



NEW STAY NEST (OPC) PVT LTD

ONLINE HOTEL REPRESENTATION AND BOOKING AGREEMENT

This agreement is made and executed at Delhi on _____

By and Between

New Stay Nest Private Limited, a one person company registered under Companies Act 2013, having registered office at **Rzd 59B, Street No. 5, Mahavir Enclave, Near TVS Showroom, New Delhi-110045**, acting through its Director & Authorized Signatory Mr. Amit Samanta ("hereinafter referred to as Company"), which expression shall unless repugnant to the context herein, include its representatives, authorized signatories, successors and permitted assigns.

And

..... (a company or proprietorship) having registered office at _____, acting through its Director or Proprietor or Authorized Signatory Mr./Ms. _____ ("hereinafter referred to as Hotel"), which expression shall unless repugnant to the context herein, include its representatives, authorized signatories, successors and permitted assigns.

"Company" and "Hotel" shall collectively be referred as "Parties" and individual as "Party".

WHEREAS, the company is into the business of providing or facilitating online hotel booking facility services to its customers and clients through its website i.e. (www.nsn.com)

And WHEREAS, the hotel has approached and requested to the company to get the marketing, promotion and online booking facility of its hotel rooms through the website of the company (i.e. <http://nsnhotels.com>) and company has accepted the same request of the hotel and agreed mutually on the following terms and conditions as mentioned below.

NOW THIS AGREEMENT WITNESSETH AND GOVERNS THE CONTRACTUAL RELATIONSHIP BETWEEN THE PARTIES AS FOLLOWS.

1. TERM

1.1 This Agreement shall be deemed to have come into effect on and from the date of execution of this agreement and shall continue for a period of one (1) year from the date of execution. ("**Term**").

1.2 The Parties hereby agree that upon expiry of the term or the renewed term, as the case may be, this Agreement shall automatically renew for a further term of 1 (One) year.

2. SERVICE FEE

2.1 Hotel agrees to pay the service fee for each individual booking at the rate of **20%** of the actual booking amount+ **Applicable GST**, as visible on the company's website and android/IOS

application and mutually agreed between the parties, to the company for availing its services,



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2.2 Company shall receive payments from the customer through a third party payment gateway and shall be responsible to remit the booking amount received from the customer to the hotel on weekly basis after deducting its service fee as mentioned above under sub-clause no. 2.1 and subject to appropriation of any dues to the company.

2.3 If customer makes the payment through cash or credit and debit cards or through any electronic mode to the Hotel directly at its premises then Hotel shall be liable to make payment of service fee at the fixed rate of **20% + GST** on the actual amount received from the customer, as mentioned under aforesaid sub-clause 2.1 to the company, on weekly basis for each booking or customer.

2.4 Hotel shall also not to pay any extra charges of third party payment gateway to the company.

3. MINIMUM ALLOCATION AND PARITY

3.1 Hotel hereby commits to Company a minimum number of Hotel rooms and packages ("**Inventory**") as may be set out on the website and android application of the Company for reservations/distributions by the Company through various channels available to it. Company invites the Hotel to provide additional availability of rooms for certain periods as may be available or requested from time to time.

3.2 The Hotel shall ensure that Rate Parity is maintained in respect of the Inventory being offered pursuant to this Agreement. For the purpose of this Agreement, "Rate Parity" shall mean the same accommodation, same room type, same dates, same bed type, same number of customers, same or better policies such as breakfast, reservation changes and cancellation policy as are available on the Hotel websites, apps or call-centres (including the customer reservation system), or directly at the Hotel, with any competitor of the Company (which includes any online or offline reservation or booking agency or intermediary) and/or with any other (online or offline) third party that is a business partner of or in any other way related with or connected to the Hotel. In the event, the Company becomes aware that the prices being offered by the Hotel are not at Rate Parity, the same shall be considered material breach of this Agreement and the Company shall be entitled to terminate this Agreement in accordance with sub-clause 8.3 of this Agreement.

4. HOTEL OBLIGATIONS, RESPONSIBILITY AND SERVICE CONDITIONS

4.1 Hotel shall get an automatic alert or message on hotel's computer system regarding the rooms booked by the customer on company's website or application. Further, company may notify all reservations made to the Hotel *via* email or as per the reservation formats mutually agreed between the Parties. During this process, Hotel shall receive a voucher from the Company at the time of a successful booking and it shall be mandatory for the Hotel to accept and confirm the voucher with immediate effects.

4.2 The rates shall be fixed by Hotel and updated to Company's platform. Additionally, Company may at its discretion also offer promotions and offers to promote the booking of Hotel rooms.

