

GuestCentric Master Subscription Agreement

May 2018

This Master Subscription Agreement (“Agreement”) governs the services you purchased and eventual the Free Trial of such services.

By accepting this Agreement, either by clicking a box, indicating your acceptance, or, by executing an order form (“Software Subscription Agreement”), you agree to the terms of this Agreement.

If you are entering into this Agreement on behalf of a Company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions.

You may not access the **Services** if **You** are **Our** direct competitor, except with **Our** prior written consent. In addition, **You** may not access the **Services** for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. **You** are not allowed to decompile, or modify in any way whatsoever the contents of the software nor to reproduce any part thereof without **Our** written consent.

This Agreement was last updated on May 2018. It is effective between **You** and **Us** as of the date **We** accept your Subscription of the Services.

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1. DEFINITIONS

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity.

“**Control**,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

“**Internet User**” means the visitors to Your official website or any other Internet distribution channel that generate a reservation for one of **Your** properties using the **Services**.

“**Inventory**” means tourism-related products like accommodation rooms of hotels, bed-and-breakfasts or hostels.

“**Check-Out**” means the date when a Internet User leaves **Your** property.

“**No Shows**” means the non-arrival of the **Internet User** at **Your** property on the scheduled date of arrival.

“**Order Form**” (also called “Software Subscription Agreement”) means the ordering documents for purchases hereunder, including addenda thereto, that are entered into between **You** and **Us** from time to time. **Order Forms** shall be deemed incorporated herein by reference.

“**Purchased Services**” means **Services** that **You** or **Your Affiliates** purchase under an **Order Form**, as distinguished from those provided pursuant to a free trial.

“**Services**” means the online, Web-based applications and platform provided by **Us** via <http://www.guestcentric.com> and <http://www.guestcentric.net> and/or other designated websites as described in the **User Guide**, that are ordered by **You** as part of a free trial or under an **Order Form**, including associated offline components but excluding Third Party Applications.

“**Third-Party Applications**” means online, Web-based applications and offline software products that are provided by third parties, interoperate with the **Services**, and are identified as third-party applications.

“**User Guide**” means the online **User** guide for the **Services**, accessible via help.guestcentric.com, as updated from time to time. **You** acknowledge that **You** have had the opportunity to review the **User Guide** during the free trial described in Section 3 (Free Trial) below.

“**Users**” means individuals who are authorized by **You** to use the **Services**, for whom subscriptions to a Service have been purchased, and who have been supplied or who have had access to **User** identifications and passwords by **You** (or by **Us** at **Your** request). **Users** may include but are not limited to **Your** employees, consultants, contractors and agents; or third parties with which **You** transact business.

“**We**,” “**Us**” or “**Our**” means the GuestCentric company described in Section 14 (Who **You** Are Contracting With, Notices, Governing Law and Jurisdiction).

“**You**” or “**Your**” means the company or other legal entity for which you are accepting this Agreement, and **Affiliates** of that company or

entity. The **Services** are designed to be used by non-physical persons (v.g. companies, associations, public entities) in the scope of their professional activity hence **You** are a professional end-**User** of the **Services**.

“**Your Data**” means all electronic data or information submitted by **You** to the **Purchased Services**.

2. GENERAL TERMS AND CONDITIONS

We market to customers for use on Internet sites, be they of hotels, bed-and-breakfast, other accommodation services, portals, intermediation or distribution sites **Our Services**, consisting of e- commerce management software designed by **Us** and various services and service provisions around this software.

You business consists of the direct or indirect operation of tourism- related products like accommodation rooms of hotels, bed-and-breakfasts or hostels (the “**Inventory**”). Indirect operation may be considered the proposal, intermediation, or representation of commercial or promotional and marketing services or the management of an accommodation brand for which **You** are the source, the representative or one of the components.

Our Services allow **You** in particular to: (a) Offer and sell to **Internet Users** inventory of rooms or other tourism-related products; (b) Directly manage, in real-time the pricing conditions, the availabilities and the terms and conditions associated with the sale of the **Inventory**. (c) Directly create promotions, in real-time, around the **Inventory** to try to increase sales. (d) Create a historical database of the reservations performed by **Internet Users** for purposes of customer profiling and customer relationship management. (e) Directly manage, in real-time, the content of a website designed to promote the **Inventory** hosted as part of the **Services** (f) Obtain statistical data about the performance of the **Services**.

