

AMADEUS INSTANT PREFERENCE AGREEMENT

1. SCOPE OF AGREEMENT

- 1.1 This agreement (the “**Agreement**”) is for the provision of Services by Amadeus to Property in exchange for the payment of the Services Fee. Capitalized terms used in this Agreement shall have the meanings defined in the Definitions – Section A at the end of this Agreement. The following documents are integral parts of this Agreement, and shall control and prevail in the order of precedence listed as follows:

- a. Service Order
- b. This Agreement and
- c. [Master Subscription and Services Agreement](#)

2. AMADEUS RIGHTS AND RESPONSIBILITIES

- 2.1 **Provision of Services.** Amadeus agrees to provide the Services subject to the terms and conditions of this Agreement and to Property's compliance with the terms herein, and Property accepts the Services.
- 2.2 Property acknowledges that the provision of the Reports is contingent upon Property's continuous valid subscription to Amadeus Instant Preference during the Term of this Agreement. Amadeus shall have no obligation to provide Reports if Property fails to subscribe or maintain its subscription to Amadeus Instant Preference during the term for the provision of the Reports or if Property is otherwise, in breach of its obligations under this Agreement.
- 2.3 Instant Preference Property shall indicate its sponsored nature in compliance with applicable laws, regulations, and industry standards. Instant Preference Property content shall include a disclosure statement if required, displayed in a manner ensuring transparency to the audience.

3. PROPERTY RIGHTS AND OBLIGATIONS

- 3.1 Availability and Rates in the Amadeus GDS. Property must either be (i) an Affiliate of a company that has a Service Provider Contract with Amadeus or Amadeus' affiliates for the purpose of providing connectivity between its CRS and the Amadeus GDS or (ii) must have a current agreement with Amadeus in order to distribute rates and availability to Amadeus Subscribers.
- 3.2 **Property identification.** Property agrees to notify Amadeus in writing of any changes to the Property ID within 7 days following such change. Any failure to so notify Amadeus will absolve Amadeus of any liability under this Agreement for failure to provide the amended Property ID with the Services.
- 3.3 **Fees for Participation.** Property agrees to pay the Services Fee.
- 3.4 **Payment.** Upon signature of this Agreement, Amadeus will invoice the Property for the Services Fee and Property will pay in accordance with the instructions on the invoice (and in accordance with the terms of this Agreement), including in the specified currency and by the due date for payment. In all events, Property will pay the full amount invoiced. Property is responsible for all wire transfer fees, bank charges and applicable foreign, national, state or local taxes, including without limitation, use tax, sales tax, income tax or any other taxes that may arise from these services.
- 3.5 If any sum under this Agreement is not paid by the due date, Amadeus shall be entitled to charge the Property interest on any such sum at the rate of three point five (3.5) percentage points above the three (3) month US Dollars LIBOR rate

effective on that date. Such interest shall be charged from and including the first value date until the date of payment of the amount due on a 360-day basis.

- 3.6 Any failure to make timely payment of any sum due under this Agreement shall constitute a material breach of the Agreement.
- 3.7 Subject to Property's compliance with its obligations under this Agreement, including, without limitation, the payment of all Services Fees, Property will receive Reports.
- 3.8 **Taxes.** All amounts owed to Amadeus are exclusive of VAT or any other similar taxes, which shall be chargeable to Property at the current rate if Amadeus is subject to VAT or other taxes for the supply of goods or services to Property. If taxes are chargeable to Property based on the Services, Property shall pay such taxes together with the respective fees for the services that have given rise to the obligation to pay such taxes. All fees and other amounts due by Property under this Agreement are exclusive of any taxes now or hereafter levied as a direct consequence of the parties entering into this Agreement or with respect to the performance of this Agreement.
- 3.9 The parties agree to use reasonable endeavours to reasonably 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.
- 3.10 Should Property be required under any applicable law or regulatory instruction 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.

