

# ettractions

30B Sixth Road Woburn, MA 01801 | T: 781-935-6690 | [www.ettractions.com](http://www.ettractions.com)

## Interactive Touch Screen Display & Service Agreement

For good and valuable consideration, Ettractions, Inc. ("Ettractions") and Drury Hotels Company, LLC, d/b/a Drury Plaza Hotel St. Louis St. Charles (the "Establishment"), agree as follows, effective as of August, 2017 (the "Effective Date"):

1. The term of this Agreement is twelve (12) months from the Effective Date unless earlier terminated as provided herein (the "Term"). During the Term, Ettractions agrees to install and service an interactive touch screen product (the "ExploreBoard"™) at the following location maintained by Establishment: Drury Plaza Hotel St. Louis St. Charles, 380 Mulholland Drive, St. Charles, Missouri 63303 (the "Location"). During the Term, Ettractions shall insure the ExploreBoard™ and be responsible for any liability arising out of its use, damage or theft (except as caused by Establishment's gross negligence or intentional misconduct), and Establishment will be entitled to a free profile on the ExploreBoard™ and at Ettractions' Ettractions.com website. Notwithstanding the foregoing, Establishment shall not be responsible or liable for any damage or theft to the ExploreBoard™ which is caused by any guest, visitor or any person that is not an employee, officer, director, authorized agent or authorized contractor of Establishment.
2. Establishment agrees to pay [\$0] per month for the right to host the ExploreBoard™ during the Term. Establishment agrees to provide electricity and wireless internet service access at the Location throughout the Term for the ExploreBoard™. Establishment agrees to promptly notify Ettractions in the event of any malfunction or damage to the ExploreBoard™. Ettractions agrees to abide by the wireless internet access usage terms set forth in Exhibit A, attached hereto and incorporated herein by this reference. Ettractions shall defend, indemnify and hold the Establishment harmless from and against any and all costs, liabilities, losses and expenses (including reasonable attorneys' fees) arising out of or related to the unauthorized access of Ettractions' ExploreBoard™ by a third party to gain access to the Establishment's wireless internet service (the "Service") for the purpose of illegally downloading copyrighted material or sending spam messages.
3. Establishment agrees that Ettractions will be the sole electronic board provider of tourism information in the lobby and all common areas of Establishment, including information about cultural attractions, tourist destination information and tourist related promotional material, and acknowledges that it is vital to Ettractions' ability to provide this service for it to be the exclusive provider of such content for Establishment. Establishment may promote any printed tourist related material that Establishment deems necessary to enhance its guests' satisfaction. Further, the Establishment may distribute any in-house created promotional items, such as "vacation savings packages" to its guests in the lobby area. Ettractions agrees to **immediately** remove any and all advertising content displayed on the ExploreBoard™ that the Establishment deems, in its sole discretion, inappropriate, objectionable or unsuitable. For purposes of this provision, immediately shall mean that Ettractions removes such content within four (4) hours of receiving notice from Establishment that such content must be removed. Ettractions agrees that the only hotel or lodging accommodations business that shall be advertised on the ExploreBoard™ shall be the Establishment or hotels that are managed by Drury Hotels Company, LLC and no other.
4. The ExploreBoard™ and all of its content belong exclusively to Ettractions and Ettractions shall be entitled to remove it at the end of the Term at Ettractions' expense. Establishment agrees not to tamper with, reverse engineer, hack, debug or dismantle the ExploreBoard™; nor shall it induce or authorize any other party to do the same. Each party agrees not to disclose to any third party during or after the Term any information about the other party (including the terms of this Agreement) that such party knows or should have known to be confidential or proprietary to the other party. Ettractions shall post no advertisements on ExploreBoard™ that in any way contain or imply nudity or pornographic, profane or obscene matters. If after posting of an advertisement on ExploreBoard™ adverse publicity or reaction occurs, and the Establishment requests that Ettractions remove such advertisement, Ettractions shall immediately remove the offensive advertisement, or Establishment shall have the right to terminate this Agreement immediately. Further, in the event that any advertisement shall be deemed to be or become illegal, Establishment shall be entitled to immediately terminate this Agreement. Ettractions shall defend, indemnify and hold the Establishment harmless from and against all claims and liabilities arising out of the advertising material displayed on ExploreBoard™ under this Agreement, including but not limited to, any claim for defamation, or infringement of any copyright, trademark or other intellectual property or privacy right and reasonable attorney's fees and expenses incurred in defending against any such claims.

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## EXHIBIT A WIRELESS INTERNET ACCESS USAGE

By use of the Establishment's internet wireless service (the "Service"), Ettractions expressly acknowledges and agrees to the provisions of this Policy, and Ettractions hereby releases the Establishment from any liability or responsibility for any damages Ettractions may incur or cause to be incurred as a result of Ettractions' use of the Service, including, without limitation, the matters expressly set forth below.

### 1. PERMITTED USE

- a. Subject to the terms and conditions of this Policy, only Ettractions' employees are authorized to use the Service for the purpose of maintaining and/or updating the content for ExploreBoard™.
- b. Please note that the Establishment reserves the right to terminate Ettractions' use of the Service if Establishment determines, in its sole discretion, that Ettractions' use of the Service adversely affects the Establishment's network.

