneficial owner of our ordinary shares that is, for U.S. federal income tax purposes, any of the following:

- an individual citizen or resident of the United States;



- a corporation (or any other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if it (1) is subject to the primary supervision of a court within the United States and one or more United States persons have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable U.S. Treasury regulations to be treated as a United States person.

As used herein, the term “non-U.S. holder” means a beneficial owner of our ordinary shares (other than a partnership or other pass-through entity for U.S. federal income tax purposes) that is not a U.S. holder.

This summary is based upon provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and regulations, rulings and judicial decisions as of the date hereof. Those authorities may be changed, perhaps retroactively, so as to result in U.S. federal income and estate tax consequences different from those summarized below.

This discussion does not represent a detailed description of the U.S. federal income tax consequences applicable to you if you are subject to special treatment under the U.S. federal income tax laws, including if you are:

- a dealer in securities or currencies;
- a financial institution;
- a regulated investment company;
- a real estate investment trust;
- an insurance company;
- a tax-exempt organization;
- a person holding our ordinary shares as part of a hedging, integrated or conversion transaction, a constructive sale or a straddle;
- a trader in securities that has elected the mark-to-market method of accounting for your securities;
- a person liable for alternative minimum tax;
- a partnership or other pass-through entity for U.S. federal income tax purposes;
- a person required to accelerate the recognition of any item of gross income with respect to our ordinary shares as a result of such income being recognized on an applicable financial statement;
- a U.S. holder whose “functional currency” is not the dollar;
- a foreign pension fund;
- a “controlled foreign corporation”;
- a “passive foreign investment company”; or
- a U.S. expatriate.

If a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) holds our ordinary shares, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding our ordinary shares, you should consult your tax advisors.

Notwithstanding our corporate reincorporation in the BVI, under Section 7874 of the Code, the Company will be treated for U.S. federal tax purposes as a U.S. corporation and, among other consequences, is subject to U.S. federal income tax on its worldwide income. This discussion assumes that Section 7874 of the Code continues to apply to treat us as a U.S. corporation for all purposes under the Code. If, for some reason (e.g., future repeal of Section 7874 of the Code), we were no longer treated as a U.S. corporation under the Code, the U.S. federal income tax consequences described herein could be materially and adversely affected.

This discussion does not contain a detailed description of all the U.S. federal income and estate tax consequences to you in light of your particular circumstances and does not address the Medicare tax on net investment income or the effects of any state, local or non-U.S. tax laws. **If you are considering the purchase of our ordinary shares, you should consult your own tax advisors concerning the particular U.S. federal income and estate tax consequences to you of the purchase, ownership and disposition of our ordinary shares, as well as the consequences to you arising under other U.S. federal tax laws and the laws of any other taxing jurisdiction.**

## Consequences to U.S. Holders

### *Dividends*

In the event that we make a distribution of cash or other property (other than certain pro rata distributions of our stock) in respect of our ordinary shares, the distribution generally will be treated as a dividend for U.S. federal income tax purposes to the extent it is paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Any portion of a distribution that exceeds our current and accumulated earnings and profits generally will be treated first as a tax-free return of capital, causing a reduction in the adjusted tax basis of a U.S. holder's ordinary shares, and to the extent the amount of the distribution exceeds a U.S. holder's adjusted tax basis in our ordinary shares, the excess will be treated as gain from the disposition of our ordinary shares (the tax treatment of which is discussed below under "— Gain on Disposition of Ordinary Shares"). Subject to certain holding period and other requirements, (a) any dividends received by a U.S. holder that is a corporation will be eligible for the dividends received deduction and (b) any dividends received by a non-corporate U.S. holder (including an individual) will be eligible for the reduced tax rates that apply to "qualified dividend income."

The amount of any dividend paid in foreign currency will equal the dollar value of the foreign currency received calculated by reference to the exchange rate in effect on the date the dividend is actually or constructively received by a U.S. holder, regardless of whether the foreign currency is converted into dollars. If the foreign currency received as a dividend is converted into dollars on the date it is received, a U.S. holder generally will not be required to recognize foreign currency gain or loss in respect of the dividend income. If the foreign currency received as a dividend is not converted into dollars on the date of receipt, a U.S. holder will have a basis in the foreign currency equal to its dollar value on the date of receipt. Any gain or loss realized on a subsequent conversion or other disposition of the foreign currency will be treated as U.S. source ordinary income or loss.

### *Gain on Disposition of Ordinary Shares*

U.S. holders of our ordinary shares will recognize capital gain or loss on any sale, exchange, or other taxable disposition of our ordinary shares in an amount equal to the difference between the amount realized for the ordinary shares and the U.S. holder's tax basis in the ordinary shares. Such gain or loss generally will be long-term capital gain or loss if the ordinary shares have been held for more than one year. Long-term capital gains of non-corporate U.S. holders (including individuals) are generally eligible for reduced rates of taxation. The deductibility of capital losses is subject to limitations.

## **Consequences to Non-U.S. Holders**

### *Dividends*

The rules applicable to non-U.S. holders for determining the extent to which distributions on our ordinary shares, if any, constitute dividends for U.S. federal income tax purposes are the same as for U.S. holders. See “—Consequences to U.S. Holders—Dividends.”

Dividends paid to a non-U.S. holder generally will be subject to withholding of U.S. federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. However, dividends that are effectively connected with the conduct of a trade or business by the non-U.S. holder within the United States (and, if required by an applicable income tax treaty, are attributable to a U.S. permanent establishment) are not subject to the withholding tax, provided certain certification and disclosure requirements are satisfied. Instead, such dividends are subject to U.S. federal income tax on a net income basis in the same manner as if the non-U.S. holder were a United States person as defined under the Code. Any such effectively connected dividends received by a foreign corporation may be subject to an additional “branch profits tax” at a 30% rate or such lower rate as may be specified by an applicable income tax treaty.

A non-U.S. holder who wishes to claim the benefit of an applicable treaty rate and avoid backup withholding, as discussed below, for dividends will be required (a) to provide the applicable withholding agent with a properly executed Internal Revenue Service (“IRS”) Form W-BEN or Form W-8BEN-E (or other applicable form) certifying under penalty of perjury that such holder is not a United States person as defined under the Code and is eligible for treaty benefits or (b) if our ordinary shares are held through certain foreign intermediaries, to satisfy the relevant certification requirements of applicable U.S. Treasury regulations. Special certification and other requirements apply to certain non-U.S. holders that are pass-through entities rather than corporations or individuals.

A non-U.S. holder eligible for a reduced rate of U.S. federal withholding tax pursuant to an income tax treaty may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

### *Gain on Disposition of Ordinary Shares*

Subject to the discussion of backup withholding below, any gain realized by a non-U.S. holder on the sale or other disposition of our ordinary shares generally will not be subject to U.S. federal income tax unless:

- the gain is effectively connected with a trade or business of the non-U.S. holder in the United States (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment of the non-U.S. holder);
- the non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of that disposition, and certain other conditions are met; or
- we are or have been a “United States real property holding corporation” for U.S. federal income tax purposes and certain other conditions are met.

A non-U.S. holder described in the first bullet point immediately above will be subject to tax on the gain derived from the sale or other disposition in the same manner as if the non-U.S. holder were a United States person as defined under the Code. In addition, if any non-U.S. holder described in the first bullet point immediately above is a foreign corporation, the gain realized by such non-U.S. holder may be subject to an additional “branch profits tax” at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. An individual non-U.S. holder described in the second bullet point immediately above will be subject to a 30% (or such lower rate as may be specified by an applicable income tax treaty) tax on the gain derived from the sale or other disposition, which gain may be offset by U.S.-source capital losses even though the individual is not considered a resident of the United States.

Generally, a U.S. corporation is a “United States real property holding corporation” if the fair market value of its U.S. real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests and its other assets used or held for use in a trade or business (all as determined for U.S. federal income tax purposes). We believe we are not and do not anticipate becoming a “United States real property holding corporation” for U.S. federal income tax purposes.

### *U.S. Federal Estate Tax*

Ordinary shares held by an individual non-U.S. holder at the time of death will be included in such holder's gross estate for U.S. federal estate tax purposes, unless an applicable estate tax treaty provides otherwise.

## **Information Reporting and Backup Withholding**

### *U.S. Holders*

In general, information reporting will apply to dividends in respect of our ordinary shares and the proceeds from the sale, exchange or other disposition of our ordinary shares that are paid to a U.S. holder within the United States (and in certain cases, outside the United States), unless the U.S. holder is an exempt recipient. A backup withholding tax may apply to such payments if the U.S. holder fails to provide a taxpayer identification number or certification of exempt status or fails to report in full dividend and interest income.

Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a U.S. holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

### *Non-U.S. Holders*

Distributions paid to a non-U.S. holder and the amount of any tax withheld with respect to such distributions generally will be reported to the IRS. Copies of the information returns reporting such distributions and any withholding may also be made available to the tax authorities in the country in which the non-U.S. holder resides under the provisions of an applicable income tax treaty.

A non-U.S. holder will not be subject to backup withholding on dividends received if such holder certifies under penalty of perjury that it is a non-U.S. holder (and the payor does not have actual knowledge or reason to know that such holder is a United States person as defined under the Code), or such holder otherwise establishes an exemption.

Information reporting and, depending on the circumstances, backup withholding will apply to the proceeds of a sale or other disposition of our ordinary shares made within the United States or conducted through certain U.S.-related financial intermediaries, unless the beneficial owner certifies under penalty of perjury that it is a non-U.S. holder (and the payor does not have actual knowledge or reason to know that the beneficial owner is a United States person as defined under the Code), or such owner otherwise establishes an exemption.

Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a non-U.S. holder's U.S. federal income tax liability, if any, provided the required information is timely furnished to the IRS.

## **Additional Withholding Requirements**

Under Sections 1471 through 1474 of the Code (such Sections commonly referred to as "FATCA"), a 30% U.S. federal withholding tax may apply to any dividends paid on our ordinary shares to (i) a "foreign financial institution" (as specifically defined in the Code) which does not provide sufficient documentation, typically on IRS Form W-8BEN-E, evidencing either (x) an exemption from FATCA, or (y) its compliance (or deemed compliance) with FATCA (which may alternatively be in the form of compliance with an intergovernmental agreement with the United States) in a manner which avoids withholding, or (ii) a "non-financial foreign entity" (as specifically defined in the Code) which does not provide sufficient documentation, typically on IRS Form W-8BEN-E, evidencing either (x) an exemption from FATCA, or (y) adequate information regarding certain substantial U.S. beneficial owners of such entity (if any). If a dividend payment is both subject to withholding under FATCA and subject to the withholding tax discussed above under "—Consequences to Non-U.S. Holders—Dividends," the withholding under FATCA may be credited against, and therefore reduce, such other withholding tax. You should consult your own tax advisors regarding these requirements and whether they may be relevant to your ownership and disposition of our ordinary shares.

**F. Dividends and Paying Agents**

Not applicable.

**G. Statement by Experts**

Not applicable.

**H. Documents on Display**

The SEC maintains a website at <http://www.sec.gov> that contains reports, proxy and information statements and other information regarding registrants that make electronic filings through its Electronic Data Gathering, Analysis, and Retrieval, or EDGAR, system. All our Exchange Act reports and other SEC filings are available through the EDGAR system.

**I. Subsidiary Information**

Not applicable.

**ITEM 11. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Our business activities are exposed to a variety of market risks, including foreign currency risk and inflation and interest rate risk.

***Foreign Exchange Risk***

We report our financial results in dollars, but most of our revenue and expenses are denominated in other currencies, particularly the Argentine peso and the Brazilian real. Any changes in the exchange rates of any such currencies against the dollar will affect our reported financial results as translated into dollars. Furthermore, many of our travel customers travel internationally and any changes in the exchange rate between their home currency and the currency of their intended destination may influence their travel purchases. We also use derivative financial instruments in some cases to manage our foreign exchange risk.

Our supplier arrangements often result in significant balances of both accounts payable and accounts receivable denominated in various currencies. To the extent that the timing of such payments are within our control, we often attempt to accelerate or delay such payments to minimize the disparity between our accounts payable and accounts receivable denominated in each currency, which reduces the effect of exchange rate fluctuations on our reported financial results. For example, we reduced our factoring of Brazilian installment receivables in 2016 in part to increase the total amount of our receivables denominated in Brazilian reais to partially offset our larger balance of accounts payable to suppliers in Brazil that are denominated in Brazilian reais. In addition, we can be exposed to foreign exchange risk with respect to international travel if we accept upfront payment at the time of booking in a travel customer's home currency and are later required to pay the supplier in the supplier's home currency.

***Inflation and Interest Rate Risk***

Brazil, Argentina and many other countries in Latin America have historically experienced high rates of inflation. Inflationary pressures persist, and actions taken in an effort to curb inflation, coupled with public speculation about possible future governmental actions, have in the past contributed to economic uncertainty in Brazil, Argentina and other Latin America countries and heightened volatility in the Latin America financial markets. Changes in inflation rates can affect our pricing as well as our expenses, and the inflation rates in the countries where we generate revenue in any period may be higher or lower than the inflation rates in the countries where we incur expenses. In addition, higher inflation may lead our travel customers to make more purchases using installment or other financing options, and may make such financing options more expensive for us.

The inflation rate in Brazil, as reflected by the IPCA was 10.7% in 2015, 6.3% in 2016, 2.9% in 2017, 3.75% in 2018 and 3.74 % in 2019. After experiencing in 2017 the lowest inflation rate since 1998, Brazil went through a higher rate of inflation, but which was better than expected by the government. The inflation rate in Argentina, as measured by the City of Buenos Aires Consumer Price Index, was 26.9% in 2015, 41.0% in 2016, 24.8% in 2017 and 47.6% in 2018. In 2019, Argentina inflation rate was 53.8%, the highest rate since 1991 and the second highest rate in Latin America.

Interest rates are highly sensitive to many factors, including fiscal and monetary policies to combat inflation and economic and political and other factors beyond our control. From time to time, we factor our receivables to receive cash more quickly. The costs of factoring are driven primarily by interest rates which, in turn, are influenced significantly by inflation and expectations for future inflation. In addition, we maintain revolving credit facilities in certain countries, and the interest rates payable with respect to those facilities also vary based on local market interest rates.

## **ITEM 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES**

### **A. Debt Securities**

Not applicable.

### **B. Warrants and Rights**

Not applicable.

### **C. Other Securities**

Not applicable.

### **D. American Depositary Shares**

Not applicable.

## PART II

### ITEM 13. DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES

None.

### ITEM 14. MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS

#### A. Material Modifications to the Rights of Security Holders

None.

#### B. Material Modifications to the Rights of any Class of Registered Securities

None.

#### C. Withdrawal or Substitution of a Material Amount of the Assets Securing any Class of Registered Securities

None.

#### D. Changes in the Trustee or Paying Agents for any Registered Securities

None.

#### E. Use of Proceeds

##### Initial public offering in September 2017

On September 19, 2017, we completed our initial public offering on the New York Stock Exchange. The registration statement on Form F-1 (File No. 333-219973) filed by us in connection with the initial public offering was declared effective on September 19, 2017.

The net proceeds to us from the offering, after deducting underwriting discounts and commissions and offering expenses, amounted to \$253.5 million. We have not allocated our net proceeds from our initial public offering to any particular purpose. Rather, our management has considerable discretion in the application of the net proceeds that we received. As of the date hereof, \$14.0 million of the net proceeds from our initial public offering has been allocated to the acquisition of Viajes Falabella, and we may use additional proceeds for other acquisitions or investments and general corporate purposes. No amount of the net proceeds have been paid to directors, officers, general partners or their associates nor to persons owning 10% or more of any class of our equity securities nor to any of our other affiliates.

### ITEM 15. CONTROLS AND PROCEDURES

#### A. Disclosure Controls and Procedures

We have evaluated, with the participation of our chief executive officer and chief financial officer, the effectiveness of the design and operation of the Company's disclosure controls and procedures pursuant to 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as of December 31, 2019.

There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their control objectives. Based upon our evaluation, we, with the participation of our chief executive officer and chief financial officer, concluded that as of December 31, 2019, our disclosure controls and procedures were effective to provide

reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the applicable rules and forms, and that it is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate to allow timely decisions regarding required disclosure.

## **B. Management's Annual Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934. The Company's internal control over financial reporting was designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. The Company's internal control over financial reporting includes those policies and procedures that:

- (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the company; and
- (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2019. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control-Integrated Framework (2013). Based on our assessment and those criteria, management believes that the Company maintained effective internal control over financial reporting as of December 31, 2019.

However, management has excluded the Viajes Falabella Argentina, Viajes Falabella Chile, Viajes Falabella Colombia and Viajes Falabella Perú (collectively the "Viajes Falabella subsidiaries") from its assessment of Internal Control over Financial Reporting as of December 31, 2019 because the Viajes Falabella subsidiaries were acquired by us in purchase business combinations during the fiscal year 2019. The Viajes Falabella subsidiaries are direct subsidiaries whose total aggregate assets and total aggregate revenues represent 5% and 4%, respectively, of our consolidated financial statements as of and for the year ended December 31, 2019.

## **C. Attestation Report of the Registered Public Accounting Firm**

This Annual Report does not include an attestation report of the company's registered public accounting firm due to the exemption from such requirement for emerging growth companies.

## **D. Changes in Internal Control Over Financial Reporting**

Management has evaluated, with the participation of our Chief Executive Officer and our Chief Financial Officer, whether any changes in our internal control over financial reporting that occurred during our last fiscal year have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Based on the evaluation we conducted, management has concluded that no such changes have occurred.

## **ITEM 16. [RESERVED]**



# **ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT**

Our audit committee consists of Mr. Mario Eduardo Vázquez, Mr. Michael Doyle and Mr. Martín Rastellino, with Mr. Vázquez serving as chair. Messrs. Vázquez, Doyle and Rastellino, satisfy the independence requirements of Rule 10A-3 under the Exchange Act. Our board of directors also has determined that Messrs. Vázquez, Doyle and Rastellino qualify as audit committee financial experts within the meaning of the SEC rules.

# **ITEM 16B. CODE OF ETHICS**

We have adopted a written code of business conduct and ethics that provides that our directors and officers are expected to avoid any action, position or interest that conflicts with the interests of our company or gives the appearance of a conflict. Directors and officers have an obligation under our code of business conduct and ethics to advance our company's interests when the opportunity to do so arises. The full text of our code of business conduct and ethics is available on our website, at <https://investor.despegar.com/corporate-governance/guidelines-and-ethics/default.aspx>.

# **ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

Our consolidated financial statements prepared in accordance with U.S. GAAP are audited by Price Waterhouse & Co. S.R.L., a firm registered with the Public Company Accounting Oversight Board in the United States.

The following table shows the aggregate fees for services rendered by Price Waterhouse & Co. S.R.L. to us, including our subsidiaries, in fiscal year 2019 and 2018.

	<b>Year Ended December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<b>(in thousands)</b>	
Audit fees (audit of financial statements)(1)	\$ 1,261	\$ 997
Tax fees (other certifications and tax advisory services)(2)	729	314
All other fees (advisory services)(3)	375	2
<b>Total</b>	<b>\$ 2,365</b>	<b>\$ 1,313</b>

(1) Includes fees related to the audit of the consolidated financial statements as of December 31, 2019 and 2018.

(2) Includes fees for permitted tax compliance and tax advisory services.

(3) Includes fees for permitted due diligence transactions.

## ***Audit Committee Pre-approval Process***

Our audit committee (which was formed in connection with our initial public offering) reviews and pre-approves the scope and the cost of audit services related to us and permissible non-audit services performed by the independent auditors, other than those for *de minimis* services which are approved by the audit committee prior to the completion of the audit.

# **ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEES**

Not applicable.

# **ITEM 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

None.

# **ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT**

None.

## ITEM 16G. CORPORATE GOVERNANCE

As a foreign private issuer, we are permitted under NYSE rules to follow home country corporate governance practices instead of the NYSE requirements, except that we must maintain an audit committee of the board of directors that meets the requirements of Exchange Act Rule 10A-3 and disclose in our annual reports on Form 20-F any significant ways in which our corporate governance practices differ from those followed by U.S. domestic listed companies under NYSE listing standards.

As a foreign private issuer, we are permitted under NYSE rules to follow the corporate governance practices of our home country, the British Virgin Islands (“BVI”), instead of most of the NYSE’s corporate governance requirements. We follow home country corporate governance practices instead of nearly all of the NYSE’s corporate governance requirements, as described in more detail below. See also “ITEM 6. Directors, Senior Management and Employees—C. Board Practices.”

Requirement	NYSE Requirement FOR US Listed Companies	BVI Law	Despegar Practice
Independent Directors	The board of directors is required to have a majority of independent directors.	BVI law does not require us to have a majority of independent directors.	We do not have a majority independent board of directors in accordance with NYSE independence standards
Executive Sessions of Independent Directors	Independent directors of a NYSE-listed company must have meetings at which only the independent directors are present.	BVI law does not require us to hold executive sessions of the board of directors.	We do not hold independent directors’ meetings.
Audit Committee	Must have an audit committee with the specific responsibilities and authority necessary to comply with SEC rules. Members must meet all of the independence requirements of the NYSE, as well as the SEC Rule 10A-3 independence requirements (subject to any available exemptions).	BVI law does not require an independent audit committee.	Our board of directors has established an audit committee that complies with SEC Rule 10A-3 independence requirements only, and not general NYSE independence standards.
Internal Audit Function	Must have an internal audit function. This function may be performed by a third party.	BVI law does not require an internal audit function.	We do not have an internal audit function.
Compensation of Executive Officers	Must have a compensation committee consisting solely of independent directors. Must satisfy the additional independence requirements specific to compensation committee membership.	BVI law does not require an independent compensation committee.	The board of directors has established a nomination and compensation committee. However, its members are not all independent as determined in accordance with NYSE listing standards.

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Nomination of Directors	Must have a nominating/corporate governance committee consisting solely of independent directors.	BVI law does not require an independent nominating committee.	The board of directors has established a nomination and compensation committee. However, its members are not all independent as determined in accordance with NYSE listing standards.
Corporate Governance Guidelines	Company must adopt and disclose corporate governance guidelines	BVI law does not require corporate governance guidelines.	We do not have corporate governance guidelines.
Shareholder Approval of Equity Compensation Plans and Certain Other Share Issuances	Shareholders must approve all equity-compensation plans and material revisions thereto, with limited exemptions. Shareholder approval also required for certain other dilutive and related party equity issuances.	BVI law does not require shareholder approval of equity compensation plans or such other share issuances	We have not and do not intend to submit for shareholder approval any equity-compensation plans or the other dilutive and related party equity issuances covered by NYSE rules.

**ITEM 16H. MINE SAFETY DISCLOSURE**

Not applicable.

**PART III**

**ITEM 17. FINANCIAL STATEMENTS**

Not applicable.

**ITEM 18. FINANCIAL STATEMENTS**

See our consolidated financial statements beginning at page F-1.

**ITEM 19. EXHIBITS**

The agreements and other documents filed as exhibits to this Annual Report on Form 20-F are not intended to provide factual information or other disclosure other than with respect to the terms of the agreements or other documents themselves, and you should not rely on them for that purpose. In particular, any representations and warranties made by us in these agreements or other documents were made solely within the specific context of the relevant agreement or document and for the benefit of the other parties to the agreements and they may not describe the actual state of affairs as of the date they were made or at any other time.

The exhibit index attached hereto is incorporated herein by reference.

## EXHIBIT INDEX

<b>Exhibit Number</b>	<b>Description</b>
1.1	<a href="#"><u>Amended and Restated Memorandum and Articles of Association of Despegar.com, Corp. (incorporated by reference to Exhibit 3.1 to the Registration Statement filed on Form F-1, filed on August 31, 2017)</u></a>
1.2	<a href="#"><u>Sixth Amended and Restated Investors' Rights Agreement, dated as of August 29, 2017, by and among the Company and the shareholders named therein (incorporated by reference to Exhibit 4.1 to the Registration Statement filed on Form F-1, filed on August 31, 2017)</u></a>
1.3	<a href="#"><u>Fourth Amended and Restated First Refusal and Co-Sale Agreement, dated as of August 29, 2017, by and among the Company and the shareholders named therein (incorporated by reference to Exhibit 4.2 to the Registration Statement filed on Form F-1, filed on August 31, 2017)</u></a>
1.4	<a href="#"><u>Fourth Amended and Restated Voting Agreement, dated as of August 29, 2017, by and among the Company and the shareholders named therein (incorporated by reference to Exhibit 4.3 to the Registration Statement filed on Form F-1, filed on August 31, 2017)</u></a>
2.1*	<a href="#"><u>Description of securities registered under Section 12(b) of the Exchange Act.</u></a>
4.1*##	<a href="#"><u>Amended and Restated Expedia Outsourcing Agreement dated as of November 14, 2019, among Expedia, Inc. and Decolar.com Inc., Travel Reservations S.R.L., Despegar.com.ar S.A., Decolar.com Ltda., Despegar.com Mexico S.A. de C.V., Despegar.com Peru SAC, Despegar.com Chile SpA., Despegar Colombia S.A.S., Viajes Despegar.com O.N.L.I.N.E. S.A., Despegar Ecuador S.A., Despegar.com USA, Inc., Despegar.com Panama S.A., and Holidays S.A.</u></a>
4.2#	<a href="#"><u>Amended and Restated Despegar Outsourcing Agreement dated as of July 12, 2017, among Expedia, Inc., Travelscape, LLC, Vacation Spot S.L., Hotels.com L.P., AAE Travel Pte., Ltd., Expedia Lodging Partner Services, Sarl and Hotwire, Inc. and Travel Reservations S.R.L. (incorporated by reference to Exhibit 10.2 to the Registration Statement filed on Form F-1, filed on August 31, 2017)</u></a>
4.3	<a href="#"><u>Decolar.com, Inc. 2015 Stock Plan (incorporated by reference to Exhibit 10.3 to the Registration Statement filed on Form F-1, filed on August 31, 2017)</u></a>
4.4	<a href="#"><u>Despegar.com, Corp. 2016 Stock Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registration Statement filed on Form F-1, filed on August 31, 2017)</u></a>
8.1*	<a href="#"><u>List of Subsidiaries of Despegar</u></a>
12.1*	<a href="#"><u>Certification by Principal Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>
12.2*	<a href="#"><u>Certification by Principal Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>
13.1*	<a href="#"><u>Certification by Principal Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u></a>
13.2*	<a href="#"><u>Certification by Principal Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u></a>

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23.1*	<a href="#">Consent of Price Waterhouse &amp; Co. S.R.L., Independent Registered Public Accounting Firm</a>
101. INS*	XBRL Instance Document
101. SCH*	XBRL Taxonomy Extension Schema
101. CAL*	XBRL Taxonomy Extension Schema Calculation Linkbase
101. DEF*	XBRL Taxonomy Extension Schema Definition Linkbase
101. LAB*	XBRL Taxonomy Extension Schema Label Linkbase

\* Filed herewith

# Confidential treatment requested granted with respect to portions of this exhibit.

\*## Portions of this exhibit have been omitted because they are both (i) not material and (ii) would likely cause competitive harm to the Company if publicly disclosed.

**SIGNATURES**

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this Annual Report on Form 20-F on its behalf.

**DESPEGAR.COM, CORP.**

By: /s/ Damián Scokin

Name: Damián Scokin

Title: Chief Executive Officer

Date: April 10, 2020

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Consolidated Financial Statements as of December 31, 2019 and 2018 and for the three years ended December 31, 2019:

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## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Despegar.com, Corp.

### *Opinion on the Financial Statements*

We have audited the accompanying consolidated balance sheets of Despegar.com, Corp. and its subsidiaries (the “Company”) as of December 31, 2019 and 2018, and the related consolidated statements of income, comprehensive income, changes in shareholders’ equity and cash flows for each of the three years in the period ended December 31, 2019, including the related notes (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019 in conformity with accounting principles generally accepted in the United States of America.

### *Change in Accounting Principle*

As discussed in Note 3 to the consolidated financial statements, the Company has changed the manner in which it accounts for leases in 2019.

### *Basis for Opinion*

These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

### *Subsequent Event*

As discussed in Note 26 to the consolidated financial statements, subsequent to year-end decreased travel demand resulting from the evolving impact of the COVID-19 (Coronavirus) outbreak has had a negative impact and is likely to have a negative and material impact on the Company’s business.

/s/ PRICE WATERHOUSE & CO. S.R.L.

/s/ Eduardo Alfredo Loíacono (Partner)

Eduardo Alfredo Loíacono

Buenos Aires, Argentina

April 10, 2020

We have served as the Company’s auditor since 2007.

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Price Waterhouse & Co. S.R.L., Bouchard 557, piso 8º, C1106ABG - Ciudad de Buenos Aires

T: +(54.11) 4850.6000, F: +(54.11) 4850.6100, [www.pwc.com/ar](http://www.pwc.com/ar)

Price Waterhouse & Co. S.R.L. es una firma miembro de la red global de PricewaterhouseCoopers International Limited (PwCIL). Cada una de las firmas es una entidad legal separada que no actúa como mandataria de PwCIL ni de cualquier otra firma miembro de la red.

**Despegar.com, Corp.**

**Consolidated Balance Sheets as of December 31, 2019 and 2018**  
(in thousands of U.S. dollars)

	As of December 31, <u>2019</u>	As of December 31, <u>2018</u>
<b>ASSETS</b>		
<b>Current assets</b>		
Cash and cash equivalents	309,187	346,480
Restricted cash	4,457	5,709
Accounts receivable, net of allowances	213,551	228,448
Related party receivable	19,555	8,653
Other assets and prepaid expenses	69,694	68,471
<b>Total current assets</b>	<b>\$ 616,444</b>	<b>\$ 657,761</b>
<b>Non-current assets</b>		
Other assets	25,351	12,751
Lease right-of-use assets	41,638	—
Property and equipment, net	21,205	19,716
Intangible assets, net	49,619	37,512
Goodwill	46,956	36,207
<b>Total non-current assets</b>	<b>\$ 184,769</b>	<b>\$ 106,186</b>
<b>TOTAL ASSETS</b>	<b>\$ 801,213</b>	<b>\$ 763,947</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>Current liabilities</b>		
Accounts payable and accrued expenses	59,673	42,353
Travel suppliers payable	206,954	185,450
Related party payable	86,602	83,904
Loans and other financial liabilities	19,209	31,162
Deferred revenue	8,853	8,229
Other liabilities	46,722	33,270
Contingent liabilities	6,297	4,794
Lease liabilities	6,498	—
<b>Total current liabilities</b>	<b>\$ 440,808</b>	<b>\$ 389,162</b>
<b>Non-current liabilities</b>		
Other liabilities	6,646	243
Contingent liabilities	54	1,968
Lease liabilities	34,469	—
Related party liability	125,000	125,000
<b>Total non-current liabilities</b>	<b>\$ 166,169</b>	<b>\$ 127,211</b>
<b>TOTAL LIABILITIES</b>	<b>\$ 606,977</b>	<b>\$ 516,373</b>
<b>SHAREHOLDERS' EQUITY</b>		
Common stock (1)	261,608	255,254
Additional paid-in capital	327,523	321,627
Other reserves	(728)	(728)
Accumulated other comprehensive income	610	3,051
Accumulated losses	(326,510)	(305,600)
Treasury Stock	(68,267)	(26,030)
<b>Total Shareholders' Equity</b>	<b>\$ 194,236</b>	<b>\$ 247,574</b>
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$ 801,213</b>	<b>\$ 763,947</b>

(1) Represents 69,648 shares issued and outstanding at December 31, 2019 and 69,235 shares issued and outstanding at December 31, 2018.

The accompanying notes are an integral part of these consolidated financial statements.

**Despegar.com, Corp.**

**Consolidated Statements of Income**  
**for the years ended December 31, 2019 2018 and 2017**  
(in thousands of U.S. dollars)

	For the year ended December 31,		
	2019	2018	2017
Revenue (1)	524,876	530,614	523,940
Cost of revenue	(179,565)	(172,110)	(142,479)
<b>Gross profit</b>	<b>\$ 345,311</b>	<b>\$ 358,504</b>	<b>\$ 381,461</b>
<b>Operating expenses</b>			
Selling and marketing	(187,894)	(174,357)	(166,288)
General and administrative	(92,962)	(67,240)	(72,626)
Technology and product development	(73,375)	(71,154)	(71,308)
Impairment of long-lived assets	—	(363)	—
<b>Total operating expenses</b>	<b>\$ (354,231)</b>	<b>\$ (313,114)</b>	<b>\$ (310,222)</b>
<b>Operating (loss) / income</b>	<b>\$ (8,920)</b>	<b>\$ 45,390</b>	<b>\$ 71,239</b>
Financial income	7,944	7,621	2,389
Financial expense (2)	(25,159)	(26,788)	(19,268)
<b>(Loss) / Income before income taxes</b>	<b>\$ (26,135)</b>	<b>\$ 26,223</b>	<b>\$ 54,360</b>
Income tax benefit / (expense)	5,225	(7,069)	(11,994)
<b>Net (loss) / income</b>	<b>\$ (20,910)</b>	<b>\$ 19,154</b>	<b>\$ 42,366</b>

(1) Includes \$ 38,760, \$ 43,975 and \$ 37,000 for related party transactions for the years 2019, 2018 and 2017, respectively. See note 17.

(2) Includes \$15,379, \$ 12,368 and \$ 8,601 for factoring of credit card receivables for the years ended 2019, 2018 and 2017, respectively.

<b>(Losses) / Earnings per share available to common stockholders:</b>			
Basic	(0.30)	0.28	0.69
Diluted	(0.30)	0.27	0.69
<b>Shares used in computing (losses) / earnings per share (in thousands):</b>			
Basic	69,465	69,154	61,457
Diluted	70,615	71,254	61,548

The accompanying notes are an integral part of these consolidated financial statements.

**Despegar.com, Corp.****Consolidated Statements of Comprehensive Income**  
**for the years ended December 31, 2019, 2018 and 2017**  
(in thousands of U.S. dollars)

	<u>For the year ended December 31,</u>		
	<u>2019</u>	<u>2018</u>	<u>2017</u>
<b>Net (loss) / income</b>	<b>\$ (20,910)</b>	<b>\$ 19,154</b>	<b>\$42,366</b>
<b>Other comprehensive (loss) / income, net of tax</b>			
Foreign currency translation adjustment	(2,441)	(13,272)	37
<b>Comprehensive (loss) / income</b>	<b><u>\$ (23,351)</u></b>	<b><u>\$ 5,882</u></b>	<b><u>\$42,403</u></b>

The accompanying notes are an integral part of these consolidated financial statements.

Despegar.com, Corp.

**Consolidated Statements of Changes in Shareholders' Equity**  
**for the years ended December 31, 2019, 2018 and 2017**  
(in thousands of U.S. dollars)

	Common stock		Additional paid-in capital	Other reserves	Accumulated other comprehensive income	Accumulated Losses	Treasury Stock	Total Equity
	Number of shares (in thousands)	Amount						
<b>Balance as of December 31, 2016</b>	<b>58,518</b>	<b>6</b>	<b>312,155</b>	<b>(728)</b>	<b>16,286</b>	<b>(409,982)</b>	<b>—</b>	<b>(82,263)</b>
Stock-based compensation expense	—	—	4,289	—	—	—	—	4,289
Foreign currency translation adjustment	—	—	—	—	37	—	—	37
Issuance of common stock (1)	10,579	253,529	—	—	—	—	—	253,529
Net income for the year	—	—	—	—	—	42,366	—	42,366
<b>Balance as of December 31, 2017</b>	<b>69,097</b>	<b>253,535</b>	<b>316,444</b>	<b>(728)</b>	<b>16,323</b>	<b>(367,616)</b>	<b>—</b>	<b>217,958</b>
Change in accounting standard ASC 606	—	—	—	—	—	42,862	—	42,862
<b>Balance as of December 31, 2017</b>								
Adjusted	69,097	253,535	316,444	(728)	16,323	(324,754)	—	260,820
Stock-based compensation expense	—	—	6,766	—	—	—	—	6,766
Foreign currency translation adjustment	—	—	—	—	(13,272)	—	—	(13,272)
Exercise of stock options	138	1,719	(1,583)	—	—	—	—	136
Net income for the year	—	—	—	—	—	19,154	—	19,154
Treasury Stock	—	—	—	—	—	—	(26,030)	(26,030)
<b>Balance as of December 31, 2018</b>	<b>69,235</b>	<b>255,254</b>	<b>321,627</b>	<b>(728)</b>	<b>3,051</b>	<b>(305,600)</b>	<b>(26,030)</b>	<b>247,574</b>
Stock-based compensation expense	—	—	11,686	—	—	—	—	11,686
Foreign currency translation adjustment	—	—	—	—	(2,441)	—	—	(2,441)
Exercise of stock options	413	6,354	(5,790)	—	—	—	—	564
Net loss for the year	—	—	—	—	—	(20,910)	—	(20,910)
Treasury Stock	—	—	—	—	—	—	(42,237)	(42,237)
<b>Balance as of December 31, 2019</b>	<b>69,648</b>	<b>261,608</b>	<b>327,523</b>	<b>(728)</b>	<b>610</b>	<b>(326,510)</b>	<b>(68,267)</b>	<b>194,236</b>

(1) Net of issuance costs of \$21,530.

The accompanying notes are an integral part of these consolidated financial statements.

Despegar.com, Corp.

**Consolidated Statements of Cash Flows**  
for the years ended December 31, 2019, 2018 and 2017  
(in thousands of U.S. dollars)

	For the year ended December 31,		
	2019	2018	2017
<b>Cash flows from operating activities:</b>			
Net (loss) / income	\$ (20,910)	\$ 19,154	\$ 42,366
Adjustments to reconcile net (loss) / income to net cash flows from operating activities:			
Unrealized foreign currency losses / (gains)	6,748	(1,088)	457
Depreciation expense	6,659	4,985	5,075
Amortization of intangible assets	16,137	10,140	8,751
Disposal of property and equipment	597	—	—
Impairment of long-lived assets	—	363	—
Stock based compensation expense	11,686	6,766	4,289
Amortization of right of use	3,923	—	—
Interest and penalties	1,228	494	(65)
Income taxes	(9,666)	2,876	5,507
Allowance for doubtful accounts	4,294	1,062	818
Provision / (Recovery) for contingencies	1,603	2,021	(603)
<b>Changes in assets and liabilities, net of non-cash transactions:</b>			
Decrease / (Increase) in accounts receivable, net of allowances	13,823	(54,705)	(85,383)
Increase in related party receivables	(10,905)	(3,406)	(3,013)
Decrease / (Increase) in other assets and prepaid expenses	19,695	(61,302)	(10,090)
Increase in accounts payable and accrued expenses	16,651	4,277	22,363
(Decrease) / Increase in travel suppliers payable	(19,459)	42,789	78,835
Increase / (Decrease) in other liabilities	4,391	3,309	(12,323)
Decrease in contingencies	(1,990)	(5,567)	(12,183)
Increase in related party liabilities	3,678	4,203	13,964
Increase in lease liability	(4,573)	—	—
Increase in deferred revenue	628	6,009	2,461
<b>Net cash flows provided by / (used in) operating activities</b>	<b>\$ 44,238</b>	<b>\$ (17,620)</b>	<b>\$ 61,226</b>
<b>Cash flows from investing activities:</b>			
Payments for acquired business, net of cash acquired	(228)	—	—
Acquisition of property and equipment	(5,942)	(13,085)	(8,746)
Increase of intangible assets, including internal-use software and website development	(24,614)	(13,494)	(12,929)
<b>Net cash flows used in investing activities</b>	<b>\$ (30,784)</b>	<b>\$ (26,579)</b>	<b>\$ (21,675)</b>
<b>Cash flows from financing activities:</b>			
Increase in loans and other financial liabilities	55,652	66,814	30,159
Decrease in loans and other financial liabilities	(67,159)	(42,177)	(29,574)
Exercise of stock based compensation	564	136	—
Proceeds from issuance of shares (1)	—	—	253,529
Purchase of treasury stock	(42,237)	(26,030)	—
<b>Net cash flows (used in) / provided by financing activities</b>	<b>\$ (53,180)</b>	<b>\$ (1,257)</b>	<b>\$ 254,114</b>
Effect of exchange rate changes on cash and cash equivalents	1,181	(13,132)	(2,053)
<b>Net (decrease) / increase in cash and cash equivalents</b>	<b>\$ (38,545)</b>	<b>\$ (58,588)</b>	<b>\$ 291,612</b>
Cash and cash equivalents and restricted cash as of beginning of the year	\$ 352,189	\$ 410,777	\$ 119,165
Cash and cash equivalents and restricted cash as of end of the period (2)	\$ 313,644	\$ 352,189	\$ 410,777
	2019	2018	2017
<b>Supplemental cash flow information</b>			
Cash paid for income tax	\$ 9,106	\$ 14,423	\$ 18,455
Interest paid	\$ 5,767	\$ 5,311	\$ 942
Financed portion of acquisition	\$ 10,696	\$ —	\$ —

(1) Net of issuance costs paid of \$ 21,530 as of December 31, 2017.

(2) See Note 4

The accompanying notes are an integral part of these consolidated financial statements.

**Despegar.com, Corp.**  
**Notes to the Consolidated Financial Statements**  
(in thousands of U.S. dollars)

## 1. Business

Despegar.com, Corp. (formerly Decolar.com, Inc.) (hereinafter referred to as “the Company”) is the leading online travel company in Latin America, known by its two brands, “Despegar”, the Company’s global brand, and “Decolar”, the Company’s Brazilian brand. The Company provides its traveler customers a comprehensive product offering, including airline tickets, packages, hotels and other travel-related products, which enables them to find, compare, plan and purchase travel products easily through our marketplace. The Company provides its network of travel suppliers a technology platform for managing the distribution of their travel products and access to traveler customers.

On May 3, 2017, the stockholders of Decolar.com, Inc., a Delaware holding company, exchanged their shares for ordinary shares of the Company to create a new British Virgin Island holding company. Following the exchange, Decolar.com, Inc.’s shareholders owned shares of the Company and Decolar.com, Inc. became a wholly-owned subsidiary of the Company. In September 2017, the Company successfully completed its initial public offering in the United States.

The Company primarily generates revenue from facilitation services to travel suppliers and travelers. The Company derives substantially all of its revenue from commissions earned from facilitation services to travel suppliers, including facilitating reservations of flight tickets, hotel accommodations, car rentals, vacation packages and other travel-related products and services and service fees charged to travelers for facilitation services including the handling and processing selected travel products, the facilitation of payment processing, and limited post-booking services related to handling minor inquiries or minor administrative changes. To a lesser extent, the Company also derives revenue from override commissions or incentives from travel suppliers and GDS providers if certain performance conditions are met and advertising revenues from the sale of third-party advertising placements on the Company’s websites and from certain suppliers when their brands appear in the Company’s advertisements in mass media.