You acknowledge and convene that the information contained in the Master Agreement is sufficient for the subscription of the **Services**.

You may not access the Services if **You** are **Our** direct competitor, except with **Our** prior written consent. In addition, **You** may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. **You** are not allowed to decompile, or modify in any way whatsoever the contents of the software nor to reproduce any part thereof without **Our** written consent.

This Agreement is effective between You and Us as of the date We accept your Subscription of the Services

3. FREE TRIAL

Under the terms and conditions set forth in the Order Form **We** will make one or more **Services** available to **You** on a trial basis free of charge during the time defined therein . Additional trial [GC ENG May 2018]

terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

Any data **you** enter into the services, and any customizations made to the services by or for **you**, during **your** free trial will be permanently lost unless you purchase a subscription to the same services as those covered by the trial, purchase upgraded services, or export such data, before the end of the trial period. **You** cannot transfer data entered or customizations made during the free trial to a service that would be a downgrade from that covered by the trial (e.g., from gold edition to silver edition or from silver edition to bronze edition); therefore, if **you** purchase a service that would be a downgrade from that covered by the trial, **you** must export **your** data before the end of the trial period or **your** data will be permanently lost.

Notwithstanding section 10 (Warranties and Disclaimers), during the free trial the services are provided “as-is” without any warranty.

Please review the **User Guide** during the trial period so that **You** become familiar with the features and functions of the **Services** before **You** make **Your** purchase.

4. PURCHASED SERVICES

- **4.1 Provision of Purchased Services.** **We** shall make the **Purchased Services** available to **You** pursuant to this Agreement and the relevant **Order Forms** during a subscription term. **You** agree that **Your** purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by **Us** regarding future functionality or features. **We** might not give **You** the opportunity to double check **Your** data and selection in the **Order Form**, so **You** have to make the necessary verifications before accepting. **You** accept that we confirm **Your** order either by sending **You** a confirmation message or by means of

activating the **Services** for **You**.

- **4.2 Set Up Services, Design and other Customized Services.** All services, including Set-Up and Design services, which imply a specific customization ordered by **You**, shall stay available for **You** for a maximum period of 30 days after notification from Guestcentric of completion of the service or of any of its parts. **You** must either approve the Service or the completed part thereof or make your remarks within the said period, after which the service or part of service will expire automatically, without further notice. Any paid amounts shall not be reimbursed and all unpaid amounts are due from the date of expire. For reactivating the expired Service or part thereof **You** must pay a reactivation fee. Services or parts thereof that **You** require which, at the sole criteria of **Guestcentric**, are substantially different from the expired Services, shall be treated as new Services and therefore must be subject to a new Order Form and a new price proposal.
- **4.3 User Subscriptions.** When expressly specified in the applicable **Order Form**, (i) **Services** are purchased as **User** subscriptions and may be accessed by no more than the specified number of **Users**, (ii) additional **User** subscriptions may be added during the subscription term at the then current pricing for the pre-existing subscriptions, and (iii) the added **User** subscriptions shall terminate on the same date as the pre-existing subscriptions. **User** subscriptions are for designated **Users** and cannot be shared or used by more than one **User** but may be reassigned to new **Users** replacing former **Users** who no longer require ongoing use of the **Services**.

5. USE OF THE SERVICES

- **5.1 Our Responsibilities.** **We** shall: (i) provide to **You** basic support for the

Purchased Services at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the **Purchased Services** available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which **We** shall give at least 8 hours notice via the **Purchased Services** and which **We** shall schedule to the extent practicable during the weekend hours from 3:00 a.m. GMT time Saturday to 3:00 a.m. GMT time Monday), or (b) any unavailability or any interference or incident that might cause defects in the Services caused by circumstances beyond **Our** reasonable control, including without limitation, acts of God, acts of government, failure to obtain or maintain necessary permits, flood, fire, earthquakes, civil unrest, acts of terror, sabotage, acts of third parties, strikes or other labor problems (other than those involving **Our** employees), machinery breakdown or equipment failure (which are not the result of poor maintenance), Internet service provider failures or delays, or impossibility of obtaining electrical power, utilities, manpower or equipment, and (iii) provide the **Purchased Services** only in accordance with applicable laws and government regulations.

