



SERVICES AGREEMENT *Lodging Provider Net Rate Participation Program*

THIS SERVICES AGREEMENT (“Agreement”) is made and entered into on _____, 20__ (the “Effective Date”) by and between Advanced Reservation Systems, Inc., a California corporation (“ARES”), and the entity named below (“Lodging Provider”) (each a “Party”, and together the “Parties”), with reference to the following facts, and consists of this Agreement together with the following attachments which are hereby incorporated into this Agreement and made a part hereof by reference:

- | | |
|-------------------|---|
| Exhibit A: | Contact Information Sheet |
| Exhibit B: | Hotel and Room Amenities Sheet |
| Exhibit C: | Room Rates Sheet |
| Exhibit D: | Standard Terms and Conditions of Service |
| Exhibit E: | Optional Bonus Incentive |

RECITALS

A. ARES has developed a proprietary booking engine for use in connection with on-line lodging reservation and ticketing services (the “ARES Services”) that enable public end users to review, reserve, and pay for lodging and related services via the Internet, telephone or other interactive device.

B. As part of its Lodging Provider Net Rate Participation Program, ARES offers such services through its own website(s) and a network of affiliated websites collectively known as the ARES Affiliate Network.

C. Lodging Provider desires to contract with ARES for use of the ARES Services on the ARES Affiliate Network and ARES desires to provide such services, as set forth below.

NOW, THEREFORE, the Parties agree as follows:

1. Lodging Provider Net Rate Participation. Lodging Provider hereby grants ARES the right to display, offer, sell and distribute its Rooms including any additional components on the ARES Affiliate Network Site(s) on the pricing, payment and additional terms and conditions set forth in this Agreement, and ARES agrees to support the same by effecting such sales through its proprietary on-line booking engine and additional services, as set forth herein. The initial term of this Agreement shall commence on the Effective Date and terminate in accordance with Exhibit D Section 2.

2. COMPLETE Provider Information. Please provide the Name, Type of Legal Entity and State/Country of Formation, as set forth below:

<p>Lodging Provider Name:</p> <p>Type of Legal Entity:</p> <p>State/Country of Formation:</p>
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3. COMPLETE Contact Information Sheet. Please complete the Contact Information Sheet set forth on Exhibit A.

4. COMPLETE Amenities and Room Descriptions Sheet. Please complete the Amenities and Room Descriptions Sheet set forth on Exhibit B.

5. COMPLETE Room Rates Sheet. Please complete the Room Rates Sheet set forth on Exhibit C.

6. COMPLETE Optional Bonus Incentive. Please complete the Optional Bonus Incentive set forth on Exhibit E.

7. **SIGN & FAX** entire contract, including this signature page, to: **1-858-430-4875**. By signing below, the parties hereby agree to all of the terms and conditions of this Agreement, including the Standard Terms and Conditions of Service as set forth on Exhibit D with the exception of Exhibit E Optional Bonus Incentive, which must be separately executed on Exhibit E:

PROVIDER: _____	ADVANCED RESERVATION SYSTEMS, INC.:
By/Sign: _____	By/Sign: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

**EXHIBIT A
CONTACT INFORMATION SHEET**

LODGING PROVIDER: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

COUNTY: _____

PHONE: _____

FAX: _____

LODGING PROVIDER WEBSITE ADDRESS: _____

General Manager: _____

Phone #: _____ Fax #: _____

E-Mail Address: _____

Director of Sales: _____

Phone #: _____ Fax #: _____

E-Mail Address: _____

Reservations Manager: _____

Phone #: _____ Fax #: _____

E-Mail Address: _____

Sales Manager: _____

Phone #: _____ Fax #: _____

E-Mail Address: _____

Front Desk Manager: _____

Phone #: _____ Fax #: _____

E-Mail Address: _____

Controller: _____

Phone #: _____ Fax #: _____

E-Mail Address: _____

Revenue Manager: _____

Phone #: _____ Fax #: _____

E-Mail Address: _____

Please indicate the names of the employees the Lodging Provider would like to have as ARES extranet users

Primary User: _____

User to receive the following alerts (please circle): Reservation Low Inventory Inventory Updates

Secondary User: _____

User to receive the following alerts (please circle): Reservation Low Inventory Inventory Updates

Please indicate the fax number or email address you would like the reservations to go to