## 2. Basis of consolidation and presentation

The consolidated financial statements include the accounts of the Company and its subsidiaries. The following are the Company’s main operating subsidiaries (all wholly-owned):

<u>Name of the Subsidiary</u>	<u>Country of Incorporation</u>
Despegar.com.ar S.A.	Argentina
Viajes Falabella S.A.	Argentina
Decolar.com LTDA.	Brazil
Despegar.com Chile SpA	Chile
Viajes Falabella SpA	Chile
Despegar Colombia S.A.S.	Colombia
Agencia de Viajes y Turismo Falabella S.A.S.	Colombia
Despegar Ecuador S.A.	Ecuador
Despegar.com México S.A. de C.V.	Mexico
Despegar.com Peru S.A.C.	Perú
Viajes Falabella S.A.C.	Perú
Despegar.com USA, Inc.	United States
Travel Reservations S.R.L.	Uruguay

The accompanying notes are an integral part of these consolidated financial statements.

**Despegar.com, Corp.**  
**Notes to the Consolidated Financial Statements**  
(in thousands of U.S. dollars)

The consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States of America (“U.S. GAAP”). Although the subsidiaries transact the majority of their businesses in their local currencies, the Company has selected the United States dollar (“U.S. dollar”) as its reporting currency. All significant intercompany accounts and transactions have been eliminated.

**Foreign currency translation**

The Company’s foreign subsidiaries (except for Travel Reservations S.R.L in Uruguay and other subsidiaries in the United States, Ecuador, Argentina and Venezuela, which use the U.S. dollar as functional currency) have determined the local currency to be their functional currency. Assets and liabilities are translated from their local currencies into U.S. dollars at the end-of-the-year exchange rates, and revenue and expenses are translated at average monthly rates in effect during the year. Translation adjustments are included in the consolidated statements of comprehensive income.

Gains and losses resulting from transactions in non-functional currencies are recognized directly in the consolidated statements of income under the line items “Financial income” and “Financial expense”, respectively.

Highly inflationary status in Argentina

During May 2018, the International Practices Task Force (“IPTF”) discussed the highly inflationary status of the Argentine economy. Historically, the IPTF has used the Consumer Price Index (“CPI”) when considering the inflationary status of the Argentine economy. Given that the CPI was considered flawed by the current Argentine Government until December 2015 and the new CPI was published as from June 2016, the IPTF considered alternative indices to determine the three-year cumulative inflation.

A highly inflationary economy is one that has cumulative inflation of approximately 100% or more over a three-year period. The alternative three-year cumulative indices at June 30, 2018 exceeded 100%. According to U.S. GAAP, the company should apply highly inflationary accounting no later than July 1, 2018. As of July 1, 2018, the Company transitioned its Argentinian operations to highly inflationary status in accordance with U.S. GAAP, and changed the functional currency of the Argentine subsidiary from Argentine Pesos to U.S. dollars, which is the functional currency of their immediate parent company.

Accordingly, local currency monetary assets and liabilities are remeasured at closing exchange rate, non-monetary assets are remeasured at the rate prevailing on the date of the respective transaction, and revenues and expenses are remeasured at the average exchange rate of each month. The effect of the remeasurement is recognized as foreign currency gains / (losses) and are recognized in the consolidated statements of income under the line items “Financial income” and “Financial expense”, respectively.

**3. Summary of significant accounting policies**

The following is a summary of significant accounting policies followed by the Company in the preparation of these consolidated financial statements.

The accompanying notes are an integral part of these consolidated financial statements.



**Despegar.com, Corp.**  
**Notes to the Consolidated Financial Statements**  
(in thousands of U.S. dollars)

**Use of estimates**

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from estimates. The significant estimates underlying the Company's consolidated financial statements include revenue recognition, including the accounting for certain merchant revenues, allowance for doubtful accounts, recoverability of intangible assets with indefinite useful lives and goodwill, contingencies, fair value of stock based compensation and fair value of financial instruments. The consolidated financial statements reflect all adjustments considered, in the opinion of management, necessary to fairly present the results for the periods presented.

**Concentration of risk**

The Company's business is subject to certain risks and concentrations including dependence on relationships with travel suppliers, primarily airlines, dependence on third-party technology providers, exposure to risks associated with online commerce security and payment related fraud. It also relies on global distribution system ("GDS") partners and third-party service providers for certain fulfillment services.

Financial instruments, which potentially subject the Company to concentration of credit risk, mainly consist of cash and cash equivalents and accounts receivable (i.e. clearing house for credit cards). The Company maintains cash and cash equivalents balances in financial institutions that management believes are high credit quality. Accounts receivable are settled mainly through customer credit cards and debit cards; the company maintains allowance for doubtful accounts based on management's evaluation of various factors, including the credit risk of customers, historical trends and other information.

**Revenue recognition**

The Company primarily generates revenue as a result of its facilitation services to two groups of customers, travel suppliers and travelers.

The Company primary sources of revenue are:

- Commissions earned from facilitation services to travel suppliers, including facilitating reservations of flight tickets, hotel accommodations, car rentals, vacation packages and other travel-related products and services;
- Service fees charged to travelers for facilitation services including the handling and processing selected travel products, the facilitation of payment processing, and limited post-booking services related to handling minor inquiries or minor administrative changes;
- Override commissions or incentives from travel suppliers and GDS providers if certain performance conditions are met; and
- Advertising revenues from the sale of advertising placements on the Company's websites.

The accompanying notes are an integral part of these consolidated financial statements.

**Despegar.com, Corp.**  
**Notes to the Consolidated Financial Statements**  
(in thousands of U.S. dollars)

Facilitation services (commissions and service fees)

The Company offers its facilitation services to travel suppliers and travelers through the following business models: the Prepay/Merchant Model and the Pay-At-Destination/Agency Model, which represents approximately 78% and 2% of the Company's total revenue for the year ended December 31, 2019, respectively. The remaining 20% of the total revenue comprises the other revenue sources including GDS incentives and advertising revenue.

Under both business models, the Company provides travel suppliers access to the Company's platform so they can have an outlet for selling their travel products to millions of travelers in an interactive and organized way. Specifically, the Company's performance obligation to travel suppliers is to help them facilitate the sales of their travel products by connecting the travel supplier and the traveler. The Company receives a commission from the travel supplier in exchange for satisfying its performance obligation to the travel supplier. Under the contracts with travel suppliers, after an initial booking is completed, there are no post booking services outstanding to the travel supplier included in the initial performance obligation.

Under both business models, the Company provides travelers access to the Company's platforms so they can search for thousands of alternatives in travel products. The Company's performance obligation to travelers is the handling and processing of a selected travel product, the facilitation of payment processing, and limited post-booking services related to handling minor inquiries or minor administrative changes (i.e. correction of clerical errors) to the reservations through the Company's call center or via online. The Company considers these post-booking services to be immaterial in the context of the contract with the travelers. The Company charges a service fee to travelers, which is the consideration the Company receives in exchange for satisfying its performance obligation to the traveler. Any post-booking services beyond minor inquiries or minor administrative changes to the reservation, such as modifications to the original terms of the reservations, are considered as new performance obligations with the traveler and the travel supplier. Accordingly, the Company charges a new booking fee and a new administrative fee for this service. Also, if the requested change results in an incremental price of the reservation to the traveler set by the travel supplier, the Company receives an incremental commission from the travel supplier as well.

Under both business models, the Company recognizes revenue upon the transfer of control of the promised facilitation services to travelers and travel suppliers in an amount that reflects the consideration the Company expects to be entitled to in exchange for those facilitation services. The Company has determined the point in time of revenue recognition by evaluating when customers obtain control to the promised facilitation services. The Company has considered the indicators that control has transferred to the customers at the time the booking is completed within the context of the nature of the performance obligations discussed above including (i) for the majority of transactions, travelers are obligated to pay upfront the entire amount of the travel product selected (which amount comprises the value of the travel product plus the service fee) at the time of booking before it can be considered confirmed and a voucher issued (even for refundable or cancellable bookings) and the Company is legally entitled to retain its commission out of this total amount, (ii) the Company has the right to invoice the traveler for its facilitation services at the time of booking despite the fact that the amount could be subject to refund in the future, (iii) the traveler is in legal and physical possession of a travel voucher representing the reservation purchased through the Company's platform and the travel supplier receives a confirmed reservation which constitutes a separate agreement between the traveler and the travel supplier, (iv) the traveler obtained the significant risks and rewards of the facilitation services provided by the Company and the travel

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supplier obtained the significant risks and rewards of having sold a travel product to travelers and (v) the traveler and travel supplier explicitly accepts the terms and conditions of the facilitation services provided by the Company.

For those cancellable or refundable transactions pursuant to the terms and conditions of the travel products set by travel suppliers, the Company considers the consideration received for cancellable or refundable transactions as variable and records a provision for cancellations against revenue based on past objective historical experience. Each reservation may have its own terms and conditions for refunds as established by travel suppliers. Under the terms and conditions of certain reservations set by travel suppliers, the traveler may incur costs upon requesting a refund. Generally, reservations cancelled after a specified date and time prior to commencement of travel are not fully refunded.

Under both business models, the Company has determined that net presentation (that is the amount billed to the traveler less the amount paid to the travel supplier) is appropriate for the majority of the Company's revenue transactions because the travel supplier is primarily responsible for providing the underlying travel services, the Company does not control the service or travel product provided by the travel supplier to the traveler and the Company does not bear inventory risk. Taxes assessed by a government authority, if any, are excluded from the measurement of transaction prices that are imposed on the travel related services or collected from customers (which are therefore excluded from revenue). The Company presents its revenue on a gross basis for some bookings where the Company pre-purchases flight seats. These transactions have been limited to date.

The Company has agreed with certain local and regional banks to allow the Company to offer travelers the possibility of purchasing travel related products under installment plans established, offered and administered by the credit card holders' issuing banks. The Company does not provide any type of financing by itself. Regardless of any financing or installment agreement offered by the banks, for transactions in certain territories, the Company generally receives full payment of its commissions and service fees within less than one month after the traveler completes the booking in the Company's platforms, in an amount that reflects its cash-selling price. The banks assume full risk of default and delinquency by travelers. In other territories, such as in Brazil, the Company generally receives payment from the financing bank only after each scheduled payment is due from the traveler regardless of the fact that the traveler actually makes the scheduled payments. The Company generally receives payment before or during when the travel occurs. The Company expects at the time of booking that the period between when the traveler completes the booking and the Company receives the scheduled payments from the banks is one year or less (on average the Company receives payment during 8 months), thus the Company has made use of the practical expedient in ASC 606-10-32-18 whereby the Company does not adjust the amount of consideration for the effects of a significant financing component.

As mentioned above, the Company operates under two business models: the Prepay/Merchant Model and the Pay-at-destination/Agency Model.

*Prepay/Merchant Business Model*

Under this business model which represents approximately 78% of the total revenue of the Company for the year ended December 31, 2019, the Company receives the entire amount of the travel product sold up front at the time of booking, which amount comprises the value of the travel product set and offered by the travel supplier plus the service fee charged by the Company for the facilitation services.

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The Company retains its commission agreed with the travel supplier out of this total amount paid by the traveler. The Company generally pays to the travel supplier for the travel product sold on its behalf at a later date, which is normally at the time the traveler uses the travel service.

Pursuant to the terms of the travel supplier agreements entered into with hotel operators, the hotels are permitted to invoice the Company for the travel products the Company sold on their behalf during a specified period of time. Generally, if the Company is not billed by the travel supplier within a 12-month period from the check-out date, the Company recognizes incremental revenue from the unbilled amounts.

*Pay-at-Destination/Agency Business Model*

Under this business model which represents approximately 2% of the total revenue of the Company for the year ended December 31, 2019, travelers pay the travel supplier directly at destination. Commissions from travel suppliers are paid directly to the Company by travel suppliers, generally after the traveler uses the travel service. Service fees charged to travelers are nevertheless paid up front.

*Incentives*

The Company may receive override commissions from air, hotel and other travel service suppliers when it meets certain performance conditions. These variable considerations are recognized on a monthly accrued basis in accordance with the achievement of thresholds determined by each supplier.

Additionally, the Company uses GDS services provided by recognized suppliers. Under GDS service agreements, the Company earns revenue in the form of an incentive payment for sales that are processed through a GDS if certain contractual volume thresholds are met. Revenue is recognized for these incentive payments on a monthly accrued basis in accordance with ratable volume thresholds.

*Advertising*

The Company records advertising revenue ratably over the advertising period or upon delivery of advertising material, depending on the terms of the advertising agreement.

*Loyalty revenue*

In August 2019, the Company launched a global loyalty program. As of December 31, 2019, the program is only operating in Brazil. The Company expects to roll out the program in the other countries where it operates in 2020.

The program awards loyalty points to customers who complete a purchase of any travel product offered by the Company, or by using the services of other program participants, such as bank co-branded credit cards. Loyalty points can be redeemed for free or discounted travel products on the Company's websites and physical locations at the discretion of customers without restrictions. The objective of the program is to encourage higher levels of repeat business from travel customers and brand appreciation and loyalty.

For loyalty points earned through travel product purchases, the Company applies a relative selling price approach whereby the total amount collected from each travel product sale is allocated between the travel product and the loyalty points earned. The portion of each travel product sale attributable

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to loyalty points is initially deferred and then recognized in loyalty revenue when the points are redeemed. Due to the lack of historical data and redemption patterns, the Company has not estimated any breakage as of December 31, 2019. The Company therefore recognizes breakage when the likelihood of the customer exercising its remaining rights becomes remote. The Company will continue evaluate its information about breakage.

For loyalty points earned through co-branded credit card partners, consideration received from the sale of loyalty points is variable and payment terms typically are within 30 days subsequent to the month of points sale. Sales of loyalty points to business partners are comprised of two components, loyalty points and marketing (i.e. the use of intellectual property, including the Despegar brand and access to customer lists and databases, which is the predominant element in the agreements, as well as advertising, collectively, the marketing component). The Company allocates the consideration received from these sales of loyalty points based on the relative selling price of each product or service delivered. Accordingly, the Company recognizes the marketing component in other revenue in the period of the loyalty points sale following the sales-based royalty method. The loyalty points component is initially deferred and then recognized in revenue when points are redeemed. As of December 31, 2019, an amount of \$ 1,611 was recognized as deferred revenue in the consolidated balance sheet.

**Cash and cash equivalents**

Cash and cash equivalents includes cash on hand, deposits held with banks and other short-term liquid investments with original maturities of three months or less. Gains or losses on short-term investments are recognized in financial expenses or financial income when incurred.

**Accounts receivable, net of allowances for doubtful accounts**

Accounts receivables are mainly related to credit card receivables, incentives and advertising, which are carried at the invoice amount less an allowance for doubtful accounts. The Company determines its allowance based on the aging of its receivables. While management uses the information available to make evaluations, future adjustments to the allowance may be necessary if future economic conditions differ substantially from the assumptions used in making the evaluations. Management has considered all events and/or transactions that are subject to reasonable and normal methods of estimations, and the consolidated financial statements reflect that consideration. See Note 23 for additional information. See “Recently issued accounting pronouncements not yet adopted” later in this Note for the accounting change to the measurement of credit losses for accounts receivable, effective January 1, 2020.

**Property and equipment, net**

Property and equipment are stated at acquisition cost, less accumulated depreciation. Depreciation expense is calculated using the straight-line method, based on the estimated useful lives of the related assets.

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The estimated useful lives (in years) of the main categories of the Company's property and equipment are as follows:

<u>Asset</u>	<u>Estimated useful life (years)</u>
Computer hardware	3
Office furniture and fixture	10
Buildings	50

Expenditures for repairs and maintenance are charged to expense as incurred. The cost of significant renewals and improvements is added to the carrying amount of the respective asset and its depreciated over the life of the contract.

When assets are retired or otherwise disposed of, the cost and related accumulated depreciation are removed from the accounts, and any resulting gain or loss is reflected in the consolidated statements of income.

**Goodwill and Intangible assets, net**

Goodwill

The Company accounts for acquired businesses using the acquisition method of accounting which requires that the assets acquired and liabilities assumed be recorded at the date of acquisition at their respective fair values. Any excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill. The Company's consolidated financial statements reflect an acquired business starting at the date of the acquisition.

Goodwill is not subject to amortization and is tested at least annually for impairment, or earlier if an event occurs or circumstances change and there is an indication of impairment. The Company tests goodwill at a reporting unit level. The fair value of the reporting unit is compared to its carrying value, including goodwill. Fair values are determined using a combination of standard valuation techniques, including an income approach (discounted cash flows) and market approaches and based on market participant assumptions and based on market participant assumptions. An impairment is recorded to the extent that the implied fair value of goodwill is less than the carrying value of goodwill. See Note 9 for further information. See "Recently issued accounting pronouncements not yet adopted" later in this Note for the new accounting standard that the Company adopted in the first quarter of 2020.

No impairment of goodwill was recognized in any of the years presented.

Intangible assets

Acquired intangible assets

Intangible assets acquired in business combinations are initially recorded at fair value. The fair value of intangible assets is determined using a combination of standard valuation techniques, including an income approach (discounted cash flows) and market approaches and based on market participant assumptions.

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Indefinite-lived intangible assets such as trademarks and internet domains are not subject to amortization and are tested at least annually for impairment, or earlier if an event occurs or circumstances change and there is an indication of impairment.

Definite-lived intangible assets such as customer relationships and licenses are amortized over their respective estimated useful lives.

See Note 9 for further information.

*Website and Internal-use Software Capitalization*

Certain direct development costs associated with website and internal-use software are capitalized and include external direct costs of services and payroll costs for employees devoting time to the software projects principally related to platform development, including support systems, software coding, designing system interfaces and installation and testing of the software. These costs are recorded as definite-lived intangible assets and are generally amortized over a period of three years beginning when the asset is substantially ready for use. Costs incurred for enhancements that are expected to result in additional features or functionalities are capitalized and amortized over the estimated useful life of the enhancements. Costs incurred during the preliminary project stage, as well as maintenance and training costs, are expensed as incurred. See Note 9 for further information.

**Impairment of long-lived assets**

Long-lived assets include property and equipment, definite-lived intangible assets acquired in business combinations and capitalized website and internal-use software.

The Company reviews long-lived assets whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. The assessment of possible impairment is based upon the Company's ability to recover the carrying value of the assets from the estimated undiscounted future net cash flows, before interest and taxes, of the related asset group. The amount of impairment loss, if any, is measured as the excess of the carrying value of the asset over the present value of estimated future cash flows, using a discount rate commensurate with the risks involved and based on assumptions representative of market participants.

As of December 31, 2019, no impairment of long-lived assets was recognized. As of December 31, 2018, the Company recognized an impairment of \$363 for an office property in Caracas, Venezuela.

**Travel suppliers payable**

Travel suppliers payable comprises trade accounts payable to airlines, hotels and other travel suppliers for products and services offered. Airline suppliers are generally within thirty days of a confirmed air booking reservation. Under the pre-pay model, hotel suppliers are generally paid after traveler checks out. Generally, the Company's contracts with hotels and other suppliers provide for a 12-month time period for invoicing the Company for past services. If an invoice is not received after that period, the Company recognizes breakage revenue for the uninvoiced payable.

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**Severance payments**

The Company recognizes a liability for severance payments if the following criteria are met: (a) management, having the authority to approve the action, commits to a plan of termination; (b) the plan identifies the number of employees to be terminated, their job classifications or functions and their locations, and the expected completion date; (c) the plan establishes the terms of the benefit arrangement, including the benefits that employees will receive upon termination, in sufficient detail to enable employees to determine the type and amount of benefits they will receive if they are involuntarily terminated; (d) actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn; and (e) the plan has been communicated to employees.

**Pension information**

The Company does not maintain any pension plans. The laws in the different countries in which the Company carries out its operations provide for pension benefits to be paid to retired employees from government pension plans and/or private pension plans. Amounts payable to such plans are accounted for on an accrual basis.

**Contingent liabilities**

The Company has certain regulatory and legal matters outstanding, as discussed further in note 16 “Commitments and Contingencies.” Periodically, the status of all significant outstanding matters is reviewed to assess the potential financial exposure. When (i) it is probable that an asset has been impaired or a liability has been incurred and (ii) the amount of the loss can be reasonably estimated, the Company records the estimated loss in the consolidated statements of income.

Additionally, disclosure in the notes to the consolidated financial statements is provided for loss contingencies that do not meet both of these conditions if there is a reasonable possibility that a loss may have been incurred that would materially impact the financial position and results of operations. Significant judgment is required to determine the probability that a liability has been incurred and whether such liability is reasonably estimable.

The Company records accruals related to commercial, labor and tax contingencies that may generate an obligation for the Company. Accruals are made on the best information available at the time; such analysis may be highly subjective. The final outcome of these matters could vary significantly from the amounts included in the accompanying consolidated financial statements.

**Derivative financial instruments**

As a result of the Company’s international operations, it is exposed to various market risks that may affect its consolidated results of operations, cash flows and financial position. These market risks include, but are not limited to, fluctuations in foreign currency exchange rates. The Company’s primary foreign currency exposures are in the currencies of Argentina, Brazil, Chile, Colombia and Mexico, in which it conducts a significant portion of its business activities. As a result, the Company faces exposure to adverse movements in foreign currency exchange rates as the financial results of its international operations are translated from local currencies into U.S. Dollars upon consolidation. Additionally, foreign currency exchange rate fluctuations on transactions denominated in currencies other than the functional currency of an entity result in gains and losses that are reflected in net income.

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The Company reports the fair value of its derivative assets and liabilities on a gross basis in the consolidated balance sheets in “Other assets and prepaid expenses” and “Other liabilities” respectively. Unless designated as hedges for accounting purposes, gains and losses resulting from changes in the fair value of derivative instruments are recognized in “Financial income” or “Financial expense” in the consolidated statements of income in the period that the changes occur and are classified within “Net cash provided by operating activities” in the consolidated statements of cash flows.

As of December 31, 2019 and 2018, derivative financial instruments consist of foreign currency forward contracts of a short-term nature. The following table shows the derivative financial position as of the end of each year:

	Local currency	National amount	Type	Maturity	Fair value
<b>2019</b>					
	Argentinian pesos	\$ 15,000	Purchase	Jan - 20	(360)
	Chile pesos	\$24,500	Purchase	Jan / Feb / Mar - 20	(848)
	Colombian pesos	\$ 2,000	Purchase	Jan - 20	(63)
	Argentinian pesos	\$ 6,000	Sell	Jan - 20	335
	Mexican pesos	\$ 7,000	Sell	Jan / Feb - 20	119
<b>2018</b>					
	Brazilian reais	\$ 9,700	Purchase	Mar- 19	(760)
	Chile pesos	\$ 7,000	Purchase	Jan / Feb- 19	92
	Mexican pesos	\$ 2,000	Sell	Feb - 19	n/m

### Leases

On January 1, 2019, the Company adopted Accounting Standards Codification (“ASC”) 842, Leases, using a modified retrospective method applied to all contracts as of January 1, 2019. Therefore, for reporting periods beginning after December 31, 2018, the financial statements are prepared in accordance with the current lease standard and the financial statements for all periods prior to January 1, 2019 are presented under the previous lease standard (“ASC 840”). See “Recent Adopted Accounting Standards” later in this Note for further information related to the impact of the adoption of this accounting standard.

The Company determines if an arrangement is a lease, or contains a lease, when a contract is signed. The Company determines if a lease is an operating or finance lease and records a lease asset and a lease liability upon lease commencement, which is the date when the underlying asset is made available for use by the lessor. The Company has operating leases for office space and customer service centers. The Company uses its incremental borrowing rate as its discount rate to determine the present value of its remaining lease payments to calculate its lease assets and lease liabilities.

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because the rate implicit in the lease is not readily determinable. The incremental borrowing rates approximate the rate the Company would pay to borrow in the currency of the lease payments on a collateralized basis for the weighted-average life of the lease. Operating lease assets also include any prepaid lease payments and lease incentives received prior to lease commencement.

The Company recognizes lease expense on a straight-line basis over the lease term.

Generally leases are for periods between 3 and 5 years. Most leases have one or more options to renew, with renewal terms that can initially extend the lease term for various periods up to 15 or 25 years. The exercise of renewal options for office space and customer centers is at the Company's discretion and are included if they are reasonably certain to be exercised.

**Financial income / (expense)**

The Company incurs in financial expenses items such as factoring for discounted installments, interest paid for derivatives instruments and financial liabilities and foreign exchange rate and generates financial income from financial investments, derivatives instruments and foreign exchange rates.

**Comprehensive income / (loss)**

Comprehensive income / (loss) includes net income / (loss) as currently reported under U.S. GAAP and also considers the effect of additional economic events that are not required to be recorded in determining net income, but are rather reported as a separate component of shareholders' deficit.

Other comprehensive income / (loss) includes the cumulative translation adjustment relating to the translation of the financial statements of certain of the Company's foreign subsidiaries (see Note 2 "Foreign currency translation").

**Stock-based compensation**

Compensation cost related to stock-based employee compensation arrangements are accounted for at fair value at the time of grant. The calculation of fair value is affected by the Company's stock price estimation as well as assumptions regarding a number of highly complex and subjective variables at the time of the grant. Compensation cost is recognized on a straight-line basis over the requisite service period which commences on the grant date as there exists a mutual understanding of the key terms and conditions at the date the award is approved by the board of directors or other management with relevant authority and the following conditions are met:

- The award is a unilateral grant and, therefore, the recipient does not have the ability to negotiate the key terms and conditions of the award with the employer.
- The key terms and conditions of the award had been communicated to an individual recipient within a relatively short time period from the date of approval.

**Marketing and advertising expenses**

The Company incurs advertising expense consisting of offline costs, including television and radio advertising, and online advertising expense to promote the business. The Company expenses the production costs associated with advertisements in the period in which the advertisement first takes place. The Company expenses the costs of advertisement in the period during which the

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advertisement space or airtime is consumed. Internet advertising expenses are recognized based on the terms of the individual agreements, which is generally over the greater of (i) the ratio of the number of clicks delivered over the total number of contracted clicks, on a pay-per-click basis, or (ii) on a straight-line basis over the term of the contract.

Advertising expenses for 2019, 2018 and 2017 amounted to \$ 147,033, \$ 150,275 and \$ 144,777, respectively.

**Accounting for income taxes**

The Company is organized as a British Virgin Islands corporation. However, under the “anti-inversion” rules of Section 7874 of the U.S. Internal Revenue Code, the Company is treated as a U.S. corporation for U.S. federal tax purposes. Accordingly, the Company is subject to U.S. federal income tax on its worldwide income. The Company is subject to foreign taxes in the several jurisdictions where it operates.

Income taxes are accounted for under the asset and liabilities method. Under this method, deferred income tax assets and liabilities are recognized for the future tax consequences attributable to differences between the consolidated financial statements carrying amounts of existing assets and liabilities and their respective tax bases.

Deferred income tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

The Company records deferred tax assets to the extent it believes these assets will more likely than not be realized. The Company regularly reviews its deferred tax assets for recoverability considering historical profitability, projected future taxable income, the expected timing of the reversals of existing temporary differences, the carryforward periods available for tax reporting purposes, and tax planning strategies. A valuation allowance is provided when it is more likely than not that some portion or all of a deferred tax asset will not be realized. The ultimate realization of deferred tax assets depends on the generation of future taxable income during the period in which related temporary differences become deductible. In determining the future tax consequences of events that have been recognized in the financial statements or tax returns, significant judgments, estimates, and interpretation of statutes are required.

In 2018, the Company adopted an accounting policy to treat taxes on global intangible low-taxed income (“GILTI”) introduced by the U.S. Tax Cuts and Jobs Act (the “Tax Act”) as period costs. See Note 14 for further details related to income taxes.

Due to inherent complexities arising from the nature of the Company’s business, future changes in income tax law, transfer pricing new regulations or variances between actual and anticipated operating results, the Company makes certain judgments and estimates. Therefore, actual income taxes could materially vary from those estimates.

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**Recently adopted accounting standards**

*Leases*

In February 2016, the FASB issued a new accounting standard that requires lessees to recognize an asset and a liability in the balance sheet for the rights and obligations created by entering into lease transactions. The new standard retains the dual-model concept by requiring entities to determine if a lease is an operating or finance lease. The new standard also expands qualitative and quantitative disclosures for lessees.

The Company adopted this new standard on January 1, 2019 on a modified retrospective basis and has elected not to restate comparative periods. The Company elected other options, which allow the Company to use its previous evaluations regarding if an arrangement contains a lease, if a lease is an operating or finance lease and what costs are capitalized as initial direct costs prior to adoption. The Company also elected to combine lease and non-lease components.

Upon the adoption of the new lease standard, on January 1, 2019, the Company recognized operating lease assets of \$ 31,578 and total operating lease liabilities of \$ 31,578 (including a current liability of \$ 6,498) in the consolidated balance sheet. There was no impact to retained earnings at adoption. See Note 25 for more information related to leases.

**Recently issued accounting pronouncements not yet adopted**

*Simplifying the Accounting for Income Taxes*

In December 2019, the FASB issued a new accounting update relating to income taxes. This update provides an exception to the general methodology for calculating income taxes in an interim period when a year-to-date loss exceeds the anticipated loss for the year. This update also (1) requires an entity to recognize a franchise tax (or similar tax) that is partially based on income as an income-based tax and account for any incremental amount incurred as a non-income-based tax, (2) requires an entity to evaluate when a step-up in the tax basis of goodwill should be considered part of the business combination in which goodwill was originally recognized for accounting purposes and when it should be considered a separate transaction, and (3) requires that an entity reflect the effect of an enacted change in tax laws or rates in the annual effective tax rate computation in the interim period that includes the enactment date. For public business entities, this update is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. Early adoption is permitted. The amendment related to franchise taxes that are partially based on income should be applied on either a retrospective basis for all periods presented or a modified retrospective basis through a cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year of adoption. All other amendments should be applied on a prospective basis. The Company is currently evaluating the impact to its consolidated financial statements of adopting this update and does not expect it to have a material impact.

*Simplifying the Test for Goodwill Impairment*

In January 2017, the FASB issued a new accounting update to simplify the test for goodwill impairment. The revised guidance eliminates the previously required step two of the goodwill impairment test, which required a hypothetical purchase price allocation to measure goodwill impairment. Under the revised guidance, a goodwill impairment loss will be measured at the amount by which a reporting unit's carrying amount exceeds its fair value, not to exceed the carrying amount.

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of goodwill. In addition, income tax effects from any tax deductible goodwill on the carrying amount of the reporting unit should be considered when measuring the goodwill impairment loss, if applicable. The amendments also eliminate the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and, if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. An entity still has the option to perform the qualitative assessment for a reporting unit to determine if the quantitative impairment test is necessary. A public business entity should adopt the amendments for its annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company adopted this update in the first quarter of 2020 and will apply it on a prospective basis.

*Measurement of Credit Losses on Financial Instruments*

In June 2016, the FASB issued a new accounting update on the measurement of credit losses for certain financial assets measured at amortized cost and available-for-sale debt securities. For financial assets measured at amortized cost, this update requires an entity to (1) estimate its lifetime expected credit losses upon recognition of the financial assets and establish an allowance to present the net amount expected to be collected, (2) recognize this allowance and changes in the allowance during subsequent periods through net income and (3) consider relevant information about past events, current conditions and reasonable and supportable forecasts in assessing the lifetime expected credit losses. For available-for-sale debt securities, this update made several targeted amendments to the existing other-than-temporary impairment model, including (1) requiring disclosure of the allowance for credit losses, (2) allowing reversals of the previously recognized credit losses until the entity has the intent to sell, is more-likely-than-not required to sell the securities or the maturity of the securities, (3) limiting impairment to the difference between the amortized cost basis and fair value and (4) not allowing entities to consider the length of time that fair value has been less than amortized cost as a factor in evaluating whether a credit loss exists. The Company adopted this update in the first quarter of 2020 and applied this update on a modified retrospective basis. The adoption did not have a material impact to the Company's consolidated financial statements.

*Disclosure requirements on fair value measurements*

In August, 2018, the FASB issued the ASU 2018-13 "Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement". The update is related to the disclosure requirements on fair value measurements, which removes, modifies or adds certain disclosures. The guidance is effective for annual and interim reporting periods beginning after December 15, 2019, with early adoption permitted. The Company is assessing the effects that the adoption of this accounting pronouncement may have on its financial statements. The Company adopted this update in the first quarter of 2020 and applied this update on a prospective basis. The adoption did not have a material impact to the Company's consolidated financial statements.

*Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*

In August 2018, the Financial Accounting Standards Board ("FASB") issued a new accounting standard to address a customer's accounting for implementation costs incurred in a cloud computing arrangement that is a service contract and also added certain disclosure requirements related to implementation costs incurred for internal-use software and cloud computing arrangements. The

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amendment aligns the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software (and hosting arrangements that include an internal-use software license). For public business entities, this update is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted. The Company adopted this update in the first quarter of 2020 and applied this update on a prospective basis. The adoption did not have a material impact to the Company's consolidated financial statements.

#### 4. Restricted cash

Restricted cash is restricted through legal contracts or regulations. Restricted cash at December 31, 2019, 2018 and 2017 principally relates to collateralized amounts related to operations with travel suppliers and service providers such as IATA.

The following table reconciles cash and cash equivalents and restricted cash reported in the consolidated balance sheets to the total amount shown in the consolidated statements of cash flows:

	As of December 31, 2019	As of December 31, 2018	As of December 31, 2017
As included in the consolidated balance sheets:			
Cash and cash equivalents	309,187	346,480	371,013
Restricted cash	4,457	5,709	39,764
Total cash and cash equivalents and restricted cash as shown in the consolidated statements of cash flows:	<u>\$ 313,644</u>	<u>\$ 352,189</u>	<u>\$ 410,777</u>

#### 5. Cash and cash equivalents

Cash and cash equivalents consist of the following:

	As of December 31, 2019	As of December 31, 2018
Cash on hand	42	20
Bank deposits	118,933	177,013
Time deposits	153,838	135,614
Money market funds	36,374	33,833
	<u>\$ 309,187</u>	<u>\$ 346,480</u>

The accompanying notes are an integral part of these consolidated financial statements.

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**6. Accounts receivable, net**

Accounts receivable, net of allowances consists of the following:

	As of December 31, 2019	As of December 31, 2018
Accounts receivable	216,756	230,513
Allowance for doubtful accounts	(3,205)	(2,065)
	<u>\$ 213,551</u>	<u>\$ 228,448</u>

**7. Other assets and prepaid expenses**

Other current assets and prepaid expenses consist of the following:

	As of December 31, 2019	As of December 31, 2018
Tax credits	37,067	33,042
Prepaid expenses and advance to suppliers	29,083	31,553
Prepaid advertising	1,483	1,934
Others	2,061	1,942
	<u>\$ 69,694</u>	<u>\$ 68,471</u>

Other non-current assets consist of the following:

	As of December 31, 2019	As of December 31, 2018
Deferred tax assets	25,351	12,751
	<u>\$ 25,351</u>	<u>\$ 12,751</u>

**8. Property and equipment, net**

Property and equipment, net consists of the following:

	As of December 31, 2019	As of December 31, 2018
Computer hardware and software	31,966	27,365
Office furniture and fixture	21,882	15,255
Buildings	2,086	2,018
Land	41	41
Total property and equipment	55,975	44,679
Accumulated depreciation	\$ (34,770)	\$ (24,963)
Total property and equipment, net	<u>\$ 21,205</u>	<u>\$ 19,716</u>

Depreciation expense for the years ended December 31, 2019, 2018 and 2017 was \$6,659, \$4,985 and \$5,075, respectively.

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For the year ended December 31, 2019, \$4,001 is included in “Technology and product development” and \$2,658 is included in “General and administrative”.

For the year ended December 31, 2018, \$1,036 is included in “Technology and product development” and \$3,949 is included in “General and administrative”.

For the year ended December 31, 2017, \$958 is included in “Technology and product development” and \$4,117 is included in “General and administrative”.

**9. Goodwill and intangible assets, net**

Goodwill and intangible assets, net consists of the following:

	As of December 31, 2019	As of December 31, 2018
Goodwill	46,956	36,207
Indefinite-lived intangible assets		
Trademarks and domains	13,882	13,882
Definite-lived intangible assets		
Software development costs	72,532	54,406
Licenses	1,795	—
Customer relationships	3,663	—
Total intangible assets	91,872	68,288
Accumulated amortization (1)	(42,253)	(30,776)
Total intangible assets, net	\$ 49,619	\$ 37,512

- (1) Accumulated amortization as of December 31, 2019 comprised of \$41,605, \$154 and \$494, for software development costs, licenses and customer relationships, respectively. Accumulated amortization as of December 31, 2018 comprised of \$30,776, for software development costs.

Amortization expense for the years ended December 31, 2019, 2018 and 2017 was \$16,137, \$10,140 and \$8,751, respectively.

For the year ended December 31, 2019, \$14,198 is included in “Technology and product development”, \$1,523 is included in “General and administrative” and \$416 is included in “Selling and marketing”.

For the year ended December 31, 2018, \$9,495 is included in “Technology and product development” and \$645 is included in “General and administrative”.

For the year ended December 31, 2017, \$7,431 is included in “Technology and product development” and \$1,320 is included in “General and administrative”.

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The changes in the balance of goodwill for the years ended December 31, 2019 and 2018 consist of the following:

	As of December 31, 2019	As of December 31, 2018
Balance, beginning of year	36,207	38,733
Acquisitions (1)	10,865	—
Foreign currency translation adjustments	(116)	(2,526)
Balance, end of year	<u>\$ 46,956</u>	<u>36,207</u>

(1) Goodwill relates to the acquisition of Viajes Falabella. See Note 13 for more information.

Goodwill is attributed \$38,883 to the “Air” segment and \$ 8,073 to the “Packages, Hotels and Other Travel Products” segment.

At December 31, 2019, the Company performed its annual goodwill impairment testing and concluded that there was no impairment of goodwill. In addition, the Company did not identify any impairment indicators for the Company’s other long-lived assets at December 31, 2019.

The annual estimated amortization expense for intangible assets for the next five years and thereafter, is as follows:

2020	10,766
2021	10,766
2022	10,420
2023	1,582
2024	1,381
Thereafter	820
Total	<u>35,735</u>

#### 10. Accounts payable and accrued expenses

Accounts payable and accrued expenses consist of the following:

	As of December 31, 2019	As of December 31, 2018
Marketing suppliers	29,957	25,484
Unbilled suppliers	10,742	8,513
Other suppliers	18,974	8,356
	<u>\$ 59,673</u>	<u>\$ 42,353</u>

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**11. Travel suppliers payable**

Travel supplier payables consist of the following

	As of December 31, 2019	As of December 31, 2018
Hotels and other travel service suppliers <sup>(1)</sup>	179,397	151,393
Airlines	27,557	34,057
	<u>\$ 206,954</u>	<u>\$ 185,450</u>

(1) Includes \$ 140,987 and \$ 132,863 as of December 31, 2019 and 2018, respectively, for deferred merchant bookings which will be due after the traveler has checked out.

**12. Other liabilities**

Other current liabilities consist of the following:

	As of December 31, 2019	As of December 31, 2018
Salaries payable	25,196	22,030
Taxes payable	10,958	8,586
Financed portion of acquisitions	5,477	—
Other	5,091	2,654
	<u>\$ 46,722</u>	<u>\$ 33,270</u>

Other non-current liabilities consist of the following:

	As of December 31, 2019	As of December 31, 2018
Financed portion of acquisitions	5,219	—
Taxes payable	1,427	243
	<u>\$ 6,646</u>	<u>\$ 243</u>

**13. Business combinations**

*Viajes Falabella*

On June 7, 2019, the Company obtained the regulatory approvals and acquired the outstanding capital stock of Viajes Falabella Argentina, Viajes Falabella Chile and Viajes Falabella Peru. The acquisition of Viajes Falabella Colombia was completed on July 31, 2019, after the regulatory approvals were obtained. The acquired entities are herein referred collectively as “Viajes Falabella”. The Company acquired the Viajes Falabella entities from Grupo Falabella. The Viajes Falabella entities are engaged in the travel agency business through their online and offline presence.

The acquisition purchase price totaled \$23 million, of which the Company paid \$11.5 million in cash at acquisition date and the remaining amount will be paid in two installments due in June 2020 and in June 2021.

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Concurrent with the acquisition, the Company entered into a 10-year commercial agreement with Grupo Falabella which provides for several marketing and promotional activities and other activities to promote future business. The agreement also provides for the use of the Viajes Falabella brand in Argentina, Chile, Peru and Colombia for an initial period of 4 years, renewable for one-year periods at the option of the Company. The Company accounted for the use of the brand as a prepaid asset and amortizes it under the straight-line basis over the term of the contract.

The Company acquired Viajes Falabella and entered into the commercial agreement to enhance the Company's position as a leading travel agency providing customers with an enhanced travel and tourism product and service offerings through online, call center and physical stores.

The Company is required to allocate the purchase price to tangible and identifiable intangible assets acquired and liabilities assumed based on their fair values. The excess of the purchase price over those fair values is recorded as goodwill. In determining the fair value of assets acquired and liabilities assumed, the Company primarily used discounted cash flow analyses. Inputs to the discounted cash flow analyses and other aspects of the allocation of purchase price require judgment. The more significant inputs used in the discounted cash flow analyses and other areas of judgment include (i) future revenue growth or attrition rates (ii) projected margins (iii) discount rates used to present value future cash flows (iv) the amount of synergies expected from the acquisition and (v) the economic useful life of assets, among others.

The following table summarizes the final purchase price allocation as of December 31, 2019 and the reconciliation with "Payments for acquired business, net of cash acquired" line item of consolidated statements of cash flows:

	<b>Viajes Falabella</b>
Cash and cash equivalent	11,272
Accounts receivable	11,828
Other assets	34,611
Property and equipment	2,420
Intangible assets	3,663
Travel suppliers payable	(36,656)
Other Liabilities	(15,807)
Goodwill	10,865
<b>Fair value of purchase price</b>	<b>22,196</b>
Financed portion of acquisition	(10,696)
Cash acquired	(11,272)
<b>Payments for acquired business, net of cash acquired</b>	<b>228</b>

Intangible assets primarily consist of customer relationships, with a weighted average useful life of 3.7 years.

The goodwill reflects the value to the Company of increasing its presence in the region through omnichannel alternatives.

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The Company incurred \$0.5 million of acquisition-related expenses which are included in the statement of income for the year ended December 31, 2019.

The following table summarizes the revenues and net income (including purchase accounting amortization and the impact of intercompany eliminations) of Viajes Falabella included in the Company's consolidated statement of income for the year ended December 31, 2019 since the date of acquisition:

	<u>Viajes Falabella</u>
Net revenue	20,710
Net loss	(3,060)

The following pro forma summary presents consolidated information of the Company as if the acquisition of Viajes Falabella had occurred on January 1, 2018:

	<u>For the years ended December 31,</u>	
	<u>2019</u>	<u>2018</u>
Net revenue	532,710	584,986
Net (loss) / income	(20,872)	19,770

These pro forma results include adjustments for purposes of consolidating the historical financial results of Viajes Falabella for the periods indicated. These pro forma results also include \$ 0.8 million and \$ 0.8 million for the years ended December 31, 2019 and 2018, respectively, to reflect the incremental amortization as a result of recording property, plant and equipment and intangible assets at fair value.

These pro forma results do not represent financial results that would have been realized had the acquisition actually occurred on January 1, 2018, nor are they intended to be a projection of future results.