- **5.2 Updates, modifications and System errors:** We are not responsible for any situation of overbooking, channel mapping errors or other errors or bugs in the system that occur as a result of the execution by Us of instructions coming from You regarding updates or modifications to the system or data that You provide Us or that You validate. Our liability for any inaccuracy or errors in fulfilling Your instructions or for making changes without validation is in any case limited to the monthly fee You pay Us.
- **5.3 Your Responsibilities.** **You** shall (i) be responsible for **Users**' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of **Your** Data and of the means by

which **You** acquired **Your Data**, (iii) be responsible for keeping safe from any unauthorized persons the Usernames and Passwords given to **You** by **Us** for accessing the **Services** and therefore for using commercially reasonable efforts to prevent unauthorized access to or use of the **Services**, and notify **Us** promptly of any such unauthorized access or use, and (iv) use the **Services** only in accordance with the **User Guide** and applicable laws and government regulations. **You** shall not (a) make the **Services** available to anyone other than **Users**, (b) sell, resell, rent or lease the **Services**, (c) use the **Services** to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the **Services** to store or transmit **Malicious Code**, (e) interfere with or disrupt the integrity or performance of the **Services** or third-party data contained therein, or (f) attempt to gain unauthorized access to the **Services** or their related systems or networks.

- **5.4 Data processing and transmission.** **You** understand that the technical processing and transmission of the **Services**, including **Your** contents may be transferred unencrypted and involve (a) transmissions over various networks and (b) changes to conform and adapt to technical requirements of connecting networks or devices.
- **5.5 Unlawful and Other Content.** **We** may remove **Your** contents and accounts that **We** determine at **Our** sole discretion to be unlawful, offensive, threatening, libelous, defamatory, pornographic, obscene or otherwise objectionable or violates any party's intellectual property or this Agreement.
- **5.6 Abuse.** Verbal, physical, written or other abuse (including threats of abuse or retribution) of any of **Our** customers, employees, members or officers will result in account termination.

- **5.7 Usage Limitations.** **Services** may be subject to other limitations, such as, for example, limits on disk storage space, on bandwidth usage, on the number of calls **You** are permitted to make against **Our** application programming interface, and, for **Services** that enable **You** to provide public websites, on the number of page views by visitors to those websites. Any such limitations are specified in the **User Guide**. The **Services** provide real-time information to enable **You** to monitor **Your** compliance with such limitations. If **Your** usage exceeds such limitations, **We** reserve the right to upgrade your account automatically, disable **Your** account or throttle **Your** usage to adhere to the stipulated limitations.

6. THIRD-PARTY PROVIDERS

- **6.1 Acquisition of Third-Party Products and Services.** **We** may offer **Third-Party Applications** for sale under **Order Forms**. Any other acquisition by **You** of third-party products or services, including but not limited to **Third-Party Applications** and implementation, customization and other consulting services, and any exchange of data between **You** and any third-party provider, is solely between **You** and the applicable third-party provider. **We** do not warrant or support third-party products or services, whether or not they are designated by **Us** as "certified" or otherwise, except as specified in an **Order Form**. No purchase of third-party products or services is required to use the **Services**.
- **6.2 Third-Party Applications and Your Data.** If **You** install or enable **Third-Party Applications** for use with **Services**, **You** acknowledge that **We** may allow providers of those **Third-Party Applications** to access **Your Data** as required for the interoperation of such **Third-Party Applications** with the **Services**. **We** shall not be responsible for any disclosure, modification or deletion of **Your Data** resulting from any such access by Third-Party Application providers. The **Services**

shall allow **You** to restrict such access by restricting **Users** from installing or enabling such **Third- Party Applications** for use with the **Services**.