Fax # or email address: _____

**Exhibit B:
Hotel and Room Amenities Sheet**

Advanced Search Criteria Amenity List (check all that apply)

100% Non-Smoking Property	Free Breakfast	Local Shuttle
ADA Accessible Guestrooms	Free Parking	Pets Allowed
Airport Location	Golf Course	Restaurant
Airport Shuttle	High-Speed Internet	Spa Services
City Center Location	Indoor Pool (cold weather climate)	Swimming Pool
Eco-Friendly Property	Kid's Activities	Waterfront Location
Fitness Room	Kitchenette	

Hotel Amenities (Please check all that apply to be shown on your hotel profile)

Airline Desk	Executive Floor/Club Level	No Pets Allowed
Airport Shuttle-Comp(Ltd Svc & Times)	Express Check In/Out	Non-Smoking Rooms
Airport Shuttle (Ltd Svc & Times)	Extended Stay	Ocean Front
ATM/Cash Machine	Fax Service	Ocean View Rooms (Some)
Audio/Visual Equipment	Fishing	On-Site Car Rentals
Babysitting	Fitness Center	Park View
Bar/Lounge	Fitness Center (Complimentary)	Pet Friendly
Banquet Facility(s)	Front Desk Open 24 Hours	Picnic Area
Barbecue Area	Game Rental	Playground
Beauty Salon	Game Room	Pool (Indoor)
Basketball Court	Gift Shop	Pool (Multiple On Property)
Bay View Rooms (Some)	Golf Course On-site	Pool (Outdoor Heated)
Beach Front	Guest Laundromat	Pool (Outdoor Seasonal)
Beach View	Internet Access	Pool (Outdoor)
Bell Staff	Internet Access (Complimentary)	Pool Table(s)
Bicycle Rentals	Internet Access WiFi	Poolside Cabanas
Boat Rentals	Internet Access WiFi (Comp)	Poolside Snackbar
Breakfast Buffet	Ice Machine	Private Bathrooms
Bus/RV/Truck Parking	In-Room Ceiling Fans	Putting Green
Business Center	In-Room Coffee Makers	Racquetball Court
Business Center (Open 24 Hours)	In-Room Data Port	Refrigerators (All Rooms)
Business Services	In-Room DVD Players	Restaurant(s)
Cable/Satellite Television	In-Room Fireplace	River View
Cable/Satellite TV (Premium Channels)	In-Room Flat Panel Televisions	Rollaway Beds (Based on Availability)
Casino	In-Room Hairdryers	Room Service
Children's Activities	In-Room Heating & Air Conditioning	Room Service (Available 24 Hours)
Children's Nursery	In-Room Irons & Ironing Boards	Safety Deposit Boxes
Children's Pool	In-Room Kitchens	Sauna
City Center Location	In-Room Microwaves	Security
Coffee Shop / Café	In-Room Mini Bars	Shopping
Complimentary Breakfast	In-Room Pay-Per-View Movies	Shuttle Svc - Comp (Ltd Svc&Times)
Comp Continental Breakfast	In-Room Refrigerators	Skiing/Snowboarding
Complimentary Evening Reception	In-Room Safes	Ski Lift Adjacent
Complimentary Hot Breakfast Buffet	Interior Corridors	Snorkling
Complimentary Local Calls	Jacuzzi/Hot Tub (Indoor)	Spa
Complimentary Newspaper	Jacuzzi/Hot Tub (Outdoor)	Suites Available
Complimentary Newspaper (Wkdays)	Kids Eat Free Program	Tennis (Indoor)
Complimentary Parking	Kitchenettes (Some Rooms)	Tennis (Outdoor)
Concierge	Lake View	Turndown Service
Connecting Rooms (Based on Avail)	Laptop Safes	U.S. Gov Fire Safety Approved
Continental Breakfast	Live Entertainment	Valet Parking
Convenience Store	Maid Service	Vending Machines
Copy Service	Marina	Video Checkout
Courtesy Car	Massage/Spa Services	Volleyball Court
Cribs (Based on Availability)	Meeting Facilities	Wake-Up Service
Cross Country Skiing	Microwaves (All Rooms)	Waterslide/Waterpark
Currency Exchange	Miniature Golf	Water Skiing
Doorman	MP3 Docking Stations	Water Sports
Driving Range	Multilingual Staff	Wedding Services
Dry Cleaning/Valet Laundry	News Stand	Wheelchair Access
Elevator (s)	Night Club	