4.3 The Hotel shall at all times honor all bookings and reservations done by Company's customers, once the booking is confirmed by the Company. Further, Hotel shall ensure that, once confirmed to the customer, no bookings shall be cancelled and/or modified, without the

express consent of the relevant customer. Further, in case the Hotel is unable to honor any such booking or reservation due to any reason whatsoever, the same shall be considered as a material breach. In such a case the Hotel shall, at all times make accommodation at



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comparable (if not identical) or better alternate accommodation, at its own cost and expenses, to honor the confirmed bookings or reservations. The Hotel shall be solely responsible directly or indirectly for any consumer complaint arising out or in relation to Hotel's inability to honor the bookings.

4.4 All descriptions on the services and/or amenities at the Hotel's website and company's website and android application as provided by Hotel and available for view by customers/third parties should actually be provided for. If description for amenities and infrastructure do not match then this shall comprise of material breach by Hotel and Hotel be solely responsible for the same and shall indemnify the Company for any and all claims by customers/third parties arising from the same.

4.5 By making a reservation through the Company channels, a direct contract (and therefore legal relationship) is created solely between the Hotel and the customer by means of the customer reservation. To the extent necessary, the Hotel hereby empowers and grants the Company explicit authorization to conclude customer reservations on its behalf arising out of online Hotel reservations for the Hotel made by customers *via* the Company. Accordingly, any booking made through the Company's website does not imply that the accommodation services are being provided by Company which only acts as a technology platform to enable bookings to be made by the customer with the Hotel. All accommodation services will be provided by Hotel to the customer. Further, it is agreed by the Hotel that, being the service provider to the customer, Hotel shall be solely responsible and liable for providing the invoice at the time checkout by or otherwise to the customer.

4.6 The Hotel is bound to accept a customer as a contractual party, and to handle the online reservation in compliance with the information contained on the Company channel at the time the reservation was made, including any supplementary information and/or wishes made known by the customer/guest.

4.7 Hotel and Company may agree to jointly or severally undertake promotional, marketing and other activities, details of which shall be mutually agreed. Further, the Hotel agrees and undertakes that Company shall be at liberty to offer discounts to the customers on behalf of the Hotel to the extent as may be intimated on a periodical basis by the Company to Hotel.

4.8 Hotel agrees and acknowledges that Company owes no tax liability with respect to any bookings confirmed from its platform. Any kind of tax liability including but not limited to GST, VAT, Service Tax and etc. shall be borne by the Hotel themselves and Company will be only liable to pay applicable taxes on the Commission received from the Hotel under this Agreement.

4.9 System will provide the Hotel with a user ID and password which allow the Hotel to access the dashboard. The Hotel shall safeguard and keep the user ID and password confidential and safely stored and not disclose it to any person other than those who need to have access to the System. The Hotel shall immediately notify Company of any (suspected) security breach or improper use.

4.1.0 Hotel should not install any hidden camera or any recording devices which will capture any personal recordings of any individual which may affect to leakage of customers personal privacy. In case of any case will be found Hotel Owner will be responsible and liable for the legal implications.

5. REPRESENTATION AND WARRANTIES

The Hotel represents and warrants to the Company that:



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5.1 It has all requisite power and authority to execute, deliver and perform its obligations under this Agreement and has been fully authorized by all requisite corporate actions to do so. The representation herein is in respect of all the Inventory also includes representation that the long term management contracts entered into by the Hotel shall not cease, expire or terminate during the Term;

5.2 It has all necessary statutory and regulatory permissions, approvals and permits for the running and operation of its establishment for the conduct of its business, more particularly for the services herein;

5.3 It has full right, title and interest in and to all trade names, trademarks, service marks, logos, symbols, proprietary marks and other intellectual property marks ("**IPR**") which it provides to Company, for use related to the services, and that any IPR provided by a Party will not infringe the marks of any third party;

5.4 It will provide such co-operation as the Company may reasonably request in order to give full effect to the provisions of this Agreement;

5.5 All information, content, images, facilities, amenities etc. available at the Hotel's website or provided by the Hotel to the Company are true, correct and updated at all times;

5.6 The Hotel shall at no time charge any extra charges, taxes and/or levies, over and above what has been specified at the time of booking. The Hotel shall only charge the customer for any additional facility used by the customer which was not included while making the booking;

5.7 The execution and performance of this Agreement by either Party does not and shall not violate any provision of any existing Agreement, law, rule, regulation, any order or judicial pronouncement;

5.8 The Hotel represents and warrants that all information provided to the Company which shall be contained on the Hotel's website or as shared with Company or any marketing or promotional materials in connection with the services of the Hotel is true, accurate and correct as of the date of the Agreement.

