



## GENERAL TERMS AND CONDITIONS

The Order Form executed between the Provider and Amadeus and these general terms and conditions (the "Terms") form the agreement (the "Agreement") between Amadeus and Provider and shall govern all transactions between Amadeus and the Provider with regards to the distribution of Provider Content through Amadeus LinkHotel. The Agreement applies to the exclusion of any other terms and conditions referred to, proposed by or relied on by the Provider, whether in negotiation or at any stage in the dealings between Amadeus and the Provider, in respect of any goods and/or services supplied by Amadeus to the Provider pursuant to the Agreement.

### WHEREAS:

- A. Amadeus has developed an automated reservation and distribution system to provide computerized reservations and other travel-related functions to travel service providers, travel agents and other users (the "Amadeus System");
- B. Amadeus has also developed Amadeus LinkHotel (as defined herein), which allows hotels to distribute their products and services through the Amadeus System and/or through other GDS channels;
- C. Amadeus contracts with providers of travel-related services for the display and distribution of their products and services to Amadeus Subscribers;
- D. Provider desires to distribute its products and services including Provider's data, policies, rates, availability and product descriptions through Amadeus LinkHotel and Amadeus desires to distribute such products and services through Amadeus LinkHotel;
- E. The attachments are integral parts of this Agreement.

In consideration of the above and the mutual undertakings (and other good and valuable consideration) contained herein, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### 1. DEFINITIONS

- 1.1 In this Agreement the following terms will have the following meanings, unless the context otherwise requires:

**"ACO"** means a company that has entered into a contract with Amadeus whereby it undertakes the obligation, among other things, to distribute Amadeus products in a defined territory.

**"Affiliate"** means, with respect to each Party, any other company or person that, directly or indirectly, Controls, is Controlled by or is under common Control with such Party.

**"Amadeus Group"** means the group of legal entities founded in order to organize, develop, operate and distribute the Amadeus System.

**"Amadeus LinkHotel"** or **"LinkHotel"** shall mean the Amadeus developed and branded product that allows hotels to distribute their products and services through multiple GDS channels.

**"Amadeus Hotel Platform"** shall mean web-based tool that Provider will be given access to pursuant to this Agreement to upload, update, and otherwise manage the Provider Content for distribution through Amadeus LinkHotel.

**"Amadeus Subscriber"** means any airline office, travel agent or other seller of travel-related services that contracts with Amadeus or an ACO to use the Amadeus System, to obtain information, make reservations and issue documents involving travel related services.

**"Booking"** means a confirmed reservation (i.e. a booking that has been made and has not been cancelled in the PNR before the reservation service date), e.g. for one or more hotel room nights carried out through Amadeus LinkHotel.

**"Chain Code"** means the two letter chain code used for identifying a hotel property for distribution through the Amadeus System. The Chain Codes applicable to the Properties shall be listed in the Order Form and may be updated by Amadeus from time to time.

**"Charges"** means the charges payable by Provider to Amadeus in accordance with Clause 5 and as set forth in Attachment A (Charges) to the Order Form.

**"Closed User Group Promotions"** shall mean discounts, special offers, or special rates offered by Provider through the website of a particular customer to a select group of Guest who constitute a targeted, limited subset of travelers that is substantially less than a majority of the members of a definable group such as Provider's frequent traveler program. Such promotions shall be offered for a short duration of time and shall be limited to a unique customer (e.g., a specific airline and their customers) or customer segment (e.g., frequent travelers that have not travelled in 180 days). If Closed User Group Promotions are made available to all visitors to the Provider's business to consumer internet site or more than a majority of customers in the same industry (i.e. airlines or hotel aggregators), then such Closed User Group Promotions shall also be provided through the LinkHotel.

**"Confidential Information"** means, with respect to the Disclosing Party, any information or material (in either oral, written, or digital form, whether or not specifically designated as "Confidential Information") provided by the Disclosing Party (or a Representative thereof) or relating to the Disclosing Party or its Affiliates, including the following information and other information of a similar nature:

(a) discoveries, ideas, concepts, software in various stages of development, designs, drawings, specifications, techniques, models, data, source code, object code, documentation, diagrams, flow charts, research, processes, procedures, functions, "know-how," marketing techniques and materials, marketing, business and development plans, products, services, customer names, information related to customers, price lists, pricing policies, financial information of the Disclosing Party and its Affiliates and any data processing documentation with respect to operation of the Amadeus System;

(b) any information described as proprietary or designated as Confidential Information or which under the circumstances would typically be treated as Confidential Information, whether or not owned or developed by the Disclosing Party or one of its Affiliates and whether or not copyrighted; and

(c) any information received by the Disclosing Party or one of its Affiliates from a third party that has been designated as confidential.