**Exhibit C
Room Rates Sheet**

LODGING PROVIDER PROPERTY: _____

Room Information

Room Type: _____ Bed Type: _____

Flexible Room Allocation: _____ Max Occupancy: _____

Room Description	Season - Enter Date Range	*Sell Rate

Room Type: _____ Bed Type: _____

Flexible Room Allocation: _____ Max Occupancy: _____

Room Description	Season - Enter Date Range	*Sell Rate

Room Type: _____ Bed Type: _____

Flexible Room Allocation: _____ Max Occupancy: _____

Room Description	Season - Enter Date Range	*Sell Rate

*"Sell Rate" refers to the rate that is charged to the consumer. This rate is inclusive of the ARES margin and must exclude all additional mandatory fees including but not limited to all taxes. "Resort Fees", "Energy Surcharges", "Parking Fees", etc. must be charged to the guest directly along with all other incidental fees.

Lodging Provider Taxes and Fees

City Tax Rate: _____% # of Rooms at Lodging Provider: _____ Self Parking Fee: _____
 County Tax Rate: _____% Resort Fee (if applicable): _____ Valet Parking Fee: _____
 State Tax Rate: _____% Extra Adult Fee: _____ Check In Time: _____
 Other Room Only Taxes: _____% Roll-A-Way Fee: _____ Check Out Time: _____
 Total Taxes on Room Only: _____% Baby Crib Fee: _____

Lodging Provider Terms and Conditions

Lodging Provider requires that all changes and cancellations be made directly with Lodging Provider at least _____ hours prior to arrival.

Pet Policy: _____

Exhibit D Standard Terms and Conditions of Service

1. ROOM RATES: Lodging Provider will make its guest sleeping rooms available for sale to the public (and any additional components) via the ARES Affiliate Network in accordance with the terms set forth on this Exhibit D and on Exhibit C - Room Rates Sheet ("Room Rates Sheet")

2. TERM AND TERMINATION: The obligations under this Agreement shall commence on the Effective Date and, unless otherwise terminated or canceled as provided herein, will continue thereafter pursuant to the terms hereof. Any Party may terminate this Agreement for any reason (or no reason), at the end of a calendar year by giving written notice of termination at least 30 days prior to the end of the calendar year to the other Party. If Lodging Provider breaches any of the provisions of this Agreement and fails to promptly cure such breach, then ARES may cease to offer Lodging Provider's Rooms (as defined below), as contemplated herein. Notwithstanding the foregoing, Lodging Provider shall honor any reservation booked by a guest through the ARES Service prior to or post of the expiration or termination of this Agreement. This agreement shall survive and remain in effect upon the sale or transfer of assets of Lodging Provider, change in management of ARES, or any other change of ownership or management. This agreement supersedes any previous agreement entered into by parties.

3. PROPERTY INFORMATION: Lodging Provider represents and warrants that: (i) it is the owner, lessee or operator (as appropriate) of the property identified on the Room Rates Sheet; (ii) the Room Rates Sheet is correct in all material respects; (iii), Lodging Provider has all requisite rights and authority to enter into this Agreement; and (iv) this Agreement shall not conflict with any other agreement entered into by Lodging Provider. In the event any information contained on the Room Rates Sheet is incorrect or inaccurate, Lodging Provider shall use its best efforts to advise ARES immediately so that ARES may inform guests and modify the appropriate contents of the ARES Service accordingly.

4. FLEXIBLE ROOM ALLOCATIONS: Throughout the Term, Lodging Provider shall provide the number and category of rooms ("Flexible Room Allocation") as set forth in the Room Rates Sheet. If Lodging Provider has no room inventory available for booking on a particular date (or dates), Lodging Provider must reallocate the Flexible Room Allocation for the unavailable date (or dates) to a different date (or dates) in a manner which is equivalent in number and category of rooms as set forth on the Room Rates Sheet. The Flex Allocation is also referred to in this Agreement as "Rooms." In addition, Lodging Provider shall keep Rooms available for booking by guests through the ARES Service until the time at which all third party channel inventory is closed by Lodging Provider. Lodging Provider agrees to provide ARES with one (1) complimentary room night for every 100-room nights sold by ARES. ARES may utilize such complimentary rooms for promotional purposes or resale.

