

## FAREHARBOR DISTRIBUTION NETWORK - AFFILIATE PARTICIPATION AGREEMENT

This AFFILIATE PARTICIPATION AGREEMENT (the “**Agreement**”) is effective as of the Effective Date and made **BETWEEN**

1. FareHarbor B.V., a Dutch private limited liability company with its principal place of business located at Herengracht 597, 1017 CE Amsterdam (“**FareHarbor**”); and
2. You, the sole proprietor or legal entity (by the designated account holder in the Stripe Know Your Customer documentation submitted as required during FareHarbor’s onboarding process) (“**FHDN Affiliate**”).

Each referred to as a “**Party**” and collectively as “**Parties**”.

This Agreement governs FHDN Affiliate’s decision to participate in the FareHarbor Distribution Network (“**Program**”).

By clicking “I ACCEPT”, FHDN Affiliate acknowledges that it has read and understood this Agreement and agrees and consents to be bound by all of its terms.

### RECITALS

FareHarbor provides a comprehensive solution for businesses that desire an online booking reservation system. Specifically, FareHarbor provides various products and services to businesses and individual businesses in the (tourist) activity industry that may include—amongst other things—platform creation, on-platform reservation payment capability, online reservation systems and management solutions, marketing and promotions, performance reporting tools, pricing tools, website creation, website hosting, self-service knowledge bases, and distribution access tools, that allows businesses and individual businesses to list the availability of, to accept and manage reservations for, and to sell their products and services.

FHDN Affiliate operates one or more websites and wishes to promote FareHarbor’s clients on the Affiliate Website within the context of the Program.

Under this Agreement, FareHarbor will make Provider Content (as defined below) available to FHDN Affiliate to enable FHDN Affiliate to promote FareHarbor’s clients on the Affiliate Website within the context of the Program in exchange for a Referral Fee. In consideration of the promises and covenants described below, and other good and valuable consideration, the parties agree as follows:

#### 1. **DEFINITIONS.** The following definitions are used in this Agreement:

- 1.1 “**Activities**” mean the products and/or services offered to customers by Providers including, but not limited to, tours, experiences, attractions, museums, guided excursions, expeditions, journeys, cruises, or adventures.
- 1.2 “**Activity Rate**” means the prices for the Activities as listed by Providers on the Service, as may be updated from time to time. This amount may include applicable sales, use, value-added and similar taxes that are levied or payable or collectible in connection with the Activities.
- 1.3 “**Affiliate Website**” means FHDN Affiliate’s owned or operated websites, as may be defined in Appendix 1 to this Agreement.
- 1.4 “**Affiliate Content**” means all information, data, and content made available by Affiliate to FareHarbor in connection with the FareHarbor Service, which may include Affiliate’s name, trademarks, and logos.

1.5 “**Agreement**” means this Affiliate Participation Agreement, including the appendices, as varied, novated, supplemented or replaced from time to time in accordance with its terms.

1.6 “**Associated Company**” means, in relation to a Party, any other entity which directly or indirectly has Control, is under the Control of, or is under direct or indirect common Control with that party from time to time.

1.7 “**Booking**” means obtaining (and paying for) Activities by a customer on the Provider’s website, sourced through the Affiliate Website.

1.8 “**Control**” means the direct or indirect power to determine the management and policies of an entity or the composition of its board of directors or equivalent body, whether through the ownership of shares, by contract, or otherwise.

1.9 “**Data Protection Laws**” means all laws, regulations, and legally binding requirements of any governmental

authority or regulator applicable to the Processing of Personal Data under the Agreement. This includes without limitation the laws and regulations of the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom and the United States and its states, applicable to the Processing of Personal Data under the Agreement as amended from time to time.

- (a) **“Effective Date”** means the date that the FHDN Affiliate clicked the “I ACCEPT” button for this Agreement.

**1.10 “Force Majeure Event”** means, for either Party, an event or circumstance which is beyond the reasonable control of that Party and prevents it from performing its obligations under this Agreement. Force Majeure Events do not include events or circumstances caused by: (a) a shortage of funds, labor, materials or other resources; (b) an increase in operational costs; (c) the failure of a subcontractor or any other third-party to provide goods or services; or, (d) circumstances that could have been avoided by a Party exercising reasonable care (including strikes or employee disputes) or by complying with its obligations relating to disaster recovery and business continuity. This definition is not intended to limit or exclude any statutory definitions of force majeure that may apply under applicable laws.