- **6.3 GDS /ADS** pass-through fees will be charged to **You** at the beginning of each month for all reservations where the occupancy was scheduled to take place in the preceding month. GDS pass – through fees are reviewed annually and are converted to the contract currency once they are changed. **You** will be notified about any changes annually. Upon receipt of any invoice. **You** can reconcile the invoice and remit all booking and system fees less a deduction for any cancellations and no-shows. The adjustments must not exceed 10%. It is an important condition of this Agreement that the **You** pay all commissions or other fees owed to every agency for reservations booked by the agency and processed through the reservation system within sixty (60) days of the guest’s departure date for each reservation. Any failure by **You** to pay any such commission shall be treated as a monetary default under this Agreement. **You** agree to, if not already subscribing to a similar scheme, participate with WPS Commission Payment Scheme under a separate agreement. **You** acknowledge and agree that Travel Agency commission is, and will, continue for the term of this agreement to be paid by **You** to Travel Agent in addition to commission and fees paid to **Us**.
- **6.4 Google Services.** Service features that interoperate with Google services depend on the continuing availability of the Google API and program for use with the Services. If Google Inc. ceases to make the Google API or program available on reasonable terms for the Services, **We** may cease providing such Service features without entitling **You** to any refund, credit, or other compensation.
- **6.5 TripAdvisor Services.** Service features that interoperate with TripAdvisor services depend on the continuing availability of the TripAdvisor API and program for use with the Services. If TripAdvisor Inc. ceases to make the TripAdvisor API or program available on reasonable terms for the Services, **We** may cease providing such Service features without entitling **You** to any refund, credit, or other compensation.
- **6.6 Facebook Services.** Service features that interoperate with Facebook services depend on the continuing availability of the Facebook API and program for use with the Services. If Facebook Inc. ceases to make the Facebook API or program available on reasonable terms for the Services, **We** may cease providing such Service features without entitling **You** to any refund, credit, or other compensation.
- **6.7 Twitter Services.** Service features that interoperate with Twitter services depend on the continuing availability of the Twitter API and program for use with the Services. If Twitter Inc. ceases to make the Twitter API or program available on reasonable terms for the Services, **We** may cease providing such Service features without entitling **You** to any refund, credit, or other compensation.
- **6.8 Flickr Services.** Service features that interoperate with Flickr services depend on the continuing availability of the Flickr API and program for use with the Services. If Yahoo Inc. ceases to make the Flickr API or program available on reasonable terms for the Services, **We** may cease providing such Service features without entitling **You** to any refund, credit, or other compensation.

7. FEES AND PAYMENT FOR PURCHASED SERVICES

- **7.1 Setup, Design and other Service Fees.** The setup, design and other service fees specified in the **Order Form** are payable by **You** on the date stipulated in the **Order Form** or upon completion of the Service

and before handover to you. We may retain the Service until full payment is done in addition to any other actions and remedies We might have for breach. All fees are final and irreducible, and thus due to us under all circumstances. Setup, design and service fees are right-to-use fees and not acquisition fees. All proprietary elements created as part of the services, e.g. website design, logos, etc. are GuestCentric's sole ownership and remain Guestcentric's sole ownership after the Services are terminated.

- **7.2 User Fees.** You shall pay all fees specified in all **Order Forms** hereunder. Except as otherwise specified herein or in an **Order Form**, (i) fees are quoted and payable in the billing currency defined in the **Order Form** (ii) fees are based on services purchased and/or the number of users and not actual usage, (iii) payment obligations are non- cancelable and fees paid are non-refundable, (iv) the number of **User** subscriptions purchased, once this option is selected, cannot be decreased during the relevant subscription term stated on the **Order Form**. **User** subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof; therefore, fees for **User** subscriptions added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term and (v) User fees are pre-paid one month in advance.
- **7.3 Revenue Sharing.** When you elect this option of payment, **You** agree to pay **Us** on the reservations made by means of the **Services** a remuneration in the form of a **Revenue- sharing Fee** with the rate applicable on the **Order Form**. The **Revenue-Sharing fee** is calculated based on

- The total number of reservations processed by the **Services**;

- The total value of reservations processed including all the options and services selected by the **Internet User** (such as : flowers, champagne, breakfast, etc ..) excluding all taxes setup by You in the system;
- The rate per type of reservation: Internet booking engine, back-office, negotiated rates or distribution channel.
- The **Revenue-sharing fee** is due for any reservation confirmed or pending in the **Services** and will be payable (i) while this Agreement is still in force: on the end of the Check-Out month with the terms and conditions of section 7.4 or (ii) Upon termination of this Agreement: immediately on the termination date or on the End Date and the fee will be calculated based on the reservations regardless of later modifications, cancellations or no-shows (i.e. Section 7.4 is not applicable).
- **7.4 Changes, cancellations and no-shows.** During the term of this Agreement and while it is still in force the **Revenue-Sharing Fee** does not include (a) Reservations made using the **Services** that have been cancelled by the **Internet User** and/or **You**, up to the date of arrival of the **Internet User**; (b) Reservations made using the **Services** and cancelled by **You** as “no-shows”.
- These **no-shows** can be cancelled by **You** until midnight on the third day following the scheduled date of arrival for the
- **Internet User.** In this case, however, any payment owed by the **Internet User** to **You** as penalty (e.g., the charging of the price for one night) is included in the amount for calculation of the **Revenue-Sharing Fee**.
- The **Revenue-sharing Fee** for changes to existing reservations shall be calculated as the fee for the cancellation of the original reservation and the fee for the new reservation.