5. NET RATES: Lodging Provider shall provide ARES with Standalone Room Net Rates to be booked through the ARES Service that are at least 22% below the Best Available Rate. Lodging Provider shall provide ARES with Packaged Room Net Rates to be booked through the ARES Services that are at least 30% below the Best Available Rate. Packaged rooms shall be combined with other non-room components. As used herein, "Best Available Rate" is the least expensive rate that Lodging Provider makes available for sale to the public that does not require joining as a member of an organization or group (i.e. Military, AAA, AARP). ARES shall remit payment of the rates to Lodging Provider pursuant to the payment procedures set forth in Paragraph 10. All Rates are net, non-commissionable. If Lodging Provider or any third party channel sell or offer rooms for less than the Sell Rate for the same room type offered to ARES, then Lodging Provider must reduce the rate(s) to ARES in order to remain at Sell Rate parity. Lodging Provider shall offer any incentives, specials or promotional rates that Lodging Provider is offering to any other third party channels to ARES. In the event that ARES finds a lower sell rate that is offered to a customer by Lodging Provider or a third party channel, ARES reserves the right to change the rate in order to match the Sell Rate that the Lodging Provider or third party channel is offering.

6. NO REFUSAL OF RESERVATIONS: Lodging Provider agrees to manage rates and availability via ARES' online reservation program ("the ARES Extranet"). Lodging Provider must inform ARES of sold out dates via the ARES Extranet or other reasonably acceptable means. If Lodging Provider fails to update sold out dates, ARES will continue to sell rooms at the rate provided. In the event that Lodging Provider refuses to honor any reservation, rate or availability provided to ARES, ARES may remove Lodging Provider from all related web sites without prior notice to the Lodging Provider.

7. RESERVATIONS PROCEDURE:

- a. Customer places reservation with ARES via telephone or Internet.
- b. ARES faxes, emails or telephones reservation to Lodging Provider which will include date of arrival, number of nights, number of people (adults and children), smoking preference, bedding preference, room type, room rate, and ARES specific booking number.
- c. Lodging Provider confirms reservation in its property management system, places confirmation number on original fax or email, and signs and faxes/emails back to ARES within 24 hours of receipt.
- d. Upon receipt of Lodging Provider's confirmation, ARES confirms reservation in its reservation system.
- e. Upon arrival at the Lodging Provider Property, guests will be required to provide the following items at check-in; photo identification, credit card for incidental charges and booking number. ARES' rate with the Lodging Provider is strictly

confidential and Lodging Provider shall not disclose to the guest the quoted ARES rate. ARES does NOT provide guests with written vouchers.

- f. Upon check out, the guest shall be billed for all incidental charges. Only the nights reserved by ARES shall be direct billed to ARES. Any changes made to a reservation, whether an increase or decrease in nights, must be processed by ARES Customer Service Department.

8. SAME DAY RESERVATIONS PROCEDURE: In order to receive Same Day Reservations, Lodging Provider must follow the Procedures as outlined below in order to prevent credit card fraud for each Same Day Reservation. Same Day Reservations means any reservation in which the booking date is the exact same date as the arrival date.

- a. Confirm receipt of all same day bookings prior to guest's arrival.
- b. Obtain a credit card impression and/or an electronic swipe from each guest.
- c. Check, match and verify the identity of the credit card holder by obtaining and copying the guest's driver's license or passport at check-in. The purchaser must be the actual guest and must provide valid identification.
- d. Cash transactions for Room and Tax are prohibited.

In the event that Lodging Provider fails to follow any of aforementioned Procedures, and in the event of any credit card fraud, then Lodging Provider (and not ARES) shall be solely responsible for any Room and Tax charges associated with any such credit card fraud. It is the sole responsibility of Lodging Provider to inform and educate its management and personnel regarding the terms and conditions of this agreement and to ensure implementation of the Procedures as defined above.

9. CANCELLATION, AND NO-SHOW: ARES may cancel any reservation up to 24 hours before the day of arrival. If ARES cancels any reservation after that deadline, or if the reservation is a no-show reservation, then Lodging Provider may only charge ARES for the first night of the reservation at the rate the original reservation was confirmed at, and any subsequent nights for the reservation are automatically released back to the Lodging Provider. If the guest arrives at the Lodging Provider but departs as a result of the guest's dissatisfaction with Lodging Provider, Lodging Provider may not charge ARES any amount. The aforementioned cancellation policy pertains to ARES and Lodging Provider only. Guest cancellation policy is separately defined on the Room Rates Sheet.