The terms of this Agreement shall constitute Confidential Information of each Party. Confidential Information does not include information that the Receiving Party demonstrates (i) is or has become generally available to the public other than as a result of a disclosure by the Receiving Party or any of its Representatives; (ii) was available or has become available to the Receiving Party on a non-confidential basis prior to its disclosure to the Receiving Party or its Representatives by the Disclosing Party; (iii) has become available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party, but only if such source is not bound by a confidentiality agreement with the Disclosing Party and is not otherwise prohibited from transmitting the information to the Receiving Party by a



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contractual, legal, fiduciary or other obligation; or (iv) was developed or received by the Receiving Party independently of the Disclosing Party's Confidential Information.

**"Content Management Documents"** or **"CMDs"** shall mean the contents, in the form and manner defined from time to time by Amadeus, to be provided by Provider describing the Provider Content.

**"Control"** means, with respect to an entity, the possession, directly or indirectly, of the power or right to direct or cause the direction of the management or policies of entity, whether through the ownership of share capital and/or voting securities, by contract or otherwise, it being understood that beneficial ownership of over fifty (50) per cent or more of the voting securities of another person shall in all circumstances constitute control of such other person and **"Controlled"** and **"Controlling"** shall be construed accordingly.

**"Distribution Channel"** means the following sources from which some or all of Provider Content can be reserved or purchased by any person or entity directly from Provider: (a) Provider's internal reservations system or its reservation sales personnel or agents, (b) Provider's Internet site, whether operated or marketed by Provider or any third party on behalf of Provider, (c) any GDS, (d) any Internet site or (e) any distribution method directly connected to travel agencies, consumers or corporations.

**"GDS"** shall mean a global distribution system (commonly referred to as a computerized reservation system). A GDS (i) collects, stores, processes, displays and/or distributes information through computer terminals and other devices concerning air and/or ground transportation, lodging and other travel related products and services offered by travel suppliers; (ii) enables travel agencies, corporations and/or travel wholesalers to reserve or otherwise confirm the use of, or make inquiries or obtain information in relation to, such products and services and/or (iii) processes transactions for the acquisition or use of such products and services. For the avoidance of doubt, GDS shall include but not be limited to each of the global distribution systems operated by Abacus, Amadeus, Axess, Farelogix, G2 Switchworks, Infini, ITA, Sabre, Sirena, Topas, Travelport, Travelsky, and their respective affiliates, successors and assigns, and any other system with multi-provider content offering such content to travel agencies, corporations and/or travel wholesalers.

**"Guest"** shall mean any customer of the Provider Content.

**"Interface"** means an XML technology that will directly interface certain aspects, as determined by Amadeus in its sole discretion, of the Provider Content with the Amadeus LinkHotel.

**"PNR"** means passenger name record.

**"Property"** shall mean any hotel operated by Provider whose products and services are being distributed through Amadeus LinkHotel as Provider Content.

**"Provider Content"** means all products and services relating to the Properties (including without limitation, all hotel properties, rates, BAR, availability, descriptive content, and where available rich media and hotel images).

**"Termination Fee"** means the fees payable by Provider to Amadeus in accordance with Clauses 12.4 and 12.5 and listed in Attachment A (Charges).

**"Travel Agency Commissions"** means any commissions owed by Provider to an Amadeus Subscriber, as agreed between Provider and the Amadeus Subscriber, for bookings made by the Amadeus Subscriber of the Provider Content.

**"VAT"** means value added tax.

## 2. AMADEUS OBLIGATIONS

### 2.1 Provision of LinkHotel

2.1.1 Amadeus shall distribute the Provider Content through LinkHotel to Amadeus Subscribers subject to the terms and conditions set forth herein.

2.1.2 Subject to Clause 3.3 and Amadeus' specific instructions, Amadeus will provide Provider with access to the Amadeus Hotel Platform and the Interface and a user guide with instructions on its proper use.

2.2 **Chain Code.** Amadeus will distribute the Provider Content through LinkHotel with the Chain Codes. Should Amadeus change the Chain Codes, Amadeus shall inform Provider of the change within thirty (30) days of the implementation of the new chain codes.

2.3 **Help Desk.** Amadeus will maintain a help desk facility for the purpose of reporting and resolving as soon as reasonably practicable, any issues related to the operation of LinkHotel.

2.4 **Modifications.** Amadeus shall have the right to make any adjustments, modifications and changes to, and discontinuation of, its programs and services it reasonably considers necessary from time to time. Amadeus will notify Provider of any significant change as soon as reasonably practicable. Amadeus shall have the right to update or modify the applicable schedules and attachments to reflect any such changes upon no less than thirty (30) days advance notice to Provider. If any such changes have a material, adverse impact to Provider's receipt of services hereunder, then Provider may terminate this Agreement upon thirty (30) days advance written notice to Amadeus.

2.5 **Service Issues.** Amadeus shall promptly notify Provider of any problems related to the Provider Content distributed through the LinkHotel and work diligently to resolve such problems. Amadeus shall notify Provider of a scheduled outage or emergency situation affecting the Amadeus System as applicable and as soon as reasonably possible.

