

## **FAREHARBOR DISTRIBUTION NETWORK**

### **Provider Participation Agreement**

This FareHarbor Provider Participation Agreement (this “**Agreement**”) is a binding agreement between FareHarbor B.V., a Netherlands limited company (“**FareHarbor**”), and you, or if you are entering into this Agreement on behalf of an organization, the organization you represent (“**Provider**”). This Agreement governs your participation in the FareHarbor Distribution Network and is effective when you click “accept”. BY CLICKING “I ACCEPT”, YOU (A) AGREE TO PARTICIPATE IN THE FAREHARBOR DISTRIBUTION NETWORK; (B) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (C) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND, IF YOU ARE ENTERING INTO THIS AGREEMENT FOR AN ORGANIZATION, THAT YOU HAVE THE AUTHORITY TO BIND THAT ORGANIZATION; AND (D) AGREE THAT YOU ARE BOUND BY THIS AGREEMENT’S TERMS.

This Agreement is in addition to FareHarbor’s terms of service, set forth at <https://fareharbor.com/legal/tos/> or such successor URL as FareHarbor may designate, as the terms of service may be amended or modified from time to time (the “**TOS**”), which governs your use and FareHarbor’s provision of the Service. Any conflict between the terms of this Agreement and the TOS will be resolved in favor of this Agreement.

- 1. Scope.** FareHarbor provides an online service that providers of tourist activities and attractions may use to list the availability of, and to accept and manage reservations for, their services (the “**Service**”). Provider provides tourist activities and attractions and uses the Service to make its services available for purchase by consumers. FareHarbor and Provider would like Provider to become a participant (a “**Provider Participant**”) in the FareHarbor Distribution Network (“**Network**”) in order to receive referrals from service providers that provide or resell tourist activities and attractions (“**Affiliates**”).
- 2. Network Participation.** As of the Effective Date (defined below), Provider will be a Provider Participant in the Network. Provider acknowledges and agrees that, by participating in the Network, FareHarbor may, via the Service: (a) advertise and promote Provider and its services on Affiliates’ websites; and (b) enable guests to make reservations for Provider’s services (“**Bookings**”) on Affiliates’ websites.
- 3. License and Use of Provider’s Logos.** Provider grants to FareHarbor a non-exclusive, worldwide, fully paid-up license during the term to: (a) use, reproduce, and publicly display Provider’s names, titles, logos, trademarks, and similar identifying material (collectively, the “**Provider Marks**”) in connection with Provider’s participation in the Network, including on Affiliates’ websites and in email correspondence; and (b) advertise, market, promote, and publicize the arrangement contemplated by this Agreement. Provider represents and warrants that Provider is the sole and exclusive owner of the Provider Marks and has the right and power to grant to FareHarbor the license to use the Provider Marks in the manner contemplated by this Agreement, and such grant does not or will not: (i) breach, conflict with, or constitute a default under any agreement or other instrument applicable to or binding upon Provider; or (ii) infringe upon any trademark, trade name, service mark, copyright, or other proprietary right of any other person or entity. This license terminates upon the effective date of the expiration or termination of this Agreement.
- 4. Responsibility for Bookings.** Each Provider Participant is responsible for all aspects of processing Bookings for its activities and services, including cancellations, returns, and related customer service. FareHarbor makes no representations regarding the level of service offered by Provider.
- 5. Reporting.** FareHarbor will track the Bookings generated by Provider’s website and will make reports summarizing Booking activity available to Provider through the Service. The form, content, and frequency of the reports may vary from time to time at FareHarbor’s discretion, however, such reports will be provided at least monthly and contain, at a minimum, the Commission (defined below) owed to Provider.
- 6. Payments.** For Bookings made for Provider’s services through an Affiliate’s website, FareHarbor will: (a) remit to Provider the Service Fees, as provided by the TOS, and (b) debit the Commission from Provider’s bank account linked to the Service within 5 days following the month in which the service for the applicable Booking was provided. “**Commission**” means 20% of the Net Service Fee. “**Net Service Fee**” means the Service Fee less (i) credit card transaction and processing fees and (ii) any sales, use, or other taxes. If a Booking is cancelled by the guest or a refund is otherwise granted by the Provider, and the Commission has already been debited, FareHarbor will reverse the corresponding Commission and credit the amount to Provider’s account.
- 7. Term.** This Agreement begins on acceptance (“**Effective Date**”) and is effective until terminated.
- 8. Termination.** Either party may terminate this Agreement for any reason or no reason by providing at least 30 days’ prior written notice. Upon any termination or expiration of this Agreement, each party will promptly remove and cease use of any and all names, logos, and trademarks provided under this Agreement in connection with the Network. The provisions of this

Agreement which, by their terms, require performance after the termination or expiration of this Agreement, or have application to events that may occur after the termination or expiration of this Agreement, will survive the termination or expiration of this Agreement.