6. CANCELLATION REFUNDS AND RETENTION POLICIES

6.1 Every booking shall be made, amended or cancelled by informing the Company in writing. The Hotel undertakes that it shall ensure parity in respect of cancellation policy as well, across channels. Notwithstanding anything said above, any booking made on hourly basis will not be cancelled by the Hotel in any circumstances and shall be honored mandatorily.

6.2 The cancellation, retention and refund policies of the Hotel shall be uploaded/updated by the Hotel to System and any modification thereto shall be intimated in writing to Company. Hotel hereby confirms that such change in policies shall not be made applicable retrospectively and shall be applicable to only such customers who make reservations/booking post the publication of such policies.

6.3 If the Agreement stands terminated on account of breach of the terms of this Agreement and refunds pertaining to cancellations are owed to Company along with other dues, then such refunds shall be credited to Company's account one week post such termination. In the event, this cancellation refund is not credited to Company's account in the aforementioned time, then Company shall levy an interest at the rate of 24% per annum on such refund as penalty from the date of ending of one week till the date of payment.. In the event of breach of the provisions of clause 5.3, without prejudice to other rights of the Company under the Agreement, in law or equity, Company *inter alia* reserves the right to withhold payments or cancel all future



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bookings.

7. PROCESS FOR DEALING WITH CUSTOMER DISPUTES

7.1 In case the Company receives a complaint from a customer regarding the Hotel, the Company shall communicate the same to the Hotel and Hotel shall be obligated to respond the same within 2 working days of intimation by Company. The Company may at its sole discretion mediate such dispute between the Hotel and the customer. The decision of the Company shall be final in respect of such a dispute. If the resolution involves refund by the Hotel to the customer, the Hotel shall refund such amount to the customer within 48 hours of the Company requiring the Hotel to so. In the event no amount is refunded by the Hotel, the same shall be refunded by the Company and such amount shall become payable by the Hotel to the Company as debt owed to the Company and shall be paid by the Hotel within seven days of being notified to do so by the Company.

7.2 The Company is not responsible for and disclaims any and all liability directly or indirectly in respect of such claims from the customers. The Company may at all times and at its sole discretion (a) offer customer (support) services to a customer, (b) act as intermediate between the Hotel and a customer, (c) provide -at the costs and expenses of the Hotel alternative accommodation of an equal or better standard in the event of an overbooking or other material irregularities or complaints in respect of the Hotel, or (d) otherwise assist a customer in its communication with or actions against the Hotel.

7.3 In case of any incident, of any kind, happens with the customer at the premises, approached through the website or android application of the company, due to the mistake or default of the Hotel or its employees, contractors, vendors or any third party related to it, whether directly or indirectly, then the Hotel shall be solely responsible for the same in that case and shall indemnify the Company for any and all claims arising from the same.

7.4 Overbooking and Cancellation: The Hotel shall provide the rooms booked and in the event that the Hotel is not able to meet its obligations under this Agreement for any reason whatsoever, the Hotel shall promptly inform the Company *via* **[email id]**; the subject line of each such email shall state '**Overbooking**'. It is the sole obligation of the Hotel to procure alternative Hotel of equal or superior quality at its own expense and in the event that no Inventory is available on arrival, the Hotel shall-

- (i) find suitable alternative accommodation of an equal or better standard to the Hotel holding the customer's guaranteed booking;
- (ii) provide free private transportation to the alternative accommodation for the customer and other members of the customer's party who are listed in the customer's guaranteed booking, and
- (iii) reimburse and compensate the Company and/or the customer for all reasonable costs and expenses (e.g. costs, alternative accommodation, transportation, telephone costs) incurred by the customer and/or the Company due to or caused by the overbooking. Any amount charged from the Company in this respect shall be paid within 14 days after receipt of the invoice.
- (iv) The Hotel is not allowed to cancel any online reservation under any of the aforesaid circumstances.

8. MISCELLANEOUS

8.1 Amendment



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No modification, amendment, waiver, discharge or termination of any of the provisions of this Agreement shall be effective unless made in writing specifically referring to this Agreement and duly signed by each of the Parties.