## 3. PROVIDER OBLIGATIONS

3.1 **Provider Content.** Provider shall provide Amadeus with the Provider Content for distribution through the Amadeus LinkHotel.

### 3.2 Content Management Documents.

3.2.1 Provider shall complete and send to Amadeus the CMDs in the form and manner requested by Amadeus.

3.2.2 If Amadeus considers that the CMDs are incomplete, Amadeus may ask Provider to complete them. Amadeus shall have the final decision on whether to validate the documents.

3.2.3 Notwithstanding the aforementioned, each GDS channel through which the Provider Content is to be distributed via LinkHotel may freely reject Provider's CMDs in their respective Internet Distribution System ("IDS") or GDS. In such instances, Amadeus will inform Provider if the CMDs have been rejected.



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- 3.3 **Amadeus Hotel Platform**
- 3.3.1 Provider shall access the Amadeus Hotel Platform and the Interface includes the following information, including updates and modifications thereto: room availability, room rates, BAR, and any other information relating to the Provider Content that is reasonably requested by Amadeus.
- 3.3.2 Amadeus shall determine in its sole discretion which of the information described in Clause 3.3.1 shall be uploaded into the Amadeus Hotel Platform and the Interface.
- 3.3.3 Provider shall at all times comply with the procedures established by Amadeus from time to time for accessing the Amadeus Hotel Platform and the Interface.
- 3.3.4 Provider shall not (nor shall it permit any third party to) access or otherwise use the Amadeus Hotel Platform and/or the Interface except as explicitly communicated by Amadeus to Provider and solely for the purposes contemplated in this Agreement.
- 3.3.5 Provider agrees and acknowledges that Amadeus may immediately suspend access to the Amadeus Hotel Platform and/or the Interface upon any breach by Provider of this Clause 3.3.
- 3.4 Provider acknowledges that reservations may be made at any time (except when a Property is closed) through Amadeus LinkHotel where rooms may be reserved or booked. Provider undertakes to report and keep availabilities updated at all times in the Amadeus Hotel Platform as long as there are rooms available.
- 3.5 **Non-Discrimination**
- 3.5.1 Provider shall provide Provider Content on no worse terms and conditions to Amadeus than it would apply to any other Distribution Channel. In particular, Provider may not, among other things, withhold Content, apply surcharges, deny discounts or incentives, apply other adverse conditions or deny access to benefits related to Content to disadvantage Amadeus Subscribers as compared to users of any other Distribution Channel for any reason whatsoever. This clause excludes Closed User Group Promotions.
- 3.5.2 Clause 3.5.1 above shall not be read to limit Provider's right to freely establish and negotiate commissions and other terms of business directly with Amadeus Subscribers or users of any other GDS except that in no event will any such commissions and/or other terms of business be directly or indirectly withheld, modified or otherwise affected due, in whole or in part, to such Amadeus Subscriber's or users of any other Distribution Channel's selection (potential or actual) or use of the Amadeus System.
- 3.6 **Reservations.**
- 3.6.1 Provider shall be deemed to have knowledge of all reservations that appear in the Amadeus Hotel Platform. Any reservation information sent to Provider by Amadeus by email shall only be considered a courtesy from Amadeus.
- 3.6.2 Provider shall not refuse any reservation for the sole reason that, for whatever reason, it was not given notice of the reservation by email, as long as the reservation appears in the Amadeus Hotel Platform.
- 3.6.3 If, for whatever reason, Provider is unable to honor a reservation that has been correctly confirmed through the Amadeus Hotel Platform – either via a valid booking number, appearing in the Amadeus Hotel Platform or transfer to Provider's central reservation system or property management system – Provider shall, at its own expense, relocate the Guest to a room of equivalent or higher category in a hotel of equivalent category located in the vicinity. Any transportation costs incurred by the Guest in travelling to the replacement location will also be the responsibility of Provider.
- 3.6.4 If Provider is unable to relocate the Guest itself and Amadeus is required to relocate the Guest, Provider shall pay Amadeus (i) the commission for the reservation that was originally made and then not honored and (ii) all expenses arising from relocating the Guest to another hotel. These expenses will be invoiced via the monthly commission invoice sent by Amadeus to Provider. Any transportation costs incurred by the Guest in travelling to the replacement location will also be the responsibility of Provider and will be invoiced in the same way, along with any expenses relating to the inconvenience caused.
- 3.6.5 For avoidance of doubt, the Provider shall be solely responsible for collecting and obtaining any amounts owed to it by the Amadeus Subscriber or the Guest in relation to the purchase and consumption of the Provider Content.
- 3.7 **Cancellations, Late Cancellation and No Shows**
- 3.7.1 In the case of a cancellation, late cancellation or no show, Provider is free to apply its own cancellation or no-show conditions to the relevant Guest.
- 3.7.2 Amadeus shall not invoice Provider for any reservations cancelled within the permitted times via the system used to make the reservation.
- 3.7.3 In the case of a late cancellation done through LinkHotel, Provider shall pay Amadeus the commission amount relative to the late cancellation penalty charged to Guest. If the reservation is not cancelled through the original booking channel, Amadeus will invoice Provider a fixed commission amount indicated in Attachment A (Charges).
- 3.7.4 In the case of a no show, Amadeus will invoice Provider a fixed commission amount indicated in Attachment A (Charges).
- 3.7.5 Amadeus shall not, under any circumstances, be held responsible for cancellations, late cancellations or no-shows, and to this effect, Provider shall not be entitled to claim damages or any financial compensation from Amadeus, unless Provider can prove that the cancellation, late cancellation or no-show was the consequence of a mistake or negligence on the part of Amadeus.