#### 14. Income taxes

The following table presents a summary of U.S. and foreign income tax expense components:

	<u>As of December 31,</u> <u>2019</u>	<u>As of December 31,</u> <u>2018</u>	<u>As of December 31,</u> <u>2017</u>
<b>Current:</b>			
Foreign	(3,936)	(10,289)	(7,682)
Federal	1,177	(1,336)	(36)
<b>Deferred:</b>			
Foreign	12,425	8,749	2,063
<b>Withholding:</b>			
Foreign	(4,299)	(3,921)	(6,339)
Federal	(142)	(272)	—
<b>Income tax expense</b>	<u>\$ 5,225</u>	<u>\$ (7,069)</u>	<u>\$ (11,994)</u>

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Below the classification of deferred tax assets/liabilities by current and non-current:

	<u>As of December 31, 2019</u>	<u>As of December 31, 2018</u>
Non-Current deferred tax assets	36,700	30,758
Total deferred tax assets	<b>36,700</b>	<b>30,758</b>
Less valuation allowance	(11,349)	(18,007)
<b>Net deferred tax assets</b>	<b>25,351</b>	<b>12,751</b>
Non-Current deferred tax liabilities	—	—
<b>Total deferred tax liabilities</b>	<b>—</b>	<b>—</b>
<b>Total deferred tax</b>	<b>\$ 25,351</b>	<b>\$ 12,751</b>

As of December 31, 2019, consolidated loss carryforwards for income tax purposes were \$81,324. If not utilized, tax loss carryforwards will begin to expire as follows:

<u>Expiration Date</u>	<u>NOLs Amount</u>
Expires 2022	23
Thereafter	31,466
Without expiration dates	49,835
<b>TOTAL (1)</b>	<b>81,324</b>

(1) A partial valuation allowance is booked as of December 31, 2019 in order to reserve \$ 33,351 of the tax loss carryforwards detailed above.

NOLs Carryforwards expiration:

Brazil: \$42,665. No expiration but offset limitation of 30% of the taxable income by fiscal year.  
Argentina: \$146. Five fiscal years expiration.  
Colombia: \$ 3,028. Twelve fiscal years expiration in general.  
Peru: \$4,564. No expiration, but offset limitation of 50% of the taxable income by fiscal year.  
Mexico: \$27,416. Ten fiscal years expiration.  
Uruguay: \$894. Five fiscal years expiration.  
Chile: \$2,606. No expiration.  
Others: \$5

Deferred tax assets and liabilities are recognized for the future tax consequences of differences between the carrying amounts of assets and liabilities and their respective tax bases using enacted tax rates in effect for the year in which the differences are expected to reverse. The Company has foreign subsidiaries with aggregated undistributed earnings of \$ 70,494 as of December 31, 2019. We have not provided deferred income taxes on taxable temporary differences related to investments in certain foreign subsidiaries where the foreign subsidiary has or will invest undistributed earnings indefinitely outside of the United States. In the event we distribute such earnings in the form of dividends or otherwise, we may be subject to income taxes. Further, a sale of these subsidiaries may

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cause these temporary differences to become taxable. Due to complexities in tax laws, uncertainties related to the timing and source of any potential distribution of such earnings, and other important factors such as the amount of associated foreign tax credits, it is not practicable to estimate the amount of unrecognized deferred taxes on these taxable temporary differences.

The Company's management considers the earnings of the foreign subsidiaries to be indefinitely reinvested, other than certain earnings the distributions of which do not imply withholdings or state income taxes, and for that reason has not recorded a deferred tax liability.

The following table summarizes the composition of deferred tax assets and liabilities as of the years ended December 31, 2019 and 2018:

	<u>December 31, 2019</u>	<u>December 31, 2018</u>
<b>Deferred Tax Assets</b>		
Tax loss carryforwards	25,717	23,445
Allowance for doubtful accounts	462	175
Royalties	69	2,296
Provisions and other assets	11,319	6,037
Property and equipment	(438)	(125)
Others	(429)	(1,070)
<b>Total Deferred Tax Assets</b>	<b>\$ 36,700</b>	<b>\$ 30,758</b>
Less valuation allowance	(11,349)	(18,007)
<b>Total Deferred Tax Assets, net</b>	<b>\$ 25,351</b>	<b>\$ 12,751</b>
<b>Deferred Tax Liabilities</b>	<b>—</b>	<b>—</b>
<b>Total Deferred Tax Liabilities</b>	<b>\$ —</b>	<b>\$ —</b>
<b>Total Deferred Tax</b>	<b>\$ 25,351</b>	<b>\$ 12,751</b>

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The following is a reconciliation of the difference between the actual provision for income taxes and the provision computed by applying the weighted average income tax rate for 2019, 2018 and 2017 to income / (loss) before taxes:

	As of December 31, 2019	As of December 31, 2018	As of December 31, 2017
Net Income / (Loss) before Income Tax	\$ (26,135)	\$ 26,223	\$ 54,360
Weighted average income tax rate (3)	29%	39%	33%
Income tax expense at weighted average income tax rate	(7,474)	10,273	17,740
<i>Permanent differences:</i>			
(Non-Taxable Income) / Non-Deductible Losses (1)	(469)	(1,448)	(10,714)
Foreign non-creditable withholding tax (2)	4,439	4,193	6,339
Non-deductible expenses	1,054	1,346	2,223
Currency translation adjustment	1,891	1,902	
Tax credits recovery	(157)	—	—
Others	553	540	(651)
True up	(2,693)	1,204	
Change in Valuation allowance	(5,010)	(10,941)	(2,943)
Change in tax rate	2,641	—	—
<b>Income Tax expense</b>	<b>\$ (5,225)</b>	<b>\$ 7,069</b>	<b>\$ 11,994</b>

- (1) Includes tax benefits/losses generated by operations located in the Uruguayan “Free Trade Zone” and the benefits from Promotion Software Law in Argentina.
- (2) Includes foreign withholding taxes on royalties and services.
- (3) The Company uses a weighted average rate for the income tax reconciliation, since most of the business operations are run by subsidiaries located outside the U.S. The calculation is performed based on an average between the enacted tax rates of the foreign jurisdictions.

The following table presents the changes in the Company’s valuation allowance as of December 31, 2019, 2018 and 2017:

	<u>Balance of beginning of period</u>	<u>Increase</u>	<u>(Decrease)</u>	<u>Balance at end of period</u>
2019	18,007	5,892	(12,550)	11,349
2018	42,584	997	(25,574)	18,007
2017	45,526	4,716	(7,658)	42,584

## Tax Reform

### Argentina

On December 23, 2019 the Argentine congress enacted a law which maintains corporate income tax rate of 30% for two more years, instead of reducing the rate to 25% as established under the previous law. The law also maintains the dividend withholding tax rate of 7% for two more years for profits

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accrued during fiscal year starting on January 1, 2020, instead of applying the 13% rate as previously established. In September 2018, the Argentine Government issued the Decree 793/2018 which established a temporary withholding on exports of 12% with a maximum limit of 4 Argentine Pesos per each US dollar of the amount of the export invoice. This withholding on exports is applicable for exports of years 2019 and 2020. A new Law modified reduced the percentage since 2020 from 12% to 5% without limit and extended the application of withholdings on exports until December 31, 2021.

On December 23th 2019 a new Tax (Tax for an Inclusive and Solidarity Argentina (PAIS)) was created in Argentina. New 30% Tax applies on the purchases by Argentinean residents of foreign services through credit/debit cards; acquisition by Argentinean residents of services to be provided outside the country, contracted through Travel and Tourism agencies - wholesale and / or retailers - of the country, acquisition of International passenger transport services (land, air, aquatic and road) provided that foreign currency is required to complete a transaction.

*Software Law & Knowledge-based-Economy Promotional regime*

On August 18, 2017, the Argentine National Ministry of Production issued Disposition 82-E/2017, accepting the registration of our Argentine subsidiary in the National Registry of Software Producers, created by Decree 1315/13. As a result of this registration and pursuant to Argentine National Law No. 25,922, as amended, and its corresponding regulations (the “Software Promotion Law”), our Argentine subsidiary has been granted several tax benefits through December 31, 2019. These benefits include (i) a fixed national tax rate, (ii) a fiscal bond equivalent to 70% of the value of 75,14% of the company’s social security tax contribution payments under Laws 19,032, 24,013 and 24,241, which can be used as a tax credit to offset national taxes; provided that not more than 13.83% of this tax credit may be used by the company to cancel Argentine corporate income tax; (iii) exemption from value-added tax withholding regimes; and (iv) a 60% reduction in the total amount of corporate income tax as applied to income from the activities of creation, design, development, production, implementation or adjustment (upgrade) of developed software systems and their associated documents.

On June 10, 2019, the Argentine government enacted Law No. 27,506 (knowledge-based economy promotional regime), which established a regime that provides certain tax benefits for companies that meet specific criteria, such as companies that derive at least 70% of their revenues from certain specified activities. Law No. 27,506 allows companies currently benefiting from the software development law, to apply for tax benefits under Law No. 27,506, which will be effective from January 1, 2020 to December 31, 2029. Eligible companies are entitled to i) a 15% corporate income tax rate (instead of the otherwise applicable 30% corporate income tax rate), ii) a freeze on the taxpayer’s overall federal tax burden, iii) a reduction in employer social security contributions and iv) a tax credit in the amount of 1.6 times the amount payable as social security contributions. The tax credit may be used to offset federal taxes, such as value-added tax and income tax. The mentioned regime was suspended on January 20, 2020 through a new resolution issued by Argentina’s Ministry of Productive Development until new rules for the application of the knowledge-based economy promotional regime are issued. The Company will analyze whether it will be eligible to benefit from the law and its related tax benefits once the new regulations are issued.

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**15. Revenue**

The following tables summarize the Company's revenues by segment and business model:

**Segment**

	<b>For the year ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
Air	201,638	214,804	241,015
Packages, Hotels and Other Travel Products	323,238	315,810	282,925
	<u>\$ 524,876</u>	<u>\$ 530,614</u>	<u>\$ 523,940</u>

**Business model**

	<b>For the year ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
Pre-pay model	407,258	415,812	412,679
Pay-at-destination model	13,130	20,143	23,710
Others <sup>(1)</sup>	104,488	94,659	87,551
	<u>\$ 524,876</u>	<u>\$ 530,614</u>	<u>\$ 523,940</u>

(1) Correspond to incentives and advertising revenues

**16. Commitments and contingencies**Employment agreements

The Company has entered into employment agreements with certain key employees providing compensation guidelines for each employee. Pursuant to the terms of the employment agreements, the executives are generally entitled to receive compensation in the form of (i) an annual salary payable in cash on a monthly basis and (ii) a yearly bonus subject to the fulfillment of certain performance targets. This compensation is recognized in "Other liabilities" in the consolidated balance sheets and in "General and administrative" in the consolidated statements of income.

Tax, legal and other

The Company is involved in disputes arising from its ordinary course of business. Although the ultimate resolution on these matters cannot be reasonably estimated at this time, management does not believe that they will have a material adverse effect on the financial condition or results of operations of the Company.

As of December 31, 2019 the Company had accrued liabilities approximately \$1,500 related to unasserted tax claims. The Company currently estimates unasserted possible losses related to matters for which it has not accrued liabilities, as they are not deemed probable and reasonably estimable, to be approximately \$4,700. The Company evaluates the likelihood of probable and reasonably possible losses, if any, related to all known contingencies on an ongoing basis. As a result, future increases or decreases to its accrued liabilities may be necessary and will be recorded in the period when such amounts are determined to be probable and reasonably estimable.

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Argentina

On June 28, 2017, the *Sindicato Empleados de Comercio de Capital Federal* (Union for Employees of the Commercial Sector in the City of Buenos Aires, or “SECCF”) filed a lawsuit against our Argentine subsidiary, in which SECCF is demanding the application of its collective labor agreement to all of the employees of the subsidiary. SECCF is demanding payment of approximately AR\$18 million.

On April 19, 2018 SECCF filed a new claim, similar to the previous one, but against La Inc S.A. - an Argentine subsidiary company that had already been merged with Despegar.com.ar several months before. In this new claim, SECCF is demanding an amount equal to the 0.5% of the gross monthly salaries of La Inc’s employees for certain periods.

The Argentine subsidiary filed both responses in a timely manner, rejecting all the claims, with similar defenses. Although we believe Despegar.com.ar has meritorious defenses to this lawsuit, we cannot assure you what the ultimate outcome of this matter will be. The final resolution of these claims, which could take several years, is not likely to have a material effect on our financial position or results of operations.

**17. Related party transactions**

Settlement with Certain Management Stockholders

In the last two months of 2016, the Company entered into settlement agreements and terminated the employment of two management stockholders (“Founders”). The settlement agreements includes a payable cash amount of \$ 5,800, as a result of an employee relationship benefit and non-competition and non-disclosure agreement, out of which 50% was payable on July 1, 2018 or upon the occurrence of a liquidity event, which may result from the consummation of an initial public offering, or a capital injection among other conditions. On September 20, 2017, the Company completed its initial public offering, and the settlement was fully paid in December 2017.

Balances and operations with Expedia

Expedia, Inc., (“Expedia”) a subsidiary of Expedia Group, Inc., a Delaware corporation, is a shareholder of record of the Company. In March 2015, the Company entered into an outsourcing agreement (the “Expedia Outsourcing Agreement”) pursuant to which all hotel and other lodging reservations for countries outside of Latin America offered through the Company’s platforms are provided to the Company by Expedia on an exclusive basis. The Expedia Outsourcing Agreement was amended in 2019 to allow the Company to contract 10% of hotel inventory directly without using Expedia. Under the Expedia Outsourcing Agreement, Expedia is also the preferred provider of hotel and other lodging reservations in Latin America.

Under the Expedia Outsourcing Agreement, the Company is required to reach certain thresholds of marketing fees during specified periods. Failure to reach the thresholds may require the Company to pay a \$125 million termination fee. Expedia may also unilaterally terminate the Expedia Outsourcing Agreement in the event of a change of control of the Company. Beginning March 2022, the Company may unilaterally terminate the Expedia Outsourcing Agreement upon payment of a \$125 million termination fee. The Company is in compliance with the required thresholds as of December 31, 2019.

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The term of the Expedia Outsourcing Agreement renews annually automatically unless terminated in certain cases.

In August 2016, the Company entered into another outsourcing agreement with Expedia (the “Despegar Outsourcing Agreement”) pursuant to which the Company is required to make the Company’s hotel reservations inventory available to certain affiliates of Expedia.

The Despegar Outsourcing Agreement has a three-year term that renews automatically for one-year periods unless either party elects not to renew.

As of December 31, 2019 and 2018, our net position with Expedia under the Expedia Outsourcing Agreement and the Despegar Outsourcing Agreement was a liability of \$ 67,047 and \$ 75,251, respectively, recognized under “Related party receivable” and “Related party payable”, respectively, in the consolidated balance sheets.

For the years ended December 31, 2019, 2018 and 2017, net revenue derived from the agreements with Expedia were \$ 38,760, \$ 43,975 and \$ 37,000, respectively, which represented 7%, 8% and 7% of the Company’s consolidated net revenue respectively.

# **18. Fair value measurements**

Financial assets and liabilities carried at fair value at December 31, 2019 are classified in the categories described in the table below:

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
<b>Assets</b>				
Cash equivalents				
Money market funds	36,374	—	—	36,374
Time deposits	153,838	—	—	153,838
<b>Derivatives</b>				
Foreign currency forwards	—	454	—	454
<b>Total assets at fair value</b>	<b>190,212</b>	<b>454</b>	<b>—</b>	<b>190,666</b>
<b>Liabilities</b>				
<b>Derivatives</b>				
Foreign currency forwards	—	(1,271)	—	(1,271)
<b>Total liabilities at fair value</b>	<b>—</b>	<b>(1,271)</b>	<b>—</b>	<b>(1,271)</b>

The accompanying notes are an integral part of these consolidated financial statements.

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Financial assets and liabilities carried at fair value at December 31, 2018 are classified in the categories described in the table below:

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
<b>Assets</b>				
Cash equivalents				
Money Market funds	33,833	—	—	33,833
Time deposits	135,614	—	—	135,614
Derivatives				
Foreign currency forwards	—	—	—	—
<b>Total assets at fair value</b>	<b>169,447</b>	<b>—</b>	<b>—</b>	<b>169,447</b>
<b>Liabilities</b>				
Derivatives				
Foreign currency forwards	—	(668)	—	(668)
<b>Total liabilities at fair value</b>	<b>—</b>	<b>(668)</b>	<b>—</b>	<b>(668)</b>

There are three levels of inputs to measure fair value. The definition of each input is described below:

Level 1: Quoted prices in active markets that are accessible by the Company at the measurement date for identical assets and liabilities.

Level 2: Inputs that are observable, either directly or indirectly. Such prices may be based upon quoted prices for identical or comparable securities in active markets or inputs not quoted on active markets but corroborated by market data.

Level 3: Unobservable inputs are used when little or no market data is available.

The Company's derivative instruments are valued using pricing models. Pricing models consider the contract terms as well as multiple inputs where applicable, such as interest rate yield curves, option volatility and foreign currency exchange rates. Derivatives are considered "Level 2" fair value measurements. The Company's derivative instruments are typically short-term in nature.

At December 31, 2019 and 2018, the Company's cash and cash equivalents consisted of bank deposits, time deposits and money market funds. Other financial assets and liabilities, including restricted cash, accounts receivable, accounts payable, accrued expenses and travel suppliers payable, are carried at cost which approximates their fair value because of the short-term nature of these items.

## **19. Shareholders' Equity – Treasury Stock**

On August 9, 2018, the Company's Board of Directors approved a share repurchase program that enables the Company to repurchase up to \$75 million of its ordinary shares effective immediately and expiring in one year. Share repurchases may be made through a variety of methods, including in the open market, a 10b5-1 program and through privately negotiated transactions. The timing and number of ordinary shares repurchased will depend on a variety of factors, including price, general business and market conditions, and alternative investment opportunities. The Company is not obligated to acquire any specific number of ordinary shares and the repurchase program may be suspended, terminated or modified at any time for any reason.

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On August 1, 2019, the Company's Board of Directors approved a new share repurchase program that enables the Company to repurchase up to \$100 million of its shares. The new Share Repurchase Program became effective on August 8, 2019, and expires one year thereafter. Share repurchases may be undertaken through a variety of methods, including pursuant to trading plans adopted in accordance with Rule 10b5-1 of the Exchange Act, or through open market or privately negotiated transactions, in accordance with applicable law. The Company intends to enter into a 10b5-1 trading plan under the new Share Repurchase Program. The timing and number of shares repurchased pursuant to the new Share Repurchase Program may depend on a variety of factors, including price, general business and market conditions, alternative investment opportunities and other factors. The Company is not obligated to acquire any specific number of shares under the new Share Repurchase Program, and the program may be suspended, terminated or modified at any time for any reason, in accordance with applicable law.

Under the first share repurchase program, the Company purchased 1,525,632 shares at a cost of \$20.6 million with a weighted average cost per share of \$13.54, for the period ended December 31, 2019 and 1,544,475 shares at a cost of \$ 26 million with a weighted average cost per share of \$16.84, for the period ended December 31, 2018.

Under the new share repurchase program, the Company purchased 1,938,200 shares at a cost of \$21.6 million with a weighted average cost per share of \$11.13 for the period ended December 31, 2019.

As of December 31, 2019, \$78.4 million remained available for repurchase under the current authorization.

## **20. Earnings per share**

### *Basic earnings per share*

Basics earnings per share was calculated for the year ended December 31, 2019, 2018 and 2017 using the weighted average number of ordinary shares outstanding during the period.

### *Diluted earnings per share*

For the year ended December 31, 2019, 2018 and 2017, the Company computed diluted earnings per share using (i) the number of shares of common stock used in the basic earnings per share calculation as indicated above (ii) if diluted, the incremental common stock that the Company would issue upon the assumed exercise of restricted stock units.

For the year ended December 31, 2019, there were 1,150 thousand shares included in the diluted earnings per share as the incremental common stock that the Company would issue upon the assumed exercise of the stock option plan, estimated under the treasury stock computation method.

For the year ended December 31, 2018, there were 2,100 thousand shares included in the diluted earnings per share as the incremental common stock that the Company would issue upon the assumed exercise of the stock option plan, estimated under the treasury stock computation method.

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For the year ended December 31, 2017, the incremental common stock that the Company would issue upon the assumed exercise of the stock option plan was not included in the diluted earnings per share even when they were in-the-money, as under the treasury stock computation method they have an antidilutive effect as the sum of the proceeds, including unrecognized compensation expense, exceeds the average stock price.

The following table presents basic and diluted earnings per share:

	2019	2018	2017
Net income / (loss) attributable to Despegar.com Corp.	(20,910)	19,154	42,366
Earnings per share attributable to Despegar.com Corp.			
Basic	(0.30)	0.28	0.69
Diluted	(0.30)	0.27	0.69
Weighted average number of shares outstanding			
Basic	69,465	69,154	61,457
Dilutive effect of restricted stock units	1,150	2,100	91

## 21. Stock based compensation

### 2015 Restricted Stock Unit Plan

On March 6, 2015, the Company's shareholders approved a restricted stock unit plan including the issuance of 90,626 restricted stock unit (the "RSUs") in favor of an officer of the Company.

The RSUs included the following conditions:

- Time-based condition: satisfied with respect to
  - 40,626 RSUs on January 1, 2016;
  - 20,000 RSUs on January 1, 2017;
  - 20,000 RSUs on January 1, 2018; and
  - 10,000 RSUs on July 1, 2018;
provided that the officer remains in continuous service through each applicable date.
- Liquidity Event Requirement: satisfied on the earlier to occur of
  - an Initial Public Offering of the Company's common stock, or
  - a change of control transaction (sale event).
- No additional vesting exists upon completion of a liquidity event.
- Restrictions:
  - Repurchase rights: in the event of a change of control, the Company has the right to repurchase certain shares contingent upon the valuation of the Company at such time, and
  - Transfer restrictions: after the consummation of an Initial Public Offering transfer restrictions apply limiting the ability to transfer certain shares subject to the valuation of the Company at such time.

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The fair value of the RSU granted during the year ended December 31, 2015 was estimated at the date of grant using the income approach valuation technique, including the Black-Scholes and Monte Carlo option-pricing models, assuming the following weighted average assumptions:

Expected volatility	41.69%
Expected life (in years)	10
Weighted-average estimated fair value of options granted during the year	\$ 7.47

As of December 31, 2018, these RSUs were fully vested.

The following table presents a summary of the Company's RSU activity:

	RSU	Weighted Average Grant Date Fair Value per share
Balance as of December 31, 2016	90,626	7.47
Granted	—	—
Vested / (Cancelled)	—	—
Balance as of December 31, 2017	90,626	7.47
Granted	—	—
Vested as of March 21, 2018	(80,626)	—
Vested as of July 1, 2018	(10,000)	—
Balance as of December 31, 2018	—	—

There is no more activity under this plan for years subsequent to December 31, 2018.

#### 2016 Stock Option Plan

In March 2017, the Company's shareholders approved a stock option plan or restricted stock units (RSU) plan and reserve for issuance up to 4,000,000 stock options, of which 3,175,000 stock options were effectively granted in favor of some officers of the Company.

In August 2017, the Company's shareholders approved an amendment to the abovementioned plan (the "Amended and Restated 2016 Stock Incentive Plan") and reserve for issuance an additional 861,777 shares increasing the total stock option plan to 4,861,777 shares.

The plan includes the following conditions:

- Time-based condition: satisfied with respect to:
  - 5% of stock options vest on December 1, 2017;
  - 10% of stock options vest on December 1, 2018;
  - 15% of stock options vest on December 1, 2019;
  - 20% of stock options vest on December 1, 2020;
  - 25% of stock options vest on December 1, 2021; and
  - 25% of stock options vest on December 1, 2022;

if the officer remains in continuous service through each applicable date.

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- Liquidity Event Requirement: satisfied on the earlier to occur of
  - (i) an Initial Public Offering of the Company's common stock, or
  - (ii) a change of control event.
- No additional vesting exists upon completion of a liquidity event.

The fair value of stock options was determined at date of grant using income approach valuation techniques, including the Black-Scholes and Monte Carlo pricing models. The remaining vesting period as of December 31, 2019 is 35 months.

The following weighted average assumptions were used for options during the year ended December 31, 2017:

Risk-free interest rate	1.49%
Expected volatility	40.1%
Expected life (in years)	10
Weighted-average estimated fair value of options granted during the year	\$10.737

The following weighted average assumptions were used for options during the year ended December 31, 2018:

Grant date	March 1	April 9	May 3	November 1	December 24
Risk-free interest rate	1.49%	2.58%	2.58%	3.11%	2.74%
Expected volatility	40.1%	47.8%	45.7%	41.3%	39.9%
Expected life (in years)	10	10	10	10	10
Weighted-average estimated fair value of options granted during the year	\$ 14.55	17.21	16.81	4.96	13.62
Number of shares	250,000	25,000	250,000	150,000	499,489

The fair value of the RSUs granted during the year ended December 31, 2018, was:

Grant date	September 9	November 26	December 24
Weighted-average estimated fair value of options granted during the year	\$ 15.06	14.82	11.55
Number of shares	340,939	30,000	1,023,220

In December 2018, a change in the stock option exercise price was made. The change in the stock-based compensation plan was recognized as a modification.

As the Company replaced an award for another with the same fair value, no incremental compensation cost needed to be recognized as a result of the exchange of the awards.

The following weighted average assumptions were used for options during the year ended December 31, 2019:

Grant date	March 27	June 3	August 15
Risk-free interest rate	2.35%	2.15%	1.08%
Expected volatility	38.82%	38.0%	37.49%
Expected life (in years)	10	10	10
Weighted-average estimated fair value of options granted during the year	\$ 3.59	2.78	1.99
Number of shares	95,408	70,243	60,252

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The fair value of the RSUs granted during the year ended December 31, 2019, was:

Grant date	February 28	March 27	June 3	August 15	October 31
Weighted-average estimated fair value of options granted during the year	\$ 17.99	14.06	11.96	10.49	11.01
Number of shares	16,915	21,412	31,352	93,900	176,986

The following table presents a summary of the Company's stock option activity:

	Options / RSU	Weighted Average Exercise Price per share	Remaining Contractual Life
Balance as of December 31, 2016	3,175,000	26.02	6
Granted	600,000	26.02	
Balance as of December 31, 2017	3,775,000	26.02	5
Granted	2,693,648	18.40	
Forfeited	(2,158,213)	26.34	
Balance as of December 31, 2018	4,310,435	21.08	4
Granted	566,468	9.76	
Forfeited	(676,186)	14.28	
Balance as of December 31, 2019	4,200,717	12.44	4

Stock-based compensation included in "General and administrative" expenses in the consolidated statements of income was \$ 11,686, \$ 6,766 and \$ 4,289 for the years ended December 31, 2019, 2018 and 2017, respectively.

Share-based awards granted by the Company during the years ended December 31, 2019, 2018 and 2017 had aggregate grant-date fair values of \$ 658, \$ 12,312 and \$ 30,531 for the years ended December 31, 2019, 2018 and 2017, respectively.

Restricted stock units that vested during the years ended December 31, 2019 and 2018 had aggregate fair values at vesting of \$ 4,417, \$ 1,116 for the years ended December 31, 2019 and 2018, respectively. No restricted stock units vested during the year ended December 31, 2017.

At December 31, 2019, there was \$ 27,547 of total future compensation cost related to unvested share-based awards to be recognized over a weighted-average period of 4 years.

## 22. Guarantees

The Company is required to be accredited by the International Air Transport Association ("IATA") to be permitted to sell international airlines tickets of airlines affiliated with IATA.

During 2019, certain Despegar.com subsidiaries granted guarantees for \$ 4,457 for the benefit of the IATA and other suppliers in the form of time deposits or bank and insurance guarantees, which were recorded as restricted cash in the consolidated balance sheet at December 31, 2019.

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**23. Valuation and qualifying accounts**

The following table presents the changes in the Company's valuation and qualifying accounts.

	<u>Balance of beginning of period</u>	<u>Increase / (Decrease)</u>	<u>Utilization</u>	<u>Other comprehensive Income / (Loss)</u>	<u>Balance at end of period</u>
<b>2019</b>					
Allowance for doubtful accounts	2,065	4,294	(3,050)	(104)	3,205
<b>2018</b>					
Allowance for doubtful accounts	3,164	1,062	(1,063)	(1,098)	2,065
<b>2017</b>					
Allowance for doubtful accounts	3,513	818	(984)	(183)	3,164

The information related to tax valuation allowance is included in Note 14.

**24. Segment information**

The Company has two reportable segments: "Air" and "Packages, Hotels and Other Travel Products".

The Company's Air segment primarily consists of facilitation services for the sale of airline tickets on a stand-alone basis and excludes airline tickets that are packaged with other non-airline flight products. The Company's Packages, Hotels and Other Travel Products segment primarily consists of facilitation services for the sale of travel packages (which can include airline tickets and hotel rooms), as well as stand-alone sales of hotel rooms (including vacation rentals), car rentals, bus tickets, cruise tickets, travel insurance and destination services. Both segments also include sale of advertisements and incentives earned from suppliers to a lesser extent.

The Company determined the operating segments based on how the chief operating decision maker manages the business, makes operating decisions and evaluates operating performance. The primary operating metric is Adjusted Segment EBITDA.

Adjusted Segment EBITDA is calculated, with respect to each segment, as the Company's net income or loss for the year before financial income and financial expense, income tax, depreciation, amortization, impairment of long-lived assets and stock-based compensation. Adjusted Segment EBITDA includes allocations of certain expenses based on transaction volumes and other usage metrics. The Company's allocation methodology is periodically evaluated and may change.

For any of the years presented, there were no intersegment revenues.

As depreciation and amortization are not included in the Company's segment measure, the Company does not report the assets by segment as it would not be meaningful. The Company does not regularly provide such information to the chief operating decision maker.

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The following tables present the Company's segment information for the years ended December 31, 2019, 2018 and 2017.

	2019			
	Air	Packages, Hotels and Other travel products	Unallocated	Total
Third-party revenue	201,638	323,238	—	524,876
<b>Adjusted EBITDA</b>	<b>3,346</b>	<b>36,546</b>	<b>(14,330)</b>	<b>25,562</b>
Depreciation and amortization	(7,716)	(7,716)	(7,364)	(22,796)
Stock-based compensation	—	—	(11,686)	(11,686)
<b>Operating (loss) / income</b>	<b>(4,370)</b>	<b>28,830</b>	<b>(33,380)</b>	<b>(8,920)</b>
Financial income	—	—	—	7,944
Financial expense	—	—	—	(25,159)
<b>Loss before income tax</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>(26,135)</b>
Income tax benefit	—	—	—	5,225
<b>Net loss</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>(20,910)</b>

	2018			
	Air	Packages, Hotels and other travel products	Unallocated	Total
Third-party revenue	214,804	315,810	—	530,614
<b>Adjusted EBITDA</b>	<b>27,790</b>	<b>37,739</b>	<b>2,115</b>	<b>67,644</b>
Depreciation and amortization	(4,630)	(4,582)	(5,913)	(15,125)
Impairment of long-lived assets	—	—	(363)	(363)
Stock-based compensation	—	—	(6,766)	(6,766)
<b>Operating income / (loss)</b>	<b>23,160</b>	<b>33,157</b>	<b>(10,927)</b>	<b>45,390</b>
Financial income	—	—	—	7,621
Financial expense	—	—	—	(26,788)
<b>Income before income tax</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>26,223</b>
Income tax expense	—	—	—	(7,069)
<b>Net income</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>19,154</b>

	2017			
	Air	Packages, Hotels and other travel products	Unallocated	Total
Third-party revenue	241,015	282,925	—	523,940
<b>Adjusted EBITDA</b>	<b>58,397</b>	<b>31,341</b>	<b>(384)</b>	<b>89,354</b>
Depreciation and amortization	(1,865)	(2,556)	(9,405)	(13,826)
Stock-based compensation	—	—	(4,289)	(4,289)
<b>Operating income / (loss)</b>	<b>56,532</b>	<b>28,785</b>	<b>(14,078)</b>	<b>71,239</b>
Financial income	—	—	—	2,389
Financial expense	—	—	—	(19,268)
<b>Income before income tax</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>54,360</b>
Income tax expense	—	—	—	(11,994)
<b>Net income</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>42,366</b>

The accompanying notes are an integral part of these consolidated financial statements.

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**Geographic information**

The following table summarizes the allocation of the property and equipment based on geography:

	As of December 31, 2019	As of December 31, 2018
Argentina	7,067	7,830
Brazil	3,779	2,950
Uruguay	929	1,463
USA	4,357	4,097
Other countries	5,073	3,376
	<u>\$ 21,205</u>	<u>\$ 19,716</u>

The following table summarizes the allocation of the intangible assets based on geography:

	As of December 31, 2019	As of December 31, 2018
Argentina	28,487	19,616
Uruguay	14,859	14,837
Other countries	6,273	3,059
	<u>\$ 49,619</u>	<u>\$ 37,512</u>

The following table summarizes the allocation of the goodwill based on geography:

	As of December 31, 2019	As of December 31, 2018
Argentina	3,048	1,201
Brazil	10,508	10,901
Mexico	7,543	7,266
Uruguay	16,839	16,839
Chile	4,657	—
Colombia	2,864	—
Perú	1,497	—
	<u>\$ 46,956</u>	<u>\$ 36,207</u>

The following table summarizes the allocation of the revenue based on geography:

	For the year ended December 31,		
	2019	2018	, 2017
Argentina	98,946	122,656	137,843
Brazil	159,676	165,688	151,550
Uruguay	131,160	142,902	145,534
Other countries	135,094	99,368	89,013
	<u>\$ 524,876</u>	<u>\$ 530,614</u>	<u>\$ 523,940</u>

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**25. Leases**

See Note 3 for the Company's accounting policy related to leases.

The Company has operating leases for office space and customer centers. As of December 31, 2019, the Company's weighted-average discount rate and weighted-average remaining lease term were approximately 9% and 12 years, respectively. Some leases include options to extend the leases for up to 5 years which were considered probable as of year-end.

The Company had no finance leases as of December 31, 2019. As of December 31, 2019, the Company has not entered into leases that have not yet commenced.

Operating lease costs were \$6, 748 for the year ended December 31, 2019. Under the lease accounting guidance in effect for the years ended December 31, 2018 and 2017, rent expense was \$4,354 and \$4,413, which includes operating lease costs as well as expense for non-lease components such as common area maintenance.

Supplemental cash flow information related to leases were as follows:

	<b>For the year ended December 31, 2019</b>
Cash paid for amounts included in the measurement of lease liabilities:	
Operating cash flows for operating lease payments	6,748

As of December 31, 2019, the operating lease liabilities will mature over the following periods:

	<b>As of December 31, 2019</b>
2020	6,736
2021	6,335
2022	6,127
2023	5,953
2024	5,948
Thereafter	26,148
Total remaining lease payments	57,247
Less imputed interest	(16,280)
Total operating lease liabilities:	40,967
Current operating lease liability	6,498
Non-current operating lease liability	34,469

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At December 31, 2018, minimum lease payments for operating leases having an initial term in excess of one year under the previous lease standard (“ASC 840”) were as follows:

	<b>As of December 31, 2018</b>
2019	5,341
2020	5,137
2021	4,542
2022	4,252
2023	4,169
Thereafter	21,763
Total remaining lease payments	45,204

## **26. Subsequent events**

### *Best Day Acquisition*

In January 2020, the Company announced an agreement to acquire Viajes Beda S.A. de C.V. and Transporturist S.A. de C.V. (hereinafter collectively referred to as “Best Day”), a leading travel agency with primary operations in Mexico and businesses in Argentina, Brazil, Dominican Republic and other countries. The initial purchase price for the acquisition amounts to \$136 million and is subject to working capital and debt adjustments. The acquisition also includes earnout payments to the previous shareholders based on certain metrics. The initial purchase price is paid \$88.4 million at closing and the remaining amount in two installments payable 24 months and 36 months after closing. The closing of the acquisition is subject to antitrust approvals and certain closing conditions. The Company expects closing of the transaction during the second quarter of 2020.

### *Effects of Covid-19 on operations*

In December 2019, the World Health Organization’s (WHO) heard the first reports of a previously unknown virus behind a number pneumonia cases. There was no explicit evidence of human-to-human transmission at that date. As of December 31, 2019, travel had not been affected to or from the regions generally served by the Company, mainly Latin America, Europe and the United States.

In January 2020, the virus (known as COVID-19 or “Coronavirus”) started spreading worldwide. The WHO declared COVID-19 a pandemic resulting in federal, state and local governments and private entities mandating various restrictions, including travel restrictions, restrictions on public gatherings, stay at home orders and advisories and quarantining of people who may have been exposed to the virus.

Depending on how the situation evolves, governments may impose tougher measures including the extension of the travel bans for longer periods and/or other permanent restrictions. In addition, concerns about the COVID-19 are negatively impacting travel demand (and therefore the Company’s business) generally.

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As a result, in mid-March 2020, the Company began experiencing and continues to experience a significant decline in travel bookings and an increase in customer cancellations. The ultimate extent of the COVID-19 outbreak and its impact on travel in currently affected countries, or more broadly, is unknown and impossible to predict with certainty. As a result, the full extent to which the Coronavirus will impact the Company's business and results of operations is unknown. However, subsequent to year-end, decreased travel demand resulting from the outbreak has had a negative impact, and is likely to have a negative and material impact, on the Company's business, growth and results of operations. The Company estimated that net revenue for the month of March 2020 amounts to approximately \$2,150, a decline of 93% as compared to the previous month and net revenue for the first quarter of 2020 amounts to approximately \$78,246, a decline of 41% as compared to the same quarter of the previous year. In addition, the Company incurred additional customer service costs in connection with servicing travelers affected by the outbreak, which would also have a negative impact on the results of operations.

After close monitoring and responses and guidance from federal, state and local governments, in an effort to mitigate the spread of COVID-19, the Company implemented several measures to preserve its human capital and business. The majority of the Company's employees are working remotely as from the second half of March 2020. The Company closely continues to monitor developments, including government requirements and recommendations at the national, state, and local level to evaluate possible extensions to all or part of such measures.

In addition, the Company has taken several steps to further strengthen its financial position and balance sheet, and maintain financial liquidity and flexibility, including, reviewing operating expenses, evaluating purchases, reducing or deferring capital expenditures, reducing executive management salaries and bonuses and renegotiating terms and conditions with travel suppliers.

The Company is also currently assisting its travel customers with changes to their travel arrangements through the implementation of several initiatives, including reallocating employees to increase capacity to handle customer assistance and providing travel customers with flexible conditions to defer travel plans.

As of March 31, 2020, the Company maintains a strong liquidity position and is taking all these measures to preserve cash. As the COVID-19 pandemic is complex and rapidly evolving, the Company's plans as described above may change. At this point, the Company cannot reasonably estimate the duration and severity of this pandemic, which has and can continue to have a material adverse impact on our business, results of operations, financial position and cash flows.

The accompanying notes are an integral part of these consolidated financial statements.

**Description of Securities Registered under Section 12(b) of the Exchange Act**

As of December 31, 2019, Despegar.com, Corp. (the “Company”, “we”, “us” or “our”) had one class of securities registered under Section 12(b) of the Securities Exchange Act of 1934 – ordinary shares, with no par value.

The following is a summary of the terms of our shares, certain provisions of the BVI Business Companies Act, 2004 (as amended from time to time, the “BVI Act”) and certain provisions of our memorandum and articles of association, which are qualified in their entirety by reference to the BVI Act and our memorandum and articles of association, and they are available upon request. We have filed copies of our memorandum and articles of association as exhibit 3.1 to the Registration Statement on Form F-1, filed on August 31, 2017.

**General**

We are a BVI business company incorporated with limited liability and our affairs are governed by the provisions of our memorandum and articles of association, as amended and restated from time to time, and by the provisions of applicable BVI law, including the BVI Act.

Our Company number in the BVI is 1936519. As provided in paragraph 4 of our memorandum of association, subject to BVI law, we have full capacity to carry on or undertake any business or activity, do any act or enter into any transaction and, for such purposes, full rights, powers and privileges. Our registered office is at Commerce House, Wickhams Cay 1, P.O. Box 3140, Road Town, Tortola, British Virgin Islands and our registered agent is Conyers Trust Company (BVI) Limited of Commerce House, Wickhams Cay 1, P.O. Box 3140, Road Town, Tortola, British Virgin Islands.

The transfer agent and registrar for our ordinary shares is Computershare Trust Company, N.A., which maintains the register of members of the Company at 480 Washington Boulevard, Jersey City, NJ 07310, USA. The shares of the Company are held in uncertificated (book-entry) form and no shareholder has the right to require issuance or provision to it at any time of any share certificate.

The following is a summary of the material provisions of our shares capital and our memorandum and articles of association. This discussion does not purport to be complete and is qualified in its entirety by reference to our memorandum and articles of association.

**Ordinary Shares**

The following summarizes the rights of holders of our ordinary shares. Each ordinary share confers on the holder:

- (a) the right to one vote at a meeting per share on all matters to be voted on by shareholders generally, including the election of directors at an annual meeting of the shareholders;
- (b) the right to an equal share in any dividend paid by the Company and payable in respect of our ordinary shares and as may be declared from time to time by our board of directors out of funds legally available for that purpose, if any; and
- (c) upon our liquidation, dissolution or winding up, the right to an equal share in the distribution of the surplus assets of the Company available to the ordinary shareholders, but subject in each case to the rights attaching to any additional class or classes of shares (including any preferred shares) that may be authorized and issued after the closing date of our initial public offering. Our ordinary shares do not confer cumulative voting rights



## **Additional Shares**

Our board of directors may, without prior notice to or obtaining any shareholder approval, amend our memorandum and articles of association to authorize the issuance by the Company of any additional class or classes of shares. Our board of directors may determine the rights, privileges, restrictions and conditions attaching to each such class of shares (which may be more favorable than those attaching to the ordinary shares), as the board of directors may determine in its sole and absolute discretion, including without limitation:

- the number of shares constituting the additional class of shares;
- the dividend and other distribution rights of the class of shares and, (which may be payable in preference to, or in relation to, the dividends payable on our ordinary shares or any other class or classes of shares);
- whether the class of shares shall have voting rights and, if so, whether they shall vote separately or together as a single class with the ordinary shares and/or any other class of shares;
- whether the class of shares shall have conversion and/or exchange rights and privileges and, if so, the terms and conditions of such conversion and/or exchange;
- whether the class of shares shall impose conditions and restrictions upon the business and affairs of the Company and/or any of its subsidiaries or the right to approve and/or veto certain matters and/or to appoint and/or remove one or more directors of the Company; and
- the rights of the shares in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, including, without limitation, any liquidation preference and whether such rights shall be in preference to, or in relation to, the comparable rights of the ordinary shares or any other class or classes of shares.

## **Limitation on Liability and Indemnification Matters**

Under BVI law, each of our directors, in exercising his powers or performing his duties, is required to act honestly and in good faith and in what the director believes to be in our best interests, is required to exercise his powers as a director for a proper purpose, may not act, or agree to us acting, in a manner that contravenes the BVI Act or our memorandum or articles of association, and is required to exercise the care, diligence and skill that a reasonable director would exercise in the same circumstances (taking into account, but without limitation, the nature of the Company; the nature of the decision; and the position of the director and the nature of the responsibilities undertaken by him).