10. PAYMENT: Lodging Provider shall invoice ARES for each Room consumed by a guest whose reservation was made through the ARES Services within 90 days of a guest's departure (the "Invoice"). For each consumed Room, the Invoice shall include the guest name, the applicable ARES confirmation number, the applicable arrival and departure dates, the applicable Rates and taxes, and whether the

consumed Room has been billed to ARES on any previous invoice. ARES shall pay each Invoice net 30 days, unless ARES disputes such sum. Lodging Provider agrees that ARES may implement an automated process in place of a paper invoicing process. As an alternative to the Invoice procedure referenced above, Lodging Provider agrees to accept credit card payments for the applicable Rates and taxes. In the event that ARES implements a credit card payment system, ARES will notify Lodging Provider no less than 30 days in advance.

- a. Lodging Provider acknowledges and agrees that ARES shall not be liable to Lodging Provider for any Invoices not received within 12 months of the final day of any reservation booked through the ARES Service.
- b. In the event of a dispute between Lodging Provider and ARES over any charge on any Invoice, Lodging Provider will not (i), charge or attempt to charge any guest directly for the disputed amount, or (ii), refuse to honor any other Room reservations made by guests through the ARES Service. If Lodging Provider breaches any of its obligations under this Paragraph 10, then Lodging Provider shall pay ARES or credit its account any losses suffered by ARES (e.g., for refunds provided to guests by ARES).
- c. For any reservation booked through the ARES Services, Lodging Provider shall not honor any changes claimed by a guest, unless ARES has confirmed those changes in the manner described in Paragraph 7. If there exists a discrepancy between information contained in the booking information from the ARES Service (provided in accordance with Paragraph 7) and a guest's own reservation request, then the booking information from the ARES Service shall govern. Payment for any such changes shall be made in accordance with Section 10.d.
- d. If a guest requests changes to the guest's reservation directly from the Lodging Provider, then, unless ARES agrees to alternative payment arrangements, Lodging Provider shall be responsible for collecting any applicable amounts directly from such guest.
- e. Lodging Provider is solely responsible for confirming guest booking information contained in the reservation information provided to Lodging Provider as described in Paragraph 7. Lodging Provider shall indemnify and hold harmless ARES for any liability imposed upon ARES as a result of Lodging Provider's failure to honor the foregoing obligation.

11. TAXES: Lodging Provider shall be solely responsible for, and Lodging Provider agrees to remit, as required by applicable law, any and all Taxes due to any applicable federal, state or local taxation jurisdictions or authorities arising from or relating to the purchase of Lodging Provider rooms, and Lodging Provider agrees to defend, indemnify and hold ARES and each Indemnified Party harmless from and against any and all losses relating to the foregoing. Lodging Provider will reasonably and in good faith cooperate with ARES in the administration of Lodging Provider's tax collection and remittance responsibilities.

12. FORCE MAJEURE/INABILITY TO HONOR RESERVATIONS: Neither party shall be liable to the other for its failure to perform any of its obligations hereunder (other than payment obligations) during any period in which such performance is delayed by circumstances beyond its reasonable control. A Party whose performance is impaired as a result of such an unforeseeable cause shall promptly notify the other Party. If Lodging Provider is unable to honor any reservations as a result of such an unforeseeable cause, or for any other reason, then Lodging Provider shall relocate guests whom did not book through the ARES Service before Lodging Provider relocates any guests who booked their reservation through the ARES Services. In the event that Lodging Provider must relocate any ARES guest, Lodging Provider must immediately notify ARES, pre-pay for guest relocation at a comparable hotel or resort for all nights in question, and pay any transportation costs associated with such relocation. Relocation of ARES' guests may result in removal from ARES reservation system. Lodging Provider agrees to provide a written apology to the ARES guest(s) for this inconvenience and absolving ARES of any responsibility. If a reservation is a Potentially Fraudulent Reservation (as defined below), or certain data provided by the guest cannot be verified by ARES prior to 4:00PM (of the Lodging Provider's local time zone) of the day that is one day before the date of arrival, then Lodging Provider and ARES agree to work together to address the Potentially Fraudulent Reservation, which may include canceling such reservation by notifying the Lodging Provider in the manner described in Paragraph 7 before 4:00PM (of the Lodging Provider's local time zone) of the day of arrival. In the event of the foregoing, Lodging Provider shall not charge a cancellation charge. "Potentially Fraudulent Reservations" means reservations that result from (i) invalid or incorrect information supplied to ARES at the time of booking, (ii) a credit card dispute, (iii) a report of unauthorized charges, (iv) bookings that may be associated with previous high risk or fraudulent transactions, or (v) as otherwise determined in good faith by either party.