- 3.8 **Accuracy of Provider Content**
- 3.8.1 Provider shall be responsible for maintaining the accuracy, completeness and usability of all data and services supplied to hereunder.
- 3.8.2 Provider agrees to load the Provider Content, including without limitation, data, policies, rates, product descriptions and availability, directly or as prescribed by Amadeus, into the Amadeus Hotel Platform and shall be responsible for maintaining the accuracy of such data for the term of this Agreement. Provider further agrees to guarantee the accuracy thereof to Amadeus Subscribers and Amadeus Customers.
- 3.8.3 Amadeus shall not be responsible for the verification of any sort of Provider Content or data included in the Amadeus Hotel Platform and/or Interface. Amadeus makes no representation whatsoever to Provider or any third party as to the accuracy of the Provider Content or data included in the Amadeus System
- 3.8.4 Provider shall be solely responsible for assuring that its Provider Data and/or data and services comply with all applicable laws and regulations.
- 3.8.5 Amadeus shall have the right in its sole discretion to block any Provider Content.
- 3.8.6 Provider shall responsible, at its own expense, for dealing with all complaints by a Guest or Amadeus Subscriber regarding reservation error linked to the Provider Content either incorrectly or late.
- 3.8.7 If Provider does not propose a solution to the aforementioned complaints within thirty (30) days from the date Amadeus gave notice to Provider of a given complaint, Amadeus may, at its own election, suspend its reservation service with Provider without giving prior notice. This suspension will remain in effect until a solution that Amadeus deems satisfactory has been proposed by Provider.
- 3.8.8 Provider shall fully indemnify Amadeus and its Affiliates against any losses incurred by them arising out of or in connection with any third party claims in connection with or arising from (i) the accuracy of the Provider Content and data supplied hereunder; (ii) the violation of any copyright, property, or privacy right in the Provider Content. or (iii) any other breach by Provider of its obligation under this Clause 3.8, whether such losses are in contract, tort (including negligence), breach of statutory duty, contribution, or otherwise, except to the extent that such claims result from the fraud or wilful misconduct of Amadeus or its Affiliates.
- 3.9 **Sale of Property.** Provider shall inform Amadeus immediately of the sale of any Property. Provider shall not terminate the Agreement with the sale of Property, and Provider shall make its best efforts to ensure that the new owners of Property shall assume the Agreement.
- 3.10 **GDS Channels.** Provider shall not, directly or indirectly, subscribe to or supply any other GDS distributor for the same Properties and channels that Provider has subscribed to through Amadeus LinkHotel.
- 3.11 **Chain Code.** Provider shall make reference to the Chain Codes in all brochures, directories, publicity advertising documents or other communication documents targeting travel agencies.
4. **UTILIZATION OF THE AMADEUS SYSTEM**
- 4.1 **Modifications.** Amadeus reserves the right, in its sole discretion, to modify or alter the operation of Amadeus LinkHotel and/or the Amadeus System at any time it deems modification or alteration to be desirable; provided, however, that Amadeus shall give Provider thirty (30) days prior written notice of modifications or alterations, other than those implemented to correct errors in Amadeus LinkHotel or the Amadeus System, which would materially affect the services provided to Provider under this Agreement or provided to any other Provider. Any and all costs incurred by Provider or any third party in connection with or as a result of alterations or modifications, except those implemented to correct errors in the Amadeus System, shall be borne by Provider or such other party as the case may be.
- 4.2 **Suspension of Service.** In addition to Amadeus' right to suspend as stated elsewhere in the Agreement, Amadeus may, at its discretion, temporarily suspend the display or sale of Provider Content through Amadeus LinkHotel upon twenty-four (24) hours written notice to Provider if Amadeus believes is in the best interest of Amadeus Subscribers. Amadeus will not exercise this right in an unreasonable manner.
5. **CHARGES**
- 5.1 **General**
- 5.1.1 In consideration for Amadeus' performance of Amadeus's obligations under this Agreement, Provider agrees to pay Amadeus the applicable Charges set forth and calculated in accordance with this Clause 5 and Attachment A (Charges) to the Agreement.
- 5.1.2 Unless otherwise specified in this Agreement, Provider shall pay all undisputed sums in an invoice within thirty (30) days after Provider's receipt thereof. Amadeus will be entitled to charge Provider interest on any late payments at the rate of three (3) percentage points above the three (3) month US Dollars LIBOR rate effective on that date.
- 5.1.3 Without prejudice to Amadeus' other remedies under the Agreement, non-receipt of payment of any Charges may result in the initial blockage of the distribution of Provider Content through LinkHotel, a suspension of distribution when the next subscription payment becomes due, or termination of the Agreement.
- 5.1.4 Amadeus may retain a third-party collections agent, attorney or similar third-party to collect the debt and