Our memorandum and articles of association provide that, to the fullest extent permitted by law, the Company is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Company (and any other persons to which the Company is permitted to provide indemnification under applicable law) through provisions in the memorandum and articles of association, agreements with such directors, officers agents or other persons, vote of disinterested directors or otherwise, subject only to limits created by the BVI Act.

Our memorandum and articles of association provide that the Company shall indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who: (a) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director, an officer or a liquidator of the Company; or (b) is or was, at the request of the Company, serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise; provided that such indemnification shall not apply unless the person claiming such indemnification acted honestly and in good faith and in what he believed to be the best interests of the Company and, in the case of criminal proceedings, the person had no reasonable cause to believe that his conduct was unlawful.

We may pay any expenses, including legal fees, incurred by any such person in defending any legal, administrative or investigative proceedings in advance of the final disposition of the proceedings. If a person to be indemnified has been successful in defense of any proceedings referred to above, the person is entitled to be indemnified against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred by the person in connection with the proceedings.

We may purchase and maintain insurance in relation to any person who is or was a director, an officer or a liquidator of the Company, or who at the request of the Company is or was serving as a director, an officer or a liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise, against any liability asserted against the person and incurred by the person in that capacity, whether or not we have or would have had the power to indemnify the person against the liability as provided in memorandum and articles of association.

## Shareholders' Meetings and Consents

The following summarizes certain relevant provisions of BVI laws and our memorandum and articles of association in relation to our shareholders' meetings:

- Our memorandum and articles of association contemplate two types of shareholders' meetings, namely: (i) an annual meeting of shareholders (each an "annual meeting"); and (ii) any meeting of shareholders which is not an annual meeting (each a "special meeting").
- Only the board of directors may convene an annual meeting. Annual meetings shall be held in each calendar year. All annual meetings shall be held at such date, time and place, either within or outside the BVI, as shall be determined from time to time by the board of directors. The business of an annual meeting shall be the election and re-election of directors for those board seats whose terms expire at such meeting and any other items of business proposed by the board of directors and/or otherwise duly proposed by eligible shareholders in accordance with the memorandum and articles of association.
- Special meetings may only be called: (i) by the board of directors at its own initiative; or (ii) by the board of directors upon receiving a compliant written request from a shareholder or shareholders entitled to exercise at least 30% of the voting rights in respect of the matter for which the meeting is requested. Upon receipt of a compliant requisition notice, the board of directors shall convene the requested special meeting for a date not later than 90 days after the date of receipt of the requisition notice, provided the various restrictions, conditions and provision of information and other procedural requirements set out in the memorandum and articles of association have been met by the requisitionists. A special meeting may be held at such date, time and place, within or outside the BVI, as shall be stated in the notice of the meeting.
- Director elections and re-elections by shareholders may occur only at annual meetings (not special meetings) and then only in respect of those board seats whose terms expire at such meeting. Nominations of persons for election or re-election as directors of the Company at an annual meeting may only be made by (i) the board of directors; or (ii) any shareholder (or shareholders collectively) holding not less than 3% of the voting rights that may be exercised at the annual meeting entitled to attend and vote at such meeting, provided the various restrictions, conditions and provision of information and other procedural requirements set out in the memorandum and articles of association have been met by the nominating shareholders. The board of directors also retains discretion to veto inappropriate candidates nominated by shareholders for election as a director in certain enumerated circumstances, including (a) where the candidate is not qualified, does not have the necessary experience, has a conflict of interest or is otherwise unsuitable or unfit for office; and (b) where an appointment may adversely affect the Company's (and/or its subsidiaries' respective) reputation or business; or would result in the Company not having the required number of independent directors for its audit committee; or would result in the Company losing its "foreign private issuer" status.
- Written notice of any shareholder meeting shall be given to each shareholder entitled to vote at such meeting and each director not fewer than 10 nor more than 120 days before the date of the meeting. The inadvertent failure or accidental omission to give notice of a meeting to, or the non-receipt of a notice of a meeting by, any person entitled to receive notice shall not invalidate the shareholder meeting or the proceedings at that meeting. A meeting of shareholders held in contravention of such notice requirements is valid if shareholders holding at least 90% of the total voting rights on all the matters to be considered at the meeting have waived notice of the meeting and, for this purpose, the presence of a shareholder at the meeting shall be deemed to constitute waiver on his part.
- A shareholder may be represented at a meeting of shareholders by a proxy who may speak and vote on behalf of the shareholder.
- A meeting of shareholders is duly constituted and quorate if, at the commencement of the meeting, there are present in person or by proxy holders of not less than a simple majority of the votes of the shares entitled to vote on the resolutions to be considered at the meeting. If within two hours from the time appointed for the

meeting a quorum is not present, the meeting, if convened upon the requisition of shareholders, shall be dissolved; in any other case it shall stand adjourned to such other date, time and place as the chairman may determine and announce at the meeting (without the need for any further notice to shareholders). At any such adjourned meeting at which a quorum shall be present or represented, any business may be transacted that might have been transacted at the meeting as originally notified. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

- A resolution of shareholders is valid only if approved at a duly constituted and quorate meeting of shareholders by the affirmative vote of a simple majority (or such greater majority as may be specified in respect of a particular matter in the memorandum and articles of association) of the votes of those shareholders present at the meeting and entitled to vote and voting on the resolution. Shareholders are prohibited from adopting resolutions by written consent and all resolutions of the shareholders need to be adopted at a meeting of our shareholders convened in accordance with our memorandum and articles of association.
- In addition, in order to nominate candidates for election as a director at an annual meeting or propose topics for consideration at an annual meeting or special meeting of shareholders, shareholders must notify the Company in writing prior to the meeting at which directors are to be elected or the proposals are to be acted upon, and such notice must contain the documentation and information specified in our memorandum and articles of association. To be timely, notice with respect to an annual meeting of shareholders must be received by not later than the close of business on the 90th day, nor earlier than the close of business on the 120th day, prior to the first anniversary of the preceding year's annual meeting (provided that if the Company did not have an annual meeting the preceding year not later than the close of business on June 30 of the calendar year in which the annual meeting is to be held or such other date notified to shareholders by the board of directors). In the case of any business or other matter to be considered at a special meeting of shareholders, notice of such business or other matter must be included with the original requisition notice. Various other restrictions, conditions and provision of information and other procedural requirements set out in the memorandum and articles of association shall also apply. Such advance notice requirements and other provisions may preclude or limit the ability of shareholders to nominate candidates for election as a director or propose topics for consideration at a meeting of shareholders. Furthermore, our board of directors may in certain circumstances veto candidates proposed by shareholders (as described in the fourth bullet point in this section).

### **Differences in Corporate Law**

We were incorporated under, and are governed by, the laws of the BVI. Set forth below is a summary of some of the key differences between provisions of the BVI Act applicable to us and the laws applicable to companies incorporated in the State of Delaware in the United States and their shareholders, which should not be taken as exhaustive.

### ***Director's Fiduciary Duties***

Under Delaware corporate law, a director of a Delaware corporation has a fiduciary duty to the corporation and its shareholders. This duty has two components: the duty of care and the duty of loyalty. The duty of care requires that a director act in good faith, with the care that an ordinarily prudent person would exercise under similar circumstances. Under this duty, a director must inform himself of, and disclose to shareholders, all material information reasonably available regarding a significant transaction. The duty of loyalty requires that a director act in a manner he reasonably believes to be in the best interests of the corporation. He must not use his corporate position for personal gain or advantage. This duty prohibits self-dealing by a director and mandates that the best interest of the corporation and its shareholders take precedence over any interest possessed by a director, officer or controlling stockholder and not shared by the shareholders generally. In general, actions of a director are presumed to have been made on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the corporation. However, this presumption may be rebutted by evidence of a breach of one of the fiduciary duties. Should such evidence be presented concerning a transaction by a director, a director must prove the procedural fairness of the transaction, and that the transaction was of fair value to the corporation.

BVI law provides that every director of a BVI company in exercising his powers or performing his duties shall act honestly and in good faith and in what the director believes to be in the best interests of the company. Additionally, the director shall exercise the care, diligence, and skill that a reasonable director would exercise in the same circumstances (taking into account but without limitation, the nature of the company, the nature of the decision and the position of the director and the nature of the responsibilities undertaken by him). In addition, BVI law provides that a director shall exercise his powers as a director for a proper purpose and shall not act, or agree to the company acting, in a manner that contravenes the BVI Act or the memorandum association or articles of association of the company.

### ***Amendment of Governing Documents***

Under Delaware corporate law, with very limited exceptions, a vote of the shareholders is required to amend the certificate of incorporation. In addition, Delaware corporate law provides that shareholders have the right to amend the bylaws, and the certificate of incorporation also may confer on the directors the right to amend the bylaws.

The laws of the BVI provide more flexibility as to the approvals required for amending the governing documents of the company. Our memorandum and articles of association provide they may only be amended by way of:

- (a) both an ordinary resolution of shareholders (passed by a simple majority vote) and a resolution of directors (passed by a simple majority vote at a meeting of directors or by unanimous written consent), but written subject to the condition that the resolution of directors is adopted not later than the seventh day following the adoption of the resolution of shareholders;
- (b) a special resolution of members (passed by a two-thirds (66 2/3%) super majority vote), save that certain provisions may not be amended in this manner, as further described below; or
- (c) a resolution of directors (passed by a simple majority vote at a meeting of directors or by unanimous written consent), save that certain provisions may not be amended in this manner, as further described below.

The provisions of our memorandum and articles of association that may not be amended pursuant to (b) and (c) above include provisions (and related definitions) relating to the capacity and powers of the Company; the powers of our board to issue shares and authorize and issue additional classes of shares and the repurchase of the company's own shares, and to fix a record date for shareholder meetings; the powers of our board or shareholders to amend the memorandum and articles; most provisions regarding shareholder meetings and the ability of shareholders to requisition meetings and make proposals and nominate candidates for election as directors at shareholder meetings; the powers of the board of directors and the officers of the Company and their proceedings; dividends and other distributions; director conflicts and indemnification; appointment of auditors and the audit process; the voluntary liquidation of the Company; the redomiciliation of the Company to a foreign jurisdiction, and the exclusive jurisdiction clause. Further, at any time that Expedia owns 5% or more of the outstanding ordinary shares of the Company, Article 26 of the articles of association (which relates to Expedia's and its nominated directors' ability to pursue opportunities that may compete with the Company) may not be amended, altered, changed or repealed without the prior written consent of Expedia.

### ***Written Consent of Directors***

Under Delaware corporate law, directors may act by written consent only on the basis of a unanimous vote.

Similarly, under our memorandum and articles of association, a resolution of our directors in writing shall be valid only if consented to by all of the directors (or all of the members of a committee of directors, as the case may be) entitled to vote on the resolution.

### ***Written Consent of Shareholders***

Under Delaware corporate law, unless otherwise provided in the certificate of incorporation, any action to be taken at any annual or special meeting of shareholders of a corporation may be taken by written consent of the holders of outstanding stock having not less than the minimum number of votes that would be necessary to take that action at a meeting at which all shareholders entitled to vote were present and voted.

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Our memorandum and articles of association provide that a resolution of shareholders is valid only if approved at a duly constituted and quorate meeting of shareholders by the affirmative vote of a simple majority (or such greater majority as may be specified in respect of a particular matter in the memorandum and articles of association) of the votes of those shareholders present at the meeting and entitled to vote and voting on the resolution.

### ***Shareholder Proposals***

Under Delaware corporate law, a shareholder has the right to put any proposal before the annual meeting of shareholders, provided it complies with the notice provisions in the governing documents. A special meeting may be called by the board of directors or any other person authorized to do so in the governing documents, but shareholders may be precluded from calling special meetings.

BVI law and our memorandum and articles of association provide that (i) our directors shall call a special meeting of the shareholders if requested in writing to do so by shareholders entitled to exercise at least 30% of the voting rights in respect of the matter for which the meeting is requested; and (ii) shareholders may put forward proposals at an annual meeting or, with the prior consent of our board of directors, at any special meeting convened by our board of directors, in each case subject to the various restrictions, conditions, and provision of information and other procedural requirements (including lengthy advance notice periods) described above in “—Shareholders’ Meetings and Consents.”

### ***Sale of Assets***

Under Delaware corporate law, a vote of the shareholders is required to approve the sale of assets only when all or substantially all assets are being sold.

Under the BVI Act, unless otherwise provided in the memorandum and articles of association, shareholder approval is required when more than 50% of the company’s total assets by value are being disposed of or sold if not made in the usual or regular course of the business carried out by the company. However, this provision is without effect under our memorandum and articles of association, and the directors may by resolution of directors sell, transfer, lease, exchange or otherwise dispose of the assets of the Company without the sale, transfer, lease, exchange or other disposition being authorized by a resolution of the shareholders.

### ***Dissolution; Winding Up***

Under Delaware corporate law, unless the board of directors approves the proposal to dissolve, dissolution must be approved in writing by shareholders holding 100% of the total voting power of the corporation. Only if the dissolution is initiated by the board of directors may it be approved by a simple majority of the corporation’s outstanding shares. Delaware corporate law allows a Delaware corporation to include in its certificate of incorporation a supermajority voting requirement in connection with dissolutions initiated by the board.

As permitted by BVI law and our memorandum and articles of association, we may be voluntarily liquidated under Part XII of the BVI Act by resolution of shareholders with the prior approval of a resolution of directors if we have no liabilities or we are able to pay our debts as they fall due and the value of the Company’s assets equals or exceeds its liabilities.

### ***Continuation under Foreign Law***

As permitted by BVI law and our memorandum and articles of association, we may with the approval of both a resolution of directors and resolution of shareholders continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands in the manner provided under those laws.

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### ***Redemption of Shares***

Under Delaware corporate law, any stock may be made subject to redemption by the corporation at its option, at the option of the holders of that stock or upon the happening of a specified event, provided shares with full voting power remain outstanding. The stock may be made redeemable for cash, property or rights, as specified in the certificate of incorporation or in the resolution of the board of directors providing for the issue of the stock.

As permitted by BVI law and our memorandum and articles of association, shares may be repurchased, redeemed or otherwise acquired and held by us (a) with the prior written consent of the holder of such shares (which consent may be given by agreement in advance and may be either unconditional or conditional); (b) in accordance with the terms and restrictions of such shares or the terms upon which such shares are issued, without the consent of the holder of such shares; or (c) as described under “Compulsory Acquisition” below, without the consent of the holder of such shares, subject in cases (a) and (b) to compliance with applicable BVI laws regarding solvency unless the redemption is made pursuant to a right of the shareholder to have his shares redeemed or to have his shares exchanged for money or other property of the company.

### ***Compulsory Acquisition***

Under Delaware General Corporation Law §253, in a process known as a “short form” merger, a corporation that owns at least 90% of the outstanding shares of each class of stock of another corporation may either merge the other corporation into itself and assume all of its obligations or merge itself into the other corporation by executing, acknowledging and filing with the Delaware Secretary of State a certificate of such ownership and merger setting forth a copy of the resolution of its board of directors authorizing such merger. If the parent corporation is a Delaware corporation that is not the surviving corporation, the merger also must be approved by a majority of the outstanding stock of the parent corporation. If the parent corporation does not own all of the stock of the subsidiary corporation immediately prior to the merger, the minority shareholders of the subsidiary corporation party to the merger may have appraisal rights as set forth in §262 of the Delaware General Corporation Law.

Under the BVI Act, subject to any limitations in a company’s memorandum or articles, members holding 90% of the votes of the outstanding shares entitled to vote, and members holding 90% of the votes of the outstanding shares of each class of shares entitled to vote as a class, may give a written instruction to the company directing the company to redeem the shares held by the remaining members. Upon receipt of such written instruction, the company shall redeem the shares specified in the written instruction, irrespective of whether or not the shares are by their terms redeemable. The company shall give written notice to each member whose shares are to be redeemed stating the redemption price and the manner in which the redemption is to be effected. A member whose shares are to be so compulsorily redeemed is entitled to dissent from such redemption, and to be paid the fair value of his shares, as described under “—Appraisal Rights” below.

### ***Variation of Rights of Shares***

Under Delaware corporate law, a corporation may vary the rights of a class of shares with the approval of a majority of the outstanding shares of that class, unless the certificate of incorporation provides otherwise. Under our memorandum and articles of association, the rights attached to any class of shares may be varied pursuant to any permitted means of amendment to our memorandum and articles of association (in this regard, see “—Amendment of Governing Documents” above) with no express provisions or additional investor protections regarding variations of class rights.

### ***Removal of Directors***

Under Delaware corporate law, a director of a corporation with a classified board may be removed only for cause with the approval of a majority of the outstanding shares entitled to vote, unless the certificate of incorporation provides otherwise.

Our memorandum and articles of association provide that a director of the Company may only be removed: (i) with cause, by a resolution approved by shareholders holding not less than two-thirds of the voting rights at a meeting of shareholders called for the stated purpose of removing the director or for stated purposes including the removal of the director, or (ii) with cause, by a resolution approved by directors holding not less than two-thirds of the voting rights of all of those directors entitled to vote on the resolution at a meeting of directors or by way of unanimous written consent of those directors entitled to vote on the removal. For these purposes, “cause” is to be given the same meaning it has under Delaware corporate law.

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## ***Mergers***

Under Delaware corporate law, one or more constituent corporations may merge into and become part of another constituent corporation in a process known as a merger. A Delaware corporation may merge with a foreign corporation as long as the law of the foreign jurisdiction permits such a merger. To effect a merger under Delaware General Corporation Law §251, an agreement of merger must be properly adopted and the agreement of merger or a certificate of merger must be filed with the Delaware Secretary of State. In order to be properly adopted, the agreement of merger must be adopted by the board of directors of each constituent corporation by a resolution or unanimous written consent. In addition, the agreement of merger generally must be approved at a meeting of stockholders of each constituent corporation by a majority of the outstanding stock of the corporation entitled to vote, unless the certificate of incorporation provides for a supermajority vote. In general, the surviving corporation assumes all of the assets and liabilities of the disappearing corporation or corporations as a result of the merger.

Under the BVI Act, two or more BVI companies may merge or consolidate in accordance with the statutory provisions. A merger means the merging of two or more constituent companies into one of the constituent companies, and a consolidation means the uniting of two or more constituent companies into a new company. In order to merge or consolidate, the directors of each constituent BVI company must approve a written plan of merger or consolidation which must be authorized by a resolution of shareholders. One or more BVI companies may also merge or consolidate with one or more companies incorporated under the laws of jurisdictions outside the BVI, if the merger or consolidation is permitted by the laws of the jurisdictions in which the companies incorporated outside the BVI are incorporated. In respect of such a merger or consolidation a BVI company is required to comply with the provisions of the BVI Act and a company incorporated outside the BVI is required to comply with the laws of its jurisdiction of incorporation.

## ***Inspection of Books and Records***

Under Delaware corporate law, any shareholder of a corporation may for any proper purpose inspect or make copies of the corporation's stock ledger, list of shareholders and other books and records. Under BVI law, members of the general public, on payment of a nominal fee, can obtain copies of the public records of a company available at the office of the BVI Registrar of Corporate Affairs which will include the company's certificate of incorporation, its memorandum and articles of association (with any amendments) and records of license fees paid to date and will also disclose any articles of dissolution, articles of merger and a register of charges if the company has elected to file such a register.

A shareholder of a BVI company is entitled, on giving written notice to the company, to inspect:

- (1) the memorandum and articles;
- (2) the register of members;
- (3) the register of directors; and
- (4) the minutes of meetings and resolutions of shareholders and of those classes of members of which he or she is a shareholder; and to make copies of or take extracts from the documents and records referred to in (1) to (4) above.

However, subject to the memorandum and articles, the directors may, if they are satisfied that it would be contrary to the company's interests to allow a shareholder to inspect any document, or part of a document, specified in (b), (c) or (d) above, refuse to permit the shareholder to inspect the document or limit the inspection of the document, including limiting the making of copies or the taking of extracts from the records.

Where a company fails or refuses to permit a shareholder to inspect a document or permits a shareholder to inspect a document subject to limitations, that shareholder may apply to the BVI courts for an order that he should be permitted to inspect the document or to inspect the document without limitation.

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A BVI company is required to keep at the office of its registered agent the memorandum and articles of the company; the register of shareholders maintained or a copy of the register of shareholders; the register of directors or a copy of the register of directors; and copies of all notices and other documents filed by the company in the previous ten years.

Where a company keeps a copy of the register of shareholders or the register of directors at the office of its registered agent, it is required to notify any changes to the originals of such registers to the registered agent, in writing, within 15 days of any change; and to provide the registered agent with a written record of the physical address of the place or places at which the original register of shareholders or the original register of directors is kept. Where the place at which the original register of shareholders or the original register of directors is changed, the company is required to provide the registered agent with the physical address of the new location of the records within fourteen days of the change of location.

A BVI company is also required to keep at the office of its registered agent or at such other place or places, within or outside the BVI, as the directors determine the minutes of meetings and resolutions of shareholders and of classes of shareholders; and the minutes of meetings and resolutions of directors and committees of directors. If such records are kept at a place other than at the office of the company's registered agent, the company is required to provide the registered agent with a written record of the physical address of the place or places at which the records are kept and to notify the registered agent, within 14 days, of the physical address of any new location where such records may be kept.

A BVI company is also required keep at the office of its registered agent or at such other place or places, within or outside the BVI, as the directors may determine, the records and underlying documentation of the company which shall be in such form as are sufficient to show and explain the company's transactions and will, at any time, enable the financial position of the company to be determined with reasonable accuracy. If such records and underlying documentation are kept at a place other than at the office of the company's registered agent, the company is required to provide the registered agent with a written record of the physical address of the place or places at which the records and underlying documentation are kept and of the name of the person who maintains and controls the company's records and underlying documentation and to notify the registered agent, within 14 days, of any change to such details.

### ***Conflict of Interest***

Under Delaware corporate law, a contract between a corporation and a director or officer, or between a corporation and any other organization in which a director or officer has a financial interest, is not void as long as the material facts as to the director's or officer's relationship or interest are disclosed or known and either a majority of the disinterested directors authorizes the contract in good faith or the shareholders vote in good faith to approve the contract. Nor will any such contract be void if it is fair to the corporation when it is authorized, approved or ratified by the board of directors, a committee or the shareholders.

The BVI Act provides that a director shall, forthwith after becoming aware that he is interested in a transaction entered into or to be entered into by the company, disclose that interest to the board of directors of the company. The failure of a director to disclose that interest does not affect the validity of a transaction entered into by the director or the company, so long as the director's interest was disclosed to the board prior to the company's entry into the transaction or was not required to be disclosed because the transaction is between the company and the director himself and is otherwise in the ordinary course of business and on usual terms and conditions.

As permitted by BVI law and our memorandum and articles of association, a director interested in a particular transaction may generally vote on it, attend meetings at which it is considered and sign documents on our behalf which relate to the transaction, or do any other thing in his capacity as director that relates to the transaction. However, under our memorandum and articles there is an exception relating to any transaction, agreement or arrangement with respect to which (i) Expedia is a counterparty or has a material economic interest in the counterparty or (ii) in the reasonable opinion of a majority of the members of our board that are not designated or nominated by, or employed by, Expedia, there would exist a conflict of interest (as defined in our memorandum and articles of association) between the interests of Expedia, on the one hand, and that of the Company, on the other hand. In such circumstances, subject to certain conditions, the directors appointed by Expedia may be excluded from the relevant portion of the board or committee meeting.



Our memorandum and articles also contain an acknowledgment that the Company and its affiliates may engage in the same, similar or related lines of business as those engaged in by Expedia and that the Company may have an interest in the same areas of business opportunity as Expedia. Our memorandum and articles provide that, to the fullest extent permitted by law but subject to compliance with any confidentiality obligations owed to the Company, directors of the Company appointed by Expedia may (without any liability or any duty to account for profits) refer potential business opportunities to Expedia (and shall have no obligation to refer such potential business opportunities to the Company) which may pursue them without any restriction or liability, unless the potential business opportunity was presented or offered to the director solely in his or her capacity as a director of the Company or for the benefit of the Company. Furthermore, even a potential business opportunity presented or offered to a director appointed by Expedia solely in his or her capacity as a director of the Company or for the benefit of the Company may be referred to and pursued by Expedia in the event our board of directors (excluding the directors appointed by Expedia) declines to pursue such an opportunity.

#### ***Transactions with Interested Shareholders***

Delaware corporate law contains a business combination statute applicable to Delaware public corporations whereby, unless the corporation has specifically elected not to be governed by that statute by amendment to its certificate of incorporation, it is prohibited from engaging in certain business combinations with an “interested shareholder” for three years following the date that the person becomes an interested shareholder. An interested shareholder generally is a person or group who or that owns or owned 15% or more of the target’s outstanding voting stock within the past three years. This has the effect of limiting the ability of a potential acquirer to make a two-tiered bid for the target in which all shareholders would not be treated equally. The statute does not apply if, among other things, prior to the date on which the shareholder becomes an interested shareholder, the board of directors approves either the business combination or the transaction that resulted in the person becoming an interested shareholder. This encourages any potential acquirer of a Delaware public corporation to negotiate the terms of any acquisition transaction with the target’s board of directors.

BVI law has no comparable provision. As a result, we cannot avail ourselves of the types of protections afforded by the Delaware business combination statute. However, although BVI law does not expressly regulate transactions between a company and its significant shareholders, it does provide that transactions by the Company must be entered into bona fide in the best interests of the company and not with the effect of oppressing or constituting a fraud on the minority shareholders.

#### ***Independent Directors***

There are no provisions under Delaware corporate law or under the BVI Act that require a majority of our directors to be independent.

#### ***Cumulative Voting***

Under Delaware corporate law, cumulative voting for elections of directors is not permitted unless the company’s certificate of incorporation specifically provides for it. Cumulative voting potentially facilitates the representation of minority shareholders on a board of directors since it permits the minority shareholder to cast all the votes to which the shareholder is entitled on a single director, which increases the shareholder’s voting power with respect to electing such director. There are no prohibitions to cumulative voting under the laws of the British Virgin Islands, but our memorandum of association and articles of association do not provide for cumulative voting.

#### ***Shareholders’ Suits***

The enforcement of the Company’s rights will ordinarily be a matter for our directors. However, in certain limited circumstances, a shareholder may have the right to seek certain remedies against us in the event the directors are in breach of their duties under the BVI Act. Pursuant to Section 184B of the BVI Act, if a company or director of a

company engages in, proposes to engage in or has engaged in, conduct that contravenes the provisions of the BVI Act or the memorandum or articles of association of the company, a BVI court may, on application of a shareholder or director of the company, make an order directing the company or director to comply with, or restraining the company or director from engaging in conduct that contravenes, the BVI Act or the memorandum or articles. Furthermore, pursuant to Section 184I of the BVI Act a shareholder of a company who considers that the affairs of the company have been, are being or are likely to be, conducted in a manner that is, or any acts of the company have been, or are likely to be, oppressive, unfairly discriminatory or unfairly prejudicial to him in that capacity, may apply to the BVI court for an order which can, if the court considers that it is just and equitable to do so, require the company or any other person to pay compensation to the shareholders (among various other potential orders and remedies). Under Section 184G of the BVI Act, a shareholder of a company may bring an action against the company for breach of a duty owed by the company to him as a shareholder.

Under Section 184C of the BVI Act, a shareholder also may, with the permission of the BVI court, bring an action or intervene in a matter in the name of the company, in certain circumstances. Such actions are known as derivative actions. The BVI court may only grant permission to bring a derivative action where the following circumstances apply: (i) the company does not intend to bring, diligently continue or defend or discontinue proceedings; or (ii) it is in the interests of the company that the conduct of the proceedings not be left to the directors or to the determination of the shareholders as a whole.

When considering whether to grant leave, the BVI court is also required to have regard to the following matters: whether the shareholder is acting in good faith; whether a derivative action is in the interests of the company, taking into account the directors' views on commercial matters; whether the proceedings are likely to succeed; the costs of the proceedings in relation to the relief likely to be obtained; and whether an alternative remedy is available.

Any shareholder of a company may apply to BVI court under the Insolvency Act, 2003 of the BVI for the appointment of a liquidator to liquidate the company and the court may appoint a liquidator for the company if it is of the opinion that it is just and equitable to do so.

Generally any other claims against a BVI company by its shareholders must be based on the general laws of contract or tort applicable in the BVI or their individual rights as shareholders as established by the BVI Act or the company's memorandum and articles of association. There are also common law rights for the protection of shareholders that may be invoked, largely derived from English common law. Under general English company law known as the rule in *Foss v. Harbottle*, a court will generally refuse to interfere with the management of a company at the insistence of a minority of its shareholders who express dissatisfaction with the conduct of the company's affairs by the majority or the board of directors. However, every shareholder is entitled to seek to have the affairs of the company conducted properly according to law and the constituent documents of the corporation. As such, if those who control the company have persistently disregarded the requirements of company law or the provisions of the company's memorandum and articles of association, then the courts may grant relief. Generally, the areas in which the courts may intervene are the following: a company is acting or proposing to act illegally or beyond the scope of its authority; the act complained of, although not beyond the scope of the authority, could only be effected if duly authorized by more than the number of votes which have actually been obtained; the individual rights of the plaintiff shareholder have been infringed or are about to be infringed; or those who control the company are perpetrating a "fraud on the minority."

### ***Appraisal Rights***

The BVI Act provides that any shareholder of a BVI company is entitled to payment of the fair value of his shares upon dissenting from any of the following: (a) a merger if the company is a constituent company, unless the company is the surviving company and the shareholder continues to hold the same or similar shares; (b) a consolidation if the company is a constituent company; (c) any sale, transfer, lease, exchange or other disposition of more than 50% in value of the assets or business of the company if not made in the usual or regular course of the business carried on by the company (unless, as in our case, such appraisal right is excluded in the memorandum and articles of association) but not including: (i) a disposition pursuant to an order of the court having jurisdiction in the matter, (ii) a disposition for money on terms requiring all or substantially all net proceeds to be distributed to the shareholders in accordance with their respective interest within one year after the date of disposition, or (iii) a

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transfer pursuant to the power of the directors to transfer assets for the protection thereof; (d) a compulsory redemption of 10% or fewer of the issued shares of the company required by the holders of 90% or more of the shares of the company pursuant to the terms of the BVI Act; and (e) an arrangement, if permitted by the BVI court.

NEW YORK, NEW YORK,  
November 14, 2019

Decolar.com, Inc. and its affiliates  
5201 Blue Lagoon Drive Suite 900  
MIAMI FL 33126

**RE: IRREVOCABLE OFFER No. 001/2019**

Ref: Amendment to the Lodging Outsourcing Agreement

Dear Sirs,

We address to you on behalf of Expedia, Inc., a Washington corporation ("Expedia") in connection with the Lodging Outsourcing Agreement (the "Agreement"), entered by Expedia, Decolar.com, Inc., a Delaware Corporation ("Decolar Parent"), Travel Reservations S.R.L. ("Decolar"), a Uruguay corporation, and each of the subsidiaries of Decolar set forth on Schedule 1 to Annex A. Pursuant to our previous discussions, and for the sole purpose of including the revisions agreed by the Parties on Section 4, we hereby present you with an Amended and Restated Lodging Outsourcing Terms and Conditions attached here to as **Annex A**.

This Offer shall terminate at 5:00 p.m. (New York City time) on November 15, 2019 (the "Expiration Time") unless accepted prior thereto.

This Offer shall be deemed unconditionally and irrevocably accepted by Decolar if Decolar sends to Expedia a letter accepting this Offer, issued in accordance with Section 15.9 of Annex A on or before the Expiration Time. Should this Offer is accepted, the terms and conditions attached as Annex A will be valid and binding.

Sincerely,

Expedia, Inc.

Name:

Title:

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CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH (i) NOT MATERIAL AND  
(ii) WOULD LIKELY CAUSE COMPETITIVE HARM TO THE COMPANY IF PUBLICLY DISCLOSED.

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[\*\*\*] indicates the redacted confidential portions of this exhibit.

**TERMS AND CONDITIONS TO THE EXTENT THE OFFER IS ACCEPTED**

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**Parties:** Expedia, Inc., a Washington corporation ("**Expedia Parent**"), Travel Reservations S.R.L, a Uruguay corporation ("**Decolar**"), Decolar.com, Inc., a Delaware Corporation ("**Decolar Parent**") and each of the subsidiaries of Decolar Parent set forth on Schedule I ("**Guarantors**").

**Whereas**, Expedia Parent and Decolar have entered into a series of Transaction Agreements pursuant to which Expedia has agreed to purchase 9,590,623 shares of common stock of Decolar Parent (the "**Transaction Shares**");

**Whereas**, Decolar currently operates a Travel Solution in which it has access to and markets lodging reservations;

**Whereas**, Decolar wishes Expedia via its Affiliates to provide rates and availabilities for Decolar Travel Solutions for properties as set forth herein via an API or other tools provided by EAN.com LP, a Delaware limited partnership ("**Expedia**");

**Whereas**, the Parties, are parties to that certain Lodging Outsourcing Agreement, effective as amended and restated as of July 12, 2017 (the "**Affiliation Agreement**"), which agreement the Parties intend to supersede hereby; and

**Whereas**, Decolar Parent and Guarantors intend to fully and unconditionally guarantee the performance and payment of Decolar under this Agreement.

**THEREFORE**, the Parties hereby agree as follows:

## **1. DEFINITIONS**

**1.1** As used in this Agreement, the following terms have the following specified meanings:

"**Accountant**" means a certified public accounting firm chosen by the Parties from one of: KPMG, Ernst & Young, Deloitte and PricewaterhouseCoopers a.

"**Agreement**" means this document, which may also be referred to as the "Lodging Outsourcing Agreement."

"**Affiliate**" of a Person (for the purposes of this definition, the "**First Person**") means another Person that either directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with, the First Person. The term "Affiliate" with respect to the Expedia will mean Expedia, Inc., a Delaware corporation, and only those Persons over which Expedia Group, Inc., a Delaware corporation, has Control and will not be interpreted to include any of the following: (a) IAC/InterActiveCorp and its Affiliates (other than Expedia and its subsidiaries), (b) Liberty Interactive Corporation and its Affiliates (other than Expedia and its subsidiaries), (c) trivago GmbH and its subsidiaries or (d) Decolar Parent and its Subsidiaries; provided, that in the case of clause (e) such Person shall be considered an Affiliate if such Person becomes and remains a direct or indirect wholly owned Subsidiary of Expedia, Inc. a Delaware corporation. For purposes of this Agreement, (i) neither Decolar nor its Affiliates will be deemed to be Affiliates of Expedia and its Affiliates and (ii) neither Expedia nor any of its Affiliates will be deemed to be Affiliates of Decolar and its Affiliates.

"**Affiliate-Collect Booking**" means an Expedia-Sourced Travel Booking for which the Room Revenue is collected from the End User by Decolar at the time of the Transaction.

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“**Affiliation Agreement**” has the meaning set forth in the Recitals.

“**Agreement**” means this Lodging Outsourcing Agreement, including all exhibits and schedules hereto and all amendments, addenda or restatements as permitted.

“**Annual Measurement Period**” has the meaning set forth in Section 2.1.4A(b).

“**Arbitrator**” has the meaning set forth in Section 13.2.

“**Booking Holdings Group**” means (a) Booking Holdings Inc. or any of its Affiliates as it may be constituted at any point in time, (b) the respective businesses of Booking.com, Priceline.com, Agoda.com, Kayak.com, RentalCars.com (collectively, the “**Specified Priceline Operations**”), whether or not such businesses remain a part of the operations of The Priceline Group Inc. and (c) any future business of The Priceline Group Inc. which is similar in size and nature to the Specified Priceline Operations, whether or not such business remains a part of the operations of Booking Holdings Inc.

“**Bookings Shortfall**” means, for a given quarter, the number of percentage points by which the Expedia-Sourced Travel Bookings for properties in the Expedia Territory as measured by Gross Booking Value is less than the Minimum Bookings Percentage.

“**Business Day**” means any day on which banks in New York, New York and Buenos Aires, Argentina are open for commercial banking business during normal banking hours, other than Saturday, Sunday or any federal or national holiday in the United States or Argentina.

“**Change of Control**” means (a) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of Decolar Parent and its Subsidiaries, taken as a whole, to any Strategic Party or (b) the acquisition by any Strategic Party, in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase of beneficial ownership, of more than 50% of the total voting or economic power of the securities of Decolar Parent or any direct or indirect parent of Decolar Parent.

“**Claims**” has the meaning set forth in Section 9.1.

“**Compensation**” means the amount of compensation designated as a commission or, for a non-commissionable rate, as a margin or facilitation fee, that Expedia or any of its Affiliates receives or is entitled to retain from amounts received from Decolar or any of its Affiliates, an End User, other third party or the Travel Supply Provider, in each case, solely and directly in respect of a specific Travel Booking, excluding any and all Indirect Revenues, Service Fees, any Taxes and net of any amounts relating to fraud, cancellations, refunds or otherwise.

“**Confidential Customer Personal Data**” means any of the following information with respect to any individual:

- (i) Contact information, including name, street address, phone number, and email address;
- (ii) IP address (depending on circumstances);
- (iii) Demographic information (when linked to an individual);
- (iv) Date of birth or age; and

“**Confidential Information**” has the meaning set forth in [Section 4.1](#).

“**Consumed**” means, in the context of a Transaction, that the accommodation underlying such Transaction has actually been provided to, and consumed by, the End User by the relevant lodging Travel Supply Provider or other provider and that the Compensation for such Transaction has been retained or otherwise received by Expedia or its Affiliates.

“**Consumed Travel Booking**” has the meaning set forth in [Section 3.1](#).

“**Control**” means, with regard to any entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such entity. A person who holds the legal or beneficial ownership, directly or indirectly, of fifty percent (50%) or more of the shares (or other ownership interest, if not a corporation) of such entity through voting rights or through the exercise of rights pursuant to agreement shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary.

“**Copyright Act**” means the United States Copyright Act of 1976.

“**Costs**” shall mean any and all costs, fees, contra-revenues or other expenses consistent with Expedia’s accounting policies and procedures, which, in each case, is in connection with this Agreement.

“**Costs of Service Percentage**” means [\*\*\*]% or, if applicable, such percentage as determined from time to time in accordance to [Section 3.8](#).

“**Costs of Service**” means any and all direct or indirect Costs arising out of, or related to, the servicing of a Transaction in connection with, or following the completion, of the booking, including Goodwill Modifications, refunds, chargebacks, relocations, disputes, uncollected payments, penalties, fines, customer support and service and other fees.

“**Credit Amount**” has the meaning set forth in [Section 3.6.1](#).

“**Credit Card Fraud Costs**” means any and all direct or indirect Costs related to, or arising out of, fraud, including amounts rebated, repaid, or refunded to any third party, including issuing banks, other credit and other payment card processors, merchants and Travel Supply Providers, in each case in connection with any Transaction.

“**Credit Card Fraud Percentage**” means [\*\*\*]% or, if applicable, such percentage as determined from time to time in accordance to [Section 3.8](#).

“**Credit Card Transaction Costs**” means any and all direct or indirect Costs that are charged by payment processing providers or services, including credit and other payment card fees, merchant fees, payment exchange systems fees (including Bitcoin and other electronic and/or future currencies) and any and all interest and other charges associated with such payments, which are paid in connection with any Transaction.

“**Credit Card Transaction Percentage**” means [\*\*\*]% or, if applicable, such percentage as determined from time to time in accordance to [Section 3.8](#).



**“Customer Personal Data”** means any Highly Sensitive Customer Personal Data, Sensitive Customer Personal Data and Confidential Customer Personal Data.

**“Decolar”** has the meaning set forth in the preamble to this Agreement.

**“Decolar API”** means Decolar’s XML application protocol interface, or any future method, conduit or medium of delivery or access, which makes Decolar Travel Products available for booking by customers on any third-party Travel Solution.

**“Decolar Application”** has the meaning set forth in [Section 2.1.2](#).

**“Decolar Bookings Percentage”** has the meaning set forth in [Section 2.1.5](#).

**“Decolar Brand”** means the Trademarks “Decolar.com” and “Despegar.com.”

**“Decolar Channel”** has the meaning set forth in [Section 8.4.1](#).

**“Decolar Customer Personal Data”** has the meaning set forth in [Section 5.1.2\(a\)](#).

**“Decolar End User Traffic”** has the meaning set forth in [Section 2.1.4\(b\)](#).

**“Decolar Indemnified Parties”** has the meaning set forth in [Section 9.1](#).

**“Decolar Parent”** has the meaning set forth in the Preamble.

**“Decolar Platform”** means any and all of the platforms accessed or utilized by Decolar and its Affiliates, or supplied by Decolar or any of its Affiliates, or to which they provide Travel Products, to a third party, for booking Decolar Travel Products, including Decolar’s desktop and mobile Websites, telesales services and systems, mobile applications and any other tools or mediums now or hereafter developed, whether or not branded with the Decolar Brand.

**“Decolar Privacy Policy”** has the meaning set forth in [Section 5.1.1](#).

**“Decolar Predatory”** has the meaning set forth in [Section 8.4.1\(a\)](#).

**“Decolar Territory”** means all countries in the South American continent and the countries of Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, Bonaire, British Virgin Islands, Cayman Islands, Costa Rica, Cuba, Curaçao, Dominica, Dominican Republic, El Salvador, Grenada, Guadeloupe, Guatemala, Haiti, Honduras, Jamaica, Martinique, Mexico, Montserrat, Nicaragua, Panama, Puerto Rico, Saba, Saint Barthélemy, Saint Kitts and Nevis, Saint Lucia, Saint Martin, Saint Vincent and the Grenadines, Sint Eustatius, Sint Maarten, Trinidad and Tobago, Turks and Caicos Islands and U.S. Virgin Islands.

**“Decolar Transactional Data”** has the meaning set forth in [Section 5.1.3\(b\)](#).

**“Decolar Travel Product”** means any Travel Product which is offered, made available or otherwise permitted to be booked by, through or on behalf of Decolar and/or its Affiliates (other than through the Expedia API).

**“Decolar Travel Solution”** means a Travel Solution operated by or on behalf of, or otherwise powered (whether through the provision of Travel Products, technology or otherwise), supported or facilitated by Decolar or any of its Affiliates through the use of any Decolar Platform.

“**Disclosing Party**” has the meaning set forth in [Section 4.1](#).

“**Dispute**” means any dispute, controversy or disagreement between the Parties arising out of, or relating to, any provision in this Agreement, including its negotiation, validity, interpretation, existence, breach, termination, construction or application, or the rights or obligations of, or compliance with such rights and obligations by, any Party, or the relationship between the Parties.

“**Employer**” has the meaning set forth in [Section 15.2](#).

“**End User**” means a Person that is a consumer of a good or service.

“**End User Traffic**” means all End User traffic on any and all Decolar Travel Solutions.

“**Existing Letter of Credit**” has the meaning set forth in [Section 3.6.1](#).

“**Expedia**” has the meaning set forth in the Recitals.

“**Expedia Parent**” has the meaning set forth in the preamble to this Agreement.

“**Expedia Account**” has the meaning set forth in [Section 3.3.3](#).