**1.11 “Intellectual Property”** means any patents, copyrights, trademarks and service marks, trade secrets, moral rights, and any other intellectual property or proprietary rights arising at any time under the laws of any applicable jurisdiction(s), including the Provider Content, and tools, or other technology made available by FareHarbor or FHDN Affiliate.

**1.12 “Personal Data”, “Personal Data Breach”, “process/processing”, and “Supervisory Authority”** shall have the meaning set out under Data Protection Laws, or where not specifically defined under Data Protection Laws, the same meaning as analogous terms in those Data Protection Laws.

### **3. LICENSE.**

**3.1 License.** Subject to the terms and conditions of this Agreement, FHDN Affiliate grants to FareHarbor a worldwide, nonexclusive license in any and all media now or later known or developed during the term of

**1.13 “Provider”** means a provider of Activities whose Provider Content FareHarbor makes available to FHDN Affiliate pursuant to this Agreement.

**1.14 “Provider Content”** means all information and content made available by FareHarbor to FHDN Affiliate, which may include (a) Provider’s name, trademarks, and logos; (b) images, photographs, and descriptions of Provider and Activities; and (c) rates, pricing, schedules, capacities, and other information relating to reservation availability for Activities.

**1.15 “Referral Fee”** means the applicable Referral Fee payable by FareHarbor to FHDN Affiliate, as outlined in Section 6.

**1.16 “Service”** means FareHarbor’s online reservation software through which providers of Activities can list the availability of their products and services, and through which customers can reserve and submit payments for said providers’ Activities.

**1.17 “Taxes”** means any national, governmental, provincial, state, municipal or local taxes, levies, imports, duties, (sur)charges, fees and withholdings of any nature imposed by any governmental, fiscal or other authority, including VAT, GST, sales and use tax, ITBIS, withholding tax or other similar taxes.

### **2. INTERPRETATION.** In this Agreement:

**2.1** references to a specific law include that law as amended from time to time, or any law that replaces or amends it;

**2.2** Definitions stated in this Agreement apply equally to both the singular and the plural forms of the definitions;

**2.3** the words “including” or “for example” (or similar) should not be given a restrictive meaning because they are followed by particular examples;

**2.4** clause, schedule and paragraph headings shall not affect the interpretation of this Agreement; and,

**2.5** unless the context requires otherwise, references to a notice or approval means a notice or approval given in writing

this Agreement to use, reproduce, display, modify, create derivative works (including translations), distribute and transmit Affiliate Content.

**3.2 Ownership; Reserved Rights.** Subject to the licenses expressly granted in this Agreement, nothing in this Agreement will have any effect on either Party's ownership of its Intellectual Property rights. All rights not expressly granted in this Agreement are reserved. Without limiting the above, and except to the extent otherwise expressly provided in this Agreement, nothing in this Agreement may be construed as a license to either Party's Intellectual Property rights, expressly or by implication, estoppel, exhaustion, or otherwise.

**3.3 External API Access.**

- (a) **Agreement Required.** If FHDN Affiliate wishes to obtain access to FareHarbor's External Application Programming Interface ("FareHarbor API"), it must submit a written request to FareHarbor regarding such access and execute an API and Data License Agreement.
- (b) **Prohibited Use.** FHDN Affiliate is prohibited from accessing or using the FareHarbor API in any manner prior to the execution of an API and Data License Agreement.
- (c) **Conflicting Terms.** In the event of any conflict between the terms of this Agreement and the API and Data License Agreement, the terms of this Agreement will prevail to the extent of any inconsistency.

**4. FHDN AFFILIATE OBLIGATIONS.**

- 4.1 Affiliate Website.** FHDN Affiliate will make Provider Content available on the Affiliate Website in order to promote Bookings for Activities. As between FareHarbor and FHDN Affiliate, FHDN Affiliate is solely responsible for the hosting, operation, maintenance, and administration of the Affiliate Website.
- 4.2 Use of Provider Content.** FHDN Affiliate will ensure that the Provider Content it publishes retains the level of accuracy that the Provider Content had when FHDN Affiliate received it from FareHarbor and will promptly correct any inaccuracies upon discovery. FareHarbor is not responsible nor liable for any loss, damage, or liability related to errors contained in or the content of the Provider Content as delivered to FareHarbor by Provider.

**5. RELATIONSHIPS WITH PROVIDERS.**

- 5.1** Each Provider is responsible for all aspects of providing its Activities, including cancellations, returns, and any related customer service. FareHarbor makes no representations regarding the level of service offered by a Provider.
- 5.2** FHDN Affiliate will not (a) require any Provider to accept or enter into a separate agreement with FHDN Affiliate in connection with any of the Activities or transactions contemplated under this Agreement, or (b) contact Providers in connection with this Agreement.

