

# Winner Webhotel Terms and Conditions

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*These conditions apply to the Internet Software Applications and services that customer obtains on a rental basis from Planet Winner.*

## 1 Definitions:

### **Planet Winner:**

Service Provider and owner of the software platform and software applications that form the subject of this agreement, with offices at Bossuytlaan 49, 8310 Brugge, Belgium.

### **Participant:**

The Company or Legal Entity that uses one or more software products and / or services called **WWH** that form the subject of this agreement. The products used are described in the proposal.

### **WWH:**

Winner Webhotel, a web-based application that is the subject of this agreement. Winner Webhotel offers various modules as described below:

- **Booking Engine:**  
A private label reservations module that Participant can use on his website to enable online reservations.
- **Channel Manager:**  
A module that permits to communicate with third party Internet Reservation Systems in order to upload inventory and rates and to download reservations from such systems.
- **Central Address book:**  
A module used to centralize guest and company profiles to be used in a hotel chain environment.
- **Multi-property:**  
A module that permits to implement multiple hotel properties into one single booking engine. Used in hotel chain environments.
- **PMS Interface:**  
A module that permits to link and integrate WWH with the Winner Property Management System (PMS). Only possible in case participant uses the Winner PMS.

## 2 Purpose of Agreement:

- 2.1 Planet Winner will provide the Participant with access to the WWH system, owned by Planet Winner.
- 2.2 WWH services may be upgraded or added by Planet Winner from time to time at its sole discretion.
- 2.3 All reservations made from the Participant's website and any other website or URL that is owned by the Participant may use the WWH under this agreement and are subject to the monthly fees as listed in the proposal.

## 3 Pricing

- 3.1 Setup fee: Upon sign up Participant will be charged a setup fee as listed in the proposal. This setup fee covers the efforts for database and system creation as well as setup of the Channels that the customer wants to link at the time of installation.
- 3.2 Monthly Rental Cost: After setup and activation of WWH, Participant will be placed into a monthly pricing plan for rental of the WWH software and services. The monthly fee is listed in the proposal.
  - 3.2.1 The monthly rental fee includes:
    - The monthly rental of the WWH products as mentioned in the proposal.
    - Technical support of the WWH products. Technical support means helpdesk assistance in case of error messages or problems with the WWH products that can be clearly identified.
  - 3.2.2 Not included in the monthly rental fee:
    - Training and / or functional support.
    - Configuration and / or reconfiguration for the WWH products.
    - Setup, configuration of additional Channels.
    - Setup, configuration or reconfiguration of Channels that are already connected.
    - The abovementioned services that are not included in the monthly rental cost can be executed by Planet Winner on demand and only after approval of the related costs by the customer, by means of a signed purchase order.

These services are charged on an hourly basis at the hourly fee as listed in Planet Winner's pricelist.

- 3.3 Planet Winner reserves the right to modify its current prices, by informing its Participants in writing at least three months before the date of their modification.
- 3.4 2.5. If for any reason, after the activation of the service, a Planet Winner employee should have to go to the Participant's office or that of one of Participants partners at the request of the Participant, the work involved will be invoiced, taking into account the number of hours spent as well as the travel and lodging expenses incurred. In such case Planet Winner will always submit a proposal to Participant for such works and request Participants approval before executing such intervention.

## 4 Payment Terms:

- 4.1 The rental costs for WWH are invoiced for a period of 6 months and in advance of the rental period to which they apply.
- 4.2 Payment of these invoices is due before the rental period starts. In case payment is not fulfilled according to these conditions, Planet Winner has the right to de-activate WWH.

## 5 Termination:

- 5.1 This agreement is concluded for a period of one year, and at the end of each year it will be tacitly renewed for one year.
- 5.2 This agreement can be revoked only by means of a registered letter, honoring a notice period of 3 months before the end of each contracted year, but never in the first year following the signature of this contract. Early cancellation in the first year of this agreement by Participant will result in € 200 penalty fee.
- 5.3 In case a party fails to fulfill one of its obligations resulting from the contract between Planet Winner and the Participant, the other party will be entitled to terminate the contract, if within 30 days after sending a notice of default by registered mail, this notice has remained without effect.
- 5.4 Planet Winner will have the right to terminate the contract, by registered mail, with immediate effect, without accusing the Participant of breach of contract and without giving up its rights to claim damages and interest to be paid by the Participant, in case of serious misconduct or serious neglect by the Participant.