“**Expedia API**” means Expedia’s XML application protocol interface, or any future method, conduit or medium of delivery or access, which makes Expedia’s travel products and services available for booking by customers on any third-party Travel Solution, including through the Decolar Platform or on any Decolar Travel Solution.

“**Expedia Covered Lodging Supply**” means Expedia Travel Products (whether such Travel Products are offered on a standalone basis, in a Package or otherwise) for (i) all properties located in the Expedia Territory and (ii) for all Global Lodging Chain Properties located in the Decolar Territory for which (a) the consumer-facing, all-inclusive room rate and availability at which Decolar is permitted to display and (b) the Marketing Fee Payment allocable to Decolar for a Travel Booking for such Expedia Travel Product is, in each case, better than or substantially equal to that which Decolar receives (including, and just for comparison proposes, VAT or withholding tax (if any) required to be remitted by Decolar to a taxing authority for a Travel Booking) at such time for Identical Lodging Supply through a direct relationship with such Global Lodging Chain Properties, which, in the case of the preceding clauses (i) and (ii) are now or may in the future be received, delivered or otherwise made available or offered through the Expedia API.

“**Expedia End User Traffic**” has the meaning set forth in [Section 2.1.4\(b\)](#).

“**Expedia Gross Profit**” the GBV received by Decolar (or its Affiliates) in respect of a specific Travel Booking of a non-Expedia Travel Product in the Expedia Territory (including without limitation Service Fees) less, where applicable: (a) the direct cost of providing the room accommodation reservation payable to the suppliers of the non-Expedia Travel Product; (b) amounts for Travel Taxes, surcharges and duties; and (c) [\*\*\*] of GBV for any and all direct or indirect costs occurred by Decolar.

“**Expedia Incremental Taxes**” means any additional Taxes imposed on or payable by Expedia or any of its Affiliates arising out of or resulting from the failure by Decolar to, with respect to any Expedia-Sourced Travel Bookings booked after the date of this Agreement, separately state any Service Fees charged by Decolar from the Room Rate.

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“**Expedia Indemnified Parties**” has the meaning set forth in Section 9.2.

“**Expedia Information**” has the meaning set forth in Section 6.1.

“**Expedia-Sourced Travel Bookings**” means Travel Bookings of Expedia Travel Products sourced through the Expedia API which are made on or through the Decolar Application or Decolar Platform, including any and all Decolar Travel Solutions.

“**Expedia Specifications**” has the meaning set forth in Section 2.1.2.

“**Expedia Territory**” means all destinations and locations world-wide other than those within the Decolar Territories.

“**Expedia Transactional Data**” has the meaning set forth in Section 5.1.2(a).

“**Expedia Travel Product**” means any Travel Product which is offered, made available or otherwise permitted to be booked by, through or on behalf of Expedia and/or its Affiliates.

“**Expedia Travel Solution**” means a Travel Solution operated by or on behalf of, or otherwise powered (whether through the provision of Travel Products, technology or otherwise), supported or facilitated by Expedia or its Affiliates through the use of an Expedia Platform.

“**Expedia Travel Solution Taxes**” means all Travel Solution Taxes (other than any Expedia Incremental Taxes) that are or may be imposed or incurred, with respect to any Expedia-Sourced Travel Bookings booked after the date of this Agreement to be paid, remitted or forwarded by or on behalf of Expedia or its Affiliates to any Travel Supply Provider or any Governmental Authority. For the avoidance of doubt, Transaction Taxes and Expedia Incremental Taxes are not included in Expedia Travel Solution Taxes.

“**Expedia Travel Unclaimed Property Liabilities**” has the meaning set forth in Section 12.2.2.

“**Final Determination**” has the meaning set forth in Section 12.4.

“**First Refusal and Co-Sale Agreement**” means that certain Third Amended and Restated First Refusal and Co-Sale Agreement entered into as of March 6, 2015, by and among Decolar Parent and the Stockholders (as defined therein).

“**Global Lodging Chain Properties**” means those properties with internationally recognized providers of lodging properties which own, operate or otherwise service 35 or more different lodging properties located both in the Expedia Territory and in the Decolar Territory, with less than or equal to 50% of such lodging properties located in the Decolar Territory.

“**Goodwill Modifications**” has the meaning set forth in Section 2.1.7.

“**Governmental Authorities**” means any national, state, provincial, municipal or local or similar governments, regulatory or taxing authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, courts, bodies, boards, tribunals, or dispute settlement panels or other Law, rule or regulation-making organizations or entities (including any travel industry regulatory or administrative body): (i) having or purporting to have jurisdiction on behalf of any nation, territory, state, or other geographic or political subdivision of any of them; or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power over a Party or any Affiliate.

“**Gross Booking Value**” or “**GBV**” means, for a specified period, the total amount actually collected, or which should have been collected, or that will be collected when such Travel Booking is Consumed, from an End User (in each case, excluding the impact of any coupons, credits, promotions or other discounts offered or provided by a party other than Expedia) with respect to a Travel Booking by the End User.

“**Gross Profit**” means an amount equal to (a) GBV received by Expedia or its Affiliates for a Consumed Travel Booking excluding any and all Indirect Revenues, Service Fees, any Taxes and net of any amounts relating to fraud, cancellations, refunds or otherwise *plus* (b) Media Revenue *less*, (c) where applicable in relation to a Travel Booking, without duplication, Costs associated with any debit memo, replacement room nights, charge backs, and cancellation fees where applicable *less*; (d) the cost of providing the room accommodation reservation; *less* (d) where applicable in relation to a Travel Booking, without duplication, the product of (i) (A) where Expedia or its Affiliate processes a credit card for a Transaction, the Credit Card Fraud Percentage in respect of Credit Card Fraud Costs; *plus* (B) where Expedia or its Affiliate processes a credit card for a Transaction, the Credit Card Transaction Percentage in respect of Credit Card Transaction Costs; *plus* (C) the Cost of Service Percentage; *plus* (D) the Insurance Cost Percentage in respect of the Insurance Costs; and *plus* (E) for each Property-Collect Booking Transaction, [\*\*\*]% and (ii) the Gross Booking Value with respect to Expedia-Sourced Travel Bookings.

“**Guarantors**” has the meaning set forth in the Preamble.

“**Highly Sensitive Customer Personal Data**” means any of the following information with respect to any individual:

- (i) Financial/payment account numbers, including credit/debit card numbers;
- (ii) Authentication data, such as passwords or PINs, for financial or medical accounts;
- (iii) Social security numbers and other national identification numbers;
- (iv) Driver’s license numbers;
- (v) Passport numbers;
- (vi) Email addresses;
- (vii) Telephone numbers; and
- (viii) Data related to racial or ethnic origin, political opinions, moral, religious or philosophical views, trade union affiliations, health and/or sexual preferences.

“**Identical Lodging Supply**” means standalone lodging supply that is identical with respect to all characteristics, offers and amenities, including property, room type, stay dates, special offers, inclusive packages, credits (such as for food or services) and other metrics used in the lodging industry.

“**Indemnified Party**” has the meaning set forth in [Section 9.3](#).

“**Indemnifying Party**” has the meaning set forth in Section 9.3.

“**Indirect Revenues**” means, for a given period, the aggregate amount (without duplication) of any revenues received by a Party or its Affiliates indirectly related to any Travel Bookings or other transactions through a Travel Solution, including Overrides, marketing funds from Travel Supply Providers or other third parties, bonus payment processing revenues (such as credit card fees and rebates), and vendor bonuses.

“**Insurance Costs**” means any and all direct or indirect Costs arising from or relating to procuring and maintaining insurance coverage for, or otherwise self-insuring with respect to, Decolar’s Payment obligations under this Agreement, whether from a third-party provider or the reasonable equivalent cost with respect to any self-insurance program maintained by Expedia or any of Affiliates; provided, that Insurance Costs shall not be applicable over the exposure of Expedia to Decolar payment obligations hereunder already covered by the Letter of Credit, the Security Deposit or any other collateral.

“**Insurance Costs Percentage**” means [\*\*\*]% or, if applicable, such percentage as determined from time to time in accordance to Section 3.8.

“**Intellectual Property Rights**” means all technology, intellectual property or other proprietary rights in any jurisdiction (including People’s Republic of China) including: (i) rights in, arising out of, or associated with published and unpublished works of authorship, including rights in audiovisual works, collective works, computer programs (whether in source code or executable form and whether in open source or proprietary form), documentation, compilations, databases, derivative works, literary works, maskworks, and sound recordings, and rights granted under the Copyright Act or any similar Law of another jurisdiction; (ii) rights in, arising out of, or associated with databases, data compilations and collections and technical data; (iii) rights in, arising out of, or associated with inventions, discoveries, improvements, business methods, compositions of matter, machines, methods and processes and new uses for any of the preceding items, including rights granted under the Patent Act or any similar Law of another jurisdiction; (iv) rights in, arising out of, or associated with Trademarks, including without limitation rights granted under the Lanham Act or any similar Law of another jurisdiction and under the common law; (v) rights in, arising out of, or associated with information that is not generally known or readily ascertainable through proper means, whether tangible or intangible, including algorithms, customer lists, ideas, designs, formulas, know-how, methods, processes, programs, prototypes, systems and techniques, including rights granted under the Uniform Trade Secrets Act or any similar Law of another jurisdiction; (vi) rights in, arising out of, or associated with a person’s name, voice, signature, photograph, persona, or likeness, including rights of personality, privacy, and publicity; (vii) rights of attribution and integrity and other moral rights of an author; and (viii) rights in, arising out of, or associated with domain names, social media handles and other identifiers, web addresses and Websites.

“**Interest Rate**” means a rate per annum equal to the three (3)-month USD LIBOR (as published by the British Bankers Association, or, if not published therein, in another authoritative source selected by the Parties), on the date such payment was required to be made (or, if unavailable, on the next preceding date for which such quotation is available) plus 500 basis points.

“**Investors’ Rights Agreement**” means that certain Fifth Amended and Restated Investors’ Rights Agreement, entered into as of March 6, 2015, by and among Decolar Parent and the Stockholders (as defined therein).

“**Lanham Act**” means the Lanham (Trademark) Act, 17 U.S.C. §§ 1051 *et seq.*

“**Laws**” means any law, common law, rule, statute, regulation, by-law, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or judicial, arbitral, administrative, tribunal, ministerial or

departmental judgment, award, decree, treaty, directive, or other requirement or guideline published or in force at any time during the Term, which applies to or is otherwise intended to govern or regulate either or both Parties, property, transaction, activity, event or other matter, including any rule, order, judgment, directive or other requirement or guideline; provided, however, that in respect of any of the foregoing it is issued by any Governmental Authority. For the avoidance of doubt, Law includes Privacy Law.

“**Letter of Credit**” has the meaning set forth in Section 3.6.1.

“**Licensee**” has the meaning set forth in Section 6.2.

“**Licenser**” has the meaning set forth in Section 6.3.

“**Marketing Fee Payments**” has the meaning set forth in Section 3.2.1.

“**Marketing Fee Statement**” has the meaning set forth in Section 3.4.1.

“**Marketing Fees**” has the meaning set forth in Section 3.1.

“**Marks**” has the meaning set forth in Section 6.2.

“**Materials**” has the meaning set forth in Section 6.2.

“**Media Revenue**” means, for a given period, the aggregate amount (without duplication) earned or received by Decolar or any of its Affiliates or otherwise paid to Decolar or any of its Affiliates by third party advertisers for advertisement or similar placements comparing in the search results or booking path price, product, or service offerings from competitors for Travel Products on any Decolar Travel Solutions or displayed through the Decolar Platform with respect to or otherwise in connection with any Expedia Travel Products displayed in such search results or booking path. For the avoidance of doubt, Decolar shall not be prevented from implementing and generating revenue from banner advertising and similar such non-price product or service comparison display style advertising outside of search results.

“**Merchant of Record**” means a Person collecting revenues and any other amounts (including amounts in respect of Taxes) from End Users or other parties on behalf of another Person with respect to any Travel Bookings of (or other transactions through a Travel Solution in respect of) Travel Products offered by such other Person.

“**Minimum Bookings Percentage**” has the meaning set forth in Section 2.1.4A.

“**Monthly Minimum Bookings Statement**” has the meaning set forth in Section 3.4.2.

“**Notice**” has the meaning set forth in Section 15.8.

“**OFAC**” has the meaning set forth in Section 7.2.

“**Overrides**” means, for a given period, the aggregate amount (without duplication) of any and all remuneration of any kind paid by a Travel Supply Provider to Expedia or its Affiliates which remuneration is, or was, contingent upon the achievement of one or more performance metrics.

“**Package**” has the meaning set forth in Schedule 8.5

“**Party**” means any of Decolar, Decolar Parent or Expedia; and “**Parties**” means Decolar, Decolar Parent, Guarantors and Expedia, collectively.

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“**Patent Act**” means the U.S. Patent Act, 35 U.S.C. §§ 1 et seq.

“**Payment Card Industry Data Standard Security Requirements**” means those payment card industry data standard security requirements and integrated cardholder information security program established by the major credit card network entities with respect to the security requirements imposed on services providers supporting debit, credit, prepaid or other payment cards.

“**Payment**” means any payment due and payable from one Party under this Agreement to the other Party, including Marketing Fee Payments, Room Revenue Payments, Penalty Payments, etc.

“**Penalty Payment**” has the meaning set forth in [Section 3.5.1](#).

“**Performance Test**” means the right of Expedia to solely control the Room Rate, Services Fees and Sort Order of the Test Supply displayed or otherwise made available on the Decolar Travel Solutions for at least 10% of all End User Traffic on any given day during the Test Period by providing a different API credential. Decolar may increase such percentage at its sole discretion during any Test Period.

“**Performance Test Report**” has the meaning set forth in [Section 2.1.4\(b\)](#).

“**Person**” means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate or Governmental Authority.

“**Privacy Law**” means any applicable Law in any jurisdiction relating to the collection, use, storage or disclosure of information about an identified or identifiable individual or other Person.

“**Property-Collect Booking**” means a booking for which the Room Revenue is collected from the End User by the property at the time of check-out or at a time otherwise agreed by the property and Expedia or its Corporate Affiliates.

“**Receiving Party**” has the meaning set forth in [Section 4.1](#).

“**Refund Fees**” has the meaning set forth in [Section 3.3.4](#).

“**Representative**” of a Party, means an officer, director, stockholder, employee, agent, advisor or consultant of such Party.

“**Reserved Liability**” has the meaning set forth in [Section 9.4.6](#).

“**REST Transition**” has the meaning set forth in [Section 2.1.2](#).

“**Restricted Decolar Travel Solution**” has the meaning set forth in [Section 2.1.8](#).

“**Restricted Employee**” has the meaning set forth in [Section 15.2](#).

“**Room Rate**” means, for any given Expedia Travel Product, the rate which is provided to Decolar by Expedia through the Expedia API for such Expedia Travel Product, including the nightly rate, applicable Taxes and fees and any other pricing related information.

“**Room Revenue**” has the meaning set forth in [Section 3.3](#).

“**Room Revenue Payment**” has the meaning set forth in [Section 3.3.2](#).

**“Sanctions Target”** an individual, entity or body that is (i) listed on the EU Consolidated List of Designated Parties, maintained by the European Union; the Consolidated List of Asset Freeze Targets, maintained by HM Treasury (UK); any other list of designated parties maintained by the EU or its Member States; the U.S. List of Specially Designated Nationals and Blocked Persons or the U.S. Foreign Sanctions Evaders List, maintained by OFAC; the U.S. Entity List or the U.S. Denied Persons List, maintained by the U.S. Commerce Department’s Bureau of Industry and Security; or any list of parties subject to asset-freezing measures issued by the United Nations; (ii) is 50% or more owned or controlled, directly or indirectly, individually or in the aggregate, by any one or more parties on the foregoing lists; or (iii) is ordinarily resident, incorporated, or headquartered in any territory that is or becomes subject to comprehensive U.S. economic sanctions, including at the time of this Agreement Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine).

**“Service Fees”** means for any Travel Product any services fees or booking fees added to, or otherwise included in, a Room Rate.

**“Sort Order”** means the sort order in which Travel Products are returned to the Decolar Application and/or the Decolar Platform and displayed on an applicable Decolar Travel Solution through the Expedia API.

**“Stock Repurchase Agreement”** means that certain Stock Repurchase Agreement, entered into as of March 3, 2015, by and among Decolar Parent and the Sellers (as defined therein).

**“Stock Subscription Agreement”** means that certain Common Stock Subscription Agreement, entered into as of March 3, 2015, by and among Decolar Parent, Expedia Parent and the Pre-Closing Holders (as defined therein).

**“Strategic Party”** means any Person other than a single individual which does not directly or indirectly own or Control any assets or companies operating (x) in the consumer or corporate travel industry, or (y) as an Internet-enabled provider of travel search or information services (clauses (x) and (y)), the **“Restricted Field”**).

**“Tax Returns”** has the meaning set forth in [Section 12.1.2](#).

**“Tax”** or, collectively, **“Taxes”** means any and all federal, national, state, local, provincial and other taxes, imposts, duties, levies, assessments and other similar governmental charges and fees imposed by any Governmental Authority, including capital gains, occupancy, gross receipts, business, income, profits, sales, use, lodging or accommodation, value added, goods and services, ad valorem, transfer, franchise, withholding, recapture, stamp duty, excise and property taxes and other taxes of any nature whatsoever (but not, for the avoidance of doubt, any Unclaimed Property Liabilities), together with all interest, penalties, and additions imposed with respect to such amounts.

**“Term”** has the meaning set forth in [Section 11.1](#).

**“Test Period”** has the meaning set forth in [Section 2.1.4\(a\)](#).

**“Test Supply”** means all Expedia Covered Lodging Supply, located in the Expedia Territory, which is made available for booking on a standalone basis or as a Package when the Expedia Travel Product is displayed separately from the air, car rental or rail travel product.

**“Trademark”** means any words, names, symbols, sounds, devices, designs, and other designations, and combinations of the preceding items, used to indicate a source of origin or form of certification, including without limitation logos, trade names, trade dress, trademarks and service marks, in each case, whether or not registered.



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**“Transaction”** means a Travel Booking through the Expedia API.

**“Transaction Agreements”** means this Agreement, the Stock Repurchase Agreement, the Stock Subscription Agreement, the Investors’ Rights Agreement, the Voting Agreement and the First Refusal and Co-Sale Agreement.

**“Transaction Shares”** has the meaning set forth in the Recitals.

**“Transaction Statement”** has the meaning set forth in Section 3.3.1.

**“Transaction Taxes”** means any and all sales, use, excise, gross receipts, value added, goods and services, occupancy, consumption, accommodation, tourism and any other similar transfer Taxes that are in the nature of transaction Taxes (and that are not in the nature of business activity Taxes imposed on, measured by, or based on gross or net income or gross or net receipts that are not transaction Taxes (including, but not limited to, the Business and Occupation Taxes imposed by the State of Washington or any locality thereof)), filing and recordation fees and similar Taxes, charges and fees incurred with respect to any amounts payable or deemed to be payable to Decolar by Expedia or to Expedia by Decolar pursuant to this Agreement.

**“Transition Outside Date”** has the meaning set forth in Section 2.1.2.

**“Transition Penalty”** has the meaning set forth in Section 2.1.3.

**“Transition Term”** has the meaning set forth in Section 11.2.3(c).

**“Travel Booking”** means the booking of a Travel Product.

**“Travel Products”** means lodging and lodging-like products and services (available now or hereafter fully developed), whether as a standalone product or a Package, which may be offered for booking by a Party or its Affiliates in its sole discretion from time to time.

**“Travel Solution”** means any online (including Websites) or offline portal, medium or other channel for consumer activities relating to travel or travel-related products, services or other offerings, including shopping, booking, reviewing, searching and redeeming of such travel or travel-related products, offerings and services.

**“Travel Solution Taxes”** means all Travel Taxes (or amounts in respect of Travel Taxes, but not any costs or expenses) that are or may be imposed or incurred with respect to any Travel Bookings by or for End Users through Travel Solutions, to be paid, remitted or forwarded by or on behalf of a Party or its Affiliates to any Travel Supply Provider or any Governmental Authority. For the avoidance of doubt, Transaction Taxes are not included in Travel Solution Taxes.

**“Travel Supply Provider”** means a third-party supplier of any lodging pursuant to a contract between such supplier, on the one hand, and a Party and/or its Affiliates, on the other hand.

**“Travel Taxes”** means any and all sales, use, occupancy, lodging, tourism related, excise, gross receipts, value added, ad valorem, goods and services and other similar types of transfer Taxes, duties, fees, public imposts, or charges and Taxes however designated, and other transactional Taxes or fees of any kind

(including any related interest, penalties and additions to Tax) imposed by any Governmental Authority that are imposed on, measured by, or in relation to amounts paid for hotel room, lodging, or accommodation rentals, car rentals, tours, attractions, theme park admissions, show tickets, ground transportation, other in-destination activities, airfare, or other travel-related services, including services typically provided by online travel companies and services typically provided in connection with the furnishing of accommodations and/or travel related products. For the avoidance of doubt and notwithstanding anything to the contrary herein, (i) Transaction Taxes incurred in connection with amounts payable or deemed payable pursuant to this Agreement shall be borne by Decolar and Expedia in accordance with Section 12.1.1 (and shall not be considered Travel Taxes), and (ii) Taxes imposed on the net income or net worth of Expedia or Decolar, respectively, or franchise or other business activity Taxes imposed by a jurisdiction in lieu of net income Taxes where such jurisdiction does not impose a Tax on net income (including, the Ohio Commercial Activity Tax, the Washington Business and Occupation Tax, the Nevada Commerce Tax and the Texas Franchise (Margins) Tax), shall be borne by the Person incurring such Taxes (and shall not be considered Travel Taxes), and Taxes in the nature of business activity Taxes that may be imposed on income with respect to Travel Bookings or Travel Solutions, such as gross receipts Taxes or general excise Taxes, shall not be treated as Taxes on net income, and therefore shall not be excluded from the definition of Travel Taxes pursuant to this clause (ii), although the Parties neither concede nor agree that any such Taxes apply to Travel Bookings or the Travel Solutions as a matter of applicable Law.

**“Unclaimed Property Liabilities”** means any and all Losses arising out of or relating to unclaimed property or escheatment proceedings or claims instituted or otherwise made by or on behalf of any Governmental Authority or other third Person. For the avoidance of doubt, the Parties neither concede nor agree that any amounts associated with any Travel Bookings or Travel Solution give rise to Unclaimed Property Liabilities as a matter of applicable Law.

**“Uniform Trade Secrets Act”** means the Uniform Trade Secrets Act, published by the Uniform Law Commission of 1979, as amended in 1985.

**“USD”** means United States dollars, the lawful currency of the United States of America.

**“Voting Agreement”** means that certain Third Amended and Restated Voting Agreement entered into as of March 6, 2015, by and among Decolar Parent and the Stockholders (as defined therein).

**“Voyager Materials”** has the meaning set forth in Section 6.5.2.

**“Voyager Tool”** has the meaning set forth in Section 6.5.1.

**“Website”** means any and all mediums, tools, instruments, channels and/or methods, now or hereafter developed for the access, distribution or sharing of information or electronically conducting commerce over a publicly available network, including a website, application and any and all versions of such sites and/or applications specifically designed and optimized for mobile device, such as a smartphone, tablet computer or other similar end user device.

**1.2 Interpretation.** Unless otherwise expressly provided, for purposes of this Agreement the following rules of interpretation shall apply:

**1.2.1** The Parties agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

**1.2.2** The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent and no rule of strict construction shall be applied against either Party.

**1.2.3** Any reference to any Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

**1.2.4** Any reference to any agreement, document or instrument shall mean such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof.

**1.2.5** Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa. Where a word or phrase is defined, each of its other grammatical forms shall have a corresponding meaning.

**1.2.6** Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation,” unless the context specifies otherwise.

**1.2.7** Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done, shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

**1.2.8** Whenever the words “hereunder,” “hereof,” “hereto” and words of similar import are used in this Agreement, they shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof.

**1.2.9** The word “or” is used in the inclusive sense of “or.” The terms “or,” “any” and “either” are not exclusive.

**1.2.10** Whenever a provision of this Agreement requires an approval or consent and the approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

**1.2.11** Unless otherwise specified, all references to money amounts are to the lawful currency of the United States of America.

**1.2.12** Headings of Sections are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.

## **2. LODGING SUPPLY**

### **2.1 Lodging Supply to Decolar.**

**2.1.1 Expedia API.** Except as otherwise expressly provided herein, at all times, during the Term of this Agreement, Expedia shall make the then-current version of the Expedia API available to Decolar for use by Decolar and its Affiliates in accordance with the provisions of this Agreement. Expedia shall be responsible for any and all costs associated with the standard development and operations of the Expedia API in the form delivered to Decolar.

**2.1.2 Decolar Application.** Decolar shall ensure, in the terms set forth herein, that its application which interfaces with the then-current version of the Expedia API to enable the exchange of data regarding Expedia Travel Products (the “**Decolar Application**”) is at all times (a) consistent with the then-current version of the Expedia API and (b) in accordance with the Expedia API specifications, including the then-current protocol, which is currently the REST protocol (the “**Expedia Specifications**”). At any time upon reasonable prior notice to Decolar, Expedia will have the right to review the usage by Decolar of, and interface of the Decolar Application with, the then-current version of the Expedia API. Where Expedia informs Decolar that reasonable modifications or updates (i) will occur or have occurred to the Expedia API and/or Expedia Specifications as generally applicable to all applicable third-party commercial recipients of the EAN.com, LP API feed or (ii) are otherwise necessary or advisable to the Decolar Application, Decolar shall use its reasonable best efforts to make the necessary modifications to the Decolar Application to integrate such modifications or updates promptly and, in any event, within two (2) months from the date of Expedia informing Decolar in reasonable detail of the relevant modification or update, unless Decolar’s failure to make the modifications within the required two (2)-month period is primarily the result of actions of Expedia and/or its Affiliates, in which case such period shall be adjusted accordingly. For any Expedia Travel Products made available or displayed to End Users on Decolar Travel Solutions with a Brazilian country code top-level domain (being .br or com.br or any variation thereof) (“**Brazilian POS**”), Decolar shall ensure that any call to the Expedia API via the Decolar Application shall be made solely in Brazilian Real. If Decolar fails to comply with any of its obligations relating to the Brazilian POS under this Section, Expedia shall be entitled to withhold payment due to Decolar under the Agreement for an amount equal to any losses suffered by Expedia as a result of Decolar’s failure to comply with obligations relating to the Brazilian POS under this Section, or deduct and withhold on any payment for such amounts to Decolar in order to comply with its or its Affiliates’ obligations under applicable tax laws.

**2.1.3 [Reserved]**

**2.1.4 Display and Pricing Obligations.**

(a) Decolar and its Affiliates shall display, or cause to be displayed, and shall make available for booking on the Decolar Application, the Decolar Platform or the Decolar Travel Solution at all times all Expedia Travel Products. Subject to Section 2.1.4(b), the Sort Order of the Expedia Covered Lodging Supply shall be displayed on all Decolar Travel Solutions as determined by Decolar in its sole discretion. The Expedia Travel Products (other than those that are a part of a Package) shall be displayed on such Decolar Travel Solutions in a manner that (i) is at least as prominent as any other supply provider with the same or a similar price or compensation for a similar Travel Product, and (ii) does not otherwise discriminate against or purposefully disadvantage such Expedia Travel Products relative to any other Travel Products offered or made available on such Decolar Travel Solution or through the Decolar Platform, whether through sort order, merchandizing campaigns or otherwise.

(b) Commencing on May 1, 2015, until the expiration of the Term:

- (i) Decolar shall allow Expedia to run a Performance Test on Decolar Travel Solutions during (A) any one (1)-month period within every four (4)-month period or (B) such longer period within every four (4)-month period as is necessary to ensure that the length of such measurement period, when taken together with the

percentage of control allocated to Expedia in such Performance Test is sufficient for the results of the Performance Test to be statistically significant (such resulting period, the “**Test Period**”). Decolar may increase the duration of the Test Period at its sole discretion. During the Test Period the pricing display shall comply at all times with applicable Laws.

- (ii) Following the expiration of the Test Period, each Party will prepare a report (the “**Performance Test Report**”) comparing the relative Performance of (A) the End User Traffic for which Decolar controlled the Room Rate and Sort Order for the Expedia Covered Lodging Supply (“**Decolar End User Traffic**”) and (B) the End User Traffic for which Expedia controlled the Room Rate and Sort Order for the Test Supply (the “**Expedia End User Traffic**”), in each case, during such period. Both Parties shall submit the Performance Test Reports for information purposes only to the board of directors of Guarantor at the board of directors’ ordinary meeting taking place after the expiration of the Test Period.

**2.1.4A Exclusivity.** Expedia and its Affiliates shall be the preferred provider to Decolar of Travel Products throughout the world, and Decolar and its Affiliates shall, and shall cause the Decolar Platform and all Decolar Travel Solutions to, book Expedia Travel Products, as set out below. For the purpose of this Agreement, “**Minimum Bookings Percentage**” shall mean [\*\*\*]; and the “**Relaxed Bookings Percentage**” shall mean from 1 January 2020 to the date of any Election Notice: [\*\*\*] of the Gross Booking Value from non-Expedia sourced Travel Product in respect of the Expedia Territory.

(a) Expedia Territory:

- (i) not less than the Minimum Booking Percentage of all Travel Bookings located in the Expedia Territory booked on or via any Decolar Travel Solution (including, but not limited to, any Decolar Application, Decolar Platform and Decolar API) shall originate from Transactions of Expedia Travel Products. In addition, the Parties shall negotiate in good faith to agree a list of properties in the Expedia Territory which shall be used for purposes of sourcing, marketing, and undertaking bookings for Relaxed Booking Percentage (the properties on this list shall be deemed the “**Non-Exclusive Properties**”). Such list shall be agreed by the Parties no later than 1 November 2019. Decolar shall not contact, solicit, negotiate or undertake discussions with any Travel Supply Providers other than those providing the Non-Exclusive Properties. Every twelve (12) months from the date of agreeing the initial list of Non-Exclusive Properties, or earlier if Decolar suffers a Force Majeure, the Parties shall negotiate in good faith to revisions to the list and such revised list shall be agreed by the Parties no later than 1 October of the then current year. Up until the Parties reach an agreement regarding the revision to the list, the initial list of Non-Exclusive Properties shall remain. For the avoidance of doubt, the Non-Exclusive Properties shall comprise a minimum of 90% of the Relaxed Booking Percentage.

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- (ii) five (5) Business Days after the end of each month of the Term, Decolar shall provide Expedia with an accurate monthly report of all Travel Bookings in the preceding month (including details of GBV, Transaction count, room nights and a GBV per lodging supplier identifier). Every three (3) months the Parties shall hold a quarterly business review to assess the overall relationship and such reports provided herein;
  - (iii) between the date of signing this Amended and Restated Agreement and 1 January 2020, Decolar may start discussions, negotiate and contract with properties to be considered Non-Exclusive Properties. In addition, Decolar may make such properties available for booking on the Decolar Travel Solution provided that, during such period, the GBV from bookings of such non-Expedia sourced Travel Products does not exceed 5% of all Travel Bookings in the Expedia Territory on the Decolar Travel Solutions;
  - (iv) if with effect from 1 January 2020 the GBV from Transactions of the Expedia Travel Products located in the Expedia Territory (as a percentage of all Travel Bookings on a Decolar Travel Solution in the Expedia Territory) exceeds the Relaxed Booking Percentage:
    - 1. in any six-month period commencing on 1 January 2020 and each 1 July and 1 January thereafter, Decolar will pay to Expedia [\*\*\*] of GBV as compensation for every booking of a non-Expedia sourced Travel Product in respect of the Expedia Territory which are in excess of the Relaxed Booking Percentage. Expedia may in its sole discretion set-off any payments owed to it by Decolar under this Section against Marketing Fees due to Decolar hereunder; and/or
    - 2. in any two consecutive calendar quarters, Expedia may elect, at any time thereafter, by sending written notice thereof to Decolar (“**Election Notice**”), to become the exclusive provider to Decolar of Travel Products in the Expedia Territory and [\*\*\*]. For the avoidance of doubt, if Expedia opts not to send an Election Notice under this Section, it shall not be considered to be waiving its right to do so, nor for another right to arise should GBV from Transactions of the Expedia Travel Products located in the Expedia Territory fall below the Minimum Booking Percentage for any subsequent calendar quarters;
  - (v) if with effect from 1 January 2020: the GBV from Transactions of the Expedia Travel Products located in the Expedia Territory (as a percentage of all Travel Bookings on a Decolar Travel Solution in the Expedia Territory), in any one calendar quarter, is [\*\*\*], Expedia may issue an Election Notice to become the exclusive provider to Decolar of Travel Products in the Expedia Territory and the Minimum Booking Percentage shall be deemed to be [\*\*\*] from such date forward.

- (vi) Expedia shall have the right to appoint the Accountant to audit all activity in connection with this Section 2.1.4A(a) (an “**Audit**”) upon providing at least thirty (30) days prior written notice to Decolar and no more frequently than once per calendar year (and at one additional time per calendar year if such cost is born by Expedia). The Parties shall select the Accountant for the Audit and shall schedule a mutually convenient time for the Audit; provided that any Audit shall be conducted during normal business hours. The cost of the Audit shall be shared equally between the Parties. The output report of the Audit shall be shared with both Parties. The Audit shall cover, at a minimum: a full reconciliation at a transactional level of all Travel Bookings in respect of the Expedia Territory, which are itemized on a booking-by-booking basis (including the following details of the booking: hotel, hotel IDs, dates of stay, GBV, room rate, Expedia Gross Profit) and the associated supporting data from Decolar financial systems of record, including without limitation evidence of (1) the total GBV in the Expedia Territory from non-Expedia Travel Bookings and Expedia Travel Bookings; (2) Expedia Gross Profit; (3) bookings of Packages, including the composition and individual component pricing and allocation of revenue and gross profit amongst lodging and non-lodging components and, if applicable, cost of each individual component of such package. The Audit shall encompass Decolar and all of its Affiliates (trading and non-trading).

**2.1.5 Minimum Bookings.** Following an Election Notice or such other time as the Minimum Bookings Percentage is [\*\*\*] and for each quarter during the Term, Decolar and its Affiliates shall, and shall cause the Decolar Platform and all Decolar Travel Solutions to, book Expedia Travel Products (other than Travel Products in the Decolar Territory) for no less than the Minimum Bookings Percentage (the “**Decolar Bookings Percentage**”). Decolar or an Affiliate of Decolar will act as the Merchant of Record on all Expedia-Sourced Travel Bookings with respect to non-refundable and other pay-in-advance bookings of Travel Products, where applicable, that are supplied by Expedia or its Affiliates pursuant to this Agreement, except for such Expedia-Sourced Travel Bookings for which Expedia and Decolar agree by virtue of using certain booking channels that Expedia or its Affiliate shall serve as the Merchant of Record, which, to the extent such Expedia-Sourced Travel Bookings are for properties in the Expedia Territory, shall be included in the calculation of the Decolar Bookings Percentage.

**2.1.6 Expedia Service Level Obligations.** If at any time during the Term, the Expedia API (a) fails completely to respond to the Decolar Application for a period in excess of fifteen (15) continuous minutes or (b) fails to respond within ten (10) seconds on 95% of list, availability or reservation requests made by the Decolar Application in conjunction with completing a Transaction for a period in excess of fifteen (15) continuous minutes, then the Decolar Application may switch to other sources of inventory (a “**Performance Switch**”) without any penalty only until such time as immediately following time that the Expedia API is again responsive or timely responsive. Expedia agrees that Decolar will be treated substantially similarly to other similarly situated recipients of lodging supply through the Expedia API in the same geographic region (including Hotels.com and Expedia’s Affiliates marketing their products in such region) with respect to response times of the Expedia API. In addition Expedia and Decolar will work together in seeking optimal solutions for customers with respect to Expedia API and Decolar Application performance.

**2.1.7 Expedia Rights.** Expedia reserves the right to remove Expedia API access and/or cancel any and all Expedia-Sourced Travel Bookings, if Decolar or any party which owns or otherwise operates any such Decolar Travel Solutions (a) does not comply, in all material respects, with

rules, regulations or policies for use of the Expedia API as determined by Expedia reasonable discretion from time to time, including modifications to pricing and/or unauthorized modifications to pricing display for Expedia Travel Products (whether through couponing, discounting, promotions or otherwise); (b) are identified with inactive Expedia API access or Decolar and its Affiliate's sites with no live content for a period of seven (7) days; (c) are non-responsive to correspondence within reasonable time, reasonable corrections or requests regarding the Expedia API; (d) does not comply, in all material respects, with the payment provisions under Section 3 or (e) commit any other acts or omissions that, in Expedia's reasonable sole discretion, may pose material threats to Expedia's (i) financial stability, (ii) information/data security, (iii) agreements, licenses or relationships with its Travel Supply Providers and/or (iv) Expedia's Intellectual Property Rights, and, in the case of each of the preceding clauses (a), (b), (c) and (e), does not cure the circumstances described in such clause within a reasonable period of time, which period shall be no less than 10 days after notification by Expedia of the first occurrence thereof; provided, however, (A) in the event of each successive violation of the preceding clauses (b), (c) and (e), Expedia shall not be obligated to provide any cure period and (B) in the event of more than three successive violations of the preceding clause (a) within any twelve (12)-month period Expedia shall not be obligated to provide any cure period. In the event that Expedia identifies the volume of queries originating from Decolar's use of the Expedia API unduly burdens the Expedia API (or any of the associated systems, network devices or data), and/or creates capacity-related issues or results in material additional costs, Expedia will promptly notify Decolar in writing of any such circumstances, and Decolar shall, within 15 days, provide Expedia with a remediation plan to reduce such load or issues to be applied no later than 15 days thereafter. If Decolar fails to cooperate in making such necessary changes, Expedia reserves the right to restrict Decolar's access to the Expedia API.

### **2.1.8 Customer Care.**

(a) During the Term, (i) [\*\*\*]; (ii) Decolar shall provide commercially reasonable cooperation, at Expedia's request, to facilitate Expedia's customer care and support; and (iii) Decolar shall provide first line support to customers of Expedia Travel Solutions in accordance with (x) the best industry standards (including but not limited to its practices in relation to standard greetings, scripts, response times and escalation procedures) and (y) the terms of this Agreement.

(b) Subject to Section 6.5 with respect to the use of the Voyager Tool, Decolar will be responsible for and shall provide, all support to End Users for customer care and support issues related to Expedia Travel Products and will be solely responsible for any liability to End Users as a result of such customer care and support; provided that Decolar shall not, at any time, have the ability to engage in any activities with respect to Expedia Travel Products that result in the issuance of any End User "accommodations", such as cancellations outside of the cancellation window or goodwill coupons and credits, discounts, refunds, and similar accommodations ("**Goodwill Modifications**"), without the prior written consent of Expedia. Expedia will provide second line consultative support for customer care and support issues with respect to the Expedia Travel Products, including Goodwill Modifications, at Decolar's sole cost and expenses. Without limiting the generality of the foregoing, Decolar will as soon as reasonably practical: (a) transmit to End Users booking Expedia Travel Products, without substantial revision, deletion or change of any sort, all information transmitted by Expedia or its Affiliates to Decolar for re-delivery to such End Users (e.g., booking confirmation e-mails and other customer support communications), provided that such information need not contain any of Expedia's or its Affiliates' branding, Marks and Materials; and (b) transmit to Expedia all communications, without substantial revision, deletion or change of any sort, received by Decolar or its Affiliates from such End Users relating to Expedia Travel Products (e.g., booking requests and other customer service inquiries), other than Highly Sensitive Customer Personal Data (other than to the extent necessary to facilitate an Expedia-Sourced Travel Booking). The Parties acknowledge and agree that this Agreement is intended to create a white label service that does not reveal Expedia's or its Affiliates' branding, Marks and Materials



to End Users. Decolar will be responsible for any liability to End Users as a result of the customer care and support for Expedia Travel Products booked through the Decolar Platform and/or a Decolar Travel Solution, including all Goodwill Modifications and costs associated with any debit memo, replacement room nights, charge backs, and cancellation fees. Expedia shall be responsible for all liability to the extent caused by information created by Expedia or its Affiliates that is transmitted to Decolar by Expedia's second-line support or by the Voyager Tool.

### **2.1.9 Redistribution.**

(a) Without the prior written consent of Expedia (which consent shall not be unreasonably withheld or withheld solely because a third party competes with Expedia or its Affiliates or Expedia or its Affiliates intends to compete with Decolar or its Affiliates with respect to a third party), Decolar shall not, and shall not permit its Affiliates and/or any third party Travel Solution which it may power or otherwise support from time to time to, display any Expedia Travel Products whether through the Decolar Application, Decolar Platform, on any Decolar Travel Solutions or otherwise (a) on Travel Solutions which are not owned and operated by Decolar and/or its Affiliates or (b) for Decolar Travel Solutions which do not primarily feature the Decolar Brand and are primarily targeted at End Users outside of the Decolar Territory (a "**Restricted Decolar Travel Solution**"), provided that, Decolar shall not provide any Travel Solution to any Third Party through (i) "instant book" or "direct booking" functionality on any metasearch site or other third party medium or channel, including Travel Solutions, through which Travel Products are marketed through side-by-side price comparison or (ii) any global distribution system or other third-party aggregator or redistributor of supply. In the event Decolar or any of its Affiliates takes any action inconsistent with the preceding clause, Expedia shall be entitled to immediately withdraw the Expedia API with respect to any such Restricted Decolar Travel Solution and cancel any and all Travel Bookings of Expedia Travel Products processed on or through such Restricted Decolar Travel Solution. Expedia shall have the right to waive any or all of the restrictions, whether in whole or in part, in the first sentence of this paragraph at any time, in its sole discretion. Notwithstanding the foregoing, Decolar shall not be restricted from advertising any Travel Products on metasearch sites, provided that the rate at which such Expedia Travel Product is displayed on such metasearch site or other price comparison mechanism shall not be less than the Room Rate and the other terms applicable to Expedia Travel Products pursuant to Section 2.1.4 will apply to any such display.

(b) In the event that Expedia consents (or is deemed to consent as set forth in (c) below), Decolar may make the Expedia Travel Products (other than those containing Standard Package Rates that are not a part of a prepackaged Package prior to distribution by Decolar) available for booking through partners of Decolar who will assist customers in the booking of such Expedia Travel Products in the Decolar Territory (each, a "**Decolar Partner**"). Schedule 2.1.9 sets forth a list of Decolar Partners as of the date of this Agreement. Any compensation due to a Decolar Partner will be solely the responsibility of Decolar and Decolar may not pay any such Decolar Partner a commission (whether bounty, revenue share or other payment structure) greater than the Marketing Fees Decolar receives from Expedia hereunder. Decolar shall ensure that each Decolar Partner is bound by and complies with: (i) obligations that are at least equivalent to those imposed on Decolar under this Agreement and (ii) the Decolar Partner terms set forth in Exhibit A to this Agreement (the "**Decolar Partner Requirements**"). Decolar shall be solely responsible for the actions of each Decolar Partner as if such actions are the actions of Decolar. In the event that Decolar becomes aware of any non-compliance by an Decolar Partner of the provisions set forth in this Section 2.1.12, or at any time upon Expedia request based on noncompliance by an Decolar Partner of the provisions of this Agreement or the Decolar Partner Requirements, Decolar will immediately disable the distribution of the Expedia Travel Products to such Decolar Partner.