**6. COMPENSATION.**

**6.1 Referral Fee.** For each Booking that is generated by the Affiliate Website, FareHarbor shall pay to FHDN Affiliate the following Referral Fees for the services provided by FHDN Affiliate:

- (a) **Outside the United States:** FareHarbor will pay to FHDN Affiliate a fifteen percent (15%) Referral Fee on the total of all Activity Rate amounts paid by customers (including any applicable Taxes and fees) for Bookings made through the Affiliate Website.
- (b) **Within the United States:** FareHarbor will pay to FHDN Affiliate a fifteen percent (15%) Referral Fee on the total of all Activity Rate amounts paid by customers (excluding any applicable Taxes and fees) for Bookings made through the Affiliate Website.

**6.2 Self-Billing.**

- (a) FHDN Affiliate expressly authorizes FareHarbor to issue in its name and on its behalf, invoices for the services provided by FHDN Affiliate under this Agreement ("Self-Billing Invoice") in accordance with the requirements of the applicable law. The FHDN Affiliate shall not issue invoices to FareHarbor unless mutually agreed to in writing.
- (b) The Self-Billing Invoice will be issued no later than fifteen (15) days following the conclusion of each calendar month in which the Activity was delivered to the applicable customer. If the FHDN Affiliate does not notify FareHarbor within 5 calendar days after the Self-Billing Invoice date that it does not

agree with the issued invoice and provides FareHarbor with an alternative invoice, the invoice is deemed to be accepted by the FHDN Affiliate.

- (c) If FHDN Affiliate does not accept the Self-Billing Invoice as a legal VAT/GST document, the FHDN Affiliate considers this Self-Billing Invoice instead as a reliable document that confirms the amount (inclusive of taxes) that the FHDN Affiliate may charge to FareHarbor.
- (d) The FHDN Affiliate shall at all-times be responsible for the correctness of the Self-Billing Invoice, and is liable for reporting and paying any VAT/GST amount due (if applicable).
- (e) The FHDN Affiliate agrees it is responsible for informing FareHarbor:
  - (i) if Self-Billing Invoices are not allowed or technically not possible according to the local regulations of the FHDN Affiliate;
  - (ii) if the FHDN Affiliate is liable to include VAT/GST on the Self-Billing Invoices and the VAT/GST rate (if applicable);
  - (iii) if the FHDN Affiliate changes its VAT/GST registration number or ceases to be VAT/GST registered; or,
  - (iv) if any other specific invoice requirements are applicable.
- (f) The FHDN Affiliate agrees that FareHarbor may not be able to support all requirements but will endeavor to include relevant requirements, and that FareHarbor cannot be held accountable for any errors in the Self-Billing Invoices.
- (g) If the FHDN Affiliate does not inform FareHarbor of the FHDN Affiliate's liability to report VAT/GST, FareHarbor assumes that the FHDN Affiliate is not required to include any VAT/GST on the Self-Billing Invoice as issued by FareHarbor.

**6.3 Payments.** FareHarbor will calculate charges and remit payments on a monthly basis. FareHarbor will pay Referral Fee to FHDN Affiliate within fifteen (15) days of the Self-Billing Invoice date as referred to in Section 6(b). However, if the Referral Fee payable to FHDN Affiliate for any calendar month is less than EUR 5.00, such Referral Fee will be rolled forward into next month's payment. Payments will be made in the FHDN Affiliate's currency. FareHarbor will convert payment amounts from other currencies to FHDN Affiliate's currency prior to payout. Referral Fee does not include any taxes, levies, duties or other governmental assessments of any nature, including but not limited to value-added, sales, use, general excise, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction. FHDN Affiliate is only eligible to earn Referral Fee on Bookings that are made during the Term of this Agreement. FareHarbor may, at its own discretion, withhold FHDN Affiliate's final payment for a reasonable time to ensure that the correct amount is paid.

- (a) **Refunds.** If an FHDN Provider legitimately grants a refund, and the Referral Fee has already been remitted to FHDN Affiliate, FareHarbor will reverse the corresponding Referral Fee and apply the canceled Referral Fee amount against the net amount of Affiliate's monthly Referral Fee payment.
- (b) **Chargebacks.** If a credit card payment for a Booking generated by the Affiliate Website is made but the cardholder subsequently disputes the payment charge and a chargeback is issued, and the Referral Fee has already been remitted to FHDN Affiliate, FHDN Affiliate shall retain the corresponding Referral Fee and will not be required to apply the Referral Fee amount against the net amount of Affiliate's monthly Referral Fee payment.