- 5.5 Planet Winner cannot be held responsible for possible harm done to the Participant or third parties because of its cancellation of the contract with the Participant.
- 5.6 By revoking this agreement the right to use WWH will cease to exist. In this event Planet Winner will immediately remove information regarding Participant and any Participant property from WWH without further notice to the Participant; and Participant shall immediately remove any Button(s), links, and other references to WWH from the Participant Web Site(s).

## 6 Participant Website:

- 6.1 Participant agrees to do everything in their power to maintain valid links to WWH and maintain accurate inventory and prices for the term of this contract.
- 6.2 Planet Winner is not liable for double bookings, cancellations or any other reservation conflict.
- 6.3 In case Participant signs up for use of the WWH Booking Engine module, Participant agrees to exclusive use of WWH Booking Engine Module and will remove any other availability calendars and/or booking engines from their website.

## 7 Integration with Winner Property Management System:

- 7.1 In case Participant uses the Winner Property Management System with 2-way interface to WWH, the Participant agrees to stay online running the local synchronization program (Interface) as much as possible to eliminate the chance for double bookings.

## 8 Responsibilities:

- 8.1 Each participating property that is included for use with the WWH is responsible for timely updating of property information within WWH System, including rates, accurate unit availability, and general property information.
- 8.2 In the event of overbooking, without limitation, when a guest reserves a rental unit through WWH and/or any linked Channel and that rental unit is not available at the property, the Participant is solely responsible for satisfying the guest by finding acceptable alternative accommodations for such guest or financially compensating the potential guest.
- 8.3 Under no circumstance, can Planet Winner be held responsible for the exactness and completeness of information delivered by participant or entered by Planet Winner into WWH at the request of the Participant. The Participant is exclusively responsible for the information that Planet Winner will save in its database and that will be shown to Participants customers in the screens of the reservation platforms, with which the Participant wishes to be connected. The responsibility for the exactness of the information rests exclusively with the Participant, even if Planet Winner has entered the information, at his request and cost.
- 8.4 Under no circumstance can Planet Winner be held liable for the non-availability of an item that is part of a reservation made through WWH. Possible damages resulting from such non-availability can never be charged to Planet Winner
- 8.5 The Participant is exclusively responsible for the installation and the proper functioning of the telecommunication connection between his office and the Internet. The bandwidth of this link, as well as its availability invokes under no circumstances the responsibility of Planet Winner. More specifically, Planet Winner can never be held responsible for any interruptions of the Participants telecommunication connection.
- 8.6 Planet Winner will not be responsible or liable for any inaccuracies in the data or information included in the WWH system, nor will it have any liability under any circumstances for damages in connection with WWH. Planet Winner will use commercially reasonable efforts to correct information not accessible to Participant, such as formatting or system programming, within a reasonable delay after written notice from Participant.
- 8.7 Credit Cards: Planet Winner makes no representation or warranty concerning credit card guarantees, including, without limitation, the authority of the person to use such card or the availability of credit there under. Participants are solely responsible for obtaining valid credit card numbers and payments.
- 8.8 Credit card data can only be entered into the designated fields for credit card data in the system. If the user enters credit card data in other fields than the designated credit card fields then the user is solely responsible and liable in case of theft of this data and the associated potential damage and / or costs.
- 8.9 Channels:
  - 8.9.1 In case Participant wishes to connect one or more Internet reservations Channels, it is the responsibility of Participant to conclude an agreement with such channel provider. Under no circumstances can Planet Winner conclude such agreements for or on behalf of Participant.

- 8.9.2 In case Participant wishes to include additional channels during the course of this agreement, a fee may be applicable for installation and configuration in order to connect the channel via the Channel Manager module. This fee will be subject to a separate proposal.