4. LIMITATIONS ON USE

- 4.1 The reports and data provided to or accessed by Property from Amadeus under this Agreement (“**Market Data**”), including but not limited to the Reports, shall be used by Property exclusively for the marketing and sale of its travel services and the efficient conduct of its travel business. Market Data provided to or accessed by Property from the Services is for the exclusive use of Property and shall not be published, duplicated, released, reproduced, transferred, disclosed, delivered or made available to any other person, firm, corporation entity or individual, in whole or in part, in its original form, rearranged or processed in any form or manner whatsoever.

5. TERM, TERMINATION AND REMEDIES

- 5.1 **Term and renewal.** This Agreement shall commence on Effective Date and remain in effect for as defined under the Service Order (“Initial Term”), unless terminated earlier in accordance with the terms of this Agreement.
- 5.2 Upon the expiration of the Initial Term, this Agreement shall automatically renew for same successive periods of time as the Initial Term (“Renewal Term(s)”) unless either Party provides written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term.
- 5.3 All terms and conditions of this Agreement shall remain in full force and effect during any Renewal Term unless modified in writing and signed by both Parties.
- 5.4 **Mutual Right of Termination.** Either party may terminate this Agreement if there is a material breach of this Agreement by the other party not cured within thirty (30) days from defaulting party's receipt of written notice of such breach, describing such breach in reasonable detail. Notwithstanding, Amadeus may

terminate this Agreement with immediate effect if Property breaches any terms related to Sections 3.3 (Payment), 4 (Limitations on Use), 6 (Intellectual Property, Data Privacy, and Confidential Information), and 7 (Representations and Warranties). The obligations of the parties under this Agreement that by their nature would continue beyond termination or expiration of this Agreement, including, without limitation, the Sections referred to above, Sections 9-15 and any other obligations that have accrued prior to termination or expiration, shall survive.

5.5 **Termination for Convenience and Remedies.** Each party may terminate this Agreement, for any reason with ninety (90) days' prior written notice to other Party.

5.6 If Property terminates this Agreement for Amadeus' material breach as provided in Clause 5.1, or if Amadeus terminates this Agreement in accordance with Clause 5.2, Property will be entitled to, as its sole and exclusive remedy against Amadeus and its representatives in connection with a material breach, a refund equal to the Prorated Services Fee, subject to Amadeus' prior receipt of payment of the invoice from the Property.

5.7 If Property does not comply with Clause 3, Amadeus may, at its option and with written notice, immediately suspend the provision of the Services to Property or prohibit Property from appearing in a hotel List Display or a hotel Availability Display. If Amadeus terminates this Agreement due to noncompliance with the Agreement, including Clause 3, Amadeus will not refund the Services Fee.

6 INTELLECTUAL PROPERTY, DATA PRIVACY, AND CONFIDENTIAL INFORMATION

6.1 Any and all Intellectual Property and other proprietary rights to Services and any materials provided as part of the Services constitutes Amadeus' or its licensors proprietary property. Amadeus or its licensors retains all right, title and interest in such property including any and all development performed by Amadeus or its affiliated entities. Property: (a) shall not sell, transfer, publish, disclose, display or otherwise make available to any third party the Intellectual Property related to the Services; (b) agrees that all right, title and interest in and to the Services shall be vested in Amadeus automatically; (c) assigns to Amadeus all such right, title and interest (to the extent that they may be assigned prospectively) to the Services; and (d) hereby waives (and agrees to procure that any employees, consultants, sub-contractors or other relevant third parties shall waive) in favour of Amadeus, all Intellectual Property Rights that Property has or may have under any relevant laws in the Services, now or at any time in the future. Upon the termination or expiry of this Agreement or upon Amadeus written request at any time, Property shall immediately do all things and execute all documents, notably confirmatory statements that are necessary to assign any such right, title or interest which cannot be immediately or automatically assigned to Amadeus upon its creation or has not been assigned to Amadeus hereunder.