- **7.5 Cancellation Fraud:** Without limiting any other remedies, **We** will suspend or terminate **Your** account if **We** suspect that **You** have engaged in fraudulent activity, including but not limited to canceling bookings or reducing the value of bookings to zero for the express purpose of avoiding **Revenue-sharing fees**. Such behavior will result in legal action.
- **7.6 Invoicing.** **We** will invoice **You** in accordance with the relevant **Order Form**. Unless otherwise stated in the **Order Form**, invoiced charges are due net 30 days from the invoice date. **You** are responsible for maintaining complete and accurate billing and contact information in the **Services**. The address **You** provide **Us** in the **Order Form** or any modification thereof is deemed to be the billing address for purposes of collections, notifications and legal subpoena. Invoices containing Revenue-sharing fees will contain a list of the reservations consumed in the month, such as produced by the **Services**.
- **7.7 Bank Costs** All the banking costs associated with **Your** payment and paid by **Us** are re-invoiced in full against documentary proof.
- **7.8 Final Nature of Invoices.** No cancellation, “no-show” or additional changes to the conditions of the stay cannot be taken into account once **We** have issued the invoices.
- **7.9 Payment.** We offer a range of different invoice payment options which are available to **You** at <http://www.guestcentric.com/billing-information/payment-methods/>
- **7.10 Upgrades and Downgrades.** For any upgrade or downgrade in plan level, **Your** next billing cycle shall reflect the new situation. Downgrading **Your Services** may cause the loss of contents, features or capacity of **Your** account. **We** do not accept any liability for such loss.
- **7.11 Overdue Charges.** If any charges are not received from **You** by the due date, then at **Our** discretion, and without limiting any other remedies (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) **We** may condition future subscription renewals and **Order Forms** on payment terms shorter than those specified in Section 7.6 (Invoicing) and 7.9 (Payment) and/or (c) **We** may ask for additional guarantees from **You** and/or (d) **We** may use any credits we might have from **You** at the time to get paid for the debt.
- **7.12 Suspension of Service and Acceleration.** If any amount owing by **You** under this or any other agreement for **Our** services is 14 or more days overdue, **We** may, without limiting **Our** other rights and remedies, and without prior notice accelerate **Your** payment obligations under such agreements so that all such obligations become immediately due and payable, and suspend **Our** services to **You** until such amounts are paid in full. In this situation any data **You** entered into the services, and any customizations made to the services by or for **You**, may be permanently lost unless **You** make payment within the given period.
- **7.13 Payment Disputes.** No dispute shall entitle **You** to retain payments from **Us**. Any disputed invoices shall be paid within their term and any due refund shall be made to **You** after the dispute is settled.
- **7.14 Taxes.** Unless otherwise stated, **Our** fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, “**Taxes**”). **You** are responsible for paying all **Taxes** associated with **Your** purchases

hereunder. If **We** have the legal obligation to pay or collect **Taxes** for which **You** are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by **You**, unless **You** provide **Us** with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, **We** are solely responsible for taxes assessable against it based on **Our** income, property and employees.

8. PROPRIETARY RIGHTS

- **8.1. Reservation of Rights.** Subject to the limited rights expressly granted hereunder, **We** reserve all rights, title and interest in and to the **Services**, including all related intellectual property rights. No rights are granted to **You** hereunder other than as expressly set forth herein.
- **8.2. Restrictions.** **You** shall not (i) permit any third party to access the **Services** except as permitted herein or in an Addendum hereto or in an **Order Form**, (ii) create derivative works based on the **Services**, (iii) copy, frame or mirror any part or content of the **Services**, other than copying or framing on **Your** own intranets or otherwise for **Your** own internal business purposes, (iv) reverse engineer the **Services**, or (v) access the **Services** in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the **Services**.
- **8.3. Ownership of Your Data.** As between **Us** and **You**, **You** exclusively own all rights, title and interest in and to all of **Your** Data.
- **8.4. Suggestions.** **We** shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the **Services** any suggestions, enhancement requests, recommendations or other feedback provided by **You**, including **Users**, relating to the operation of the **Services**.