13. NOTICES AND OTHER COMMUNICATIONS: All notices, requests and other communications hereunder shall be in writing and shall be delivered in person or sent by nationally recognized overnight courier service, or by facsimile transmission (with confirmation of receipt) to the address or facsimile number of the party set forth on the signature page or to such other address designated in writing by the receiving party. Unless otherwise provided, notice shall be effective on the date it is officially recorded as delivered, as evidenced by delivery receipt or equivalent.

14. CONFIDENTIAL INFORMATION: ARES and Lodging Provider understand and agree that in the performance of this Agreement, each party may have access to or may be exposed to, directly or indirectly, confidential information of the other party, including, but not limited to, pricing information, trade secrets, contractual terms, customer information, (and customer travel, membership and usage data, including all records and files pertaining thereto) booking information, transaction volumes, marketing

and business plans and technical information, methods and travel service provider relationships, product plans, product prices, employees, business opportunities or personnel ("Confidential Information"). Without limiting the foregoing, Confidential Information of ARES shall include the terms of this Agreement. Each party agrees that: (a) all Confidential Information shall remain the exclusive property of the disclosing party and the receiving party shall not use any Confidential Information for any purpose except in furtherance of this Agreement; (b) it shall maintain, and shall use prudent methods to cause its employees and agents to maintain, the confidentiality and secrecy of the Confidential Information; (c) it shall disclose Confidential Information only to those of its employees who have a need to know such information in furtherance of this Agreement; (d) it shall not, and shall use prudent methods to ensure that its employees and agents do not, copy, publish, disclose to others or use (other than pursuant to the terms hereof) the Confidential Information; and (e) it shall return or destroy all copies of Confidential Information upon request of the other party. Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it (a) is or becomes a part of the public domain through no act or omission on the part of the receiving party, (b) is in the receiving party's possession, without actual or constructive knowledge of an obligation of confidentiality with respect thereto, at or prior to the time of disclosure under this Agreement, (c) is disclosed to the receiving party by a third party having no obligation of confidentiality with respect thereto, (d) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, (e) is released from confidential treatment by written consent of the disclosing party, or (f) is required to be disclosed pursuant to law, court order, subpoena or governmental authority; provided that the receiving party promptly notifies the disclosing party and makes diligent efforts to limit such disclosure to that which is reasonably necessary.

15. GENERAL PROVISIONS:

- a. **GOVERNING LAW:** This Agreement shall be governed by the laws of the United States of America and the State of California regardless of choice of law principles. The parties agree that jurisdiction over any dispute arising in connection with this Agreement will be vested exclusively in the courts located in San Diego County, California.
- b. **NO WARRANTIES:** ARES make no warranties or representations regarding the ARES Service, or their ability to obtain reservations for any portion of the Rooms.
- c. **RIGHT TO DISPLAY CONTENT:** Lodging Provider hereby grants ARES a worldwide, non-exclusive, royalty-free license to use Lodging Provider brands on ARES (including its affiliates) Web sites and in connection with ARES (including its affiliates) marketing efforts, and making reasonable use of other known identifiers that may serve to help promote Lodging Provider services, on the Internet, in print advertising and other forms of media. Lodging Provider

represents and warrants that such use does not and will not infringe any third party's rights.