## 9 Information protection

- 9.1 The Participant commits itself to respect the laws and regulations regarding the protection of data of the country concerned. He commits himself to inform Planet Winner of any amendments to such laws and regulations known to him.
- 9.2 Participant is solely and exclusively responsible for the protection of any and all of its intellectual property and /or the intellectual property of any other party participant represents, including, but not limited to trademarks, trade names, service marks or copyrights.
- 9.3 The Participant guarantees that the information that is stored by him or, at his request by Planet Winner, has been treated in accordance with the prevailing law. He guarantees that Planet Winner will be protected at all times against all complaints or actions by third parties, made against Planet Winner regarding their data privacy rights.
- 9.4 Unless otherwise explicitly agreed upon in writing by the Participant, Planet Winner is authorized to mention the Participant's name as such in its website.

## 10 Acceptance:

- 10.1 Acceptance of any property for inclusion in WWH system is within Planet Winner's sole discretion, and it may remove a property from WWH system at any time, with written notice (including email notification) to the Participant.

## 11 Right to Use WWH Information:

- 11.1 Participant acknowledges that Planet Winner may compile certain information related to the usage of WWH. Such information may include without limitation, the volume of reservations booked on the system for a particular geographic region or type of accommodations, seasonal changes in bookings, and demographic profiles of WWH's end users. Participant agrees that Planet Winner is authorized to use, reproduce and generally make such information available to third parties in the aggregate, provided that the Participant's information is not individually identified or attributable to Participant.

## 12 Representations:

- 12.1 The person entering into this agreement on behalf of the Participant represents to Planet Winner that he or she has all requisite corporate power and authority to enter into this Agreement on behalf of the Participant, that this Agreement has been duly authorized by Participant and that this Agreement will constitute legal, valid and binding obligation of Participant.

## 13 Indemnification:

- 13.1 Participant will indemnify Planet Winner, its employees, agents, and users, against, and hold Planet Winner harmless, and defend or settle at Participant's expense, any claim, action or other proceeding brought against Planet Winner involving any claim or action that:
- 13.1.1 any information, data or materials, or the use or inclusion in WWH System of any information, data, or materials provided by Participant or any local property infringes any third-party intellectual property right, is obscene, libelous, or defamatory, or otherwise results in any injury or damage to any third party;
- 13.1.2 any liability arising from any breach by Participant of any representations, warranties or obligations under this Agreement.
- 13.2 Participant will pay, as incurred, any and all costs, damages, and expenses (including, but not limited to, reasonable attorneys' fees and costs) awarded against or incurred by Planet Winner in connection with any action or proceeding attributable to any such claim.

## 14 System Availability:

- 14.1 Planet Winner shall use commercially reasonable efforts to make Planet Winner's Systems and the Service available 99.5% of the time on an annual basis, not including any temporary shutdowns due to scheduled maintenance (which will not exceed in the aggregate 10 hours per month), telecommunications or power disruptions caused by third parties, and any other causes beyond Planet Winner's reasonable control.
- 14.2 Any failure of Planet Winner to satisfy the Uptime Goal shall not constitute a breach of this Agreement.
- 14.3 The Participant further acknowledges and agrees that its sole and exclusive remedy for any failure of Planet Winner to provide the services in accordance with the uptime goal is to terminate this Agreement without incurring the early termination penalty fee.

## 15 Other

- 15.1 14. This Agreement will be binding on and will inure to the benefit of the legal representatives, successors and assigns of the parties hereto. Unless otherwise agreed herein, neither party to this Agreement may assign, hypothecate, pledge or sublicense any of its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, that a party may assign this Agreement without such consent in connection with any merger, consolidation, any sale of all or substantially all of such party's assets or any other transaction in which more than fifty percent (50%) of such party's voting securities are transferred.
- 15.2 15. This Agreement shall be interpreted in accordance with the laws of Belgium and legal proceeding out of this Agreement will occur in Brugge, Belgium.

### ***Planet Winner bvba***

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