9. CONFIDENTIALITY

- **9.1 Definition of Confidential Information.** As used herein, "**Confidential Information**" means all confidential information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. **Your Confidential Information** shall include **Your Data**; **Our Confidential Information** shall include the **Services**; and **Confidential Information** of each party shall include the terms and conditions of this Agreement and all **Order Forms**, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, **Confidential Information** (other than **Your Data**) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the **Disclosing Party**, (ii) was known to the **Receiving Party** as public prior to its disclosure by the **Disclosing Party** without breach of any obligation owed to the **Disclosing Party**, (iii) is received from a third party as public without breach of any obligation owed to the **Disclosing Party**, or (iv) was independently developed by the **Receiving Party**.
- **9.2 Protection of Confidential Information.** Except as otherwise permitted in writing by the **Disclosing Party**, (i) the **Receiving Party** shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any **Confidential Information** of the **Disclosing Party** for any purpose outside the scope of this Agreement, and (ii) the **Receiving Party** shall limit access to **Confidential Information** of the **Disclosing Party** to those of its employees, contractors and agents who need such access for

purposes consistent with this Agreement and who have signed confidentiality agreements with the **Receiving Party** containing protections no less stringent than those herein.

- **9.3 Data Protection.** Without limiting the foregoing, **we** will maintain appropriate technical and organizational measures to safeguard the security, confidentiality and integrity of your **Data**. We will not (a) modify your **Data**; (b) disclose your **Data**, except as required by law, pursuant to Section 9.4 (Mandatory Disclosure), or unless expressly authorized in writing by you; or (c) access your **Data** except as and to the extent necessary to provide the **Services**, to prevent or identify technical problems, or, at your request, for customer support issues. **Guestcentric** and the **Customer** must inform the signatories of their agreements, proposal requests, proposals and/or awards that their personal data will be included in files owned by **Guestcentric** and the **Customer**, and that such data will be processed only to the extent necessary to maintain and manage the contractual relations between **Guestcentric** and the **Customer**, for which the following personal data are indispensable: identification data, identification document numbers and expiration dates, email and quality and capacity in which the signatories are acting, and signatures. With respect to the **Customer's** customers, **Guestcentric** will act as a subcontractor and handle their personal data in accordance with the **Customer's** written instructions. The **Customer** shall inform its customers of the aforementioned subcontract, in accordance with the law. The legal basis for this processing of personal data is the fact it is necessary for **Guestcentric** to provide the **Customer** with its products and services, as well as for entering and executing the corresponding contracts.

- The **Guestcentric** Personal Data Privacy Policy is applicable to all parties and available on the website www.guestcentric.com. Pursuant to the law, we inform that making data available online may enable their circulation in an open network without security conditions, and that such data may then be viewed and used by unauthorized third parties.”
- **9.4 Compelled Disclosure.** The **Receiving Party** may disclose **Confidential Information** of the **Disclosing Party** if it is compelled by law to do so, provided the **Receiving Party** gives the **Disclosing Party** prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the **Disclosing Party's** cost, if the **Disclosing Party** wishes to contest the disclosure. If the **Receiving Party** is compelled by law to disclose the **Disclosing Party's Confidential Information** as part of a civil proceeding to which the **Disclosing Party** is a party, and the **Disclosing Party** is not contesting the disclosure, the **Disclosing Party** will reimburse the **Receiving Party** for its reasonable cost of compiling and providing secure access to such **Confidential Information**.

10. WARRANTIES AND DISCLAIMERS

- 10.1 **Our Warranties.** **We** warrant that (i) the **Services** shall perform materially in accordance with the **User Guide**, and (ii) subject to Section 6.4 (Google **Services**), Section 6.4 (TripAdvisor **Services**), Section 6.6 (Facebook **Services**), Section 6.7 (Twitter **Services**), and Section 6.8 (Flickr **Services**), the functionality of the **Services** will not be materially decreased during a subscription term. For any breach of either such warranty, **Your** exclusive remedy shall be as provided in Section 13.3 (Termination for Cause) and Section 13.5 (Refund or Payment upon Termination) below.