6.2 Each party shall comply with their respective obligations under applicable data protection law as they apply to the performance of the services under this Agreement, in the jurisdictions in which they are providing the services under this Agreement. In the event that Amadeus determines that the provision of the Services requires Amadeus to process personal data (as such terms are defined by the GDPR or other applicable regulations), Property will execute a data processing agreement based on Amadeus' most current standard format.

6.3 The content and terms of this Agreement are Confidential Information and shall not be disclosed by Property. Property shall use its commercially reasonable efforts, and no less effort than used by Property to protect its own Confidential Information, to not disclose copy or in any other way duplicate the Confidential Information of Amadeus in whole or in part without the prior written consent of Amadeus. "**Confidential Information**" does not include

information that is (a) already in the public domain, (b) disclosed by any other third party not under an obligation of confidentiality, and (c) independently developed by Property without the use of the Amadeus' Confidential Information. Upon termination of this Agreement, Property shall without delay return all the Confidential Information to Amadeus. The obligations of the Parties under this Article will apply during the term of this Agreement and shall survive its termination for a time of three (3) years following the effective date of such termination.

6.4 Notwithstanding anything to the contrary set forth in this Agreement, Property hereby authorizes Amadeus to publicly disclose that Property is a customer of Amadeus (e.g. in customer lists, website, commercial proposals, sales presentations, conferences, press releases, etc.), high-level details of the services provided to Property and use Property's brands and logos in connection with such disclosures. In addition, Property consents to Amadeus' right to use Property's name, logo, service mark and/or trademark, as updated from time to time, in Amadeus products and services. Amadeus acknowledges and agrees that all proprietary, intellectual property and any other rights in and to Property's name, logo, service mark and/or trademark are the sole and exclusive property of Property.

7 REPRESENTATIONS AND WARRANTIES

7.1 Each party represents and warrants that it has the legal power and authority to enter into this Agreement and to perform all of its obligations hereunder.

7.2 Amadeus disclaims and Property hereby waives (i) all warranties expressed or implied including but not limited to any warranty of merchantability, accuracy of data, non-infringement or fitness for intended use of any data or Services furnished hereunder and except as explicitly set out herein and (ii) any liability in tort, strict liability or otherwise with respect to the data or services furnished hereunder.

7.3 Property acknowledges that the Reports are provided at no additional charge to Instant Preference. In consequence, no refund shall be due by Amadeus for non-delivery of the Reports.

8 EXCLUSION OF WARRANTIES/LIMITATION OF LIABILITY AND DAMAGES

8.1 To the extent that Amadeus has any direct liability under this agreement or under any theory of liability to the Property and/or its representatives, Amadeus' cumulative liability for damages to the Property and/or its representatives will be limited to six months average monthly charge paid by the Property under this Agreement.

8.2 Neither party will be liable to the other party and/or its representatives under any theory of liability or any form of action (including negligence) for any incidental, special, punitive, exemplary or consequential damages under any circumstances, including but not limited to lost profits, revenue or savings, or the loss of use of any data, even if the other party had been advised of, knew, or should have known, of the possibility thereof.

8.3 Clauses 8.1 and 8.2 shall not apply to the following types of loss and damage: damage that is indemnified against pursuant to Clause 14, death and personal injury caused by a party's and/or its representative's negligence, payments owed under this Agreement, gross negligence, any fraudulent or intentional misrepresentation by a party and breaches of Clause 6.

9 FORCE MAJEURE

9.1 Either party shall be excused from performing hereunder (except for payment obligations) to the extent that it is prevented from performing as a result of any act or event which occurs and is beyond its reasonable control, including, without limitation, acts of God, war, terrorism, or any action of a governmental entity; provided that the party experiencing the force majeure provides the other with prompt written notice thereof and uses all reasonable efforts to remove or avoid such causes.