#### **6.4 Fees and Taxes.**

- (a) **Payment and Collection.** Each Party shall be responsible for the payment of Taxes, of whatever nature and however levied, as may be required by the applicable laws of the country of its jurisdiction, unless otherwise prescribed by an applicable international tax treaty. No further amounts shall be payable by either Party under this Agreement in respect of any Taxes. If any amounts are payable, all amounts payable under this Agreement are inclusive of any Taxes. Taxes (if appropriate) shall be calculated out of the amounts (and not on top of) at the rate prevailing at the relevant tax point.
- (b) **Collection and Remission.** FHDN Affiliate is solely responsible for any Taxes or fees related to payments processing, currency conversions, and Taxes related to such costs that are made in connection with the Bookings made on FHDN Affiliate's Platform. Any applicable sales, use, value

added, or similar taxes that are levied on the Referral Fee will be collected and remitted in accordance with local tax law.

- (c) **Deductions and Withholdings.** Any payments to be made by FHDN Affiliate to FareHarbor under this Agreement shall be made in cleared funds, without any deduction or set-off, and free and clear of, and without deduction for or on account of, Taxes now or hereafter imposed by any governmental, fiscal or other authority. If FHDN Affiliate is compelled to make any such deduction or withholding, it will pay to FareHarbor such additional amounts as are necessary to ensure receipt by FareHarbor of the full amount which FareHarbor would have received but for the deduction.

## **7. REPORTING AND AUDITS.**

- 7.1 Tax Reporting.** FareHarbor or any of its affiliates may be required to by applicable laws to collect and/or report tax related information. In such instances, FHDN Affiliate agrees to promptly cooperate and provide information and/or records as may be reasonably requested by FareHarbor, or any of its affiliates, to comply with such requirements and facilitate accurate tax reporting to conform to the applicable laws.
- 7.2 Records and Audit.** During the term of this Agreement and for three years after, FHDN Affiliate will maintain complete and accurate books and records in connection with its performance under this Agreement. During the term and for three years after FareHarbor will have the right to inspect FHDN Affiliate's records: (a) upon reasonable prior written notice; (b) no more than once per year; and (c) during regular business hours, solely to the extent necessary to verify FHDN Affiliate's compliance with this Agreement. FareHarbor will bear the full cost and expense of any audit performed by FareHarbor, unless such audit discloses FHDN Affiliate's breach of this Agreement, in which case FHDN Affiliate will bear the full cost and expense of such audit. If FHDN Affiliate is notified that any audit indicates that FHDN Affiliate is not in compliance with any terms of this Agreement, then FHDN Affiliate will promptly correct such problem at FHDN Affiliate's sole expense.

## **8. CONFIDENTIALITY.**

- 8.1 Confidential Information.** FHDN Affiliate may be exposed to or furnished with confidential or proprietary information relating to FareHarbor or its business activities, including without limitation non-public information, know-how and trade secrets in any form relating to FareHarbor, that is disclosed by FareHarbor to FHDN Affiliate that has been designated as being confidential or a reasonable person knows or reasonably should understand to be confidential ("**Confidential Information**").
- (a) **Exceptions.** Confidential Information shall not include any information, however designated, that is or subsequently becomes publicly available without FHDN Affiliate's breach of any obligation owed to FareHarbor; became known to FHDN Affiliate prior to FareHarbor's disclosure of such information to FHDN Affiliate pursuant to the terms of this Agreement; or became known to FHDN Affiliate from a source other than FareHarbor other than by the breach of an obligation of confidentiality owed to FareHarbor; or, is independently developed by Affiliate.
- 8.2 Confidentiality Obligations.** Affiliate shall:
- (a) refrain from disclosing, reproducing, summarizing and/or distributing Confidential Information except in conjunction with FHDN Affiliate's relationship with FareHarbor;
  - (b) take reasonable security precautions, at least as protective as the precautions it takes to protect its own confidential information, to keep confidential the Confidential Information;
  - (c) promptly notify FareHarbor upon FHDN Affiliate's discovery of any unauthorized use or disclosure of the Confidential Information; and,
  - (d) cooperate with FareHarbor to regain control of the Confidential Information and/or prevent further unauthorized use or disclosure.
- 8.3 Permitted Disclosures.** FHDN Affiliate may disclose Confidential Information:
- (a) in accordance with a judicial or other governmental order, provided that FHDN Affiliate gives FareHarbor prompt notice prior to such disclosure (if such notice is legally permissible) to allow FareHarbor a reasonable opportunity to seek a protective order or equivalent, and requests written assurance from the applicable judicial or governmental entity that it will afford the Confidential Information the highest level of protection afforded under applicable law or regulation.