- **10.2 Mutual Warranties.** Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will not transmit to the other party any **Malicious Code** (except for **Malicious Code** previously transmitted to the warranting party by the other party).
- **10.3 Disclaimer.** Except as expressly provided herein, neither party makes any warranties of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by applicable law.

awarded against, and for reasonable attorney's fees incurred by, **Us** in connection with any such **Claim**; provided, that **We** (a) promptly give **You** written notice of the **Claim**; (b) give **You** sole control of the defense and settlement of the **Claim** (provided that **You** may not settle any **Claim** unless the settlement unconditionally release **Us** of all liability); and (c) provide to **You** all reasonable assistance, at **Your** expense.

- **11.3 Exclusive Remedy.** This Section 11 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of **Claim** described in this Section.

11. MUTUAL INDEMNIFICATION

- **11.1 Indemnification by Us.** **We** shall defend **You** against any claim, demand, suit, or proceeding ("**Claim**") made or brought against **You** by a third party alleging that the use of the **Services** as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify **You** for any damages finally awarded against, and for reasonable attorney's fees incurred by **You** in connection with any such **Claim**; provided, that **You** (a) promptly give **Us** written notice of the **Claim** at the time **You** receive it and before taking any action; (b) give **Us** sole control of the defense and settlement of the **Claim** (provided that **We** may not settle any **Claim** unless the settlement unconditionally releases **You** of all liability); and (c) provide to **Us** all reasonable assistance, at **Our** expense.
- **11.2 Indemnification by You.** **You** shall defend **Us** against any **Claim** made or brought against **Us** by a third party alleging that **Your** Data, or **Your** use of the **Services** in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify **Us** for any damages finally

12. LIMITATION OF LIABILITY

- **12.1 Limitation of Liability.** In no event shall either party's aggregate liability arising out of or related to this agreement, whether in contract, tort or under any other theory of liability, exceed the total amount paid by you hereunder or, with respect to any single year of contract, the lesser of \$500,000 or the amount paid by you hereunder in the 12 months preceding the incident. The foregoing shall not limit your payment obligations under section 7 (fees and payment for purchased services).
- **12.2 Exclusion of Consequential and Related Damages.** In no event shall either party have any liability to the other party for any lost profits or revenues or for any indirect, special, incidental, consequential, cover or punitive damages however caused, whether in contract, tort or under any other theory of liability, and whether or not the party has been advised of the possibility of such damages. The foregoing disclaimer shall not apply to the extent prohibited by applicable law.

13. TERM AND TERMINATION

- **13.1 Term of Agreement.** This Agreement commences on the date **We** accept it, either by sending **You** a confirmation message or by means of activating the **Services** for **You** and continues until all **User** subscriptions granted in accordance with this Agreement have expired or been terminated. If **You** elect to use the **Services** for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period.
- **13.2 Term of Purchased User Subscriptions.** **User** subscriptions purchased by **You** commence on the start date specified in the applicable **Order Form** and continue for the subscription term specified therein. Except as otherwise specified in the applicable Order Form, all **User** subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 60 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless **We** have given **You** written notice of a pricing increase at least 30 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 7% over the pricing for the relevant **Services** in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Order Form as promotional or one-time.
Should the cost of materials and labor raise significantly (i.e. more than 7%) at any time, **We** are entitled to adjust the price of **Services** accordingly by sending **You** a pre- notice of 30 days informing of the new price. If **You** don't accept the price **You** may terminate the Service within 15 days from receiving our notice. If **You** don't terminate the Agreement within

the 15 days period, it shall be deemed that **You** accepted the new price, which shall be applicable as of the following month.