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Provider will be liable for all such third-party costs and expenses incurred by Amadeus, including all legal fees, incurred in the attempt to collect any and all outstanding undisputed Charges owed by Provider.

## 5.2 Invoices

5.2.1 All payments shall be invoiced by Amadeus or a third party payment processing company under contract with Amadeus to manage the billing and collection of payments made hereunder (the "**Payment Processor**"). Provider shall transfer the amounts owed to Amadeus under this Agreement to the Processor bank account specified on Provider's invoice, as made available through Processor's online payment platform ("**Processor Platform**").

5.2.2 The Payment Processor will inform Provider by email that information regarding its Provider Content for LinkHotel is available in the Processor Platform for Provider's validation and will set a deadline for Provider to validate the information. If the deadline is not met, the information will be automatically validated.

5.2.3 Processor will make available a Customer Instructions in the Processor Platform for Provider to upload. Six (6) days after Provider has uploaded the Customer Instructions, Processor will send reminders to Provider of any information regarding its Provider Content that have not been validated in the Processor Platform and the deadlines for doing so.

5.2.4 The information will be available in Commission Check menu found in the Processor Platform from the day of the upload until the validation by Provider or until the corresponding deadline.

5.2.5 The Payment Processor will issue the following documents on Amadeus' behalf that will be available in the Processor Platform:

- (a) **Processor Pro Forma:** for the total amount of Charges payable hereunder plus, when applicable, the amount to be paid for Travel Agency Commissions.
- (b) **Invoice on behalf of Amadeus:** Unless instructed otherwise, a single invoice for all fees for LinkHotel will be issued. This invoice will also include a payment report detailing the Travel Agency Commission payment instructions processed on Provider's behalf.

5.3 **Revision of Fees.** Amadeus shall be entitled to revise the Charges annually on the 1st of January of each year. Amadeus will give Provider at least thirty (30) days prior written notice of any increase. Any increase in the fees in accordance with this Article shall not exceed 10% or the IMF Forecast of worldwide inflation for the year as published in the September version of World Economic Outlook, whichever is higher.

## 5.4 Taxes and VAT

5.4.1 Save as otherwise agreed in this Clause, each party is responsible for and must pay any taxes for which that party is assessed in relation to the fulfilment of this Agreement.

5.4.2 Charges are exclusive of VAT which shall be chargeable to Provider at the then current rate if Amadeus is subject to VAT for the supply of goods or services to Provider. If VAT is chargeable to Provider, Provider shall pay such VAT together with the respective Charges for the Services that have given rise to the obligation to pay VAT.

5.4.3 The parties agree to use reasonable endeavours to do everything required by the relevant VAT legislation to enable or assist the other party to claim or verify any input tax credit, set off, rebate or refund in respect of any VAT paid or payable in connection with Services under this Agreement.

5.4.4 Should Provider be required under any applicable law to withhold or deduct any portion of the payments due to Amadeus, then the sum payable to Amadeus will be increased by the amount necessary to yield to Amadeus an amount equal to the sum it would have received had no withholdings or deductions been made.

## 6. TITLE AND NON DISCLOSURE

6.1 **Title to Software and Confidential Information.** Title, full and complete ownership and the right to use any or all software owned, licensed or developed by Amadeus or any of the Amadeus Group companies, and contained in the Amadeus System and/or Amadeus LinkHotel and used in the performance of this Agreement shall remain with Amadeus, the Amadeus Group and/or their respective licensors. Provider hereby acknowledges and agrees that the software constitutes trade secrets and proprietary information of Amadeus whether or not any portion thereof is or may be validly copyrighted or patented.

6.2 **Confidential Information.** Each Party (the "Disclosing Party") may from time to time disclose Confidential Information of the Disclosing Party to the other Party (the "Receiving Party") and its directors, officers and employees ("Representatives"). The Receiving Party agrees that it (a) shall hold, and shall cause its Representatives to hold, the Confidential Information of the Disclosing Party in strictest confidence, and (b) shall not, and shall not permit its Representatives to, directly or indirectly, use the Confidential Information of the Disclosing Party in any manner detrimental to the Disclosing Party or for any purpose other than for the performance of the Receiving Party's obligations under this Agreement. The restrictions set forth in this Article 6.2 shall apply to all Confidential Information of the Disclosing Party disclosed prior to and subsequent to the Effective Date and shall continue during the term of this Agreement and for a period of five years after the termination or expiration of this Agreement.