- (b) to FHDN Affiliate's employees, agents, and professional consultants, provided that any such disclosure is limited to a need-to-know basis and such parties have agreed to protect the Confidential Information to at least the same degree as is required under this Agreement. FHDN Affiliate is responsible for all such parties complying with this Agreement.

## 9. DATA PROTECTION & SECURITY.

- 9.1 Each Party undertakes to comply with Data Protection Laws at its own cost and will not knowingly cause the other to breach Data Protection Laws. Each Party will provide the other Party with all information, assistance and cooperation reasonably necessary to enable that other Party to comply with Data Protection Laws.
- 9.2 FHDN Affiliate undertakes to solely Process Personal Data as required by and in accordance with the documented instructions of the Provider and/or FareHarbor for the purpose of performing this Agreement, unless otherwise required by laws to which FHDN Affiliate is subject. FHDN Affiliate shall not Process Personal Data in any manner for its own purposes or any third-party purposes.
- 9.3 FHDN Affiliate warrants that it will:
  - (a) inform FareHarbor without undue delay of any complaint, notice, request or communication (from a customer, a Supervisory Authority or otherwise) which relates directly or indirectly to the Processing of Personal Data under this Agreement or to FHDN Affiliate's compliance with Data Protection Laws, and will provide FareHarbor with cooperation and assistance in relation to any such complaint, notice, request or communication;
  - (b) immediately notify FareHarbor about any actual or suspected security breach, unauthorised access, misappropriation, loss, damage or other compromise of the security, confidentiality, or integrity of Provider Content processed by Integration Partner ("**Security Breach**").
  - (c) upon discovery of any Security Breach, shall (i) immediately take action to prevent any further Personal Data Breach and (ii) provide FareHarbor with full and prompt cooperation and assistance in relation to any notifications that FareHarbor is required to make as a result of the Security Breach.
  - (d) only permit persons to access Personal Data as strictly necessary and in particular only to employees of the Party that are bound by confidentiality obligations or are under an appropriate statutory obligation of confidentiality with regard to the Personal Data;
  - (e) notify FareHarbor promptly if any applicable laws require or prohibit it to Process Personal Data other than in compliance with Data Protection Laws and this Agreement, including due to changes to applicable laws to which the Party is subject; and
  - (f) promptly notify the other Party and cooperate with them if it believes that it may no longer be able to comply with any of the terms of this Agreement.
- 9.4 In the event of a conflict between the provisions of an applicable Data Protection Laws and the terms of this Agreement then the Parties shall endeavor (as far as reasonably possible) to comply with the terms of this Agreement without contravening such Data Protection Laws.
- 9.5 FHDN Affiliate will ensure it has implemented and will maintain appropriate technical and organizational measures to protect Personal Data and Provider Content against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and, in particular, where the processing involves the transmission of data over a network, against all other unlawful forms of processing consistent with generally accepted industry practices and comply with the requirements set out by FareHarbor at: <https://github.com/FareHarbor/fareharbor-docs/blob/master/external-api/getting-started.md#rate-limits>. FHDN Affiliate acknowledges and agrees that it is solely responsible for the secure transmission of data and storage thereof on servers and other systems owned or operated by or on behalf of FHDN Affiliate.

- 10. **LIMITATION OF LIABILITY.** In no event shall FareHarbor be liable for any special, incidental, indirect, compensatory, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss), however caused and on any legal

or equitable theory of liability, arising out of the use of any products, services, content or materials provided by FareHarbor or its Associated Companies, even if FareHarbor has been advised of the possibility of such damages. Notwithstanding the foregoing, any damages arising under this Agreement that FareHarbor is required to pay for any purpose whatsoever, including without limitation, contract, tort (including negligence) or otherwise, will be limited to EU 100.00.

## **11. WARRANTIES AND DISCLAIMERS.**

**11.1 FareHarbor Disclaimer.** FareHarbor products and services are provided on an “as is” basis to FHDN Affiliate. FareHarbor does not guarantee that its products and services will be error-free or that availability will be uninterrupted or that they will meet FHDN Affiliate’s requirements, specifications, or expectations. FareHarbor makes no representations or warranties about the suitability, reliability, timeliness nor accuracy, for any purpose, of its products and services. FareHarbor disclaims all warranties, either express or implied, regarding its products and services and expressly disclaims the implied warranties of merchantability, fitness for a particular purpose, and non-infringement.