### 2. LIMITATIONS REGARDING THE SERVICE AND DISCLAIMER OF LIABILITY AND WARRANTIES

Ettractions understands and agrees to the following

- a. The Service is only a passive, high-speed conduit to the Internet strictly on an "AS IS," "WHERE IS," and "AS AVAILABLE" basis without any express guarantee or assurance of quality, reliability or functionality.
- b. The Service has no firewall, virus protection software, power surge protection for Ettractions' equipment or any other security or protective system or device. As a result, the Establishment has no responsibility or liability for any damages, direct or indirect, which may arise out of Ettractions' use of the Service or the termination of Ettractions' use of the Service, regardless of whether the Establishment is at fault. Such damages may include, but are not limited to, equipment failures; viruses; short circuits; loss of data or privacy (including, but not limited to, theft of sensitive information, damage to software, and identity theft); loss or damage to software, data, or hardware of any kind or for any reason; actions by any other user of the Services or the Internet; or any other occurrence arising out of Ettractions' use of the Service.
- c. The Establishment has no responsibility or liability for any illegal or criminal activity on the Internet to which Ettractions or anyone else may become exposed as a result of Ettractions' use of the Service, or the use of the Service by anyone permitted by Ettractions to access the Service.
- d. The Establishment is not and will not be responsible for any use or misuse of the Service by Ettractions or persons permitted by Ettractions to access the Service, including, without limitation, use of the service by children to access inappropriate or objectionable web sites.
- e. The Establishment has no responsibility or liability for any damages, direct or indirect, caused by configuration changes made to Ettractions' computer at the suggestion or instruction of the Help Desk or any hotel employee, regardless of whether the Establishment is at fault.

THE HOTEL HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES WITH RESPECT TO THE SERVICE, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PRIVACY, AVAILABILITY OF INTERNET ACCESS, SECURITY AND VIRUS PROTECTION, PROTECTION FROM EXPOSURE TO OBJECTIONABLE, ILLEGAL OR INAPPROPRIATE INTERNET CONTENT, AND THEFT OR LOSS OF DATA.

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## 3. NO PRIVACY

Ettractions waives any expectation of privacy with respect to anything Ettractions creates, stores, sends or receives in connection with Ettractions' use of the Service. The Establishment has the right, without creating any obligation to do so, to access, audit and monitor any communication or information Ettractions creates, stores, sends or receives in connection with Ettractions' use of the Service. Information obtained in the course of such access, auditing and monitoring of the Service may be used or disclosed by the Establishment, at its sole discretion or election, to third parties to comply with laws, regulations, court orders, subpoenas or other governmental procedures without notice to Ettractions.

## 4. NO MISUSE

Any Misuse of the Service is expressly prohibited. "Misuse" includes, without limitation: (i) using the Service to send, receive, print, display, perform or otherwise disseminate material that is unlawful, abusive, invasive, defamatory, fraudulent, obscene, pornographic, offensive, vulgar, threatening, harassing or malicious; (ii) using the Service to copy, send, receive, print, display or otherwise disseminate files, graphics, software or other material that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person; (iii) using the Service to disseminate unsolicited email of any kind, regardless of the content or nature of such messages, or to post the same or similar message to one or more newsgroups; (iv) attempting to access a part of the Service assigned to another person or to which Ettractions has not been granted authorized access, or otherwise undermining or circumventing security devices, firewalls, virus protection, content filters, procedures or access restrictions within the Service or anywhere else via the Service; (v) unauthorized and intentional copying, destruction, deletion, distortion, removal, concealment, modification, or encryption of, or otherwise interfering with the integrity of, messages, files, or other data affecting the Service; (vi) downloading, using or installing any unauthorized or unlicensed software or data, including, without limitation, screen savers, games, time or logic bombs, lockout or disabling devices or code, trojan horses, viruses or worms; (vii) tampering with or taking any equipment used to provide the Service, including, without limitation, telephones, modems, cables, power supplies, electronic components or similar equipment; (viii) using the Service to copy, send, receive, print, display or otherwise disseminate data that contains or includes confidential, trade secret or proprietary information of either the Establishment, its clients or customers; (ix) using the Service in violation of any applicable federal, state or local law including, but not limited to, hacking, cracking, bugging, virus distribution, or accessing or tampering with government or private data or users without authorization; or (x) using the Service to engage in any other activity deemed by the Establishment to be in conflict with the spirit and intent of this Policy.

## 5. COMPLIANCE AND INDEMNIFICATION

Ettractions must comply with all software licenses, copyrights, and all other state, federal and local laws governing intellectual property and online activity. Ettractions agrees to defend, indemnify and hold the Establishment harmless from and against any and all costs, liabilities, losses and expenses (including reasonable attorneys' fees) arising out of or related to Ettractions' use of the Service.

## 6. CHANGES TO POLICY

The Establishment may, from time-to-time, amend or modify this Policy. Ettractions' use of the Service after being provided with, or otherwise being notified of, the amended or modified Policy shall be deemed to be with full knowledge and acceptance of all provisions therein.

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