- d. INDEMNIFICATION: Lodging Provider shall hold harmless, indemnify and defend ARES, its affiliates, directors, employees, or agents, against any third-party claim or action brought against Lodging Provider
- e. NO PARTNERSHIP: This Agreement does not create a partnership or agency relationship between or among the Parties.
- f. NON-EXCLUSIVITY: Lodging Provider acknowledges that ARES provides bookings for multiple hotels, including competitors of Lodging Provider, and that ARES has no obligation to disclose any terms relating to ARES relationship with other Lodging Providers.
- g. ENTIRE AGREEMENT: This Agreement is the Parties' entire agreement respecting its subject matter and supersedes all prior agreements, written and oral, respecting the subject matter.
- h. WAIVER: Any waiver or modification of this Agreement must be in writing and signed by the Parties to be effective.
- i. ENFORCEABILITY: If a court of competent jurisdiction deems any part of this Agreement invalid or unenforceable, then the remainder of this Agreement continues in effect.
- j. INSURANCE: Lodging Provider shall name ARES as an additional insured on any liability insurance policies that it pays premiums. As soon as reasonably possible after the execution of this Agreement, Lodging Provider shall deliver to ARES certificates of insurance (i) that verify compliance with the preceding sentence and (ii) that establish that ARES shall receive 30 days prior written notice before the insurance is canceled or expires. No later than ten (10) days prior to the date of expiration of an existing insurance policy, Lodging Provider shall deliver new certificates of insurance to ARES for any renewal policies.
- k. TERMINATION FOR BANKRUPTCY OR INSOLVENCY: Upon written notice, a Party may terminate this Agreement immediately if any other Party ceases to do business, becomes insolvent, or is subject to bankruptcy or insolvency proceedings, whether actual or reasonably believed to be imminent. If reasonable grounds for insecurity arise with respect to a Party's performance of this Agreement, then any other Party may demand written adequate assurance of due performance. Until such Party receives such assurance in writing, it may suspend its performance of this Agreement. If such Party does not receive such written assurance within five (5) days after its request for such assurance, or within such other reasonable period of time it may designate under the then existing circumstances, then the failure by the Party to furnish such assurance constitutes a material breach of this Agreement, entitling the requesting Party to immediately terminate this Agreement in whole or in part as to the Party failing to furnish the requested assurance.

I. DISCLAIMER OF WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS

AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, ARES SERVICE, AND ANY PRODUCT, SERVICE OR INFORMATION OR OTHERWISE RELATING TO THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. ARES DOES NOT WARRANT THAT THE ARES SERVICE OR WEBSITE OR EXTRANET WILL OPERATE UNINTERRUPTED OR ERROR-FREE.

LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY WHETHER OR NOT THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM ANY PROVISION OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE. IN NO EVENT SHALL EITHER COMPANY'S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT EXCEED THE PAYMENTS TO EITHER PARTY HEREUNDER. THE LIMITATIONS OF LIABILITY UNDER THIS SECTION SHALL NOT APPLY TO, (i) CLAIMS ARISING FROM A BREACH OF THE CONFIDENTIALITY OBLIGATIONS SET FORTH IN SECTION, (ii) A PARTY'S INDEMNIFICATION OBLIGATIONS CONTAINED IN SECTION, (iii) CLAIMS OF INFRINGEMENT OR UNFAIR COMPETITION OR, (iv) CLAIMS OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

**EXHIBIT E
OPTIONAL BONUS INCENTIVE PROGRAM**

Lodging Provider agrees to pay ARES an additional bonus as incentive to reach a specified number of room nights. Lodging Provider will pay bonus on highest level attained only. Lodging Provider agrees to pay bonus no later than 2/15 of the following calendar year. Please initial next to any or all four of the options:

1. Lodging Provider agrees to pay ARES a bonus of \$250 for 250 room nights or more booked by ARES and realized during each calendar year that the agreement is in place.

Initial in the space provided: _____

2. Lodging Provider agrees to pay ARES a bonus of \$500 for 500 room nights or more booked by ARES and realized during each calendar year that the agreement is in place.

Initial in the space provided: _____

3. Lodging Provider agrees to pay ARES a bonus of \$750 for 750 room nights or more booked by ARES and realized during each calendar year that the agreement is in place.

Initial in the space provided: _____

4. Lodging Provider agrees to pay ARES a bonus of \$1 per room night for 1000 room nights or more booked by ARES and realized during each calendar year that the agreement is in place.

Initial in the space provided: _____

In order to participate in the Optional Bonus Incentive Program, Lodging Provider must sign below:

PROVIDER: _____	ADVANCED RESERVATION SYSTEMS, INC.:
By/Sign: _____	By/Sign: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____