**11.2 FHDN Affiliate Warranties.** FHDN Affiliate represents and warrants that all individuals having access to FareHarbor’s products and services will observe, adhere to, and perform its obligations under this Agreement. FHDN Affiliate shall, at its own expense, promptly enforce the restrictions in this Agreement against any person who improperly gains access to FareHarbor’s products and services with or without FHDN Affiliate’s permission or while in the agency or employ of FHDN Affiliate.

**11.3 Mutual Warranties.** Both parties represent and warrant to the other that, at all times:

- (a) it has all necessary rights, approvals, permits and consents to enter into and perform this Agreement, and to grant the rights and licenses referred to in it;
- (b) it will materially comply with all applicable laws in relation to performance of this Agreement and its relationship with its own customers; and,
- (c) it has, and shall retain for the term of this Agreement, qualified and dedicated staff with the appropriate level of expertise, skills and knowledge to perform the obligations and meet the requirements contemplated in this Agreement in a timely and diligent manner.

**12. INDEMNIFICATION.** FHDN Affiliate agrees to defend, indemnify and hold FareHarbor and any affiliated company or individual harmless from any and all liabilities, costs, and expenses, including reasonable attorneys' fees, related to or in connection with: (1) FHDN Affiliate’s use of the products and services provided by FareHarbor; (2) FHDN Affiliate’s violation of any term of this Agreement, including without limitation, breach of any of the representations and warranties above; (3) FHDN Affiliate’s violation of any third-party right, including without limitation any right of privacy, publicity rights, or intellectual property rights; and (4) FHDN Affiliate’s violation of any applicable laws.

**13. COMPLIANCE.** The Parties will comply with the Compliance Requirements as included in Appendix 2.

## **14. TERM AND TERMINATION.**

**14.1 Term.** This Agreement shall commence on the Effective Date and shall continue until terminated in accordance with these terms.

**14.2 Voluntary Termination.** Either Party may terminate this Agreement at any time by providing the other Party with thirty (30) days written notice of termination.

**14.3 FareHarbor Termination Rights.** FareHarbor is entitled to suspend or terminate FHDN Affiliate’s rights under this Agreement in whole or in part with immediate effect, without a notice of default being required and without incurring any obligation to compensate for any damages, if any of the following circumstances occurs:

- (a) FHDN Affiliate materially breaches this Agreement;
- (b) FHDN Affiliate’s (filing of a request for) bankruptcy or suspension of payment (or similar action) in respect of the other Party;
- (c) FareHarbor determines that FHDN Affiliate has abused the products and services provided by FareHarbor; or,
- (d) FHDN Affiliate’s company is terminated or transferred in whole or in part to a third-party.

**14.4 Consequences of termination.** Upon termination of this Agreement, FHDN Affiliate will:

- (a) destroy, delete or upon request of FareHarbor return all materials and will, upon request, confirm in writing to FareHarbor that all such materials have been destroyed, deleted or returned; and,
- (b) promptly remove and disable any interface/connection with the FareHarbor API, if applicable, to the extent it is within FHDN Affiliate's control to do so; and,
- (c) remove all Provider Content from the Affiliate Website.

**15. INJUNCTIVE RELIEF.** Each Party agrees that, because of the unique nature of the services, the other Party may suffer irreparable injury in the event the Party fails to comply with any of the terms of this Agreement, and that monetary damages would be inadequate to compensate the non-breaching Party for any such breach. Accordingly, the non-breaching Party will, in addition to any other remedies available to it by law or in equity, be entitled to seek injunctive relief, without posting a bond, to enforce the terms of this Agreement.

**16. DISPUTE RESOLUTION.**

**16.1 Applicable Law and Forum.** This Agreement shall be exclusively governed by and construed in accordance with the laws of the Netherlands. Any disputes arising out of or in connection with these Terms of Service shall exclusively be submitted to and dealt with by the competent court in Amsterdam, the Netherlands.

**16.2 Attorney's Fees and Costs.** If FareHarbor or FHDN Affiliate employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs.

**17. FORCE MAJEURE EVENTS.**

**17.1 Liability.** If a Party is prevented from performing its obligations under this Agreement by a Force Majeure Event ("Affected Party"), it shall be not responsible or liable for any failure or delay in the performance of its obligations under this Agreement. The Affected Party agrees to promptly provide the other Party with written notice and evidence of the occurrence of said event, along with an assessment of its future ability to fully perform its obligations under this Agreement.

**17.2 Mitigation and Resuming Operations.** An Affected Party shall use reasonable efforts to mitigate the impact of the Force Majeure Event. Upon resolution of the Force Majeure Event, the Affected Party shall promptly resume operations.