(c) Solely for purposes of this Section 2.1.9, in the event that Decolar proposes to add a potential Decolar Partner in writing to Expedia, and Expedia does not take any action to

grant or deny consent within seven (7) days of its receipt of such request, then Expedia shall be deemed to have consented to such proposed Decolar Partner become a Decolar Partner unless (i) Expedia has affirmatively withheld its consent to such proposed Decolar Partner or any of its Affiliates has previously or (ii) Expedia has previously disabled the distribution of the Expedia Travel Products to such proposed Decolar Partner other than as a result of (A) the mutual discontinuation of the related business relationship between such proposed Decolar Partner and Expedia or (B) the voluntary discontinuation of the related business relationship by such proposed Decolar Partner. For the avoidance of doubt, this Section shall not apply to Ctrip.com International Limited or any of its Affiliates, including the respective businesses of ctrip.com, elong.com, qunar.com who shall not be considered an approved Decolar Partner without the approval of Expedia in its sole discretion.

**2.1.10 Acquisitions.** If Decolar or any of its Affiliates acquires Control of any entity (“**Acquired Entity**”) by way of merger, corporate reorganization or consolidation, acquisition of all or substantially all of its assets or otherwise during the Term, such Acquired Entity shall be considered an Affiliate under this Agreement and shall be subject to all terms and conditions herein 180 days from completion of such acquisition (being the “**Transition Period**”). During the Transition Period, Decolar shall pay Expedia [\*\*\*] of Expedia Gross Profit as compensation for every Travel Booking of a property located in the Expedia Territory on or via any of the Acquired Entity’s Travel Solutions. Expedia may in its sole discretion set-off any payments owed to it by Decolar under this Section against Marketing Fees due to Decolar hereunder. Decolar’s obligations to provide monthly reports and Expedia’s ability to audit under Sections 2.1.4A(a)(ii) and (iv) respectively shall be considered to apply equally to this Section. For the avoidance of doubt, Decolar shall integrate any Acquired Entity into its systems, processes, networks and corporate group by the end of the Transition Period so that the Expedia Travel Products are displayed and made available for booking at all times on all of the Acquired Entity’s Travel Solutions.

**2.2 Lodging Supply to Expedia.** During the Term, Decolar shall provide Expedia with access through the Decolar API to all Decolar Travel Products (whether such Travel Products are offered on a standalone basis, in a Package or otherwise, other than Expedia Travel Products which may be available through the Decolar API by virtue of the Expedia API) for properties located in the Decolar Territory for use in all Expedia Travel Solutions, subject to the same terms and conditions as the Expedia Travel Products (including the gross profit sharing). The Parties shall use commercially reasonable efforts to create an application (the “**Expedia Application**”) which interfaces with the Decolar API, which provides access to the aforementioned Decolar Travel Products by the first anniversary of the date hereof. Following the completion of the Expedia Application, the Parties will use commercially reasonable efforts to enter into an agreement for Decolar to provide Decolar Travel Supply for properties located in the Decolar Territory for use in all Expedia Travel Solutions. Decolar shall provide to Expedia, during each calendar month during the term, a statement of booking fees in respect of all Transactions included on the Transaction Statement for such period.

**2.3** [\*\*\*].

**2.3.1** [\*\*\*]

**2.3.2** Decolar agrees and acknowledges that it will have no input into or ability to participate in Expedia’s negotiations with Expedia’s third-party suppliers and that the provision of Expedia Travel Products is subject to the terms of the applicable contracts between Expedia or its Affiliates and the applicable Travel Supply Providers with respect to such Travel Products.

**2.3.3** [\*\*\*]

**2.3.4** [\*\*\*]

**2.3.5** [\*\*\*]

### 3. ECONOMIC TERMS

#### 3.1 Marketing Fees.

**3.1.1** During the Term, for each Expedia-Sourced Travel Booking of a Travel Product that is Consumed (a “**Consumed Travel Booking**”), Expedia will calculate and pay to Decolar the percentage of the Gross Profit set forth on Schedule 3.1 (the “**Marketing Fees**”) applicable to such Consumed Travel Booking. Marketing Fees shall be paid only on Consumed Travel Bookings that are made through the Expedia API and originate from the Decolar Application, Decolar Platform or Decolar Travel Solution. No Marketing Fees will be paid by Expedia on subsequent bookings by the same customer unless such further booking is also made through the Expedia API and originates from the Decolar Application, Decolar Platform or Decolar Travel Solution.

**3.1.2 Provision of CPF Numbers.** Decolar shall provide to Expedia, in a manner as prescribed by Expedia from time to time (any new such manner to be communicated fourteen (14) days in advance and not to be materially more burdensome to Decolar than the previous manner), the Cadastro de Pessoas Físicas (“**CPF**”) numbers for all travelers corresponding to each EAC Oracle Reference Number within each Transaction Statement issued for Transactions on Decolar’s Brazilian POS at the time of payment of such Transaction Statement. Decolar shall ensure that all CPF numbers provided to Expedia pursuant to this paragraph are complete, correct and accurate, in accordance with Expedia’s prescribed manner for such information, and clearly correspondent to the correct EAC Oracle Reference Number. Decolar hereby indemnifies Expedia against any loss or additional withholding taxes Expedia suffers as a result of Decolar’s failure to comply with any of its obligations under this paragraph. Expedia shall be entitled to recover such losses by withholding payment due to Decolar under the Agreement, or deducting and withholding on any payment to Decolar, or requesting further payment from Decolar, in order to comply with any obligations of Expedia or the Affiliate of Expedia domiciled in Brazil (“**Expedia’s Brazilian Subsidiary**”) under applicable Brazilian tax laws. Expedia undertakes and warrants to provide Decolar in a manner prescribed by Decolar from time to time, for every Transactions on Decolar’s Brazilian POS (i) “proof of transactions” issued by TravelScape LLC to Decolar.com Ltda. (Decolar’s Affiliate in Brazil) including the payment instruction to Expedia do Brasil. and (ii) a tax certification on a monthly basis in the form of Schedule 3.1.2 that Expedia do Brasil paid the withholding tax on the Transactions on Decolar’s Brazilian POS that were paid to Expedia do Brasil,. All amounts withheld by Expedia pursuant to this Section 3.1.2 shall be treated as paid to Decolar for all purposes. For the avoidance of doubt, the CPF numbers will be considered Customer Personal Data, and Confidential Information for the purposes of this Agreement.

#### 3.2 Marketing Fee Payments.

**3.2.1 Payment to Decolar.** Expedia shall pay to Decolar the Marketing Fees owed to Decolar with respect to all Consumed Travel Bookings for which Compensation has been received by Expedia and its Affiliates during a given calendar month (the “**Marketing Fee Payment**”) within 15 days following the end of such calendar month.

**3.2.2** All Payments made by Expedia to Decolar will be made in United States Dollars or Brazilian Real (depending on the currency of the Transaction Statement) and sent via wire transfer to the Decolar bank account specified on Schedule 3.2.2 (which Schedule Decolar may revise from time to time by Notice to Expedia).

**3.3 Room Revenue.** Decolar shall collect, on behalf of Expedia, or any of its Affiliates, including Travelscape LLC, the Gross Booking Value for any Affiliate-Collect Bookings of any Travel Products made by an End User and for which Decolar has acted as the Merchant of Record, excluding any Service Fees and Taxes, in each case, imposed in excess of the Room Rate (the “**Room Revenue**”). Decolar shall account for and remit all Room Revenue in accordance with the provisions set out below.

**3.3.1 Transaction Statements.** Expedia will deliver a statement to Decolar every [\*\*\*] days setting forth the Room Revenue (both in the aggregate and on a Transaction-by-Transaction basis) generated from Transactions with respect to [\*\*\*] during the immediately preceding [\*\*\*]-day period (the “**Transaction Statement**”). The Parties acknowledge and agree that each (i) Transaction Statement for the Room Revenue generated from Decolar’s Consumed Travel Bookings booked on Decolar’s Brazilian POS shall be stated in Brazilian Real only; and (ii) Transaction Statement for all other Room Revenue shall be stated in United States Dollars, provided that the Parties agree to discuss in good faith whether it is practicable to state such amounts in currencies other than United States Dollars.

**3.3.2 Payment.** Decolar shall pay to (i) Expedia the full Room Revenue amount for Bookings other than those on the Brazilian POS detailed on the Transaction Statement (the “**USD Room Revenue Payment**”) within [\*\*\*] days (or [\*\*\*] days with respect to Transactions for points of sale located in Argentina, provided that the Parties will discuss in good faith reducing such number of days based on improving economic conditions in Argentina) of the date of the Transaction Statement; and (ii) Expedia’s Brazilian Subsidiary the full Room Revenue amount for Brazilian POS Consumed Travel Bookings detailed on the Transaction Statement (the “**BRL Room Revenue Payment**”) and together with the USD Room Revenue Payment, the “**Room Revenue Payment**”) within [\*\*\*] days of the date of the Transaction Statement. Funds shall be paid by Decolar to Expedia or Expedia’s Brazilian Subsidiary (for Brazilian POS Consumed Travel Bookings) via electronic funds transfer into the Expedia Account. In the event that any Room Revenue Payment due in respect of a Transaction Statement is not received by Expedia or Expedia’s Brazilian Subsidiary (for Brazilian POS Consumed Travel Bookings) in compliance with this provision, during the subsequent [\*\*\*] Business Day period, Decolar shall take such steps as may be necessary to cure any failure to make such Room Revenue Payment within [\*\*\*] Business Days. If, at the conclusion of such [\*\*\*] Business Day period, any Room Revenue Payment due in respect of a Transaction Statement is not received by Expedia or Expedia’s Brazilian Subsidiary (for Brazilian POS Consumed Travel Bookings) in compliance with this provision, in addition to Expedia’s rights under this Agreement and at Law, Expedia shall have the right to: (a) offset any such amounts due from any Payments due Decolar hereunder; (b) [\*\*\*]; (c) suspend Decolar’s access to Expedia’s Travel Products immediately and/or (d) to the extent not so offset pursuant to the preceding clause (a) or Section 3.3.5, recoup such amounts due by drawing upon the Letter of Credit at any time, pursuant to Section 3.6.4. In addition, Expedia may demand from Decolar adequate assurance of due performance if Expedia reasonably believes that there will be a fundamental non-performance of Decolar’s obligations hereunder. If Expedia has not received such adequate assurance within [\*\*\*] Business Days from the date of delivery of its request then Expedia may deliver a statement to Decolar for all Transactions [\*\*\*]. Decolar acknowledges and agrees that Decolar is responsible for the payment of banking transfer fees in relation to the payment of the Transaction Statement. Expedia acknowledges and agrees that Expedia is responsible for the payment of banking transfer fees in relation to the receipt of payments related to the Transaction Statement.

**3.3.3** Notwithstanding the above, the Parties agree that the payment of Transaction Statements for Consumed Travel Bookings that take place through or on:

(i) any Brazilian POS and such Consumed Travel Bookings shall be paid in Brazilian Real; and

(ii) any other Decolar Travel Solution (other than the Brazilian POS), shall be paid in United States Dollars.

In all cases, all payments made by Decolar to Expedia will be sent via wire transfer to the Expedia bank account specified on the Transaction Statement (which Expedia may revise from time to time by Notice to Decolar) (the “**Expedia Account**”).

**3.3.4 Expedia Offset Right.** Without limiting the rights in Section 3.3.2, Expedia shall have the right to offset from any Payments due and payable from it or its Affiliates to Decolar any amounts owing to Expedia and/or its Affiliates from Decolar under the terms of this Agreement (including for the avoidance of doubt, any Payments under Section 2.1.4(A)(a)), provided that Expedia shall promptly provide to Decolar a statement describing the amount of such offset, the statements under which the offset amounts are owed to Expedia and the Payments owed to Decolar from which such amounts are being offset. Any dispute by Decolar of Expedia’s offsets shall be made in accordance with Section 3.4.3.

### **3.4 Other Statements and Audits.**

**3.4.1 Monthly Marketing Fee Statements.** Following the end of each calendar month during the Term, Expedia shall, with respect to such completed month, provide a statement (a “**Marketing Fee Statement**”) to Decolar setting out the Marketing Fee Payment which is due to Decolar for such month for each Transaction describing in reasonable detail the components of Gross Profit for each such Transaction. Each Marketing Fee Statement shall provide reasonable settlement information with respect to Expedia’s calculation of the Marketing Fee Payment, including the total Gross Profit in respect of the Consumed Travel Bookings referred to in Section 3.1 for such month. In addition, the Marketing Fee Statement shall set forth any required period-end accounting adjustments or adjustments for Refund Fees (including cancelled, refunded or charged-backs bookings) with respect to the payments previously made pursuant to Section 3.3. Any modifications required with respect to the previous month shall be added to, or offset from, as applicable, the next monthly payment made pursuant to Section 3.2.

**3.4.2 Monthly Minimum Bookings Statements.** Following the end of each calendar month during the Term, Decolar shall, with respect to such completed month, provide a statement (a “**Monthly Minimum Bookings Statement**”) to Expedia setting forth all reasonable backup calculations necessary to arrive at the Decolar Bookings Percentage, including (a) the total number of (i) Expedia-Sourced Travel Bookings and (ii) Consumed Travel Bookings, in each case, for properties in the Expedia Territory made through the Decolar Application, Decolar Platform or a Decolar Travel Solution and which were sourced pursuant to this Agreement during such month and (b) the total number of Travel Bookings for properties in the Expedia Territory made through the Decolar Platform and any and all Decolar Travel Solution during such month. In addition, the Monthly Minimum Bookings Statement will set forth for each Global Lodging Chain Properties located in the Decolar Territory for which the pricing, availability, compensation or other aspect of an Expedia Travel Product failed to be better than or substantially equal to that which Decolar received for Identical Lodging Supply, reasonable detail necessary to establish why such failure occurred, including with respect to pricing, availability, compensation and other relevant factors.

**3.4.3 Payment Disputes.** Within thirty (30) days of the last day of each successive six (6)-month period, the recipient may deliver to the other Party in writing its dispute (a “**Dispute Notice**”) of such statement, specifying in reasonable detail the nature of its dispute. Any right to dispute a payment arising from Travel Booking for which the checkout date is prior to said six (6)-month period shall be considered waived by the Parties. During the 30-day period after the delivery of such dispute notice to the other Party, the Parties shall attempt in good faith to resolve any such dispute and finally

determine the proper amounts to be reflected on such statement. If, at the end of such thirty (30)-day period the Parties have failed to reach agreement with respect to the matters addressed in the Dispute Notice, then the matter shall be submitted to the Accountant, which shall act as arbitrator. The Accountant shall determine the proper amounts to be reflected on the Monthly Statement or Transaction Statement, as applicable, for such period in accordance with the terms and conditions of this Agreement. The Accountant shall deliver to each Party, as promptly as practicable and in any event within thirty (30) days after its appointment, a written report setting forth the resolution of the dispute for such period. Such report shall be final and binding upon the Parties to the fullest extent permitted by applicable Law and may be enforced in any court having jurisdiction. Each Party shall bear all the fees and costs incurred by it in connection with this arbitration, except that, if the Accountant determines that the aggregate net adjustment to the applicable statement was greater than five percent (5%), all fees and expenses relating to the foregoing work by the Accountant shall be borne by the Party that does not prevail on the matters resolved by the Accountant. No Payment dispute shall give the Party disputing such Payment the right to withhold any such Payment that is in dispute hereunder. For the avoidance of doubt, both Parties acknowledge and agree that any right to dispute a payment arising from Travel Booking for which the checkout date is prior to the date which is 6 months prior to the date of Amended and Restated Agreement is hereby waived and neither Party owes any amounts to the other Party under said Travel Bookings.

**3.5 Failure to Achieve Minimum Bookings.** In any quarter during the Term in which Decolar Bookings Percentage is below the Minimum Bookings Percentage, Decolar shall be obligated to pay to Expedia an amount equal to the Compensation with respect to any booking by Decolar that resulted in the Minimum Bookings Percentage not being met (the “**Quarterly Penalty Payment**”) on the terms set forth in this Section 3.5 at the time the Marketing Fee for the following quarter is due hereunder.

**3.5.1** The Quarterly Penalty Payment pursuant to this Section 3.5 shall be a non-exclusive remedy and shall be available in addition to any other rights and remedies available to the Parties under law or this Agreement.

**3.5.2** In the event that a Quarterly Penalty Payment is owed to Expedia, Expedia may at its election, if such payment is not made at the time the Marketing Fee is due hereunder, (i) offset any such Penalty Payment against any Marketing Fee otherwise payable to Decolar, (ii) draw upon Decolar’s Letter of Credit and (iii) in its sole discretion, cause Expedia to be the Merchant of Record for all Expedia Sourced Travel Bookings.

### **3.6 Letter of Credit.**

**3.6.1 Letter of Credit.** As security for Decolar’s Payment obligations in connection with this Agreement, Decolar will provide sufficient collateral to adequately cover its Payment obligations under this Agreement, which as at the date of this Amendment and Restatement Agreement shall be an irrevocable standby letter of credit acceptable to Expedia and in an amount acceptable to Expedia (which for the avoidance of doubt, shall be an amount sufficient to cover any credit limit notified to Decolar by Expedia from time to time in particular as required to support the Marketing Fee payment tiers) (the “**Credit Amount**”) to be issued or confirmed by [\*\*\*] (or another bank of international standing reasonably acceptable to Expedia) and delivered to Expedia (the “**Letter of Credit**”). The Parties shall agree any replacement to such Letter of Credit during the Term. In the event of any replacement Expedia shall promptly return the previous Letter of Credit to Decolar. For the avoidance of doubt, Decolar shall ensure that each Letter of Credit shall be confirmed by [\*\*\*] (or such other bank agreed to and accepted by Expedia), acting as confirming bank, before a Letter of Credit is delivered to Expedia.

**3.6.2 Letter of Credit Terms.** The Letter of Credit shall (i) remain in effect for one year and shall be replaced by Decolar with successive letters of credit with either the same terms

(provided that such terms remain acceptable to Expedia's advising bank) or otherwise in a form acceptable to Expedia (an example of what will be acceptable is attached at Attachment 1) at least [\*\*\*]days prior to the expiration date of the then existing letter of credit; (ii) be irrevocable from the date of delivery until its expiration date; and (iii) must have an expiration date which after application of subsection (i) above is no earlier than co-terminus with the expiration date of this Agreement. Upon termination of this Agreement, and provided all payments of invoices due to Expedia have been paid and disputed payments have been resolved, the Letter of Credit, will be returned to Decolar.

**3.6.3 Credit Amount.** Not more than four (4) times per calendar year and prior to the renewal period for the Letter of Credit, Expedia shall review the Credit Amount and determine, in consultation with Decolar, whether it should be increased or decreased based on Expedia Travel Product bookings. If Expedia, acting reasonably, decides to change the Credit Amount, Decolar shall provide the replacement Letter of Credit in the changed amount within thirty (30) days of such change.

**3.6.4 Letter of Credit Draws.** Expedia may draw upon the Letter of Credit at any time (i) in order to satisfy any payment obligations of Decolar set forth in this Agreement not met within the timeframe set forth therein or, (ii) in the event the Letter of Credit is not renewed at least thirty [\*\*\*] prior to the stated expiration date thereof. The proceeds of any drawing on the Letter of Credit pursuant to clause (ii) above not applied to amounts then owing to Expedia hereunder shall be held by Expedia as security for any future payment obligations of Decolar to Expedia under this Agreement. Expedia shall not be required to hold any such cash proceeds described in the preceding sentence in any separate account, but may commingle such proceeds with other funds of Expedia, provided that Expedia shall account for the disposition of all such proceeds at the request of Decolar.

**3.7 [Reserved].**

**3.8 [\*\*\*].** At the end of each calendar year, the Parties shall review the [\*\*\*] in order to reasonably reflect reasonably expected [\*\*\*] based on the actual [\*\*\*] incurred in the preceding year period. The Parties shall discuss the results of such reviews in good faith including whether the amounts set out herein shall be modified. .

**3.9 Decolar Financial Information.**

**3.9.1** Whether or not the Investment Rights Agreement remains in effect, Decolar agrees to provide to Expedia the information required under Section 3.1 (a), (b), (c) and (e) of the Investor Rights Agreement for all periods ending on or prior to December 31, 2015. In addition, for each month ending on or prior to December 31, 2015, Decolar will use commercially reasonable efforts to deliver to Expedia the financial information set forth in Section 3.9.2(a), (b) and (c).

**3.9.2** For all periods commencing on and following January 1, 2016, until the expiration of the Term, Decolar agrees to provide the following information regarding Decolar and its Affiliates to Expedia on a monthly basis, which information Expedia will only share with those of its officers, employees and representatives as are reasonably necessary for the purposes of determining the Credit Amount or creditworthiness of Decolar:

(a) an unaudited income statement, statement of cash flows for each month and an unaudited balance sheet as of the end of such month;

(b) updated cash flow forecasts for the thirteen (13)-week period following the end of each month; and

(c) updated high-level cash flow forecasts for six (6)-month period following the end of each month, including projected drawn and undrawn amounts of any banking facilities and details of any bank or shareholder covenants with respect to any cash flows or funding.

**3.9.3** Decolar agrees to reasonably cooperate with Expedia and with Expedia's insurance providers to deliver, as soon as reasonably practicable, financial information regarding Decolar and its Affiliates as reasonably requested by such insurance providers.

#### **4. CONFIDENTIALITY**

**4.1 Definition of Confidential Information.** As used herein, "**Confidential Information**" means all information of a Party ("**Disclosing Party**") that is disclosed to the other Party ("**Receiving Party**") and identified as confidential or proprietary or that, due to the nature of the information (such as conversion ratios or pricing information) or the circumstances surrounding disclosure, ought to be understood to be confidential or proprietary in connection with the transactions contemplated by this Agreement; provided, however, that if such information is disclosed orally or visually, it must be identified as confidential at the time of disclosure and reduced to writing and provided to the Receiving Party within thirty (30) days of disclosure in order to be considered "Confidential Information" for the purposes of this Agreement. The Confidential Information of (a) Decolar shall include the terms and conditions of this Agreement (but not the existence of the same) and all non-public information regarding the Decolar Travel Products and (b) Expedia shall include the terms and conditions of this Agreement (but not the existence of the same) and all non-public information regarding the Expedia Travel Products.

**4.2 Confidentiality.** The Receiving Party shall not (i) use any Confidential Information of the Disclosing Party for any purpose other than to exercise its rights or to perform its obligations under this Agreement, or (ii) disclose, publish, or disseminate Confidential Information of the Disclosing Party to anyone other than the Receiving Party's personnel (including employees, contractors and consultants) who have a need to know the Confidential Information for the purposes set forth in this Agreement and who are bound by a written agreement that prohibits unauthorized disclosure or use of Confidential Information that is at least as protective of the Confidential Information as the Receiving Party's obligations hereunder. Notwithstanding the foregoing, the Receiving Party shall have the right to share the existence and nature of this Agreement with such Party's Affiliates and such Party's and its Affiliates' attorneys, accountants, bankers, financing sources, consultants or other professional advisors in connection with a financing, merger, acquisition, corporate reorganization, consolidation, or sale of all or substantially all of its assets, or as required by Law in accordance with Section 4.4 of this Agreement.

**4.3 Protection.** Each Party agrees to protect the confidentiality of the Confidential Information of the other Party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event shall either Party exercise less than reasonable care in protecting such Confidential Information. Notwithstanding the foregoing, the non-use and non-disclosure restrictions set forth in this Section 4.3 shall not apply to any information that: (i) is or becomes generally known to the public without the Receiving Party's breach of any obligation owed to the Disclosing Party; (ii) was independently developed by the Receiving Party without use of the Confidential Information and without the Receiving Party's breach of any obligation owed to the Disclosing Party; or (iii) is received from a third party who obtained such Confidential Information without any third party's breach of any obligation that was known by the Receiving Party to be owed to the Disclosing Party at the time of such receipt.

**4.4 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent (and only that specific portion of such Confidential Information) required by Law (including any rule, regulation or policy statement of any national securities



exchange, market or automated quotation system on which the Receiving Party's securities are listed or quoted), Governmental Authority, subpoena, document request, other legal process or judicial or administrative proceeding; provided, however, that the Receiving Party shall make reasonable efforts to provide the Disclosing Party with prior written notice of such compelled disclosure and reasonable assistance (at Disclosing Party's cost) if the Disclosing Party wishes to obtain protective treatment of the Confidential Information.

**4.5 Confidentiality of Marketing Fee Statements.** The Parties acknowledge that the Marketing Fee Statements (and any daily version of such statement or similar information as well as the individual information contained therein) provided to Decolar pursuant to Section 3.4.1 or otherwise and any fee related information provided by Expedia to Decolar via the Expedia API (together the "**Fee Information**") shall be considered Confidential Information for the purposes of this Agreement and, in addition to the other provisions of this Section 4, shall be treated by Decolar in accordance with the following:

**4.5.1** Decolar shall identify a group of named personnel ("**Relevant Personnel**") to receive any or all of the Fee Information who need to know such information for the purpose of (i) assessing the accuracy and completeness of such Marketing Fee Statements for Decolar's financial accounting purposes; (ii) general business planning and marketing purposes, and/or (iii) determining the Sort Order of the Expedia Covered Lodging Supply on the Decolar Travel Solutions (subject to Section 2.1.4(b)). The Relevant Personnel shall: (a) have no commercial dealings (directly or indirectly) with hotel suppliers in respect of any negotiation of specific commercial terms of the supply relationship between Decolar and any current or possible future hotel supplier; (b) be clearly identified; and (c) be the sole recipients of the Fee Information.

**4.5.2** Decolar personnel who (i) work exclusively in any of the below functional business units within Decolar and (ii) satisfy the requirement under Section 4.5.1(a) shall automatically be deemed to fulfil the requirement under Section 4.5.1(b):

- (a) Accounting/Accounts Payable/ Oracle team: reviews Fee Information received from Expedia and assures payments (or disputes) and other administrative functions are in accordance with applicable contract terms;
- (b) Legal: ensures compliance with contract terms and other applicable compliance requirements;
- (c) Information Technology: executes website/application coding, API maintenance, AB testing on the technology implementation side, sorting algorithm build-out;
- (d) Planning: assesses business performance and undertakes forecasting; and
- (e) Marketing: evaluates Decolar marketing spend across marketing channels (variable and other) and assesses return on investments made by Decolar.

**4.5.3** The Relevant Personnel may share the following information contained in the Fee Information with other personnel of Decolar in accordance with Sections 4.1 to 4.4: partner identifiers; itinerary and booking identifiers including book and stay dates and itinerary number; lodging property identifiers including property name, market and country; and Gross Booking Value at a Travel Booking level.

**4.5.4** The Relevant Personnel shall be prohibited from sharing the following information contained in the Fee Information with other personnel of Decolar: Service Fee, COS percentage, COS amount, Gross Profit percentage, Gross Profit amount and Marketing Fee, except if: (a) such information is aggregated in a manner which ensures that the information referred to above in this Section 4.5.4 is not disclosed to any personnel of Decolar (other than the Relevant Personnel), either precisely or approximately, at an individual property level and cannot be reversed engineered in any way, and in any event with at least 5 properties being included in any aggregated data set; and (b) the recipients need to know the information for the purposes set forth in this Agreement. Decolar shall provide Expedia with details of any aggregation rules applied under this Section 4.5.4 upon request.

**4.5.5** Upon request and at least annually, Decolar shall certify to Expedia its compliance with this Section 4.5, in a format agreed between the Parties. Such certification shall list all Relevant Personnel for the period since the last certification was delivered (and for the first certification, all Relevant Personnel) and set out the aggregation rules applied under Section 4.5.4 over the reporting period.

## **5. DATA; SECURITY**

### **5.1 Data.**

**5.1.1 Decolar Privacy Policy.** Decolar shall maintain a privacy policy that shall govern the collection, treatment use and disclosure of Customer Personal Data from End Users of the Decolar Platform and any Decolar Travel Solution (the “**Decolar Privacy Policy**”). Decolar shall adhere to the Decolar Privacy Policy in connection with all collection, treatment, use, disclosure and retention of any Customer Personal Data, and shall ensure that it permits Decolar to share Customer Personal Data with Expedia and its Affiliates for the purpose of fulfilling its obligations hereunder with respect to procuring travel reservations or providing other services or functions on behalf of End Users or for Expedia on behalf of End Users. Decolar shall ensure that it and its Affiliates have complied and at all times are in compliance with all applicable Laws, as well as any of its own applicable privacy policies, with respect to any Customer Personal Data, including in connection with providing any historical Customer Personal Data in its possession to Expedia pursuant to the terms of this Agreement. Decolar shall take all reasonable steps to ensure that all End Users have agreed or consented to or are otherwise subject to appropriate data privacy policies which permit the transfer and retention of the Customer Personal Data of such End Users by Decolar to Expedia. Decolar further agrees that in case of Customer Personal Data that is collected, used, treated and/or retained in multiple jurisdictions, Decolar and its Affiliates shall apply to all such Customer Personal Data the strictest privacy Laws set forth in any of those jurisdictions and without limiting the foregoing, each Party and its Affiliates shall comply with Schedule 5 with respect to the collection, use, treatment and processing of Customer Personal Data that is governed by the GDPR (as defined in Schedule 5), if any.

### **5.1.2 Customer Personal Data.**

(a) Expedia acknowledges that, as between Expedia and Decolar, Decolar is the sole and exclusive owner of all Customer Personal Data relating to any End User originated via any Decolar Travel Solution (such Customer Personal Data, the “**Decolar Customer Personal Data**”). [\*\*\*] Expedia, its Affiliates and sublicensees shall not use the Decolar Customer Personal Data for purposes of soliciting customers or performing marketing campaigns and shall abide by the confidentiality provisions set forth herein. Notwithstanding anything in this Agreement (including this Section 5.1.2(a)) to the contrary, to the extent required to comply with tax reporting requirements, Expedia shall have access to and shall be entitled to use any Decolar Customer Personal Data collected or received by Decolar or any of its Affiliates in connection with any and all Travel Products made available through the Expedia API.

(b) Decolar acknowledges that, as between Decolar and Expedia, Expedia is the sole and exclusive owner of all Customer Personal Data relating to any End User originated via an Expedia Travel Solution (the “**Expedia Customer Personal Data**”). During the Term of this Agreement, Expedia hereby grants Decolar a worldwide, nonexclusive, royalty-free, sub-licensable right and license to use any Expedia Customer Personal Data imported to, integrated with or collected by Decolar via the Decolar Application, Decolar Platform or any Decolar Travel Solution, and to use the know-how and analytical results resulting therefrom in connection with the operation of the Decolar Travel Solution and the enhancement, improvement, and provision of the Decolar technology and derivatives thereof, without restriction. Decolar, its Affiliates and sublicensees shall not use the Expedia Customer Personal Data for purposes of soliciting customers or performing marketing campaigns, and shall abide by the confidentiality obligations set forth herein.

### 5.1.3 Transactional and Other Data.

(a) Subject to Section 5.1.2(a), Decolar acknowledges that, as between Expedia and Decolar, Expedia is the sole and exclusive owner of all data collected or received by Expedia in connection with the operation of the Expedia Platform and any and all Expedia Travel Solutions and Expedia’s exercising of its rights and performance of its obligations hereunder, including any and all purchase and transactional data resulting from End User transactions on or through the Expedia Platform or an Expedia Travel Solution and notwithstanding the fact that any Decolar Customer Personal Data may be included in such transactional data (such as the name of an End User) (collectively, “**Expedia Transactional Data**”). For the avoidance of doubt, Expedia may retain and use any and all usage data and all analytics based on the Expedia Transactional Data.

(b) Subject to Section 5.1.2(b), Expedia acknowledges that, as between Decolar and Expedia, Decolar is the sole and exclusive owner of all data collected or received by Decolar in connection with the operation of the Decolar Travel Solution and Decolar’s exercising of its rights and performance of its obligations hereunder, including any and all purchase and transactional data resulting from End User transactions on or through the Decolar Travel Solution and notwithstanding the fact that any Expedia Customer Personal Data may be included in such transactional data (such as the name of an End User) (collectively, “**Decolar Transactional Data**”). For the avoidance of doubt, Decolar may retain and use any and all usage data and all analytics based on the Decolar Transactional Data. Notwithstanding anything in this Agreement (including this Section 5.1.3(b)) to the contrary, to the extent required to comply with tax reporting requirements, Expedia shall have access to and shall be entitled to use any Decolar Transactional Data collected or received by Decolar or any of its Affiliates in connection with any and all Travel Products made available through the Expedia API.

## 5.2 Security.

**5.2.1** [\*\*\*] (the “**Payment Card Implementation**”). Following the Payment Card Implementation, Decolar shall use commercially reasonable efforts to continue to abide by such requirements throughout the Term. If the Payment Card Implementation shall not have occurred on or prior to July 1, 2016, then Decolar shall pay to Expedia (i) from July 1, 2016 through September 1, 2016: \$[\*\*\*] and (ii) after September 1, 2016: \$[\*\*\*], for each week or portion thereof that the Payment Card Implementation has not occurred.

**5.2.2** Decolar shall adopt and implement industry standard, and shall use reasonable best efforts to adopt and implement best-in-class, security policies, procedures and requirements, including those relating to the prevention and detection of fraud or other inappropriate use or access of systems and networks.

### 5.2.3 Penetration Testing.

(a) During the Term, Expedia, its Affiliates or a third-party auditor appointed by Expedia or any of its Affiliates may carry out penetration testing of any environment that is part of Decolar's information technology systems, including associated data, interfaces, databases, middleware, operating systems, network and storage infrastructure, peripherals, as well as third party software (whether packaged or not), and hardware required to operate the foregoing to identify and analyze any potential security vulnerabilities, flaw or operational weaknesses and review Decolar's information security, data protection, disaster recovery, business continuity and confidentiality policies, procedures and safeguards, provided that it coordinates the conduct of such testing with Decolar and uses reasonable efforts to minimize the disruption to Decolar as a result of such testing. Expedia shall be permitted to conduct four (4) penetration tests in any rolling twelve (12)-month period.

(b) In carrying out the penetration testing, Expedia may use a third party contractor to perform the tests provided that such third party contractor has entered into a non-disclosure agreement with Expedia regarding the conduct and results of the penetration test.

(c) Decolar will cooperate with Expedia in planning and performing penetration testing, as well as in the prompt remediation of any vulnerabilities detected as a result of penetration testing.

(d) All costs of any penetration testing carried out pursuant to this Section 5.2.3 shall be borne and paid solely and in their entirety by Expedia.

## 6. INTELLECTUAL PROPERTY; LICENSE

### 6.1 Display of Expedia Information.

**6.1.1** During the Term, in connection with all Expedia Travel Products made available for booking or otherwise displayed or listed on any Decolar Platform or Decolar Travel Solutions, Decolar shall display the appropriate trademark or copyright for third parties (including Travel Supply Providers), information about or content describing the Expedia Travel Products, its material terms and conditions, seller of travel designations, the cancellation policies, rules, disclosures, regulations, rates, prices, Taxes, Tax recovery charges, services fees and other charges and fees for all offered Expedia Travel Products, as provided by Expedia, without addition to, revision, deletion or change of any sort whatsoever ("**Expedia Information**").

**6.1.2** Decolar shall regularly refresh the Expedia Information on the Decolar Travel Solution and, in any event, shall update the Expedia Information promptly (including withdrawing any out of date Expedia Information) and within 5 Business Days of a specific request from Expedia to do so. Decolar will be liable for any claims brought by any third parties as a result of Decolar's failure to update the Expedia Information within 5 Business Days of a receipt of such a request.

**6.1.3** Decolar shall display the GBV in the currency which is provided in the Expedia API. Decolar may only convert the GBV into any alternative currency if that currency has not been made available in the Expedia API, and in which case, Decolar must ensure that any conversion into an alternative currency is calculated in accordance with the currency conversion rate published by Bloomberg (or another credible conversion rate with our consent) at the time the Expedia Information is displayed on a Decolar Travel Solution. Decolar will be liable for any claims brought as a result of any currency conversion that breaches this Section 6.1.3.

**6.2 License to Trademarks and Materials.** Subject to the terms of, and for the duration of this Agreement, each Party (the “**Licensor**”) hereby grants the other Party (the “**Licensee**”) a non-exclusive, non-transferable (except as provided in [Section 15.11](#)), royalty-free, worldwide license to use, distribute, reproduce, perform and display such of the Licensor’s and its Affiliates’ Trademarks and all images, text and other copyrighted materials (collectively, “**Materials**”) Licensor furnishes to Licensee for use under this Agreement.

**6.3 Use of Trademarks and Materials.** During the Term, each Party will (a) submit to the other Party all proposed uses (other than materials disseminated solely on an internal basis) of the other Party’s Trademarks or Materials, and (b) not publish or otherwise engage in any use of the other Party’s Trademarks or Materials without the other Party’s prior written consent. Each Party will comply with the other Party’s requirements regarding the format and placement of its Trademarks, including as set forth in any Trademark use guidelines provided in writing by the other Party. Neither Party will take any action to register or otherwise challenge or interfere with the other Party’s interests in its Trademarks. Unless specifically provided for herein, neither Party will adopt or otherwise use any Trademark that is similar to, or likely to be confused with, any of the other Party’s Trademarks. All goodwill from each Party’s use of the other Party’s Trademarks will inure to the benefit of the other Party.

**6.4 License of Expedia Specifications.** Subject to the terms of, and for the duration of this Agreement, Expedia hereby grants Decolar and its Affiliates a revocable, nonexclusive, non-transferable (except as provided in [Section 15.11](#)), non-sublicensable, royalty-free, worldwide license to: (a) use the Expedia Specifications solely for the purpose of developing the Decolar Application in accordance with the terms of this Agreement; and (b) use, distribute, reproduce, perform and display the Expedia Specifications as incorporated into the Decolar Application solely for use in connection with Decolar’s performance under this Agreement.

### **6.5 Voyager Tool.**

**6.5.1** Expedia hereby grants to Decolar and its Affiliates a revocable, non-exclusive, non-transferable (except as provided in [Section 15.11](#)), royalty-free, worldwide license to use the voyager tool developed by Expedia (“**Voyager Tool**”) solely for the purpose of providing customer care and support pursuant to [Section 2.1.7](#) of this Agreement related to Expedia Travel Products and booking of Expedia Travel Products for End Users. Decolar may not use the Voyager Tool other than as specified in, and subject to, this [Section 6.5](#) without the prior written consent of Expedia. Decolar has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Voyager Tool in whole or in part except to the extent that any reduction of the Voyager Tool to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Voyager Tool with the operation of other software or systems used by Decolar in furtherance of the business arrangement described herein.

**6.5.2** Decolar hereby acknowledges that the Voyager Tool as well as all accompanying materials including training and other supporting documents (together the “**Voyager Materials**”) are the proprietary and confidential property of Expedia and Decolar shall not, without Expedia’s consent, disclose the Voyager Tool or the Voyager Materials as well as the existence and use of it by Decolar in any manner whatsoever, in whole or in part, and shall not be used other than as contemplated by this Agreement. Further, Decolar and its Affiliates will share the Voyager Tool or the Voyager Materials only with those persons within its company (and its advisors) who need to know the Voyager Tool or the Voyager Materials for the purpose of assisting in the performance of this Agreement and who are informed of, and agree to be bound by the terms hereof as if a party to, this Agreement. In addition, access to the Voyager Tool and Voyager Materials shall be limited to those users in receipt of access credentials provided

by Expedia, which shall be strictly for use by the recipient only. Sharing of access credentials is strictly prohibited. Without prejudice to any other rights or remedies available to Expedia or its Affiliates, if Decolar is in material breach of this Section 6.6, Expedia will notify Decolar of such breach and allow Decolar ten days to remedy such breach. In the event that Decolar does not remedy such breach within ten days, Expedia may restrict access to the Voyager Tool and the Voyager Materials with immediate effect. Expedia shall have the right, in its sole discretion, to modify the access levels and permissions with respect to the actions Decolar and its Affiliates are permitted to take in connection with their use of the Voyager Tool.

**6.6 Reservation of Rights.** Each Party reserves all rights not expressly granted herein. As between the Parties: (a) Decolar is the owner of and reserves all right, title and interest in and to any Decolar Platform (other than Expedia's Trademarks and Expedia's Materials therein), the Decolar Travel Solutions, the Decolar API, the Decolar Application, Decolar's Trademarks and all of Decolar's Materials; and (b) Expedia is the owner of and reserves all right, title and interest in and to the Expedia Specifications, the Expedia API, Expedia Travel Solution, Expedia's Trademarks and all Expedia's Materials.

## **7. REPRESENTATIONS, WARRANTIES AND COVENANTS**

**7.1 Mutual Representations and Warranties.** Each Party represents, warrants and covenants to the other Party that:

**7.1.1** it has all necessary corporate or similar power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement;

**7.1.2** the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate or similar action;

**7.1.3** this Agreement constitutes a valid and binding obligation enforceable against it in accordance with its terms (assuming due execution of this Agreement by the other Party), subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles;

**7.1.4** the execution and delivery of this Agreement does not violate any Laws of any jurisdiction or the terms or conditions of any other contracts to which it is a party or by which it is otherwise bound; and

**7.1.5** no approval, order, consent of or filing with any Governmental Authority is required on the part of such Party in connection with its execution and delivery of this Agreement or the performance of its obligations under this Agreement.

### **7.2 Sanctions Regimes.**

**7.2.1** Each of Decolar, Decolar Parent and Guarantors represents and warrants that it is not and will not provide the Expedia Travel Products, or any information related thereto, to any entity incorporated in or resident in a country subject to economic or trade sanctions by the U.S. State Department or U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") the United Nations Security Council, the European Union and her Majesty's Treasury or are listed as a Sanctions Target, except as permitted by law, license or exemption.

**7.2.2** Decolar further agrees that it shall take responsibility for screening individuals and entities with which it intends to engage or otherwise deal in connection with this Agreement

to ensure before dealing with them that such individuals and entities are not Sanctions Targets and to ascertain whether such individuals and entities are listed on OFAC's Sectoral Sanctions Identifications List ("SSI List") and establish and operate a process to do so. Upon Expedia's request, within 30 days, Decolar shall provide information and documents regarding its screening processes and tool, its program for compliance with Sanctions & Trade Controls, and the results of its screening activities to Expedia or Expedia's designated representative for review.

**7.2.3** Any material breach of this Section 7.2 arising from a Travel Booking shall be deemed a material breach of this Agreement, and Expedia may immediately terminate this Agreement unless such breach has been cured within ten (10) days of notice of its occurrence; provided that any notice of violation from OFAC reflecting the misuse of Expedia Travel Products, or other final judgment indicating a breach of this Section 7.2, shall be considered a material breach of this representation unless the result of a voluntary self-disclosure notice by Decolar, Decolar Parent or the Guarantors as soon as practicable following becoming aware of any OFAC violation.

**7.3 Compliance with Laws.** Each Party represents and warrants that it shall comply in all material respects with all Laws, including Privacy Laws, applicable to the performance of such Party's obligations pursuant to this Agreement.