**9. Representations & Warranties.** Each party warrants (a) that its performance under this Agreement will not violate any agreement between the party and any third party or any obligation owed by the party to any third party; (b) that it has all right, power, and authority necessary to enter into this Agreement; and (c) that it will not use any material or information provided pursuant to this Agreement in any commercially unreasonable manner or in any manner that would disparage or discredit the other party or Affiliates.

**10. Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, EACH PARTY'S PRODUCTS AND SERVICES ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY A COURSE OF DEALING, USAGE OR TRADE PRACTICE, OR COURSE OF PERFORMANCE.

**11. Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE, ARISING OUT OF THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY. The maximum, aggregate liability of either party to the other, and all third parties for all claims related to this Agreement, is limited to the greater of (a) \$1,000 and (b) the amounts Provider received from participation in the Network during the 12 months preceding the event giving rise to the claim.

**12. Indemnity.** Provider will defend and indemnify FareHarbor (and its directors, officers, employees, affiliates, and agents) from and against all claims, demands, suits, or other assertions of rights by any third party, and all resulting judgments, settlements, and expenses (including attorneys' fees and costs), that arise out of or relate to Provider's participation in the Network or Provider's breach of this Agreement.

**13. Confidential Information.** Provider may be exposed to or be furnished with confidential or proprietary information or material relating FareHarbor or its business activities. Except as may be required by law, Provider will keep confidential and not reveal or disclose any of that information or material or the terms of this Agreement ("**Confidential Information**") during the term of this Agreement or thereafter to any third party, except to Provider's attorneys, accountants and other professional representatives with a bona fide need to know Confidential Information and who agree to use Confidential Information only as necessary in rendering services to Provider and not to disclose any Confidential Information to any third party. Provider will ensure that each such representative does not use any Confidential Information other than as necessary in rendering services to Provider and does not disclose any such information to any third party. If Provider is required by law to disclose any Confidential Information, Provider will, to the extent not prohibited by law, notify FareHarbor in writing of the disclosure requirement as far in advance as is reasonably possible and cooperate with FareHarbor in any effort FareHarbor may deem necessary to seek to avoid or limit the scope of such disclosure (e.g., seeking a protective order).

**14. Assignment.** Neither party may assign this Agreement or any right or obligation of this Agreement without the prior written consent of the other party except that FareHarbor may, without Provider's consent, assign this Agreement (a) to any Related Entity or (b) pursuant to a merger, acquisition, or to a purchaser of all or substantially all of FareHarbor's assets or equity securities. "**Related Entity**" means any entity in which FareHarbor has a 50% or greater ownership interest. Any attempt to assign in violation of this section is void.

**15. Notices.** Notices may be provided either by electronic or physical mail to the address associated with Provider's account.

**16. Governing Law; Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of New York without giving effect to any conflict of laws principles to the contrary. The parties further consent to exclusive jurisdiction and venue in the federal courts sitting in New York, New York unless no federal subject matter jurisdiction exists, in which case the parties consent to exclusive jurisdiction and venue in the state courts located in New York, New York. The parties hereto waive all defenses of lack of personal jurisdiction and *forum non conveniens*.

**17. Miscellaneous.** Each party is an independent contractor to the other and has no authority to act on behalf of or bind the other, and this Agreement does not create any other relationship (e.g., employment, partnership or joint venture). All rights and remedies under this Agreement are cumulative. Each party will pay its own costs to perform (except if expressly stated otherwise). This Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than

the parties hereto. Only written waivers are effective. This Agreement is (a) the parties' entire agreement on this subject and merges and supersedes all related oral understandings, representations, prior discussions, letters of intent, or preliminary agreements; (b) is formed as of the Effective Date; (c) may be modified only by a writing signed by authorized representatives of each party (except as otherwise expressly provided in this Agreement); and (d) may be executed in counterparts.