6.3 **Mandatory Disclosure.** In the event that the Receiving Party or one of its Representatives is requested, legally compelled (by oral questions, interrogatories, requests for information, document subpoena or other legally binding process) or required by a regulatory body, to disclose any Confidential Information of the Disclosing Party, the Person receiving such request shall provide the Disclosing Party with prompt notice of the request so that the Disclosing Party may seek an appropriate protective order and/or waive compliance with the provisions of this Agreement. If, in the absence of a protective order or a waiver hereunder, a Person receiving such request is, in the opinion of its counsel, compelled to disclose any Confidential Information of the Disclosing Party to any court, tribunal or agency or else become liable for contempt or suffer other censure or penalty, the Person receiving such request may disclose such Confidential Information without liability; provided, however, that prior to



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such disclosure, that Person shall use reasonable efforts to obtain reliable assurance that the Confidential Information so disclosed shall be accorded confidential treatment and shall provide the Disclosing Party with a copy of any Confidential Information so disclosed.

## 6.4 Authorized Disclosure

6.4.1 Notwithstanding this Clause, Amadeus and its Affiliates may list Provider as being distributed through the Amadeus System in informational and marketing materials.

6.4.2 Notwithstanding this Clause, Provider acknowledges and agrees that Amadeus may disclose this Agreement to an independent auditor appointed by Amadeus for the purpose of incentive adjustment provisions in subscriber agreements. However, in no circumstances will Amadeus or the auditor disclose the booking fees Provider pays Amadeus.

## 7. PRIVACY AND DATA SECURITY

7.1 Each Party will comply with all data security and privacy laws applicable to it in the markets where it is providing services hereunder

## 8. WARRANTIES

### 8.1 Mutual Warranties

8.1.1 Each party warrants to the other that as at the Effective Date and as at the first day of the Renewal Term:

- (a) it is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation;
- (b) it has all the requisite corporate power, approvals and authority to execute, deliver, receive and perform its obligations under this Agreement and to render this Agreement binding, in accordance with its terms; and
- (c) it has obtained all governmental and regulatory licenses, authorizations, approvals, consents or permits required to perform its obligations under this Agreement under all applicable laws and regulations, except to the extent that the failure to obtain any such licenses, authorizations, approvals, consents or permits is, in the aggregate, not material.

### 8.2 Warranties by Provider

Without limiting clause 8.1, Provider warrants, represents and undertakes on an ongoing basis during the Term that: (a) it has all licenses, rights (including intellectual property rights), permissions and approvals (including those from the Properties) to provide Amadeus with the Provider Content for distribution as set forth herein; and (b) it shall provide evidence reasonably required by Amadeus to demonstrate that it has the licenses, rights, permissions and approvals referred to in clause 8.

## 8.3 Disclaimer

Except as otherwise expressly provided in this Agreement, and except for any implied warranties or terms that cannot be excluded by law, neither party makes any representations, covenants, conditions or warranties to the other, whether express or implied, including warranties of title or implied warranties of merchantability, satisfactory quality or fitness for a particular purpose, non-infringement, accuracy, availability, or error or bug-free or uninterrupted operation.

## 9. INDEMNITIES

9.1 Each party (an "Indemnitor") shall indemnify, defend and hold harmless the other party and its Affiliates, directors, officers, employees and agents (an "Indemnitee") from and against any and all liabilities and damages and claims for damages, suits, proceedings, recoveries, judgments or executions (including but not limited to litigation cost and expenses and reasonable attorney's fees) which may be made, had, brought or recovered by any third party by reason of or on account of the Indemnitor's breach of: (a) any of the warranties contained in Clause 3.8; (b) any third party's intellectual property rights; or (c) in the case of Provider, the indemnity in Clause 3.8.8.

## 10. LIMITATION OF LIABILITY

### 10.1 Generally.

Subject to Clause 10.4, neither party to the Agreement shall be liable to the other for, nor deemed to be in default of this Agreement on account of any delays, errors, malfunctions or breakdowns in relation to the Amadeus System (in the case of Amadeus) or the Provider System (in the case of Provider), regardless of its negligence. The foregoing shall not relieve either party from liability for its wilful misconduct.

### 10.2 Liability Cap

Subject to Clause 10.4, the aggregate liability (the "Liability Cap") of each party and its Affiliates collectively to the other party and its Affiliates collectively whether arising from contract, tort (including negligence), breach of statutory duty, contribution, or otherwise, and regardless of the form of the action or the theory of recovery, for Claims asserted in respect of Losses under or in connection with this Agreement, shall never exceed twelve (12) months of revenue.