**7.4 EXPEDIA DISCLAIMER.** THE EXPEDIA SPECIFICATIONS, TRAVEL PRODUCTS AND THE EXPEDIA API ARE PROVIDED BY EXPEDIA AND ITS AFFILIATES "AS IS" AND WHERE AVAILABLE, AND NEITHER EXPEDIA NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE SAME. EXPEDIA AND ITS AFFILIATES EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES, OBLIGATIONS AND LIABILITIES ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE EXPEDIA SPECIFICATIONS, THE EXPEDIA API AND THE EXPEDIA TRAVEL PRODUCTS, INCLUDING WITHOUT LIMITATION ANY: (a) IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE; (b) IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; OR (c) IMPLIED WARRANTY OF NON-INFRINGEMENT. Neither Expedia nor any of its Affiliates will have any liability to Decolar or any of its Affiliates or any End User relating to: (a) any failure of the systems of Expedia or its Affiliates or any third party that results in the failure or inability to process a Transaction; (b) the quality of the Expedia Travel Products provided by Travel Supply Providers to Customers; or (c) Decolar's failure to meet its payment obligations.

**7.5 DECOLAR DISCLAIMER.** THE DECOLAR TRAVEL PRODUCTS AND THE DECOLAR API ARE PROVIDED BY DECOLAR AND ITS AFFILIATES "AS IS" AND WHERE AVAILABLE, AND NEITHER DECOLAR NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE SAME. DECOLAR AND ITS AFFILIATES EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES, OBLIGATIONS AND LIABILITIES ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE DECOLAR SPECIFICATIONS, THE DECOLAR API AND THE DECOLAR TRAVEL PRODUCTS, INCLUDING WITHOUT LIMITATION ANY: (a) IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE; (b) IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; OR (c) IMPLIED WARRANTY OF NON-INFRINGEMENT. Neither Decolar nor any of its Affiliates will have any liability to Expedia or any of its Affiliates or any End User relating to: (a) any failure of the systems of Decolar or its Affiliates or any third party that results in the failure or inability to process a Transaction; (b) the quality of the Decolar Travel Products provided by Travel Supply Providers to Customers; or (c) Expedia's failure to meet its payment obligations.

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## 8. COMPLIANCE; PROHIBITED ACTIVITIES; TERMS AND CONDITIONS; ADDITIONAL COVENANTS

**8.1 Licenses and Consents.** Other than to the extent Expedia Travel Products are made available to book in single transactions unrelated to the booking of any other travel product or service, Decolar undertakes and warrants to Expedia that Decolar, and not Expedia or its Affiliates, shall be solely responsible for obtaining and maintaining all licenses, consents and other permissions (each, if any and whether regulatory or otherwise) and all financial security arrangements necessary for the performance of its obligations under this Agreement in respect of bookings of Expedia Travel Products in combination with other travel products and services provided and/or arranged by Decolar or any third party, including as part of a Package. Decolar shall be solely responsible for its own costs of complying with this Section 8.1.

**8.2 Expedia Licenses and Consents.** Other than to the extent Decolar Travel Products are made available to book in single transactions unrelated to the booking of any other travel product or service, Expedia undertakes and warrants to Decolar that Expedia, and not Decolar or its Affiliates, shall be solely responsible for obtaining and maintaining all licenses, consents and other permissions (each, if any and whether regulatory or otherwise) and all financial security arrangements necessary for the performance of its obligations under this Agreement in respect of bookings of Decolar Travel Products in combination with other travel products and services provided and/or arranged by Expedia or any third party, including as part of a Package. Expedia shall be solely responsible for its own costs of complying with this Section 8.2.

**8.3 Prohibited Activities.** Decolar covenants that during the Term of this Agreement, it will not: (a) send unsolicited bulk e-mail or engage in other unethical or illegal marketing activities; (b) place material on any site linked to any site of Expedia that is inappropriate for general and family viewing (*e.g.*, sexually explicit materials, materials advocating violence or hatred, or any material the display of which may be unlawful in any state); or (c) mislead or misrepresent to consumers as to the origin, affiliation or nature of its Websites, products or services. Decolar will allow and will take reasonable steps to prevent any direct or indirect extraction, repurposing and/or aggregation of the Travel Product data made available to Decolar under this Agreement (*e.g.*, inclusion of Travel Product data in consolidated third party search results) without the prior written consent of Expedia. Decolar will not, without written consent from Expedia, use, publish or display any data, materials or other content from any Website owned or operated by Expedia or its Affiliates which is not received through the Expedia API.

### 8.4 Restrictions.

**8.4.1 Decolar Restrictions.** From and after the date of this Agreement, the following restrictions shall apply to Decolar.

(a) **Predatory Advertising.** Decolar will not use and will prohibit the use of Decolar Predatory advertising methods in connection with the operation or promotion of the Decolar Platform, any Decolar Travel Solution(s) and the Decolar Application. “**Decolar Predatory**” advertising means any method that creates or overlays links or banners on Websites, mobile devices, social media or any other channel through which the Decolar Application allows access to the Expedia Travel Product (each a “**Decolar Channel**”), spawns browser windows, or any method invented to generate traffic from a Decolar Channel without that Decolar Channel owner’s knowledge, permission, and participation (*e.g.*, keyword parsing browser plugins such as TopText and +Surf, banner replacement technology such as Gator, browser spawning technology that is not Website dependent).

(b) **Restrictions on Online Use and Keyword Advertising.** Decolar represents and warrants to Expedia that except for the limited, personal right to use Expedia’s Trademarks



as set forth in this Agreement, or according to applicable Law, Decolar shall not register, display or use in any context or manner (directly or indirectly), any Expedia Trademark (including, without limitation, any misspelling, variant, translation, transliteration or script substantially similar or confusingly similar thereto), in any manner whatsoever (including without limitation, in any search engine marketing or optimization, in any domain name, social media handle, any other online/offline marketing, promotional activities or advertising, press releases, etc.) without first obtaining prior written approval from Expedia. Without limiting the foregoing, Decolar shall not engage in any paid marketing or promotional activities that have as their purpose to intentionally and knowingly divert customers or traffic specifically from Expedia or its Affiliates, and Decolar will not bid on any names that are present in URLs or Trademarks owned or used by Expedia or its Affiliates or any Expedia Travel Supply Provider, in each case in respect of the following brand names (and any other Expedia or affiliated brand names notified to you from time to time): “Expedia”, “Expedia.co”, “Expedia.com”, “hotels.com”, “hoteles.com”, “hotel.com”, “hotels.co”, “hotel.co”, “venere”, “venere.com”, “hotwire”, “hotwire.com”, “egencia”, “trivago”, “carrentals.com”, “travelnow.com”, “condosavers.com”, “orlando.com” and “vacationspot.com” (and any misspelling or substantially similar or confusingly similar version thereof) for placement in any cost per click search engine or other search engine, search marketing platform, social media platform, or mobile applications’ digital distribution platform in which listing order or display is determined by payment to the search engine or other third party. Further, Decolar will not use any Trademarks or names that are present in URLs owned by Expedia or its Affiliates, in each case in respect of the following brand names: “Expedia”, “Expedia.co”, “Expedia.com”, “hotels.com”, “hoteles.com”, “hotel.com”, “hotels.co”, “hotel.co”, “venere”, “venere.com”, “hotwire”, “hotwire.com”, “egencia”, “trivago”, “carrentals.com”, “travelnow.com”, “condosavers.com”, “orlando.com” and “vacationspot.com”, “airasia”, “travelocity”, “orbitz”, “cheaptickets”, “ebookers”, “wotif”, “homeaway.com”, “VRBO”, “VacationRentals.com”, “Homelidays”, “Ownersdirect”, “Abritel HomeAway”, “FeWo-direkt”, “Toprural”, “bookabach”, “Stayz”, “travelmob” and “Alugue Temporada” (and any misspelling or substantially similar or confusingly similar version thereof), in keyword meta tags on any pages of the Decolar Website(s) or any other Websites or channels owned and/or operated by Decolar. If Expedia or its Affiliates receive a request from its or their suppliers requesting that Decolar cease bidding on a supplier Trademark or name or names present in a URL owned by such supplier, then Decolar will, at the request of Expedia, either (i) cease bidding upon such name or names or (ii) cease sourcing supplier’s inventory from Expedia and notify Expedia in writing of the same (it being agreed that such cessation shall in no way affect Decolar’s obligations and restrictions under this Agreement).

(c) **Third Parties.** Decolar’s rights hereunder are subject in all respects to the terms of any agreement or other arrangement between Expedia or its applicable Affiliates, on the one hand, and any third-party supplier (e.g., travel supply provider, technology provider, or service provider), and Decolar shall comply with the terms of such agreement to the extent Expedia communicates to Decolar in advance such terms or restrictions contained in such agreement or the general principles underlying such terms or restrictions with reasonable specificity for purposes of allowing Decolar to comply therewith. The Parties will cooperate to enable Expedia to communicate the restrictions set forth in such agreements or the general principles underlying such terms and restrictions to Decolar and to enable the Parties to address any issues of non-compliance by Decolar with such agreements. To the extent Decolar or any of its Affiliates or representatives breach any term or restriction of any agreement or arrangement to which the first sentence of this Section 8.4.1 applies, Expedia and its Affiliates shall have the right to immediately suspend that feature or other aspect of the services to which such breach relates until such time as the breach is cured or is otherwise addressed to the reasonable satisfaction of Expedia, upon which (to the extent permitted by the applicable contract) Expedia shall promptly restore the feature or other aspect of the service.

(d) **Booking Holdings Group.** Notwithstanding anything to the contrary in this Agreement, prior to the Initial Offering (as defined in the Investors’ Rights Agreement) and

until the date that is the third (3<sup>rd</sup>) anniversary of the closing of the Initial Offering (as defined in the Investors' Rights Agreement), no Restricted Party (as defined in the Investors' Rights Agreement) shall (by amendment, merger, consolidation or otherwise), without first obtaining the approval of Expedia Parent, enter into any commercial arrangement, Contract (as defined in the Investors' Rights Agreement), financing arrangement, business combination, partnership, joint venture or any other strategic transaction or arrangement whatsoever with the Booking Holdings Group, or directly or indirectly receive the benefit of, or access to, any Contract, transaction or arrangement that any third party may have with the Booking Holdings Group which has the effect of circumventing the restrictions set forth in this Section 8.4.1(d). None of Decolar Parent, any Subsidiary or controlled Affiliate thereof shall take any actions, or fail to take any action, which would reasonably be expected to conflict with or frustrate the purpose and intent of this Section 8.4.1(d). This obligations under this Section 8.4.1(d) shall not survive the termination of this Agreement.

(e) **Customers.** Decolar shall not misrepresent who Decolar is acting for when contacting customers including (as an example only) leading customers to believe that it is directly connected to any Travel Supply Provider. Decolar shall not make or allow Travel Bookings other than in response to a specific request by a customer. Decolar also acknowledges that any Travel Booking is between the customer and the Travel Supply Provider, and may not be cancelled or otherwise amended without the consent of the serviced customer. In addition, Decolar acknowledges that Travel Bookings of more than 8 rooms (unless otherwise stated) with the same Travel Supply Provider for the same stay dates (a "**Group Booking**") may not be made by Decolar, or customers via the Expedia API. In the event a customer requires a Group Booking, Decolar will notify Expedia and follow its relevant process. Any Group Booking made in breach of this clause may be cancelled by Expedia and any applicable cancellation fees will be applied.

**8.4.2 Expedia Restrictions.** From and after the date of this Agreement, the following restrictions shall apply to Expedia.

(a) **Restrictions on Online Use and Keyword Advertising.** Expedia represents and warrants to Decolar that except for the limited, personal right to use Decolar's Trademarks as set forth in this Agreement, or according to applicable Law, Expedia shall not register, display or use in any context or manner (directly or indirectly), the Decolar Trademarks (including, without limitation, any misspelling, variant, translation, transliteration or script substantial similar or confusingly similar thereto), in any manner whatsoever (including without limitation, in any search engine marketing or optimization, in any domain name, social media handle, any other online/offline marketing, promotional activities or advertising, press releases, etc.) without first obtaining prior written approval from Decolar. Without limiting the foregoing, Expedia shall not engage in any paid marketing or promotional activities that have as their purpose to intentionally and knowingly divert customers or traffic specifically from Decolar or its Affiliates, and Expedia will not bid on any names that are present in URLs or Trademarks owned or used by Decolar or its Affiliates or any Decolar Travel Supply Provider, in each case in respect of the following brand names (and any other Decolar or its Affiliates' brand names notified to you from time to time): "Despegar", "Despegar.com"; "Decolar", "Decolar.com", "Viajes Falabella", "Viajes Falabella.com" and all related domain extensions (including, without limitation, any misspelling or substantially similar or confusingly similar version thereof), for placement in any cost per click search engine or other search engine, search marketing platform, social media platform, or mobile applications' digital distribution platform in which listing order or display is determined by payment to the search engine or other third party. Further, Expedia will not use any Trademarks or names that are present in URLs owned by Decolar or its Affiliates, in each case in respect of the following brand names (and any other Decolar or its Affiliates' brand names notified to you from time to time): "Despegar", "Despegar.com"; "Decolar", "Decolar.com", "Viajes Falabella", "Viajes Falabella.com" and all related domain extensions (including, without limitation, any misspelling or substantially similar or confusingly similar version thereof), in keyword meta tags on any pages of the Expedia Website(s) or any other Websites or channels owned and/or

operated by Expedia. If Decolar or its Affiliates receive a request from its or their suppliers requesting that Expedia cease bidding on a supplier Trademark or name or names present in a URL owned by such supplier, then Expedia will, at the request of Decolar, either (i) cease bidding upon such name or names or (ii) cease sourcing supplier's inventory from Expedia and notify Decolar of such in writing.

**8.5 Packages and Room Rates.** The provisions of Schedule 8.5 shall apply to Packages and use of Room Rates.

**8.6 Expedia Terms and Conditions.** In connection with the making available of and booking of the Expedia Travel Products by End Users via the Expedia API on or to a Decolar Travel Solution or through the Decolar Application or Decolar Platform, Decolar undertakes that the following terms and conditions will be reflected in the terms and conditions or privacy policy (as applicable) under which Decolar will make available the Expedia Travel Products to the End Users via any Decolar Travel Solution or through the Decolar Application or Decolar Platform.

(a) Cancellation Policy. The End User agrees that the accommodation booking made is subject to the cancellation policy set out in the booking page.

(b) Contracting Party. Save as set out below, the End User acknowledges and agrees that: (1) Travelscape, LLC or Vacationspot, SL (or any other Affiliate as we designate) shall be treated by any Tax authority in any pertinent jurisdiction as is the supplier to the End User in respect of an Affiliate-Collect Booking or Expedia-Sourced Travel Booking and the accommodation component of a Package for VAT (Value Added Tax) purposes as applied by Directive 2006/112/EC (where applicable); and (2) the applicable Travel Supply Provider is the supplier to the End User in respect of a Property-Collect Booking. With respect to (1) only and with respect to End Users located in Brazil and travelling within Brazil, Travelscape, LLC acts as a facilitator of the booking of the Expedia Travel Product, and the Travel Supply Provider is the supplier to the End User.

(c) Personal Data. The End User agrees that Decolar may transfer personal data belonging to the customer and other persons on behalf of whom the customer is making a booking of Expedia Travel Products to Expedia and/or its Affiliates for the purposes of facilitating the booking and providing after sales support (if any) of those Expedia Travel Products. These companies may be based outside of the country in which the End User resides and/or the country in which the information is collected and may not have the equivalent data protection standards to those where the information is originally located.

(d) Decolar will ensure that End Users will be informed about the applicable terms and conditions for exemptions of Travel Taxes, in countries that provide an exemption of such taxes for foreign tourists. Furthermore, Decolar will ensure the customer is informed that additional Travel Taxes may be charged separately by the Travel Supplier at the time of check-out if the End User does not satisfy all conditions for the provision of said exemption.

**8.7 Decolar Terms and Conditions.** In connection with the making available of and booking of the Decolar Travel Products by End Users via the Decolar API and Expedia Application, Expedia undertakes that the cancellation policy terms and conditions will substantially be reflected in the terms and conditions and privacy policy (as applicable) under which Expedia will make available the Decolar Travel Products to the End Users via any Expedia Platform. Expedia will be solely liable for any variation between the cancellation policies provided to Expedia by Decolar and those that are offered by Expedia to the End Users or displayed on the Expedia Platform.

**8.8 Insurance.** Decolar agrees to obtain as soon as reasonably practicable following the date of this Agreement, and in any event to obtain no later than ninety (90) days, to the extent it is commercially reasonable to do so, customary casualty insurance coverage in effect in respect of its operations in an amount that is consistent with best industry practice. Such insurance shall include cyber liability coverage, at limit not less than US \$500,000 in aggregate. Once obtained, Decolar shall maintain such insurance coverage during the Term, and to the extent permitted by Law, Decolar shall (i) name Expedia as an additional insured on any liability insurance policies on which it pays premiums, and deliver to Expedia certificates of insurance that verify compliance with the preceding clause, or (ii) provide other evidence of insurance acceptable to Expedia in its sole discretion that indicates that Expedia will be covered by their insurance in the event of a claim relating to this Agreement.

**8.9 Expedia Actions.** Expedia Parent agrees to take all necessary actions to cause Expedia to perform its obligations under this Agreement. To the extent that Expedia is the beneficiary of any obligation under this Agreement, it shall be an express third-party beneficiary hereof and shall have the right to enforce the obligations owed to it hereunder.

## **9. INDEMNIFICATION**

**9.1 Indemnification by Expedia.** Expedia Parent shall indemnify, defend and hold harmless Decolar, its Affiliates and its and their respective directors, officers, employees, agents, subcontractors and assigns (collectively, the “**Decolar Indemnified Parties**”) from and against any and all claims, suits, actions, demands, and proceedings of any kind threatened, asserted or filed by any third Person (collectively “**Claims**”) against any Decolar Indemnified Party and any damages, losses, expenses, liabilities or costs of any kind (including reasonable legal fees, witness fees and court costs) incurred in connection with such Claims, arising out of or relating to:

**9.1.1** any infringement or misappropriation, or alleged infringement or misappropriation, of any Intellectual Property Right of a third Person arising from Decolar’s or Expedia’s use, sale, display, performance, distribution, or other exploitation of the Expedia Travel Products or Expedia Trademarks, including the rights and licenses granted under Section 6 hereof;

**9.1.2** any breach by Expedia of its representations and warranties under Section 7.1 or 7.3;

**9.1.3** any contracts or arrangements between any third Person and Expedia and any of its Affiliates, including any breach or alleged breach of the terms or conditions of such contracts and/or arrangements;

**9.1.4** any display or use of the Decolar Travel Products that is not in accordance with the terms of this Agreement or in compliance with Laws;

**9.1.5** any gross negligence, willful misconduct, or other acts or omissions of Expedia or its Affiliates; and

**9.1.6** any liabilities of Expedia for Taxes and Unclaimed Property Liabilities, including any liabilities for Taxes and Unclaimed Property Liabilities for which Expedia is responsible pursuant to the terms of this Agreement, but excluding any liabilities for Taxes and Unclaimed Property Liabilities for which Decolar is responsible pursuant to this Agreement.

**9.2 Indemnification by Decolar.** Decolar Parent shall indemnify, defend and hold harmless Expedia, its Affiliates and its and their respective directors, officers, employees, agents,

subcontractors and assigns (collectively, the “**Expedia Indemnified Parties**”) from and against any and all Claims against any Expedia Indemnified Party and any damages, losses, expenses, liabilities or costs of any kind (including reasonable legal fees, witness fees and court costs) incurred in connection with such Claims, arising out of or relating to Expedia:

**9.2.1** any infringement or misappropriation, or alleged infringement or misappropriation, of any Intellectual Property Right of a third Person arising from Expedia’s use, sale, display, performance, distribution, or other exploitation of the Decolar Travel Products and Decolar Trademarks, including the rights and licenses granted under Section 6 hereof;

**9.2.2** any breach by Decolar of its representations and warranties under Section 7.1, 7.2 or 7.3;

**9.2.3** any breach by Decolar, its Affiliates or any third party to which Decolar is allowed to redistribute Expedia Travel Products, of the terms of its third party or Expedia’s Travel Supply Providers’ supplier contracts;

**9.2.4** any display or use of the Expedia Information or the Expedia Travel Products that is not in accordance with the terms of this Agreement or in compliance with Laws;

**9.2.5** any gross negligence, willful misconduct, or other acts or omissions of Decolar or its Affiliates;

**9.2.6** any liabilities of Decolar for Taxes and Unclaimed Property Liabilities, including any liabilities for Taxes and Unclaimed Property Liabilities for which Decolar is responsible pursuant to the terms of this Agreement, but excluding any liabilities for Taxes and Unclaimed Property Liabilities for which Expedia is responsible pursuant to this Agreement; and

**9.2.7** any breach by Decolar or its Affiliates, or any third party to which Decolar is allowed to redistribute Expedia Travel Products, of the terms set forth in Section 8.

**9.3 Process.** If either Party seeks indemnification (the “**Indemnified Party**”) from the other Party (the “**Indemnifying Party**”) pursuant to Section 9.1 or Section 9.2, as applicable, the Indemnified Party shall: (a) give prompt written notice to the Indemnifying Party of the Claim; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 9 except to the extent that it has been materially prejudiced by such failure; and (b) grant to the Indemnifying Party sole control of the defense or settlement of such Claim; provided, however, that (x) Expedia Parent shall control any Claims relating to Expedia Travel Solution Taxes, any additional Taxes imposed on or payable by Expedia or any of its Affiliates arising out of failure by Decolar, with respect to any Expedia-Sourced Travel Bookings booked after the date of this Agreement, to display Taxes as provided by Expedia in accordance with Section 6.1, Expedia Incremental Taxes and Expedia Travel Unclaimed Property Liabilities and shall keep Decolar reasonably informed about material developments with respect to such Claims as reasonably requested by Decolar and (y) except with respect to Claims relating to Taxes described in clause (x) above, the Indemnifying Party shall not settle any Claim without the Indemnified Party’s prior written approval (not to be unreasonably withheld) where such settlement would involve an admission of wrongdoing by or result in continuing liability for the Claim on the Indemnified Party. The Indemnified Party shall, at the Indemnifying Party’s expense, reasonably cooperate with the Indemnifying Party in the provision of any information or assistance reasonably requested by the Indemnifying Party. The Indemnifying Party shall keep the Indemnified Party advised of the status of any such Claim and of its defense or settlement negotiation efforts, and shall afford the Indemnified Party a reasonable opportunity to review and comment on significant actions planned to be taken by the

Indemnifying Party on behalf of the Indemnified Party. The Indemnified Party shall have the right to select its own counsel to participate at its own expense in any such defense without waiving the indemnification provided by the Indemnifying Party; provided, however, that the Indemnifying Party retains sole control of the defense and, solely with respect to the payment of monetary amounts and not with respect to any admission of liability or other requirement, the settlement of such Claim to the extent covered by the indemnification provided herein.

#### **9.4 Travel Solution Taxes.**

**9.4.1** For any Expedia-Sourced Travel Bookings booked after the date of this Agreement, the Parties agree and acknowledge that (i) all Expedia Travel Solution Taxes shall be borne by Decolar in the same proportion as the Marketing Fee (not taking into account any reduction pursuant to Section 9.4.2, any right of set-off or otherwise) bears to Gross Profit and (ii) all Expedia Incremental Taxes that are Travel Solution Taxes will be borne solely by Decolar. Notwithstanding anything to the contrary in this Agreement, including other subsections of this Section 9, (a) neither Party shall be required to indemnify, defend or hold harmless the other Party or its Affiliates or its and their respective directors, officers, employees, agents, subcontractors and assigns for Travel Taxes (including Expedia Travel Solution Taxes) or Losses related to Travel Taxes except pursuant to Section 9.1.6, Section 9.2.4, Section 9.2.6 and this Section 9.4, and (b) the indemnity obligations of the Parties with respect to Travel Taxes are subject to this Section 9.4.1.

#### **9.4.2 Payments.**

(a) Decolar's share of any and all Expedia Travel Solution Taxes, and any and all Expedia Incremental Taxes that are Travel Solution Taxes, in each case, no matter when incurred, assessed or otherwise paid, will be taken into account in determining, and will reduce, the Marketing Fees paid to Decolar pursuant to Section 3.2; provided that, for the avoidance of doubt, Decolar will not also have to pay any such Expedia Travel Solution Taxes or Expedia Incremental Taxes that are Travel Solution Taxes (to the extent taken into account to reduce the Marketing Fees paid to Decolar) directly to a taxing authority.

(b) Each Party will be responsible for Travel Taxes (not including Expedia Travel Solution Taxes and Expedia Incremental Taxes) with respect to its own bookings and shall indemnify the other Party for such non-Expedia Travel Solution/Incremental Travel Taxes.

**9.4.3** Except as set forth in this Section 9.4.3, each of the Parties is responsible for defending Claims against it or its Affiliates for Travel Taxes that are not Expedia Travel Solution Taxes or Expedia Incremental Taxes. Each Party is also responsible for defending Claims filed against it before the date of this Agreement. If, after the date of this Agreement, a Claim is filed against Decolar (i) that includes Expedia Travel Solution Taxes and other Travel Taxes (including with respect to bookings of Decolar made after the Term), Decolar is responsible for defending that Claim to the extent it relates to such other Travel Taxes, and Expedia is responsible for defending that Claim to the extent it relates to Expedia Travel Solution Taxes, or (ii) that includes Expedia Incremental Taxes and other Travel Taxes (including with respect to bookings of Decolar made after the Term), Decolar is responsible for defending that Claim to the extent it relates to such other Travel Taxes and Expedia is responsible for defending that Claim to the extent it relates to Expedia Incremental Taxes, or (iii) solely with respect to bookings of Decolar other than Transactions (and not relating to any Expedia Travel Solution Taxes or Expedia Incremental Taxes), Decolar is responsible for defending that Claim. For the avoidance of doubt and notwithstanding anything herein to the contrary, Expedia shall have the sole right to control the conduct of any Claim (or portion thereof) in respect of or relating to Expedia Travel Solution Taxes or Expedia Incremental Taxes and any Claim filed against Expedia or any of its Affiliates. Subject to the cost-sharing

provisions set forth in Section 9.4.4, the Party responsible for defending the Claim will bear the cost and expenses of defending that Claim. The Parties will cooperate with each other to provide all transaction, data, contracts with third-party suppliers and other information with respect to relevant bookings.

**9.4.4** Each Party shall provide prompt notice and a copy of any communications received from a Governmental Authority to the other Party with respect to any audit or inquiry by a Governmental Authority, or other contest with respect to any Expedia Travel Solution Tax, any additional Taxes imposed on or payable by Expedia or any of its Affiliates arising out of failure by Decolar, with respect to any Expedia-Sourced Travel Bookings booked after the date of this Agreement, to display Taxes as provided by Expedia in accordance with Section 6.1 or Expedia Incremental Tax. Decolar will not correspond with any Governmental Authority in relation to any Expedia Travel Solution Tax, any additional Taxes imposed on or payable by Expedia or any of its Affiliates arising out of failure by Decolar, with respect to any Expedia-Sourced Travel Bookings booked after the date of this Agreement, to display Taxes as provided by Expedia in accordance with Section 6.1, or Expedia Incremental Tax without first consulting with Expedia, including allowing Expedia to review and comment on such correspondence and to make any amendments that Expedia reasonably requires, to the extent permitted by applicable law. Expedia will provide you with such information as Decolar reasonably requires for the purposes of such correspondence. Notwithstanding anything to the contrary contained herein, (i) if, pursuant to Section 9.4.3, Expedia is responsible for defending and controlling a Claim that includes only Expedia Travel Solution Taxes, then Decolar will be financially responsible for the costs and expenses incurred by Expedia in connection with such Claim in the same proportion as the Marketing Fee paid to Decolar for the periods to which such Expedia Travel Solution Taxes relate (not taking into account any reduction pursuant to Section 9.4.2, any right of set-off or otherwise) bears to Gross Profit for the periods to which such Expedia Travel Solution Taxes relate and (ii) if, pursuant to Section 9.4.3, Expedia is responsible for defending and controlling a Claim that includes both Transactions and bookings other than Transactions, then each Party will be financially responsible for the percentage of the costs and expenses incurred by Expedia equal to the quotient of (x) the number of such Party's bookings other than Transactions for the period at issue in such contest, (y) divided by the total number of Transactions and bookings other than Transactions at issue in such contest for the same period. In addition, Decolar shall also pay a portion of the costs and expenses incurred by Expedia related to defending the portion of any such Claim that relates to Transactions. The amount of such additional costs and expenses to be paid by Decolar will be an amount equal to (x) the quotient of (i) the total number of Transactions for the period at issue in such contest, divided by (ii) the total number of Transactions and bookings other than Transactions at issue in such contest for the same period, (y) multiplied by the percentage obtained by dividing the Marketing Fee paid to Decolar with respect to the same period by the Gross Profit with respect to such period, (z) multiplied by the costs and expenses incurred by Expedia. Notwithstanding any of the foregoing or anything else herein to the contrary, Decolar shall be financially responsible for any and all costs and expenses incurred by Expedia relating to the defense and conduct of any Claim (or portion thereof) that relates to Expedia Incremental Taxes (and the application of the foregoing provisions of this Section 9.4.4 shall be appropriately modified to give effect to this sentence). Any reimbursement of legal fees to be paid by one Party to the other Party pursuant to this Section 9.4.4 shall be paid within thirty (30) days of receiving a copy of the invoices provided to the controlling party for such fees and confirmation from the controlling party that it is required to pay such fees.

**9.4.5** The Parties acknowledge and agree that Expedia shall determine, in its discretion, the amount of, and any requirements to withhold, collect or remit, any Expedia Travel Solution Taxes and any Expedia Incremental Taxes and shall take all actions it deems necessary or appropriate in connection therewith. Subject to the preceding sentence, Decolar (or its relevant Affiliate) shall collect any and all Expedia Travel Solution Taxes and Expedia Incremental Taxes (in its capacity as Merchant of Record), prepare and timely file all Tax Returns required to be filed by Decolar or its relevant Affiliate to any Expedia Travel Solution Taxes or Expedia Incremental Taxes and timely remit the Taxes shown as due

on such Tax Returns. If Decolar is required by Law to file any such Tax Returns, subject to the first sentence of this Section 9.4.5, the Parties shall cooperate in good faith and in a commercially reasonable manner to determine the appropriate course of action. The Parties shall cooperate with each other to the extent reasonably requested and legally permitted to minimize any Expedia Travel Solution Taxes or Expedia Incremental Taxes.

**9.4.6** Notwithstanding anything herein to the contrary, Decolar shall not be entitled to control the defense or settlement of any Claim relating to Expedia Travel Solution Taxes, Expedia Incremental Taxes or Expedia Travel Unclaimed Property Liabilities, or, unless required by applicable Law, participate in the defense of such Claim. With respect to any liability or potential liability for Expedia Travel Solution Taxes, Expedia Incremental Taxes or Expedia Travel Unclaimed Property Liabilities (and, in each case, any Losses relating thereto) for which Expedia has established a reserve pursuant to FASB Accounting Standards Codification 450, or any successor thereto, as amended or revised from time to time, in accordance with the Accounting Policies and Procedures (a “**Reserved Liability**”), Decolar shall not be entitled to dispute, except pursuant to the audit rights provided under Section 3.4 of this Agreement, the amount of its share of such Expedia Travel Solution Taxes, Expedia Incremental Taxes or Expedia Travel Unclaimed Property Liabilities determined by Expedia pursuant to this Section 9.4.6 or Section 12.2 relating to such Reserved Liability. As soon as commercially practicable after the end of each fiscal quarter, Expedia shall inform Decolar of the aggregate amount of any Reserved Liabilities, as well as the aggregate amount of any Reserved Liabilities that have been released. Notwithstanding anything to the contrary in this Agreement, none of Expedia, its Affiliates or its Representatives shall be required to disclose any information relating to the foregoing to Decolar, its Affiliates, its Representatives or any other third party if such disclosure would, on advice of Expedia’s counsel: (x) jeopardize any attorney-client or other privilege; or (y) contravene any applicable Law, fiduciary duty or binding agreement. Upon Expedia’s reasonable request in connection with any audit of Expedia’s financial statements, Decolar will confirm in writing its liability for its share of any Expedia Travel Solution Taxes, Expedia Incremental Taxes and Expedia Travel Unclaimed Property Liabilities (and in each case, any Losses relating thereto) determined by Expedia pursuant to this Section 9.4.6 or Section 12.2 relating to any such Reserved Liability. Decolar’s liability for its share of any Expedia Travel Solution Taxes, Expedia Incremental Taxes and Expedia Travel Unclaimed Property Liabilities (and, in each case, any Losses relating thereto) shall survive the termination of this Agreement. Without limiting Expedia’s rights pursuant to this Section 9 or Section 12, with respect to any Reserved Liability, Decolar will pay its share of such Expedia Travel Solution Taxes, Expedia Incremental Taxes and Expedia Travel Unclaimed Property Liabilities (and, in each case, any Losses relating thereto) within ten (10) days of written notice of a Final Determination with respect to such Reserved Liability, regardless of whether such Final Determination occurs before or after termination of this Agreement; provided, however, that Decolar shall not be required to pay any amount pursuant to this Section 9.4.6 until such time as Expedia is actually required to pay such Taxes to the relevant Governmental Authority. Nothing in this Section 9.4.6 shall be interpreted as limiting Expedia’s rights under this Agreement to reduce, or offset any amounts against, the Marketing Fee Payable to Decolar. For the avoidance of doubt, this Agreement, including this Section 9.4.6, except as otherwise provided in Section 9.4.3, allows Decolar to control the defense or settlement of any Claim relating to bookings of Decolar that are not Transactions, whether made prior to, during or after the Term.

## **10. LIMITATION OF LIABILITY**

**10.1 Disclaimer of Consequential Damages.** IN NO EVENT WILL ANY PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY NATURE, INCLUDING FOR ANY LOST REVENUE OR LOST PROFITS OR ANY COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND



REGARDLESS OF WHETHER SUCH LIABILITY ARISES IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY; PROVIDED, HOWEVER, THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 10 SHALL NOT APPLY TO ANY LIABILITY OF A PARTY ARISING FROM (a) SUCH PARTY'S FRAUD, INTENTIONAL MISREPRESENTATION, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (b) AN AWARD OF DAMAGES AGAINST AN INDEMNIFIED PARTY IN CONNECTION WITH A THIRD-PARTY CLAIM OR (c) ANY AMOUNT OF DAMAGES SPECIFICALLY PROVIDED FOR IN THIS AGREEMENT. THE TOTAL AGGREGATE LIABILITY OF EXPEDIA FOR ALL CLAIMS ARISING IN CONTRACT, EQUITY OR OTHERWISE (INCLUDING, WITHOUT LIMITATION, BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT) ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE GREATER OF: (A) THE TOTAL MARKETING FEES PAID OR PAYABLE BY EXPEDIA TO DECOLAR UNDER THIS AGREEMENT IN THE MOST RECENT TWELVE (12) MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY; AND (B) ONE-HUNDRED THOUSAND DOLLARS (\$100,000).

## 11. TERM AND TERMINATION

**11.1 Term.** The initial term of this Agreement will commence on the date of this Agreement and will continue until terminated in accordance with its terms (the "**Term**").

### 11.2 Termination.

**11.2.1 Mutual Termination.** This Agreement may be terminated at any time by the mutual written consent of Expedia and Decolar.

**11.2.2 Termination by Decolar.** This agreement may be terminated by Decolar by providing written notice of such termination to Expedia in the following circumstances:

(a) **Transaction Shares.** On or after the first date on which Expedia or any of its Affiliates ceases, collectively, to hold all of the Transaction Shares, unless the disposition of such Transaction Shares was (i) approved by a majority of the Decolar board of directors that were not designated by Expedia, (ii) involuntary or (iii) the result of an action taken by Decolar or any of its Affiliates (e.g., a stock buyback, reverse stock split, merger, share exchange or other transaction resulting in the change in form of the Transaction Shares).

(b) **Obligations under Other Transaction Agreements.** If Expedia or any of its Affiliates materially breaches its obligation under Section 3.14 of the Investors' Rights Agreement, which such breach is not cured within 60 days' written notice.

(c) **Seventh Anniversary.** On or after March 6, 2022, being the seventh anniversary of this Agreement prior to any amendment and restatement if concurrently with such termination Decolar pays, or causes to be paid to Expedia by wire transfer of immediately available funds, an amount equal to \$125 million.

(d) **Minimum Service Level.** The Expedia API is at all times non-responsive to the Decolar Application for a period of three consecutive months.

(e) **Material Breach.** If Expedia materially breaches or defaults in the performance of, or fails to perform in a material manner, any of the following obligations, and such default is not remedied within thirty (30) days of the receipt of written notice from Decolar:

- (i) the obligation to make any payment when due hereunder.

**11.2.3 Termination by Expedia.** This agreement may be terminated by Expedia by providing written notice of such termination (specifying the date on which such termination is to occur) to Decolar in the following circumstances:

(a) **Obligations under Other Transaction Agreements.** If Decolar or any of its Affiliates materially breaches its obligations under any other Transaction Agreement (it being agreed that any breach of Section 3.7(b) of the Investors' Rights Agreement shall be deemed to be material).

(b) **Minimum Bookings.** If there occurs a Bookings Shortfall of more than 10% by Decolar in three (3) consecutive months or in any three (3) months within a six (6)-month period.

(c) **Change of Control of Decolar.** If a Change of Control occurs, provided that for the purposes of this Section 11.2.3(c), the date specified in the written notice of termination shall occur no sooner than three (3) months after the date that such Change of Control occurs, and after such termination, Expedia shall consider reasonable extensions of such date up to an aggregate of six (6) months from the date of the termination notice to provide additional time for the integration of a new lodging supplier (any such period which this Agreement continues pursuant to this Section 11.2.3(c), the "**Transition Term**"); provided, further, that if Expedia terminates this Agreement pursuant to this Section 11.2.3(c), then during the Transition Term and any time thereafter, (i) Decolar shall not disclose, make available or otherwise provide any Expedia Customer Personal Data, or any analytics derived therefrom, to any Strategic Party, any direct or indirect Affiliate of a Strategic Party, or their respective directors, employees, managers or representatives; and (ii) any Strategic Party that acquires Decolar will have no right to modify, amend or otherwise revise any of the terms of this Agreement.

(d) **Marketing Fees.** If the Marketing Fees payable by Expedia are less than \$5 million over a six (6)-month period.

(e) **Material Breach.** If Decolar materially defaults in the performance of, or fails to perform in a material manner, any of the following obligations, and such default is not remedied within thirty (30) days of the receipt of written notice from Decolar:

- (i) the obligation to make any payment when due hereunder;
- (ii) the obligation that Decolar's representation set forth in Section 7.2 (Sanctions Regimes) be true and correct; and
- (iii) the obligations under Section 6.1, Section 8.1, Section 8.3, Section 8.4(d), Section 8.6 and Section 8.8.

### **11.3 Effect of Termination; Survival.**

**11.3.1** Upon the expiration of the Term, the obligations of the Parties hereunder shall terminate and there shall be no liability on the part of any Party with respect thereto, except (a) any provision which expressly or by its nature survives termination of this Agreement shall survive such termination of this Agreement, and (b) no termination of this Agreement shall relieve any Party of any liability for damages from a material breach prior to such termination.

**11.3.2** If this Agreement is terminated by Expedia pursuant to Sections 11.2.3 (a), (b), (d) or (e), then Expedia may, in its sole and absolute discretion, by providing notice thereof in connection with such termination, in lieu of seeking its available remedies at Law or equity, require Decolar to pay, or caused to be paid, to Expedia by wire transfer of immediately available funds, an amount equal to \$125 million. Decolar agrees that the agreements in this Section 11.3 are an integral part of this Agreement, and that, without these agreements, Expedia would not enter into this Agreement. Accordingly, if Decolar fails promptly to pay the amount due under this Section 11.3.2 and, in order to obtain such payment, Expedia commences a suit that results in a judgment against Decolar for such amounts, Decolar shall pay interest on such amounts from the date the payment of such amounts was due to the date of actual payment at the Interest Rate in effect on the date such payment was due, together with the reasonable expenses of Expedia in connection with such suit.

## **12. TAXES**

**12.1 Transaction Taxes on Payments Between the Parties.** Notwithstanding any provision in this Agreement to the contrary:

**12.1.1 Transaction Tax Responsibility.** Decolar shall be responsible for, and shall pay when due (as Decolar shall determine in its reasonable discretion are required to be paid under applicable Law), any Transaction Taxes incurred with respect to any amounts payable or deemed payable to Decolar pursuant to this Agreement and all related Losses. Notwithstanding anything to the contrary herein and for the avoidance of doubt, all sums payable or deemed to be payable by Expedia to Decolar pursuant to this Agreement shall be deemed to be inclusive of any Transaction Taxes. Subject to Section 12.1.3, (i) Expedia shall be responsible for, and shall pay when due (as Expedia shall determine in its reasonable discretion are required to be paid under applicable Law), any Transaction Taxes incurred with respect to any amounts payable or deemed payable to Expedia pursuant to this Agreement and all related Losses and (ii) for the avoidance of doubt, all sums payable or deemed to be payable by Decolar to Expedia pursuant to this Agreement shall be deemed to be inclusive of any Transaction Taxes.

**12.1.2 Transaction Tax Returns.** Each Party shall prepare and timely file, at such Party's own expense, all required U.S. federal, state, local and non-U.S. returns, estimates, information statements and reports ("**Tax Returns**") related to any Transaction Taxes and, subject to Section 12.1.1, shall timely pay the Transaction Taxes shown as due on such Tax Returns, which filings and payments shall be determined under Law by such Party in its reasonable discretion. The Parties shall cooperate with each other in a commercially reasonable manner to the extent reasonably requested and legally permitted (i) to minimize any Transaction Taxes and (ii) with regard to the preparation and filing of any Tax Return related to Transaction Taxes. Each Party shall be responsible for any penalties or additions arising from such Party's (i) failure to file or to timely file a Tax Return related to Transaction Taxes and (ii) failure to pay or to timely pay to a Governmental Authority any Transactions Taxes.

**12.1.3** If and to the extent that Expedia (and/or its Affiliates) is deemed to make a supply to Decolar for Transaction Tax purposes and Transaction Tax is or becomes chargeable in respect of such supply, the consideration for such supply shall be deemed to be exclusive of such Transaction Taxes. In addition to any other consideration for such supply, Decolar shall pay to Expedia (and/or Expedia's Affiliate) a sum equal to the amount of any Transaction Taxes chargeable.

**12.1.4** The Parties anticipate, and shall use all reasonable efforts to secure, that the Marketing Fees payment to Decolar are not subject to Transaction Taxes in any jurisdiction. Decolar shall charge any Transaction Taxes on any supplies it makes to Expedia only if and to the extent that a tax authority in the relevant jurisdiction subjects such supplies to Transaction Taxes.

**12.1.5** Except as otherwise required by applicable Law, Decolar shall not issue any invoices which expressly or implicitly state that Decolar is making a supply of Expedia's Travel Products, whether on a standalone basis or as part of a Package, to the customer.