**18. SURVIVAL.** The Sections entitled "Limitation of Liability", "Indemnification", "Survival", "Miscellaneous", "Data Protection", "Warranties and Disclaimers", "Term and Termination", and "Dispute Resolution" will survive any termination or expiration of this Agreement. Any additional provisions herein that could be reasonably interpreted to survive the termination or expiration of this Agreement shall remain in effect until all applicable statutes of limitations have expired.

**19. MISCELLANEOUS.**

**19.1 English Language.** This Agreement has been executed in English. In the event of a dispute about the content or interpretation of this Agreement or in the event of a discrepancy between the English version and any other language version of this Agreement, the English language version will prevail.

**19.2 Modification and Amendment.** FareHarbor reserves the right to modify or amend this Agreement from time to time upon at least thirty (30) days' written notice. If FHDN Affiliate disagrees with the amended or modified terms, FHDN Affiliate may terminate this Agreement as provided for herein. If FHDN Affiliate does not object to any of the modifications or amendments to this Agreement within the prescribed notice period, this shall constitute FHDN Affiliate's acceptance of such changes.

**19.3 Severability.** If any of the provisions of this Agreement is to be held illegal, void, or unenforceable in any jurisdiction, such provision shall have no effect in that jurisdiction, but the remainder of this Agreement shall remain in effect. The invalid or unenforceable provision shall be either: (a) amended and limited to the minimum extent necessary to ensure its validity and enforceability and best preserve the intent of this Agreement; or, if this is not possible, (b) eliminated and this Agreement construed as if such provision if never been contained therein.

**19.4 Assignment.** FHDN Affiliate may not assign its rights under this Agreement, including, without limitation, by operation of law or merger, without FareHarbor's prior written approval, and any attempt to assign this Agreement without such prior approval is void. FareHarbor may, at its sole discretion and without FHDN



Affiliate's consent, assign its rights under this Agreement to a corporate affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

**19.5 No Partnership or Agency.** Nothing in this Agreement is intended to, or will be deemed to: (a) establish any partnership or joint venture between FareHarbor and FHDN Affiliate, or (b) make one Party the agent of the other. Neither Party has the authority or power to bind, create a liability for, or enter into any commitments for or on behalf of, the other Party.

**19.6 Waiver.** Either Party's failure or delay to enforce any rights or provisions in this Agreement shall not constitute a waiver of such provision, or any other provision of this Agreement.

**19.7 No Disparagement.** FHDN Affiliate will not (a) make, publish, or communicate, in any online or other public forum, any disparaging, defamatory, maliciously false, or disparaging remarks, comments, or statements concerning, or (b) engage in any action that is unfair, misleading, deceptive, or that tends to disparage, or dilute the value of, or reflect negatively upon, the Service, Providers, FareHarbor, or its Associate Companies and their respective directors, officers, agents, personnel, products, services, vendors, customers, or partners.

**19.8 Entire Agreement.** This Agreement constitutes the whole and only agreement between the Parties relating to its subject matter and supersedes and excludes all prior agreements or arrangements made between them that relate to it. This Agreement shall prevail over any inconsistent terms or conditions contained or referred to in any terms implied by law, trade custom, practice or course of dealing.

**19.9 Notices.** Any notice required or permitted to be given under this Agreement must be written in English. The Parties may send notices either by email to the email addresses identified below or by physical mail to the Parties' principal places of business identified above. Each Party may change its contact details by giving notice to the other Party. Notices will be deemed given when sent. FHDN Affiliate agrees that any notices, agreements, disclosures, or other communications that FareHarbor sends electronically will satisfy any legal communication requirements, including that such communications be in writing.

(a) FHDN Affiliate email address for notices: \_\_\_\_\_

(b) FareHarbor email address for notices: notices@fareharbor.com

IN WITNESS WHEREOF, the FHDN Affiliate has caused this Agreement to be signed below.

**FHDN Affiliate**

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## APPENDIX 1 – AFFILIATE WEBSITE(S)

Website 1\* - \_\_\_\_\_

Website 2\* - \_\_\_\_\_

Website 3\* - \_\_\_\_\_

\*Applicable if FHDN Affiliate has not agreed to the FareHarbor Terms of Service for Providers.