8.2 Confidentiality

Each Party ("**Disclosing Party**") acknowledges and agrees that in connection with this Agreement, the other Party ("**Receiving Party**") will have access to sensitive information relating to the Disclosing Party including but not limited to business affairs, operations, products, processes, methodologies, plans, projections, know-how, market opportunities, suppliers, customers, marketing activities, sales and/or software ("**Confidential Information**"). The Receiving Party hereby agrees not to disclose any Confidential Information to any third party and not to use any such Confidential Information for any purpose other than as strictly required for the performance of this Agreement. All such Confidential Information is and shall remain the exclusive property of the Disclosing Party.

The Receiving Party undertakes to use all precautions required to enable it to comply with all the terms of this Agreement and to ensure similar compliance of the same by its employees/ personnel.

Notwithstanding the foregoing, the obligation of confidentiality shall apply to any disclosure of information: (i) that is in or enters the public domain other than by reason of a breach by Receiving Party; (ii) that was in possession of Receiving Party prior to disclosure; (iii) required by law, legal process, or order of any court or governmental body having jurisdiction. Any breach of the aforementioned confidentiality obligations by either Party is considered material breach of this Agreement and non-defaulting Party shall be entitled to terminate this Agreement in accordance with sub-clause 8.3 of this Agreement.

8.3 Termination

The Company reserves the right to terminate this Agreement with immediate effect in the event of any material or other breach of the provision of this Agreement by Hotel including without limitation on the Hotel's inability to offer Inventory, Inventory and rate parity not being maintained by the Hotel, failure to issue invoices to customers, bankruptcy or winding up proceedings against the Hotel, change of Control of the Hotel or multiple escalations from customers against the Hotel i.e., customer satisfaction index. Hotel shall duly intimate Company of any change of Control. For the purposes of this Agreement, a person shall be deemed to "Control" another person if such person possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such other person, whether through the ownership of voting securities, by contract or otherwise, and the terms "Controlling" and "Controlled" shall have corresponding meanings.

Even after the termination of this Agreement, Hotel shall honor any bookings made by Company's customers up till the effective date of termination. Hotel may also terminate this agreement by giving 30 days prior written notice and shall be responsible and liable to honor any bookings made by Company's customers up till the effective date of termination and shall clear the pending dues to the Company within 7 days from the date of completion of 30 days.

8.4 Arbitration and Jurisdiction

All claims arising under this Agreement shall be resolved amicably by the Parties. If such dispute is not resolved amicably between the Parties within 30 days then the same shall be referred to arbitration. The arbitration proceedings shall be carried out by a sole arbitrator appointed by the company in accordance with the rules and regulations under the Arbitration and Conciliation Act, 1996. The arbitration shall be conducted at New Delhi in English language. Subject to the above, the Parties agree to submit to the exclusive jurisdiction of



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courts at New Delhi in respect of any dispute under this Agreement. However, the Parties shall have the right to approach the courts at New Delhi at any time for injunctive relief.

8.5 Notice

All correspondence and notices under this Agreement shall be given in writing at the following address: In case of a change in address, each Party shall notify the other Party, in writing, about such change.

If to Hotel:

At the address provided by the Hotel

If to Company:

Address - **Rzd 59B, Street No. 5, Mahavir Enclave, Near TVS Showroom, New Delhi-110045,**

8.6 Severability

If any provision of this Agreement shall contravene or be illegal, invalid or unenforceable under the laws of any state in which this Agreement shall be performed or enforced, then such contravention, illegality, invalidity or unenforceability shall not invalidate the entire Agreement and the Agreement shall be modified to the extent necessary to make it enforceable.

8.7 Independent Parties

Parties acknowledge and agree that the relationship between them is solely that of independent contractors and nothing in this Agreement is to be construed as employer / employee, franchise/ franchisee, agent / principal, partners, joint ventures, co-owners, or otherwise participants in joint or common undertaking and the relationship is purely on principal to principal basis.

8.8 Survival

The clauses of this Agreement that are by their nature intended to survive shall so survive the Term of this Agreement.

8.9 Assignment

Each of the Parties understands and acknowledges that each Party shall not assign or otherwise transfer its rights or obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. However, the Company may at any time assign or transfer all or any part of its rights or obligations arising under or in connection with this Agreement to any of its affiliate entities without requiring the prior written consent of the Hotel.

8.10 Entire Agreement

This Agreement contains the entire Agreement of the Parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the Parties with respect to said subject matter.

IN WITNESS WHEREOF the Company and Hotel have signed this agreement on date, month and year as mentioned above in the presence of following witness:



NEW STAY NEST (OPC) PVT LTD

For and on behalf of Company

For and on behalf of Hotel

Director

Authorized Signatory

WITNESSES:

- 1.
- 2.

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