10 GOVERNING LAW/SUBMISSION TO JURISDICTION

10.1 This Agreement and any difference or dispute arising out of it or related to it shall be governed, construed and interpreted in accordance with the laws of England and Wales, without regard to its conflicts of law principles. Any dispute arising out of or in connection with this Agreement shall be finally settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce. The place of arbitration shall be London, England. The language shall be English. The procedure shall be that of the Rules of Arbitration of the International Chamber of Commerce Court of Arbitration ("Rules"). To the extent permitted by the Rules, arbitration shall be conducted remotely, using the ICC's Expedited Procedure Provisions. The parties agree to exclude any right of application or appeal to any Court in connection with any question of law arising out of the award.

11 NOTICES

11.1 Notices will be given in writing by personal delivery, electronic mail, certified or registered or overnight or other courier or delivery service, addressed, in the case of Property, to its address indicated in Service Order. In the case of Amadeus, notices will be delivered to Amadeus IT Group S.A, Calle Salvador de Madariaga 1, 28027 Madrid, Spain (with a copy to Amadeus Legal at the same address). All notices will be deemed given and received (a) upon receipt if personally delivered or sent by certified or registered mail and (b) when delivery is confirmed (including automated receipt of confirmation) if sent by electronic mail, or overnight or other courier or delivery service. A signed copy of this Agreement, or any amendment or supplement of this Agreement, delivered by e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

12 COMPLETE AGREEMENT and AMENDMENT/WAIVER

12.1 This Agreement is the complete and exclusive statement of the agreement between the parties concerning the Services and it supersedes or merges all prior and simultaneous proposals, term sheets, understandings and all other agreements, oral and written, between the parties relating to the Services. All other agreements between the parties are not integrated into this Agreement and remain in full force and effect.

12.2 Any amendment to this Agreement must be in writing and executed by the parties, except as herein provided. Amadeus may update the terms of this Agreement with thirty (30) days' prior written notice to Property. If the Property does not notify Amadeus before expiration of the thirty (30) day period advising that it chooses not to accept such updated terms, the Property will be deemed to have accepted the same. If the Property chooses not to accept the updated terms, Amadeus may terminate this Agreement with written notice. No term or condition of this Agreement is waived, and no breach is excused, unless such waiver or excuse is in writing and is executed by the party against whom such waiver or excuse is claimed.

13 DISCLAIMER OF AGENCY

13.1 This Agreement will not be construed as creating an agency, partnership, fiduciary relationship, or any other manner of legal association between the parties, and the relationship of the parties under this Agreement will be and at all times remain one of independent contractors. Each party agrees that it is an independent contractor and not an employee of the other. In accordance with such status, no employee or agent of either party will hold himself or herself out or claim to be an officer, agent or employee of the other party.

14 INDEMNITIES

14.1 Property will indemnify, defend and hold Amadeus and its representatives harmless from and against all actual or threatened claims, suits, or actions (including reasonable legal fees and costs,

as incurred) arising out of or related to: (a) Amadeus or its representatives' use in accordance with this Agreement of any data, policies, rates, product descriptions or availability information provided by or on behalf of Property; or (b) any breach of Clauses 3 (Property Rights and Obligations), 4 (Limitations on Use), 6 (Intellectual Property, Data Privacy, and Confidential Information), 7 (Representations and Warranties) and 15 (Assignment).

15 ASSIGNMENT

15.1 Property may not assign this Agreement, or any right or obligation under it, by operation of law or otherwise without Amadeus's prior written consent. If there is an assignment, the assignee will assume all of the obligations under this Agreement and the assignor will remain liable for all of assignee's continuing performance. Property must give Amadeus at least thirty (30) days' prior notice of any proposed assignment.

16 MISCELLANEOUS

16.1 This Agreement will not be deemed to create any partnership or joint venture between the parties. If any provision is determined invalid or illegal under applicable law, such provision will be deemed restated to reflect as nearly as possible the intentions of the parties and will not affect any other provision. This Agreement has been reviewed and negotiated by the parties with the opportunity to be assisted by counsel. In interpreting this Agreement, no weight shall be placed upon which party (or its counsel) drafted the provision or language being interpreted.

