

## **10. Limitation of Liability**

**10.1** The warranties in clause 7 replace all other representations or warranties (statutory, express or implied) and all such representations and warranties (save any which may not lawfully be excluded) are expressly excluded, including, without limitation, the implied warranties of merchantability and fitness for any particular purpose. The foregoing exclusions do not apply to rights granted to the Licensee under the Consumer Guarantees Act 1993 unless the Licensee is acquiring the System for the purposes of a business in which case the provisions of the Consumer Guarantees Act 1993 shall not apply.

**10.2** Neither party will under any circumstances be liable under the law of tort, contract or otherwise for any loss of profits or savings or for any indirect or consequential loss or damage, however caused, arising out of or in connection with the performance or non-performance of this Agreement. At no time will the Licensor be responsible to the Licensee for any amount of damages for any reason that exceed the actual amount paid to Licensor. Licensee understands that there are NO REFUNDS for any reason of any monies paid to Licensor.

**10.3** The Licensor's liability to the Licensee arising out of any claim for damages for any cause whatsoever will under no circumstances exceed in aggregate the total amount of the sums actually paid by the Licensee to the Licensor for the goods or services which gave rise to the claim.

**10.4** No action arising out of this Agreement, may be brought more than one year after the party bringing the action became aware, or reasonably ought to have been aware, of the circumstances giving rise to the action.

## **11. Termination**

### **11.1 Immediate Termination**

Either party may terminate this Agreement forthwith if the other party:

**11.1.1** assigns its rights or obligations under the Agreement otherwise than in accordance with clause 16;

**11.1.2** enters into a composition with its creditors, is declared bankrupt, goes into liquidation, or a receiver, or a receiver and manager, or statutory receiver is appointed in respect of it;

**11.1.3** commits a breach of copyright or any other breach of intellectual property rights, or a breach of confidentiality.

**11.2** Termination by Either Party on Notice If one party defaults in the performance of any of its obligations under this Agreement and:

**11.2.1** the default is capable of being remedied, and, within ten (10) days of notice by the non-defaulting party specifying the default, is not remedied; or

**11.2.2** the default is not capable of being remedied the non-defaulting party may immediately terminate, or temporarily suspend the operation of this Agreement until the default is remedied, at its sole discretion.

### **11.3 Remedies on Termination**

If the Licensee gives notice to the Licensor to terminate this Agreement, the Licensee may, in addition to terminating this Agreement:

**11.3.1** recover any sums paid to the Licensor on any account under this Agreement which have not been performed or completed;

**11.3.2** pursue any additional or alternative remedies provided by law.

**11.4** Upon termination of this Agreement the Licensee shall, at the Licensor's option, return or destroy any copies of the Hotels Etc. and related Documentation in the possession or control of the Licensee.