### 10.3 Exclusions

10.3.1 Subject to Clause 10.4, a party (and its Affiliates) shall not be liable to the other party (or to its Affiliates) for the following loss and damage (including costs and expenses relating to or arising out of such loss and damage) whether arising from contract, tort (including negligence), breach of statutory duty, contribution, or otherwise: (a) indirect loss, incidental loss, collateral loss or consequential loss; (b) exemplary, punitive or special damages; (c) lost revenue, profits (whether direct or indirect), contract business; (d) lost anticipated savings; (e) lost goodwill or reputation; (f) loss of or damage to, and restitution of, records or data; and (g) lost management time, even if such party (or its Affiliates) has been advised of the possibility of such damages or loss.

10.4 **Exceptions.** Neither party (nor its Affiliates) excludes or limits its liability to the other party (or to its Affiliates) in respect of losses



- arising in respect of: (a) fraud; (b) death or bodily injury caused by negligence; (c) any liability which by law cannot be excluded or limited; or (d) for the failure to may any Payments or interest payment that is due and owing to the other party under this Agreement.
- 10.5 Subject to Clause 10.4, the parties acknowledge that liability for all indemnities, undertakings, warranties, representations and obligations arising under this Agreement shall be limited under the Liability Cap, save that liability for the following indemnities, undertakings, warranties, representations and obligations shall not be so limited: (a) breach of its obligations under Clause 6 (Confidential Information), (b) a breach of its warranties under Clause 8, and (c) the indemnities in Clauses 3.8.8 and 9.
- 10.6 Neither party nor its Affiliates may bring a claim or cause of action against the other party (or its Affiliates) more than two (2) years after the claim or cause of action (whether in contract, tort (including negligence), breach of statutory duty, contribution, or otherwise) arises.
11. **FORCE MAJEURE**
- Neither Party shall have any liability for any delay or failure to perform its obligations (except payment obligations) hereunder to the extent such delay or failure is the result of any act or event that is beyond such Party's reasonable control ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of god, war, lightning, fire, storm, flood, earthquake, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, strikes or industrial disturbances, sabotage and act of vandalism, interruption or degradation of any third party communications system or the Internet, or any action of a governmental entity and similar events. If a Party experiences a Force Majeure Event, it shall promptly provide written notice thereof to the other Party and shall use all reasonable efforts to remove, avoid or mitigate the consequences of such Force Majeure Event.
12. **TERM AND TERMINATION**
- 12.1 **Term.** The term of this Agreement shall commence on the Effective Date and shall continue in force for the Initial Term and, following the end of the Initial Term, this Agreement shall automatically renew for additional periods of twelve (12) months (each a "Renewal"), unless it is terminated earlier in accordance with its terms.
- 12.2 **Termination by either party for Material Breach.** Either party may, by giving written notice to the other party, terminate this Agreement or the applicable Supplement(s) (whichever is or are affected), in whole, if the other party:
- (a) commits a material breach of this Agreement or the applicable Supplement, which breach is capable of being cured and not so cured within thirty (30) days after notice of the breach is received; or
  - (b) commits a material breach of this Agreement or the applicable Supplement, which breach is not capable of being cured, following thirty (30) days after notice of the breach is received.
- 12.3 **Termination by Amadeus for Non-Payment.** Amadeus may by written notice terminate this Agreement, as a whole or in part, if Provider fails to pay Amadeus any Charges under this Agreement (regardless as to whether such amounts are disputed or not) for more than thirty (30) days after payment is due in accordance with Clause 5 (Charges) and after Provider having received a further thirty (30) days' written notice of its failure to pay.
- 12.4 **Termination by Provider for Convenience Subject to Termination Fee.** Provider may by written notice terminate this Agreement in whole for convenience and without cause, by giving Amadeus at least thirty (30) days' and paying Amadeus the applicable Termination Fees set forth in Attachment A (Charges).
- 12.5 **Termination Fee.** On termination of this Agreement by Provider in accordance with Clauses 12.2, 12.3, and 12.4, Provider shall pay the applicable Termination Fees set forth in Attachment A (Charges). The parties agree and acknowledge that the Termination Fees are not intended to quantify the full extent of the losses that Amadeus may suffer in the circumstances referred to in Clauses 12.2 and 12.3 and that such Termination Fees are not a penalty.
- 12.6 **Termination in relation to a Force Majeure Event.** Each party may terminate this Agreement in accordance with Clause 11.
- 12.7 **Miscellaneous**
- 12.7.1 Except where expressly stated, neither this Agreement (as a whole) may be terminated in part under this Clause 11.
- 12.7.2 The effective date of a notice of termination shall not precede the date on which the notice is delivered to the other party.
- 12.8 **Consequences of Termination**
- 12.8.1 Termination of this Agreement will not affect any accrued rights of either Party. On termination or expiry of this Agreement for whatever reason, Provider shall pay any amounts owed to Amadeus in accordance with the terms of this Agreement accrued prior to the date of termination.
- 12.8.2 Following termination of this Agreement for any reason, the Parties agree to cease the use of the other Party's name described in Clause 6.
13. **DISPUTES**
- 13.1 **Governing Law.** This Agreement shall be governed by the laws of Spain excluding its conflicts of law provisions.
- 13.2 **Dispute Resolution.** The Parties agree to discuss in good faith any dispute arising from or relating to this Agreement or the breach hereof (a "Dispute"). If the Parties cannot resolve the Dispute, then, upon the written request of either Party, such Dispute will be settled through final, binding and confidential arbitration under the Rules of Arbitration of the International Chamber of Commerce ("ICC") by three (3) arbitrators. The place of the arbitration shall be London, England and the language of the proceedings shall be English. The Parties agree to exclude any right of application or appeal to any court of law in connection with any question of law arising out of the award and expressly agree to be bound by the decision of the ICC arbitration.
14. **GENERAL**
- 14.1 **Compliance with Laws.** Except as otherwise expressly provided in this Agreement, each party shall perform its obligations under