- **13.3 Termination for Cause.** A party may terminate this Agreement for cause: (i) upon 60 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- **13.4 Suspension.** **We** can decide, in the event of failure by **You** in any of **Your** obligations, as an initial penalty, and without prejudice to **Our** rights to terminate this Agreement, to immediately, and without other notice, suspend all or part of the **Services**. The suspension of the **Services** shall result in all outstanding balance becoming immediately due to **Us** by **You**, without prejudice to any damages to which **We** may claim. Any data **You** entered into the services, and any customizations made to the services by or for **You**, may be permanently lost unless you make payment within the given period.
- **13.5 Refund or Payment upon Termination.** Upon any termination for cause by **You**, **We** shall refund **You** any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by **Us**, **You** shall pay any unpaid fees covering the remainder of the term of all **Order Forms** after the effective date of termination, and in case the cause of termination is **Your** late payment, accrued of late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower. In no event shall any termination relieve **You** of the obligation to pay any fees payable to **Us** for the

period prior to the effective date of termination.

- **13.6 Return of Your Data.** Upon request by **You** made within 60 days before the effective date of termination of a **Purchased Services** subscription, **We** will make available to **You** for download a file of **Your Data** in comma separated value (.csv) format or any other format that might outcome along with attachments in their native format. After such 60-day period, **We** shall have no obligation to maintain or provide any of **Your Data** and shall thereafter, unless legally prohibited, delete all of **Your Data** in **Our** systems or otherwise in **Our** possession or under **Our** control. **You** can also request **Us** a file of **Your Data** at any time and **We** will provided it to **You** under the terms of this Clause and subject to the then current prices according to **Guestcentric's** price list.
- **13.7 Surviving Provisions.** Section 7 (Fees and Payment for
- **Purchased Services**), 8 (Proprietary Rights), 9 (Confidentiality), 10.3 (Disclaimer), 11 (Mutual Indemnification), 12 (Limitation of Liability), 13.5 (Refund or Payment upon Termination), 13.6 (Return of **Your Data**), 14 (Who **You** Are Contracting With, Notices, Governing Law and Jurisdiction) and 15 (General Provisions) shall survive any termination or expiration of this Agreement.

14. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

- **14.1 General.** Who **You** are contracting with under this Agreement, who **You** should direct notices to under this Agreement, what law will apply in any lawsuit arising out of or in connection with this Agreement, and which courts can adjudicate any such lawsuit, depend on the **Order Form**.

If You are contracting with:	Notices should be addressed to:	The governing law is:	The courts having exclusive jurisdiction are:
GuestCentric Inc., 104 west 40th street, Suite 400, New York, NY 10018 USA	Director, US Sales Operations, Fax: +1- 646- 390 1438	New York, NY USA	New York , NY - USA
GuestCentric Ltd., 41, Newton Road , W2 5JR London, United Kingdom	Director, UK Sales Operations, Fax: +44- 207 192 4133	United Kingdom	London, United Kingdom
GuestCentric Systems S.A., Av. José Gomes Ferreira 9, 1495- 139 Algés, Portugal	Director, Rest Of World Sales Operations, Fax: +351- 21- 096 2710	Portugal	Lisbon, Portugal

- **14.2 Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery or signature of a
- return receipt or registry, (ii) the second business day after sending by confirmed facsimile, or (iii) the first business day after sending by email (provided email shall not be sufficient for notices from **You** to **Us** of termination or an indemnifiable claim). Notices to **You** shall be addressed to the system administrator designated by **You** for **Your** relevant **Services** account, and in the case of billing-related notices, to the relevant billing contact designated by **You**.
- **14.3 Agreement to Governing Law and Jurisdiction.** Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

15. GENERAL PROVISIONS

- **15.1 Export Compliance.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the **Services**. Without limiting

the foregoing, (i) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) **You** shall not permit **Users** to access or use **Services** in violation of any U.S. export embargo, prohibition or restriction.

- **15.2 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- **15.3 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- **15.4 Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.
- **15.5 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the parties when they agreed upon the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- **15.6 Attorney Fees.** **You** shall pay on demand all of **Our** reasonable attorney fees and other costs incurred by **Us** to collect any fees or charges due **Us** under this Agreement following **Your** breach of Sections 7.6 (Invoicing) and 7.9 (Payment)
- **15.7 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign

this Agreement in its entirety (including all **Order Forms**), without consent of the other party, to its **Affiliate** or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any

- purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, Section 13.5 shall apply.
- **15.8 Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all **Order Forms**, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any **Order Form**, the terms of such exhibit, addendum or **Order Form** shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in **Your** purchase order or other order documentation (excluding **Order Forms**) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.