### 1. ANTI-BRIBERY AND ANTI-CORRUPTION COMPLIANCE

- 1.1. In relation to the execution and performance of this Agreement, each Party, its personnel and its agents and other representatives has and will:
  - a. not directly or indirectly:
    - i. offer, promise, or give to any third-party (including any governmental official or political party's official, representative or candidate); or
    - ii. seek, accept, agree to receive, or get promised for itself or for another party, any gift, payment, reward, consideration, advantage or benefit of any kind which would, or could reasonably be construed as, bribery or an illegal or corrupt practice; and
  - b. comply with (and not place the other party in breach of) all applicable laws prohibiting bribery and corruption (including the U.S. Foreign Corrupt Practices Act 1977, the UK Bribery Act 2010 and the laws of any other territory with jurisdiction over the parties).

### 2. TAX OBLIGATIONS AND COMPLIANCE WITH LAWS PROHIBITING TAX EVASION OR TAX FRAUD

- 2.1. In connection with their performance of and remuneration under this Agreement, each Party, its personnel and its agents and other representatives will pay in full all Taxes that are lawfully due from it in any jurisdiction(s) in which it operates, and will not:
  - a. commit (or facilitate, aid, abet, counsel, or procure the commission of) any offence of cheating the public revenue or the fraudulent evasion of any Tax, or
  - b. otherwise breach or take any action that may place the other Party in breach of applicable laws prohibiting Tax evasion and the facilitation of Tax evasion.

### 3. COMPLIANCE WITH TRADE AND ECONOMIC SANCTIONS

- 3.1. Each Party represents and warrants that, for the term of this Agreement, it is not:
  - a. listed on any applicable list of sanctioned parties (including the lists of restricted parties issued by the UN, U.S., EU and UK);
  - b. owned by, controlled by, or acting at the direction of, any person or persons listed on such a list; or
  - c. ordinarily resident in or organized under the laws of any jurisdiction subject to comprehensive or other territory-wide sanctions imposed by the UN, U.S. EU and/or UK.
- 3.2. Neither Party will take any action that would breach (and not take any action that would place the other Party in breach of) applicable sanctions.

### 4. MODERN SLAVERY, HUMAN TRAFFICKING AND HUMAN RIGHTS

- 4.1. Each Party represents and warrants that, for the term of this Agreement, it complies with all applicable laws concerning employment rights, human rights, non-discrimination, and modern slavery, and in particular does not hold any person in

slavery or servitude or arrange or facilitate the travel or stay of another person with a view to that person being exploited.

### 5. COMPLIANCE WITH ANTI-MONEY LAUNDERING AND TERRORISM FINANCING LAWS

- 5.1. Parties represent and warrant that, for the term of this Agreement:
  - a. no funds (or portion thereof) that the parties may remit to each other will constitute the proceeds of crime;
  - b. the Parties will not (whether knowingly or with cause to suspect) acquire, use, possess, retain, control or otherwise deal in funds or other property constituting the proceeds of crime; and,
  - c. the Parties will not otherwise engage in any activity or become concerned in an arrangement that may constitute an offence under Applicable Laws prohibiting dealing in the proceeds of crime and/or the financing of terrorism.
- 5.2. FHDN Affiliate represents and warrants that, in respect of the bank account to be used in connection with this Agreement ("**Bank Account**"):
  - a. FHDN Affiliate is the sole holder and beneficiary of the Bank Account;
  - b. all payments and transfers between FareHarbor and the Bank Account (and vice versa) are at arm's length and do not violate any applicable laws (including in particular laws concerning money laundering, bribery and corruption, tax evasion, terrorist financing, financial sanctions and other financial crimes); and,
  - c. FHDN Affiliate does not use the Bank Account (or any funds transferred to or from Booking.com) to breach Applicable Laws.
- 5.3. Clause 5.2 does not prohibit payments from being made via a digital payment processor, digital wallet, virtual credit card or other method reasonably acceptable to, and pre-approved by, FareHarbor (the "**Alternative Payment Method**"), provided that FHDN Affiliate's use of that Alternative Payment Method is fully in compliance with all applicable laws (including financial laws) and does not otherwise result in a breach of the warranties contained in Clause 5.2.

### 6. INTERNAL COMPLIANCE MEASURES

- 6.1. Each Party will, for the term of this Agreement, implement reasonable internal measures (including policies, procedures, compliance audits and training) intended to ensure that it (and its personnel) does not breach the obligations set out in these Compliance Requirements.

### 7. GENERAL

- 7.1. FHDN Affiliate agrees to complete and provide to FareHarbor, or any advisor to FareHarbor, any requested screening or re-screening questionnaires and/or associated documents.
- 7.2. FHDN Affiliate will immediately notify FareHarbor in the event of any actual or suspected breach of these Compliance Requirements by FHDN Affiliate, its personnel, or its agents or other representatives