



## MYPMS END USER AGREEMENT

This agreement is made as of the date specified below between BookingCenter, LLC. (“**BookingCenter**”) and the customer specified below (“**Customer**”).

WHEREAS BookingCenter has agreed to provide Customer with a hosted, internet based application for managing aspects of Customer’s operations (the “**Service**”), as specified in the Property Account Form attached hereto and made part of this agreement (the “**Property Account Form**”), subject to the terms and conditions set forth below and Customer has agreed to accept the Service on such terms and conditions.

NOW THEREFORE it is agreed as follows:

1. License. Customer is hereby granted a non-exclusive, non-transferable license to use the Service during the term of this agreement. The grant of such license does not create, grant or in any way vest in Customer any right, title or interest in any software or other intellectual property comprised in the Service, other than the license to use the same in connection with the Service.
2. Payment. Customer will make payments to BookingCenter as specified in the Customer Proposal and/or the Property Account Form.
3. Maintenance. Customer acknowledges that (a) it is not possible for BookingCenter to guarantee that the Service will be available or will function properly at all times and (b) from time to time the Service will not be available at all because of the need to conduct routine or non-routine maintenance. BookingCenter will use commercially reasonable measures to ensure that, where possible, downtime will be scheduled with prior notice to Customers and, where possible, not so as to conflict with Customer’s normal business operations. Customer will be notified in advance of any maintenance that is to be scheduled on a regular basis and will use its reasonable efforts to give Customer at least 2 days’ notice of any other maintenance or downtime. Further, that to maintain the MyPMS system for the Customer, it is necessary that within 30 days of the property using the MyPMS system, BookingCenter be used to provide the Customer’s rates and availability to the Global Distribution System (GDS Systems) made up of Sabre, Galileo, Amadeus, and WorldSpan and their subsidiary companies. Also, that the Customer will use the BookingCenter website booking engine on the property’s main website to provide real-time online bookings. Failure to use BookingCenter to provide the ‘GDS representation’ for the Customer and to provide website bookings at the Customer’s website will void this contract.
4. Backup. Information input into the Service by Customer will be backed up hourly. Information that is backed up will be stored until a more recent backup is available to replace it with.
5. Technical Support. Support will be provided by telephone twenty-four hours a day, seven days every week. BookingCenter will attempt to respond to any Customer complaint,

inquiry or request for assistance within one hour during normal business hours Monday - Friday, which are agreed to be between 7:00 a.m. and 5:00 p.m PST. (standard or daylight as the case may be) and within four hours at all other times. BookingCenter will use reasonable endeavors to solve all issues immediately but Customer recognizes that (a) at certain times, for reasons that may be outside the control of BookingCenter, demand for Customer support may exceed its availability and (b) particularly complex issues may require a higher degree of support from that which can be provided by such first response and this may take longer to provide.

6. Confidential Information. Data input by Customer in connection with the Service is the exclusive property of Customer and constitutes Customer's confidential information. BookingCenter agrees that it will not in any way use for its own account or for the account of any third party any such information or, save as may be required by law, disclose to any third party any such confidential information. Notwithstanding the foregoing, BookingCenter, or third parties designated by BookingCenter, shall have the right to utilize the Customer's data for statistical reporting purposes, not related directly to Customer, or to individual clients of Customer. Additionally, offers may be made to Customer as a result of use of the Service that may have added value to the Customer.

7. Termination. (A) If (i) Customer fails to make the payments required to be paid to BookingCenter pursuant to this Agreement and the Purchase Order if (ii) Customer breaches any of the non-monetary terms of this Agreement and fails to cure such non-monetary breach within thirty (30) days of receiving written notice thereof, especially as regards the activation of the GDS and website bookings specified above in **Section 3 Maintenance**, BookingCenter shall be entitled to terminate this Agreement. Customer understands that if BookingCenter terminates this Agreement, the license granted herein will terminate immediately and Customer's access to the Services will be curtailed. Neither BookingCenter nor any contractor, subcontractor, provider or customer of BookingCenter shall have any liability for any loss suffered by Customer arising out of the termination of this Agreement by BookingCenter and by the curtailment of Customer's access to the Services. If this Agreement is terminated by BookingCenter for cause due to Customer's breach, BookingCenter may retain all of Customer's data until customer has cured any monetary default.

(B) Notwithstanding the foregoing, (1) Customer may terminate this agreement (1) at the end of any calendar month for any reason by giving not less than thirty (30) days advance notice in writing and (ii) BookingCenter can terminate this agreement at any time and for any reason by giving not less than ninety days written notice to Customer. If this agreement is terminated for any reason, and provided all monies due from Customer have been paid in full, BookingCenter will provide a complete download of all reservations, guest contact information, financial postings and other reasonably accessible relevant data to MS Excel or .csv format.