**12.1.6** Neither Decolar nor any of its Affiliates shall account to any Tax authority for Travel Tax on the basis that it (or any of its Affiliates) are the supplier to the End User of the accommodation underlying the Bookings.

**12.2 Taxes and Unclaimed Property Liabilities on Transactions by or for End Users of Decolar.**

**12.2.1 Expedia Travel Solution Taxes.** The Parties agree and acknowledge that all responsibility for Expedia Travel Solution Taxes and Expedia Incremental Taxes that are Travel Taxes are addressed by the provisions of Section 9.4.

**12.2.2 Expedia Unclaimed Property Liabilities.** The Parties agree and acknowledge that with respect to Unclaimed Property Liabilities, if any, relating to or associated with Transactions or Expedia-Sourced Travel Bookings ("**Expedia Travel Unclaimed Property Liabilities**"), Decolar shall be responsible for such Expedia Travel Unclaimed Property Liabilities, if any, in the same proportion as the Marketing Fee (not taking into account any reduction pursuant to Section 9.4.2, any right of set-off or otherwise) bears to Gross Profit. Expedia shall be responsible, at its own expense, for the preparation and filing of any returns, forms or similar documents and filings in connection with Expedia Travel Unclaimed Property Liabilities, if any.

**12.2.3 Expedia Incremental Taxes.** The Parties agree and acknowledge that Decolar shall be responsible for any and all Expedia Incremental Taxes.

**12.2.4 Withholding.** Expedia and Decolar shall be entitled to deduct and withhold from any payment required to be made pursuant to this Agreement any Taxes that are required to be deducted or withheld with respect to such payment under any applicable Law (a "Withholding Tax"). Each Party shall deliver to the other Party, prior to receipt of any payment hereunder, duly completed and signed copies of any necessary Tax forms, including Internal Revenue Service Forms W-9, W-8BEN-E or W-8ECI or other appropriate version of Form W-8, as applicable, or any similar information satisfactory to the other Party to establish that the payment is not subject to any Withholding Tax, including backup withholding, or is entitled to an exemption from, or reduction of, such withholding, as applicable. Thereafter, the Parties shall (a) promptly notify each other of any change in circumstances of which they become aware that would cause any withholding to apply or would modify or render invalid any claimed exemption or reduction of withholding, and (b) take any commercially reasonable action that may be necessary to avoid any requirement to make any deduction or withholding. All amounts deducted and withheld pursuant to this Section 12.2.3 shall be treated as paid to the Party receiving payment for purposes of Section 3. To the extent that any amounts paid pursuant to this Agreement are not reduced by such deductions or withholdings, the Party receiving payment shall indemnify the other Party and its Affiliates for any amounts imposed by any Governmental Authority, together with any costs and expenses related thereto (including any related Losses), except in the case of penalties, interest, additions to Tax and related costs to the extent that such failure to withhold is the result of gross negligence or willful misconduct of such other Party. Notwithstanding any of the foregoing, (x) to the extent that any payments to Expedia hereunder are made by any Person other than Decolar or a U.S. Affiliate of Decolar (including, for the avoidance of doubt, any non-U.S. Affiliate of Decolar) or out of any jurisdiction other than the United States or Uruguay, and any Withholding Tax is required to be deducted or withheld with respect to such payment, such Person shall pay such additional amounts to Expedia as may be necessary such that Expedia receives, after all deduction or withholding for any applicable Withholding Taxes (including any

Withholding Taxes deducted or withheld with respect to any payment of additional amounts required to be paid pursuant to this sentence), such amount as Expedia would have received had no Withholding Tax been required to be so deducted or withheld and (y) to the extent that any payments to Decolar hereunder are made by any Person other than Expedia or a U.S. Affiliate of Expedia (including, for the avoidance of doubt, any non-U.S. Affiliate of Expedia) or out of any jurisdiction other than United States, and any Withholding Tax is required to be deducted or withheld with respect to such payment, such Person shall pay such additional amounts to Decolar as may be necessary such that Decolar receives, after all deduction or withholding for any applicable Withholding Taxes (including any Withholding Taxes deducted or withheld with respect to any payment of additional amounts required to be paid pursuant to this sentence), such amount as Decolar would have received had no Withholding Tax been required to be so deducted or withheld.

**12.3 Right of Set-Off.** Notwithstanding any provision in this Agreement to the contrary, Expedia shall have the right to reduce any amount payable to Decolar pursuant to this Agreement by (i) any Transaction Taxes required to be paid by Decolar hereunder, (ii) Decolar's share of any Expedia Travel Solution Taxes, any Expedia Incremental Taxes (to the extent such Taxes were not already taken into account to reduce Decolar's Marketing Fee) and Expedia Travel Unclaimed Property Liabilities and Decolar shall have the right to reduce any amount payable to Expedia pursuant to this Agreement by any Transaction Taxes required to be paid by Expedia hereunder.

**12.4 Survival.** The provisions of this Section 12 and Section 9 shall survive with respect to any particular Tax or Claim for Unclaimed Property Liabilities until the later of (i) the expiration of the statute of limitations applicable to such Tax or Claim or (ii) a Final Determination with respect to such Tax or Claim. For purposes of this Agreement, a "**Final Determination**" means (a) a decision, judgment, decree or other order by any court of competent jurisdiction, which has become final and is either no longer subject to appeal or for which a determination not to appeal has been made, (b) a closing agreement made under Section 7121 of the Code or any comparable provision of state, local or foreign Tax law, (c) a final disposition by any Governmental Authority of a claim for refund, or (d) any other written agreement which results in an adjustment becoming final and prohibits such Governmental Authority from seeking any further legal or administrative remedies with respect to an adjustment.

**12.5 Cooperation.** The Parties agree to cooperate with each other in a commercially reasonable manner with regard to Taxes.

**12.6 Refunds.**

**12.6.1 Transaction Taxes.** Decolar shall be entitled to all refunds of any Transaction Taxes that Decolar has paid to any Governmental Authority, including any interest paid with respect thereto and Expedia shall be entitled to all other refunds of Transaction Taxes. Expedia will consider in good faith taking such actions as Decolar reasonably requests (at Decolar's expense) to obtain any refund of Transaction Taxes to which Expedia is entitled under the Laws of the relevant taxing jurisdiction.

**12.6.2 Expedia Travel Solution Taxes.** The Parties acknowledge and agree that Expedia shall determine, in its discretion, all actions that it deems necessary or appropriate in connection with any refunds of Expedia Travel Solution Taxes or Expedia Incremental Taxes.

**12.7 Reimbursement.** If either Party receives a refund of Expedia Travel Solution Taxes, Expedia Incremental Taxes or Transaction Taxes (including any interest related thereto), such Party shall reimburse the other Party for such other Party's share of such refund of Transaction Taxes, Expedia Travel Solution Taxes or Expedia Incremental Taxes paid by such other Party (such share to take into account Section 9.4, 12.1 or 12.2 as the case may be, and any other reimbursements made by one Party to the other Party) within sixty (60) Business Days of receipt of such refund.

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### 13. DISPUTE RESOLUTION

**13.1 Dispute Resolution Process.** In the case of any Disputes under this Agreement, the Parties shall first attempt in good faith to resolve all Disputes by informal discussions before initiating any legal action. Representatives of each Party shall meet to discuss the resolution of the Dispute. If they are unable to do so within thirty (30) days of notice from one Party to the other Party regarding the Dispute and requesting a meeting, the Dispute shall be escalated to the senior divisional management of each Party, and if unresolved at the end of ten (10) Business Days thereafter, the Parties shall submit the Dispute to binding arbitration in accordance with the terms and conditions of Section 13.2.

**13.2 Arbitration.** Without prejudice to Section 15.4, any Dispute arising out of or relating to this Agreement, or the breach thereof, which cannot otherwise be resolved as provided above shall be resolved by binding arbitration conducted in accordance with the commercial arbitration rules of the American Arbitration Association (the “**Arbitrator**”) (or, solely to the extent the Arbitrator is no longer operating at the time of such Dispute, any other major international arbitration institution agreed by the Parties) and judgment upon the award rendered by the arbitral tribunal may be entered in any court of competent jurisdiction. The arbitration shall be conducted by a single arbitrator appointed in accordance with such rules; provided, however, that if either Party requests the arbitration to be conducted by a panel of three arbitrators, one will be appointed by each Party and the third will be appointed in accordance with such rules. The place of arbitration shall be New York, New York, United States of America, unless the Parties shall have agreed to another location within fifteen (15) calendar days from the first referral of the dispute to the Arbitrator. The decision or award made by the arbitrator or arbitrators shall be written, final and binding, and the Parties waive any right to appeal the arbitral award, to the extent a right to appeal may be lawfully waived. The costs of any arbitration, including administrative fees and fees of the arbitrator or arbitrators, shall be shared equally by the Parties, unless otherwise specified by the arbitrator or arbitrators. If the Party initiating the arbitration is determined in the arbitral award to have lost the Dispute, such Party shall pay the other Party’s attorneys’ and expert fees. Otherwise, each Party shall bear the cost of its own attorneys’ and expert fees. Each Party retains the right to seek judicial assistance: (a) to compel arbitration; and (b) to enforce any decision of the arbitrator, including the final award. The arbitration proceedings contemplated by this Section 13.2 shall be as confidential and private as permitted by law. To that end, the Parties shall not disclose the existence, content or results of any proceedings conducted in accordance with this Section 13.2, and deem that all materials submitted in connection with such proceedings are for the purpose of settlement and compromise; provided, however, that this confidentiality provision shall not prevent a petition to vacate or enforce an arbitral award, and shall not bar disclosures required by law (including any rule, regulation or policy statement of any national securities exchange, market or automated quotation system on which the Receiving Party’s securities are listed or quoted).

### 14. RELEASES/PUBLICITY

Neither Party shall issue or make, or permit to be issued or made, any publicity, advertising, press release, public statement or announcement or public communication of any kind, in whatever form, regarding this Agreement, or any aspect or terms thereof, or the relationship between the Parties without the Parties’ joint prior written approval except as may be required by applicable Law or any rule, regulatory or policy of a national securities exchange, in which case commercially reasonable efforts to consult with the other Party shall be made prior to any such release or public statement.

## 15. GENERAL

**15.1 Compliance with Anti-Corruption Laws.** In connection this Agreement, the parties hereto agree to (i) comply with the provisions of the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act, and any amendments thereto, as well as any other applicable anti-corruption laws adopted by countries where services are being performed, and (ii) not knowingly allow a third party to make any improper payments or to perform any act in violation of such laws. Each party represents and warrants to the other that it has not been found by a court in any jurisdiction to have violated any such laws.

**15.2 Non-Disparagement.** During the Term and for a period of 2 (two) years following the expiration or earlier termination of the Term, each of the Parties, and any of their attorneys, agents, employees, representatives, assigns, contractors, successors in interest, related parties, or parties acting at their direction, agree that they shall not disparage or otherwise negatively comment on any of the other Party's reputation, business operations, products, services or relationship with one another. This provision shall not preclude the Parties from making truthful statements when requested to do so in the normal course of business.

**15.3 Non-Solicitation.** Each of the Parties agrees that, during the Term and for a period of one (1) year thereafter, neither Expedia nor Decolar (Expedia, on the one hand, and Decolar, on the other hand, each an "**Employer**" with respect to its Restricted Employee) shall, on behalf of itself or any other person, entity or organization, directly, or through its officers, directors, employees, agents or others, cause any other person to: (i) solicit or otherwise induce or influence any Restricted Employee to discontinue his or her employment or other relationship with his or her Employer or to enter into an employment or service arrangement of any kind with any person or entity other than his or her Employer, (ii) initiate contact with any Restricted Employee for the purpose of employing, soliciting for employment, or otherwise seeking to employ or retain such person, or (iii) assist or facilitate any person or business other than the applicable Employer in the hiring or recruitment of any Restricted Employee; provided, however, that the foregoing restriction is not being intended to prohibit any person from providing reference to a third party with respect to a Restricted Employee. "**Restricted Employee**" means any person who is an employee of Employer with whom the other Party has first come into contact in the course of their dealings under this Agreement. The foregoing restriction shall not apply to (i) the distribution of a job posting or other advertisement for a job in the ordinary course of business and the hiring of an employee that responds to such job posting or other advertising, (ii) the solicitation or hiring of an employee that has been terminated or has otherwise terminated or ceased his or her employment with that Employer prior to the solicitation or hiring or (iii) the employment of an employee who contacts an Employer on his or her own initiative.

**15.4 Governing Law.** This Agreement shall be governed by and construed in accordance with the Laws of the State of New York applicable to agreements made and to be performed entirely within such State, without regard to the conflict of Laws principles of such State.

**15.5 Right to Specific Performance.** The Parties hereby expressly recognize and acknowledge that immediate, extensive and irreparable damage would result, no adequate remedy at law would exist and damages would be difficult to determine in the event that any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached. Each Party further acknowledges that a breach or violation of this Agreement cannot be sufficiently remedied by money damages alone and, accordingly, each Party shall be entitled, without the need to post a bond or other security, in addition to damages and any other remedies provided at law or in equity, to specific performance, injunctive and other equitable relief in order to enforce or prevent any violation. Each Party agrees not to oppose the granting of such equitable relief, and to waive, and to cause its representatives to waive, any requirement for the securing or posting of any bond in connection with such remedy.

**15.6 Records.** In accordance with standard records retention business practices and policies in the industry, and in accordance with applicable generally accepted accounting standards, each Party shall keep all usual and proper records related to the performance of such Party's obligations under this Agreement.

**15.7 Affiliation Agreement; Entire Agreement.** This Agreement supersedes and replaces the Affiliation Agreement, and all existing rights, obligations and payments thereunder, shall be governed by this Agreement as if this Agreement had been in effect at the time such rights, obligations and payments arose. This Agreement (including all Schedules thereto) constitutes the entire agreement between the Parties, and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, as to the subject matter hereof.

**15.8 Schedules.** The schedules to this Agreement listed below are an integral part of this Agreement:

Schedule	Description
2.1.4(a)	Minimum Bookings Phase-In
2.1.8	Existing Decolar Partners
3.1	Marketing Fees
3.2.3	Decolar Account
3.3.3	Expedia Account

**15.9 Notices.** Any notice, consent or approval required or permitted to be given in connection with this Agreement (in this Section 15.8 referred to as a “**Notice**”) shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or through e-mail:

- (a) in the case of a Notice to Decolar at:

Travel Reservations S.R.L  
Ruta 8, Km. 17,500, Oficina 300, Local 318, Montevideo, Uruguay  
c/o Despegar.com.ar S.A.  
Av. Jujuy 2013, C1247ABI CABA  
Buenos Aires, Argentina  
Attention: Mariano Jorge Scagliarini

Email: [mariano.scagliarini@despegar.com](mailto:mariano.scagliarini@despegar.com) / [contratos@despegar.com](mailto:contratos@despegar.com)

With a copy (which shall not constitute notice) to:  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017  
Attention: Juan Francisco Mendez  
Email: [jmendez@stblaw.com](mailto:jmendez@stblaw.com)

- (b) in the case of a Notice to Expedia at:

1111 Expedia Group Way W.  
Seattle  
WA 98119Tel: (425) 679-3644  
Fax: (425) 679-7251  
Attention: General Counsel  
Email: [bdzielak@Expedia.com](mailto:bdzielak@Expedia.com)



Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted; provided, however, that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. If the Notice is delivered or transmitted after 5:00 p.m. local time or if the day is not a Business Day, then the Notice shall be deemed to have been given and received on the next Business Day. Any Party may, from time to time, change its address by giving Notice to the other Party in accordance with the provisions of this Section 15.8.

**15.10 Relationship of Parties.** The Parties are independent contractors and nothing in this Agreement will be deemed to create a partnership, joint venture, franchise or any agency relationship between any of the Parties. This Agreement is solely for the benefit of, and will be solely enforceable by, the Parties. This Agreement is not intended to confer any right or benefit on any third party. Except as set forth in Section 8.9, no action may be commenced or prosecuted against a Party by any third party claiming as a third-party beneficiary of this Agreement or any of the transactions contemplated by this Agreement.

**15.11 Waiver.** Unless explicitly set forth in this Agreement, no waiver of any term, condition or obligation of this Agreement will be valid unless made in writing and signed by the Party to which such performance is due. No failure or delay by any Party at any time to enforce one or more of the terms, conditions or obligations of this Agreement 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.

**15.12 Assignment.** This Agreement may not be assigned either directly or indirectly by operation of law or otherwise, by either Party without the prior written consent of the other Party; except, that either Party may assign this Agreement without consent to (a) an Affiliate or (b) in connection with a merger, reorganization, acquisition, sale of all or substantially all assets, or other Change of Control, in each case, provided the assignee agrees in writing to assume and be bound by this Agreement. Subject to the foregoing, this Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns, and, following such succession or assignment, all references to a "Party" in this Agreement shall be deemed to include such successors and permitted assigns.

**15.13 Amendment.** Except as otherwise expressly stated herein, this Agreement may be amended only in writing signed by Decolar and Expedia.

**15.14 Expenses.** Except as otherwise provided in this Agreement, each Party shall pay all costs and expenses (including the fees and disbursements of legal counsel and other advisers) it incurs in connection with the negotiation, preparation and execution of this Agreement and the transactions contemplated by this Agreement.

**15.15 Further Assurances.** The Parties shall, with reasonable diligence, do all things and provide all such reasonable assurances as may be reasonably required to consummate the transactions contemplated by this Agreement, and each Party shall provide such further documents or instruments reasonably required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions.

**15.16 Conflicts.** In the event of any conflict or ambiguity between any term of this Agreement and any other Transaction Agreement, the terms of this Agreement will prevail.

**15.17 Force Majeure**

**15.17.1** Neither Party shall be liable to the other for any failure or delay in the performance of its obligations under this Agreement (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 ("**Force Majeure Event**") which that Party is unable to reasonably avoid or provide against, provided always that the affected Party promptly notifies the other (where possible, in advance or within the 48 hours from the event) of the cause and likely duration of the failure or delay and takes all reasonable steps, including (without limitation) implementation of its business continuity and disaster recovery plan to overcome the failure or delay as soon as possible.

**15.17.2** If either Party fails to perform or is delayed in performing its obligations due to a Force Majeure Event for 90 days or more, then the other Party shall be entitled to terminate this Agreement forthwith upon written notice.

**15.18 Guarantee.**

**15.18.1** Each of Decolar Parent and each Guarantor irrevocably, absolutely and unconditionally jointly and severally guarantees to Expedia each and every obligation and liability of Decolar hereunder, and the full and timely payment and performance of Decolar's obligations hereunder, in each case during the Term (the "**Decolar Guaranteed Obligations**"). This is a guarantee of payment and performance, and not merely of collection, and each of Decolar Parent and each Guarantor acknowledges and agrees that this guarantee is full and unconditional, and no release or extinguishment of Decolar's obligations or liabilities under this Agreement, whether by decree in any bankruptcy proceeding or otherwise, shall affect the continuing validity and enforceability of this guarantee. Each of Decolar Parent and each Guarantor hereby waives for the benefit of Expedia, (a) any right to require Expedia, as a condition of payment or performance by each of Decolar Parent and each Guarantor under this Section 15.16, to proceed against Decolar or pursue any other remedies whatsoever, (b) to the fullest extent permitted by Law, any defenses or benefits that may be derived from or afforded by Law that limit the liability of or exonerate guarantors or sureties, (c) any and all promptness, diligence, notice of the creation, renewal, extension or accrual of any of the Decolar Guaranteed Obligations and notice of or proof of reliance by Expedia upon this guarantee or acceptance of this guarantee and (d) any claim, right (including right of set-off), deduction or defense of any kind that Decolar may have or may assert under this Agreement. Each of Decolar Parent and each Guarantor understands that Expedia is relying on this guarantee in entering into this Agreement.

**15.18.2** Without limiting the generality of the foregoing, each of Decolar Parent and each Guarantor authorizes Decolar in its sole and absolute discretion, without any notice to or consent of each of Decolar Parent and each Guarantor and without in any way discharging, terminating, releasing, affecting or impairing the obligations of each of Decolar Parent and each Guarantor hereunder, to (a) amend, modify, extend or accelerate the time or manner of payment for or performance of the Decolar Guaranteed Obligations or otherwise amend or modify any other terms of provisions of this Agreement in accordance with its terms, (b) release, discharge, compromise or make any settlement with Expedia in respect of the Decolar Guaranteed Obligations or (c) exercise any right or power conferred in this Agreement, or fail or omit to enforce any such right or power, or waive any covenant or condition therein provided or any default thereunder.

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**15.18.3** Each of Decolar Parent and each Guarantor represents and warrants to Expedia that (a) it has full corporate power and authority to enter into this Agreement and to perform its obligations hereunder, (b) the execution and delivery by each of Decolar Parent and each Guarantor of this Agreement has been duly authorized by all necessary corporate action and no other proceedings are necessary to authorize the execution and delivery of this Agreement, and (c) this Agreement has been duly and validly executed and delivered by each of Decolar Parent and each Guarantor and, assuming due authorization and delivery by the other Parties, is a valid and binding agreement, enforceable against each of Decolar Parent and each Guarantor in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equitable principles.

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**SCHEDULE 1**

**Argentina:**

**Despegar.com.ar S.A.**

CUIT: 30-70130711-5

**Brazil**

**Decolar.com Ltda.**

CNPJ: 03.563.689/0002-31

**Chile:**

**Despegar.com Chile SpA.**

RUT: 96.907.830-9

**Colombia:**

**Despegar Colombia S.A.S.**

NIT: 900.610.518-5

**Costa Rica:**

**Viajes Despegar.com O.N.L.I.N.E. S.A.**

Cédula jurídica 3-101-675495

**Ecuador**

**DespegarEcuador S.A.**

RUC: 1792690994001

**United States**

**Despegar.com USA, Inc.**

EIN: 65-1011884

**Mexico:**

**Despegar.com México, S.A. de C.V.**

RFC: DCM 000 125 IY6

**Panama**

**Despegar.com Panamá S.A.**

RUC: 155651485-2-2017

**Peru:**

**Despegar.com Perú S.A.C.**

RUC: 20544547756

**Uruguay:**

**Travel Reservations S.R.L.**

RUT: 216232590019

**Holidays S.A.**

RUT: 217265520018

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**SCHEDULE 2.1.9**  
**TO BE INSERTED**

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**Schedule 3.1**

**Gross Profit Share**

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**Schedule 3.1.2**

**TAX CERTIFICATION**

[Include EAN.com, LP letterhead]

Travel Reservations S.R.L  
c/o Despegar.com  
Ruta 8, Km. 17.500, Edificio 300, Local 318  
Montevideo, Uruguay

Decolar.com Ltda,  
Alameda Grajau 219, Alphaville Industrial  
Barueri, Estado de São Paulo, Brazil

Re: Amended and Restated Lodging Outsourcing Agreement

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Lodging Outsourcing Agreement, dated as of ..... (the "Agreement"), by and among Expedia, Inc., a Washington corporation ("Expedia Parent"), Travel Reservations S.R.L, a Uruguay corporation ("Decolar"), Decolar.com, Inc., a Delaware Corporation ("Decolar Parent") and each of the subsidiaries of Decolar Parent set forth therein,. Capitalized terms used but not otherwise defined in herein shall have the meanings set forth in the Agreement

EAN.com, LP, on behalf of Expedia Parent, hereby certifies that Withholding Income Tax due on remittances from Expedia do Brasil Agencia de Viagens e Turismo Ltda. to Travelscape LLC related to the invoices included in Appendix A, issued by Travelscape LLC to Decolar.com Ltda. during the period ..... (specify quarter), were performed by EAN, fulfilling with Brazilian legislation.

Very truly yours,

**EAN.com, LP**

By: \_\_\_\_\_  
Name:  
Title:

**Appendix A**

List of Invoices

**Schedule 3.2.2**

Decolar Account

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## Schedule 5.1

### GDPR

#### 1. Definitions

For the purposes of this Schedule, the following terms will have the following meanings:

- a) **Applicable Data Protection Law(s)** means all data protection and privacy laws that apply to Customer Personal Data Processed under this Agreement (including, where applicable, EU Data Protection Laws);
- b) **Current Audit Report** means a current version of the PCI DSS attestation of compliance and the SSAE 16 Audit Report, or its industry standard successor, for the Data Processor's data centre providers;
- c) **Data Controller** means an entity that determines the purposes and means of Processing personal data;
- d) **Data Processor** means an entity that Processes personal data on behalf of a Data Controller;
- e) **EEA Data** means any Customer Personal Data Processed by or on behalf of Expedia under the Agreement that relates to travelers or other individuals who are located in the European Economic Area;
- f) **EU Data Protection Laws** means EU Directive 2002/58/EC and EU Regulation 2016/679 (each as amended, replaced or superseded) (the "GDPR") and any applicable national legislation made under or in connection with the GDPR;
- g) **Process** or **Processing** means any operation or set of operations that is performed upon Personal Data, whether or not by automatic means, including, without limitation, collection, recording, organization, structuring, storage, access, adaptation, alteration, retrieval, consultation, use, disclosure, dissemination, making available, alignment, combination, restriction, blocking, deletion, erasure, or destruction; and
- h) **Security Incident** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Personal Data transmitted, stored or otherwise Processed.

#### 2. Relationship of the parties

- 2.1 Both Parties agree to comply with Applicable Data Protection Laws in respect of the Processing of Customer Data.
- 2.2 For any Customer Personal Data Decolar shall be the Data Controller and Expedia shall be the Data Processor.



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### 3. The Data Processor's responsibilities

#### 3.1 The Data Processor will:

3.1.1 process Customer Personal Data only on the Data Controller's written instruction and in accordance with this Agreement or to optimize the booking experience for Data Controller and End Users (unless the Data Processor is otherwise required to do so in order to comply with applicable law, in which case the Data Processor shall inform the Data Controller of such legal requirement save where prohibited to do so by applicable law), and the Data Controller confirm that its documented instructions are for the Data Processor to process the Customer Personal Data as necessary for the purposes of the Agreement. The Data Processor shall inform the Data Controller if, in its opinion, an instruction infringes EU Data Protection Laws (when applicable);

3.1.2 upon termination or expiry of the Agreement or upon the Data Controller's request, delete or return Customer Personal Data save that, in the event that the Data Processor is unable to destroy the Customer Personal Data (due to backup or legal reasons), the Data Processor shall continue to extend indefinitely the protections of these requirements and immediately terminate any further Processing of the Customer Personal Data without the Data Controller's express prior written consent, except where and to the extent required by applicable law. The Data Processor obligations under these requirements to protect the security of Customer Personal Data shall survive termination of the Agreement;

3.1.3 ensure appropriate operational and technical measures are in place to safeguard the Customer Personal Data against Security Incidents;

3.1.4 notify the Data Controller without undue delay if the Data Processor becomes aware of any actual Security Incidents and shall provide the Data Controller with reasonable information and cooperation so it can fulfil any data breach reporting obligations it may have under (and in accordance with the timescales required by) applicable Data Protection Laws;

3.1.5 establish policies and procedures to provide all reasonable and prompt assistance to the Data Controller in responding to any and all requests, complaints, or other communications received from any individual who is or may be the subject of any Customer Personal Data Processed by the Data Processor;

3.1.6 ensure that any person (including the Data Processor's staff, agents and subcontractors) who are authorized to Process the Customer Personal is subject to a strict duty of confidentiality (whether a contractual or statutory duty) and shall not permit any person to Process the Customer Personal Data who is not under such a duty of confidentiality; and

3.1.7 with regard to EEA Data, assist the Data Controller at its cost to conduct data protection impact assessments to the extent such assessments are required by the GDPR, and if necessary, consult with relevant supervisory authorities pursuant to Articles 35-36 of the GDPR.

3.1.8 The Data Processor shall not use Customer Personal Data to initiate contact with individuals who are the subject of the Customer Personal Data for any purpose other than in connection with the provision of the contracted services.

3.2 If the Data Processor considers any request by the Data Controller for support or assistance under paragraph 3.1 to be excessive or unduly onerous, then it reserve the right to charge the Data Controller for such support to a reasonable level to be agreed by the Parties.

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#### **4. Sub-processors**

- 4.1 when acting as Data Processor, a list of subcontractors who Process Decolar's Customer Personal Data is listed at Expedia's sub-processor website (<https://support.ean.com/hc/en-us/articles/360000986389-EAN-Data-Services-Vendor-List>, as updated from time to time). This sub-processor list shall contain a mechanism for Decolar to subscribe to notifications of any new sub-processors or changes to the sub-processor list. To receive updates or changes to this list, Decolar will subscribe using the mechanism provided. Expedia shall only appoint third party vendors or service providers as sub-processors of the Customer Personal Data where it:
- 4.1.1 enters into written contracts with such sub-processors which provide for data protection terms that are no less protective than the terms set out in this Schedule; and
  - 4.1.2 remain fully liable to Decolar for any breaches of the Agreement that are caused by the acts, errors and omissions of its sub-processors.
- 4.2 Where Decolar has reasonable data protection grounds to believe that a sub-processor appointed by Expedia will render Expedia unable to fulfil its data protection obligations under this Schedule, it may, within 7 days of receipt of notice of their appointment, object to Expedia's appointment of such sub-processor, in which case Expedia will not allow that sub-processor to further access the Customer Personal Data until Decolar has agreed to the appointment or replacement of the subcontractor or until Decolar withdraws its objection.

#### **5. Cross-border data transfers**

- 5.1 The Data Processor shall not (and shall not permit any sub-processor to):
- 5.1.1 transfer Customer Personal Data outside the territory of origination unless it takes any required compliance measures to enable such transfer legally; and
  - 5.1.2 with regard to EEA Data, transfer such EEA Data to any territory outside of the European Economic Area ("EEA") unless the Data Processor takes such measures to ensure that such transfer of EEA Data is consistent with the requirements of Chapter V of the GDPR. For the avoidance of doubt, such measures may include us (or sub-processor, as applicable):
    - i. ensuring that the Data Processor Processes the EEA Data in a country that has been deemed adequate by the European Commission pursuant to Article 45 of the GDPR;
    - ii. Processing the EEA Data pursuant to Standard Contractual Clauses (or "model clauses") approved by a decision of the European Commission;
    - iii. Processing the EEA Data in compliance with Binding Corporate Rules that have been duly authorized by EEA data protection authorities that are competent for the EEA Data; and
    - iv. with respect to transferring the EEA data to the United States, Processing such data pursuant to the EU-U.S. and/or Swiss-U.S. Privacy Shield Frameworks, as applicable.

#### **6. Data security**

- 6.1 Both parties shall:
- 6.1.1 maintain appropriate technical and organizational measures to protect the Customer Personal Data they each process against a Security Incident; and

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6.1.2 in the event of a confirmed Security Incident, promptly notify the other party if the Security Incident affects Customer Personal Data that is also processed by the other Party under this Agreement, providing full details of the same. In such event, both Parties shall cooperate reasonably and in good faith to remedy or mitigate the effects of the Security Incident, and the reasonable costs of such cooperation shall be borne by the Party that suffered the Security Incident.

- 6.2** Upon the Data Controller's written request and no more than once a year, the Data Processor will provide the Data Controller its then Current Audit Report or meet with the Data Controller's security team to discuss security questions that it may have; and/or complete a questionnaire provided by the Data Controller or a third party on its behalf regarding its compliance with this Schedule, provided that the Data Processor shall not be required to disclose information that is reasonably considered confidential to its business.

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## **Schedule 8.5**

### **Package and Fenced Rates.**

#### **1. Definitions**

“**Approved Transport Component**” means one of the following travel services, separately provided by Decolar or Decolar third-party supplier: (i) air travel, (ii) rail travel which constitutes a substantial portion of the Package, (iii) car rental which constitutes a substantial portion of the Package or for at least the full duration of the stay period of the Travel Booking, (iv) an overnight cruise; or (v) bus where the length of the bus trip is 3 hours or more; and is equal or more in value to 25% of the Travel Booking.

“**Closed User Group**” means (i) any group of End Users that are members of and logged into a Decolar Approved Website (either on a session by session basis [\*\*\*]), or (ii) Decolar internal call center agents who are logged into a Decolar Travel Platform.

“**Cross Sell Package Rate**” a rate (including Taxes) for an Expedia Travel Product which can be displayed to End Users solely in accordance with paragraph 2.2 of this Schedule 8.5 and which must not be modified by Decolar.

“**Decolar Approved Website**” any Website owned and operated by Decolar and/or its Affiliates.

“**Mobile Rates**” a promotional rate (including Taxes) for an Expedia Travel Product which can be displayed to End Users solely in accordance with paragraph 2.4 of this Schedule 8.5 and which must not be modified by Decolar.

“**Fenced Rates**” a promotional rate (including Taxes) for an Expedia Travel Product which can be displayed to End Users solely in accordance with paragraph 2.3 of this Schedule 8.5 and which must not be modified by Decolar.

“**Package**” means a booking made available to End Users consisting of a Travel Booking together with an Approved Transport Component; or (as applicable) a Travel Booking together with another Travel Booking in each case accordance with this Agreement.

“**Standard Package Rate**” a rate (including Taxes) for an Expedia Travel Product solely for use as part of a Package, in accordance with the restrictions in this Agreement and which must not be modified by Decolar.

#### **2. Room Rates**

Expedia shall make available to Decolar the following Room Rates in accordance with Section 2.3.5 of the Agreement and the provisions below:

##### **2.1 Standard Package Rates**

Decolar shall: (a) not display nor make available Standard Package Rates to End Users for booking except as part of Packages (b) not display separate pricing of Standard Package Rates to customers at any time during the booking or confirmation processes (c) ensure that the final booking price for Standard Package Rates is equal to the Room Rate provided to Decolar by Expedia (provided that Decolar remains responsible for the final price of the Package); (d) ensure the Standard Package

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Rate can only applied in relation to the same trip to which the Approved Transport Component within the Package relates (including having no more rooms booked than the number of people to which the Approved Transport Component relates); and (e) retain proof of the inclusion of the Approved Transport Component within the Package for at least 30 days after the Transaction is made.

## 2.2 Cross Sell Package Rates

### (a) Cross Sell Package Rate with an Approved Transport Component.

Decolar may only display or make Cross Sell Package Rates available to End Users who have booked an Approved Transport Component via the Decolar Travel Solution (“**Transport Eligible End Customers**”); as a separate transaction to the Approved Transport Component (which is clearly communicated to the Transport Eligible End User); and provided that: (i) the property to which the Cross Sell Package Rate relates is [\*\*\*] (ii) the Cross Sell Package Rate can only be booked in relation to the same trip to which the Approved Transport Component relates and so must be within the same travel window; (iii) Decolar retains proof of the inclusion of the Approved Transport Component within the Package for at least 30 days after the Transaction is made; and (iv) Decolar retains reports of attachment rates of Cross Sell Package Rates with each Approved Transport Component. For the avoidance of doubt, [\*\*\*] Decolar shall not display the rate for a Cross Sell Package Rate in any open and public marketing or promotional materials (whether written, oral or otherwise) whatsoever including in the cross sell email to End Users without Expedia’s prior written consent.

### (b) Cross Sell Package Rate with an hotel Booking.

Decolar may only display or make Cross Sell Package Rates available to End Users who have made a Travel Booking via the Decolar Travel Solution (“**Hotel Eligible End Customers**”); as a separate transaction to the Travel Booking (which is clearly communicated to the Hotel Eligible End User); and provided that: (i) [\*\*\*]; (ii) [\*\*\*]; (iii) Decolar retains proof of the inclusion of the Travel Booking for at least 30 days after the Transaction is made; and (iv) Decolar retains reports of attachment rates of Cross Sell Package Rates with each Travel Booking. Decolar shall: use a unique and separate profile for all Transactions of Cross Sell Package Rates; audit and manage Transactions under this Section and have the ability to restrict, upon Expedia’s request any property or chain from Transactions under this Section. Expedia may provide notice at any time that Fenced Rates shall be used by Decolar for Transactions under this Section (being Packages created by a Travel Booking combined with a Travel Booking) rather than Cross Sell Package Rates and Decolar shall make all corresponding changes to the Decolar Travel Solutions to effect this change. Once this occurs, the provisions of Schedule 8.5, paragraph 4 shall apply. For the avoidance of doubt, [\*\*\*] Decolar shall not display the rate for a Cross Sell Package Rate in any open and public marketing or promotional materials (whether written, oral or otherwise) whatsoever including in the cross sell email to End Users without Expedia’s prior written consent

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### **2.3 Fenced Rates**

Decolar may only display Fenced Rates to End Users who have elected to participate in a Closed User Group. For the avoidance of doubt, [\*\*\*] Decolar shall not display the rate for a Fenced Rate in any open and public marketing or promotional materials (whether written, oral or otherwise) whatsoever without Expedia's prior written consent. Without prejudice to any other rights or remedies available to Expedia or its Affiliates, if Decolar is in material breach of this Section, Expedia will notify Decolar of such breach and allow Decolar five (5) Business Days to remedy such breach. If Decolar does not remedy such breach within five (5) Business Days, Expedia may restrict or completely withdraw access to Fenced Rates with immediate effect and, if any Travel Supply Provider terminates its agreement with Expedia as a result of such breach, Expedia may permanently restrict or completely withdraw access to such Fenced Rates.

### **2.4 Mobile Rates**

Decolar may not display or make available such Mobile Rates to End Users except only through Decolar Travel Solution application for mobile devices or a mobile-device optimised version of the Decolar Travel Solution.

## **3. [\*\*\*]**

## **4. Breach**

Without prejudice to any other rights or remedies available to Expedia or its Affiliates, if Decolar is in material breach of this Schedule 8.5, Expedia will notify Decolar of such breach and allow Decolar five (5) Business Days to remedy such breach. If Decolar does not remedy such breach within five (5) Business Days, Expedia may restrict or completely withdraw access to access to any Room Rates, comprising an individual hotel, group or chain of hotels as well as any Room Rates with immediate effect and, if any Travel Supply Provider terminates its agreement with Expedia as a result of such breach, Expedia may permanently restrict access to any Room Rates. In addition, Expedia may from time to time require internal Decolar collaboration to demonstrate its ongoing compliance with this Schedule 8.5. Decolar shall upon written request from Expedia, send copies of booking confirmations, booking details and give access to such other information, systems and/or documentation as is reasonably necessary to demonstrate Decolar's compliance. Failure by Decolar to do so shall be deemed a breach of this Schedule 8.5. Furthermore, if Expedia receives a complaint or request from a Travel Supply Provider, Expedia may restrict or completely withdraw access to access to any Room Rates, comprising an individual hotel, group or chain of hotels as well as a Room Rate under Schedule 8.5 with immediate effect.

List of Subsidiaries of Despegar.com, Corp.

<u>Name of Subsidiary</u>	<u>Jurisdiction of Incorporation or Organization</u>
<b>Decolar.com, Inc.</b>	Delaware, United States of America
<b>Despegar.com USA, Inc.</b>	United States of America
<b>Despegar.com.ar S.A.</b>	Argentina
<b>Viajes Falabella S.A.</b>	Argentina
<b>Decolar.com Ltda.</b>	Brazil
<b>Despegar.com Chile SpA.</b>	Chile
<b>Viajes Falabella SpA.</b>	Chile
<b>Despegar Colombia S.A.S.</b>	Colombia
<b>Servicios Online S.A.S.</b>	Colombia
<b>Agencia de Viajes y Turismo Falabella S.A.S.</b>	Colombia
<b>Viajes Despegar.com O.N.L.I.N.E. S.A.</b>	Costa Rica
<b>DespegarEcuador S.A.</b>	Ecuador
<b>Despegar.com México, S.A. de C.V.</b>	México
<b>Despegar Servicios, S.A. de C.V.</b>	México
<b>Despegar.com Perú S.A.C.</b>	Perú
<b>Viajes Falabella S.A.C.</b>	Perú
<b>Servicios Online 3351 de Venezuela C.A.</b>	Venezuela
<b>Despegar.com Panamá S.A.</b>	Panama
<b>Desonproc S.L.</b>	España
<b>Rivamor S.A.</b>	Uruguay
<b>Badurey S.A.</b>	Uruguay
<b>Satylca S.C.A.</b>	Uruguay
<b>Tecnobelt S.A. (en liquidación)</b>	Uruguay
<b>Travel Reservations S.R.L.</b>	Uruguay
<b>Holidays S.A.</b>	Uruguay

**Certification of Chief Executive Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Damián Scokin, certify that:

1. I have reviewed this annual report on Form 20-F of Despegar.com, Corp. (the “Company”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
4. The Company’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the Company’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;
  - (d) disclosed in this report any change in the Company’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect the Company’s internal control over financial reporting; and
5. The Company’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company’s auditors and the audit committee of the Company’s board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company’s ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company’s internal control over financial reporting.

Date: April 10, 2020

By: /s/ Damián Scokin  
Name: Damián Scokin  
Title: Chief Executive Officer



**Certification of Chief Financial Officer**  
**Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Alberto Lopez Gaffney, certify that:

1. I have reviewed this annual report on Form 20-F of Despegar.com, Corp. (the "Company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
4. The Company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;
  - (d) disclosed in this report any change in the Company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect the Company's internal control over financial reporting. and
5. The Company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Date: April 10, 2020

By: /s/ Alberto Lopez Gaffney

Name: Alberto Lopez Gaffney

Title: Chief Financial Officer

**Certification of Chief Executive Officer  
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of Despegar.com, Corp. (the “Company”) on Form 20-F for the fiscal year ended December 31, 2019, as filed with the U.S. Securities and Exchange Commission on the date hereof (the “Report”), I, Damián Scokin, Chief Executive Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

- (i) the Report fully complies with the requirements of Section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: April 10, 2020

By: /s/ Damián Scokin

Name: Damián Scokin

Title: Chief Executive Officer

**Certification of Chief Financial Officer  
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of Despegar.com, Corp. (the “Company”) on Form 20-F for the fiscal year ended December 31, 2019, as filed with the U.S. Securities and Exchange Commission on the date hereof (the “Report”), I, Alberto Lopez Gaffney, Chief Financial Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley-Act of 2002, that to the best of my knowledge:

- (i) the Report fully complies with the requirements of Section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: April 10, 2020

By: /s/ Alberto Lopez Gaffney

Name: Alberto Lopez Gaffney

Title: Chief Financial Officer

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statement on Form F-3 (No. 333-226869) of Despegar.com, Corp. of our report dated April 10, 2020 relating to the financial statements, which appears in this Form 20-F.

/s/ PRICE WATERHOUSE & CO. S.R.L.

/s/ Eduardo Alfredo Loíacono (Partner)

Eduardo Alfredo Loíacono

Buenos Aires, Argentina

April 10, 2020

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*Price Waterhouse & Co. S.R.L., Bouchard 557, piso 8°, C1106ABG - Ciudad de Buenos Aires*

*T: +(54.11) 4850.0000, F: +(54.11) 4850.1800, [www.pwc.com/ar](http://www.pwc.com/ar)*

Price Waterhouse & Co. S.R.L. es una firma miembro de la red global de PricewaterhouseCoopers International Limited (PwCIL). Cada una de las firmas es una entidad legal separada que no actúa como mandataria de PwCIL ni de cualquier otra firma miembro de la red.