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this Agreement in compliance with all applicable laws relevant to it (irrespective of receiving any data from the other party) as at the Effective Date.

any rights under this Agreement, except as and to the extent otherwise expressly provided in such approval or consent.

- 14.2 **Assignment**
- 14.2.1 Provider shall in no event sell, assign, license, franchise, and sublicense or otherwise convey this Agreement or the rights and obligations contained herein to any third party without Amadeus' prior written consent.
- 14.2.2 Amadeus may, in its sole discretion, assign its rights and obligations under this Agreement to any other entity within the Amadeus Group or to any ACO.
- 14.3 **Entire Agreement**
- 14.3.1 This Agreement constitutes the complete and exclusive statement of agreement and understanding between the parties in respect of its subject matter and supersedes and extinguishes all prior contemporaneous proposals, understandings, agreements, or representations, whether oral or written with respect to the subject matter hereof.
- 14.3.2 Provider acknowledges and agrees that no representations were made prior to entering into this Agreement and that, in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any oral or written statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out or referred to in this Agreement and waives all rights and remedies which might otherwise be available to it in respect thereof.
- 14.3.3 Without prejudice to the provisions of this Clause, the only remedy available to Provider for breach of this Agreement shall be for breach of contract under and subject to the terms of this Agreement. The rights and remedies of Provider provided for in this Agreement are to the exclusion of all other rights and remedies at law.
- 14.4 **Amendments.** No amendment, modification or change of this Agreement, including with respect to this Clause, shall be valid unless in writing and signed by an authorized representative of both parties.
- 14.5 **Counterparts.** This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the parties hereto.
- 14.6 **Consents and Approvals**
- 14.6.1 Except where expressly provided in this Agreement as being in the sole discretion of a party, where agreement, approval, acceptance, consent, confirmation or similar action by either party is required under this Agreement, such action shall not be unreasonably delayed or withheld.
- 14.6.2 An approval or consent given by a party under this Agreement shall not relieve the other party from responsibility for complying with the requirements of this Agreement, nor shall it be construed as a waiver of
- 14.7 **Waiver of Default.** A waiver by either of the parties hereto of any of the obligations to be performed by the other under this Agreement or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other obligation herein contained. All waivers shall be in writing and signed by the party waiving its rights.
- 14.8 **Captions.** The captions titles and headings appearing in this Agreement have been inserted as a matter of convenience and in no way define, limit or expand the scope of the Agreement or any provisions of this Agreement.
- 14.9 **Notices.** All notices and other communications hereunder shall be made in English in writing and shall be deemed to have been duly given (i) when sent, if transmitted by facsimile transmission (receipt confirmed) during normal business hours of the recipient, (ii) when received, if by courier (receipt confirmed), (iii) by e-mail (receipt confirmed) or (iv) if mailed by certified or registered mail, postage prepaid, in each case addressed as described below or to such address (number) as the receiving Party may from time to time designate in writing. Each Party acknowledges that the contact person listed below is an authorized representative of such Party and that each Party will promptly notify the other if that person no longer is authorized to take decisions about the subject matter of this Agreement.
- (a) in the case of Amadeus: General Counsel, Amadeus IT Group, S.A. c/. Salvador de Madariaga 1, 28027 Madrid Spain. E-mail address: [legal@amadeus.com](mailto:legal@amadeus.com), fax number: + 34 91 582 0129, copied to the Amadeus Contract Manager; and
- (b) in the case of Provider: the contact person, address, email address, and phone number are included on the Order Form.
- 14.10 **Invalidity.** If any provision of this Agreement is determined to be in violation of or unenforceable under any applicable statute, law or regulation, the Parties will attempt to substitute such provision with a valid and enforceable one which achieves, to the greatest extent possible, the same effect as would have been achieved by the invalid or unenforceable provision. If the Parties are unable to agree to any such substitution and the provision materially affects the rights or obligations of a Party then such Party may terminate this Agreement upon 30 days advance written notice.