16.2 This Agreement is drawn up in the English language. In the event of any translations of this Agreement or in the event of any discrepancy between different versions of this Agreement, the English language version shall prevail and be binding.

Form.

SECTION A: DEFINITIONS

"Affiliate" is defined as any entity, individual, firm, or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with a party to this Agreement.

"Amadeus GDS" means the Amadeus reservations and distribution system with the ability to perform comprehensive information searches, communications, reservations, distribution and related functions on a worldwide basis.

"Amadeus Subscribers" means any airline office, travel agent or other seller of travel-related services that contracts with Amadeus, an Amadeus national marketing company, or a distribution system to use the Amadeus GDS to obtain information, make reservations and issue documents involving travel related services.

"Availability Display" means the list of properties that satisfy the Amadeus Subscriber's criteria for information regarding hotels that have rooms that could be booked.

"CRS" means a central reservation system owned or operated by or on behalf of Property.

"Confidential Information" means any information disclosed to the receiving party (in writing, verbally, electronically or in any other form) that is marked or identified as (or provided under circumstances reasonably indicating that it is) confidential or proprietary. The terms of this Agreement will be deemed Confidential Information.

"Effective Date of Termination" means the first date that fulfills any required notice period after termination notice has been properly given as provided in accordance with this Agreement.

"Instant Preference" means the non-random ordering of properties in the List Display or Availability Display whereby the Property receives a greater than random probability of appearing above another non Instant Preference property.

"Intellectual Property" shall mean any trade secrets, patents, copyrights, trademark, know-how, and similar rights of any type protected under the laws of any competent governmental authority, domestic or foreign including all applications and registrations relating to any of the foregoing. This includes, without limitation, any updates, improvements and modifications thereof, all program materials, flow charts, processes, database designs, algorithms, ideas, inventions, know-how, notes, support documentation, outlines, formulas, and techniques protected under the previous sentence.

"List Display" means the list of properties that match the Amadeus Subscriber's criteria for information regarding hotels that are located in a specific location regardless of the availability of rooms at each hotel.

"Market" means the city or urban area where Property is located

"Property or Properties" means hotel properties recipient of the Services pursuant to the terms of this Agreement.

"Property ID" means the unique alpha-numeric code used to identify a specific Property within the Amadeus GDS.

"Prorated Services Fee" means an amount equal to the Services Fee times the percentage of time left on the Agreement before its End Date as specified in Service Order.

"Reports" means the reports described in Section B of this Agreement.

"Services" means Instant Preference, together with any Reports subscribed to by Property.

"Services Fee" means the flat fee stated in Service Order to be paid for participation in the Instant Preference program.

"Term" means the term of this Agreement as detailed in the Order

SECTION B: SERVICES**1. ADDITIONAL TERMS AND CONDITIONS FOR INSTANT PREFERENCE**

- 1.1 Property hereby agrees to its participation in the Amadeus Instant Preference program whereby participating properties receive Instant Preference on displays available to Amadeus Subscribers in exchange for payment of fees.
- 1.2 Provision of Instant Preference. Amadeus agrees to provide Properties with Instant Preference within a List Display or Availability Display available to Amadeus Subscribers.
- 1.3 Application of Instant Preference. Amadeus reserves the right to determine on which List Displays and Availability Displays it will provide Properties with Instant Preference.

2. ADDITIONAL TERMS AND CONDITIONS FOR THE REPORTS INCLUDED IN THE INSTANT PREFERENCE SUBSCRIPTION**2.1 Reports description**

- 2.1.1 Property Performance Report displays Property key performance indicators against the Market as determined by Amadeus. Top 10 Rates Report displays the top 10 booking rates of Property, against the Market and the country where Property is located.
- 2.1.2 Market comparison report provides Property with conversions ratios resulting from a view of the travel agents searches and booking behaviors for Property and against the Market.

2.2 Delivery of the Reports

- 2.2.1 The Reports are delivered every month to Property in the form of a PDF file. The Reports are sent to the email address indicated on the Order Form. The first activity report should be expected into the second subscription month after activation.