8. Acceptable Content Policy. Customer covenants to BookingCenter that Customers will not (1) transmit content that is, or that BookingCenter considers in its sole discretion to be unlawful or otherwise inappropriate; (2) post or disclose any personally identifying information or private information about children or any third parties without their consent (or their parents' consent in case of a child under 13 years of age); (3) display material that sexually exploits children under 18 years of age; (4) sell or promote any products or services that are unlawful in the location at which the content is posted or received; (4) promote, solicit or participate in pyramid or ponzi schemes; (6) introduce viruses, worms, Trojan horses and/or harmful code on the Internet; (7) impersonate any other person, including but not limited to, an

BookingCenter official, expert or bulletin board leader, guide or host; and (8) post any content that would infringe or misappropriate in any way or violate any copyright, patent, trademark, service mark, trade name, trade secret or other intellectual property right of any third party. BookingCenter complies with the federally-mandated take down/put back procedures prescribed by Section 512 of the Digital Millennium Copyright Act (17 U.S.C. Sec. 512) in connection with infringement claims involving content supplied by customers. Violation of this policy may result in immediate termination of the Service. BookingCenter reserves the right to modify this Acceptable Content Policy with no less than 90 days given notice.

9. Indemnification. Customer shall, at its own expense, defend, indemnify and hold harmless BookingCenter and its directors, officers, employees and agents and sub-contractors from and against any and all liability (including attorney's fees and costs) that may arise or result from any violation by Customer or any of its directors, officers, employees, agents, sub-contractors or clients of any of the provisions of Section 8 above or from any action, claim or demand arising out of Customer's content. To the extent the foregoing agreement to indemnify will not extend to liability, claims, damages, losses or expenses, including attorney fees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the indemnity, or the agents or employees of the indemnity; or (2) the giving of or the failure to give directions or instructions by the indemnity, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

10. Disclaimers. BookingCenter makes no representation or warranty to Customer with respect to the Service, except as expressly stated herein. Except as aforesaid, BookingCenter disclaims all express or implied warranties including, without limitation, all implied warranties arising from course of dealing or course of performance. BookingCenter makes no representation or warranty as to the merchantability or fitness of the Service for any particular purpose. BookingCenter does not warrant that the Service will be uninterrupted or error free but will make commercially appropriate commitments to assure it is error-free and secure. BookingCenter does not and cannot control the flow of data to or from the website from which the Service is provided or other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions caused by these third parties can produce situations in which BookingCenter or Customer's connections through the Internet (or portions thereof) may be impaired or disrupted. Although BookingCenter will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, BookingCenter cannot guarantee that they will not occur. Accordingly, BookingCenter disclaims any and all liability resulting from or related to such events and Customer releases BookingCenter therefrom.


11. Limitation of Liability. In no event shall BookingCenter be liable to Customer or any third party for any special, consequential, incidental or other indirect damages however caused, on any theory of liability, and these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. In no event shall BookingCenter's liability to Customer pursuant to this agreement exceed the amount of money paid by Customer to BookingCenter during the previous six months pursuant to this agreement, whether or not BookingCenter has been advised of the possibility of such damages. The parties acknowledged that the provisions of this Section have been bargained for and agree that this Section represents a reasonable allocation of risk.

12. Security. In connection with the use of the Service, Customer will be provided with passwords which will permit persons designated by Customer to access Customer's information and/or to use the Service. Customer is solely responsible for devising and implementing appropriate security arrangements regarding authorized use of such passwords. Customer acknowledges that it is responsible for delivery, entry, maintenance, timeliness and accuracy of all data input into the Service and that BookingCenter is not responsible or liable for any such data or information including, without limitation, any inaccuracies therein or for any actions taken or admitted to be taken by Customer in reliance thereon.

13. Force Majeur. Except for the obligation to pay money, neither party will be liable for any failure or delay in its performance under this agreement due to any cause beyond its reasonable control, including act or war, acts of god, earthquake, flood, embargo, riots, sabotage, labor shortage or dispute, government act or failure of the Internet provided that the delayed party (a) gives the other party prompt notice of such cause and (b) uses its reasonable commercial efforts to correct promptly such failure or delay in performance.

14. Miscellaneous. (a) This agreement is made under and will be governed by and construed in accordance of the laws of the State of Nevada (b) The Superior Court in Douglas County shall have jurisdiction with respect to any disputes that may arise between the parties in connection with this agreement. (c) The waiver of any breach or default of this agreement will not constitute a waiver of any subsequent breach or default and will not act to amend or negate the rights of the waiving party. (d) In the event of any provision of this agreement is held by tribunal of competent jurisdiction to be contrary to law, the remaining provisions of this agreement will remain in full force and effect. (e) Customer may not assign its rights or delegate its duties under this agreement either in whole or in part without the prior written consent of BookingCenter. BookingCenter may assign this agreement in whole or in part and may delegate its obligations as it thinks fit provided that such assignment or delegation shall not relieve BookingCenter of any obligations to Customer hereunder. (f) This agreement and the Property Account Form constitutes the entire agreement between the parties relating to the provision of the Service and supercedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written or oral, regarding the same. (g) In the event of any conflict between the terms of this agreement and the Property Account Form, the terms of this agreement shall prevail. (h) This agreement may be executed in two or more counterparts, if the client desires, and if so, each shall be deemed an original but all of which together shall constitute one and the same instruments. (i) All obligations and responsibilities of the parties relating to licensing and protection of intellectual property and confidential information shall survive the termination of this agreement and shall remain enforceable by either party.

15. Effective Date. The effective date of this agreement is \_\_\_\_\_.

BOOKINGCENTER, LLC. By:  Name: Jeff Tweddale Title: President	CUSTOMER By: _____ Name: _____ Title: _____
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