SaaS Services Agreement

This SaaS Services Agreement (Agreement) is entered into between Wayfare Travel Solutions (ABN 45 620 174 405) (Company) and its customer (Stakeholder).

This Agreement is for the Company ("we", "us", "our") to provide the Stakeholder ("you", "your") with:

a) Access to the software provided by the Company as part of the Service (Software).

b) Schedule 1: Implementation Services.

c) Schedule 2: SaaS Services Order Form.

d) Schedule 3: Non-Standard Services.

e) Our Privacy Policy.

f) The terms and conditions contained herein.

1. Definitions and Interpretations

1.1 Definitions

In this agreement unless the context otherwise requires:

Intellectual Property means copyrights, patents, trademarks, service marks, trade names, designs, and similar industrial, commercial and intellectual property (whether registered or not and whether protected by statute or not and including formulae, recipes and know-how).

1.2 Interpretations

In this agreement unless the context otherwise requires:

a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;

b) the singular includes the plural and vice versa;

c) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;

d) a reference to any gender refers to all genders;

e) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to this agreement;

f) a recital, schedule, annexure or description of the parties forms part of this agreement;

g) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions), as amended, novated, supplemented or replaced from time to time;

h) a reference to any party to this agreement, or any other document or arrangement, includes that party's executors, administrators, substitutes, successors and permitted assigns;

i) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;

j) where an expression is defined anywhere in this agreement it has the same meaning throughout;

k) a reference to time is to local time in New South Wales; and

l) a reference to "dollars" or "$" is to an amount in Australian currency.

2. SaaS Service and Support

a) Subject to the terms of this Agreement, the Company will use commercially reasonable efforts to provide the Stakeholder the Services in accordance with the Service Level Terms attached in Schedule 1.

b) Subject to this Agreement, the Company will provide the Stakeholder with reasonable technical support services in accordance with the Company's standard practice.

2.1 Remote Assistance

In allowing remote assistance from Wayfare support staff at your request, you authorise the Company to:

a) Add or edit a user account with administrator privileges.

b) Unlock a user account.

c) Browse the application in read-only mode for the purpose of investigating errors and/or unexpected behaviour.

You may opt in or out of remote assistance at any time by updating the setting "Allow remote assistance connections by Wayfare support" on the Account Management page. In the interests of expediency where a company administrator is unavailable, creation of and/or unlocking user accounts can be performed regardless of this setting.

2.2 Support Provider Assistance

In addition to remote assistance, the Stakeholder has the option to grant one or more Wayfare support staff ("Support Providers") a user account for access to your account. Support Providers do not count toward the concurrent user count.

In authorising Support Providers to access your account, you acknowledge that such users are permitted to add, delete or update your data at any time, within the constraints of the role assigned to them.

In addition, you authorise Support Providers to insert, update or delete records as required for restoring financial integrity where an imbalance occurs, which may involve operations that exceed the authority of the role assigned to that user.

While every effort will be made to ensure your data is accurately maintained, you acknowledge that the Company accepts no liability for errors or omissions.

You may change or remove access for Support Providers at any time via the "Support Providers" tab on the User Accounts page.

3. Restrictions and Responsibilities

a) Except as otherwise permitted by the Copyright Act 1968 (Cth) or agreed to in writing by Wayfare, the Stakeholder must not:

- modify the Software or merge any aspect of the Software with another program, record, reverse engineer, copy, duplicate, reproduce, create derivate works from, frame, download, display, transmit or distribute any of the Software, the source code of the Software or any documents, manuals or setup instructions provided with the Software or in relation to the Services;
- licence, sell, rent, lease, transfer, assign or otherwise commercially exploit the Software or the Services;
- engage in unauthorised access to or use of data, services, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures;
- access, store, distribute or transmit:

- viruses, worm, trojan or other malicious code that corrupts, degrades or disrupts the operation of the Software;
- material that is unlawful, unethical, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive or a contravention of the rights of any third party;
- material that facilitates illegal activity; or
- material that abuses or causes damage or injury to any person or property;

- provide Software login details or passwords, or otherwise provide access to the Software, to any unauthorised third party and you will take all reasonable steps to prevent unauthorised access to, or use of, the Software;
- share any features of the Software that are not publicly available with any unauthorised third party;
- engage in any conduct on the Software that is in breach of this Agreement (or any agreements mentioned therein); and
- encumber or allow the creation of any mortgage, charge, lien or other security interest in respect of the Software.

Any breach of this clause constitutes a breach of this Agreement, and we may, at our absolute discretion, terminate or suspend your access to, and/or use of, the Software or the Services, and/or take further actions against you for breach of this Agreement.

b) With respect to any Services distributed or provided to the Stakeholder for use on the Stakeholder's premises or devices, the Company hereby grants the Stakeholder a non-exclusive, non-transferable, non-sublicensable license to use such Services during the Term only in connection with the Services.

c) The Stakeholder represents, covenants, and warrants that the Stakeholder will use the Services only in compliance with the Company's standard published policies then in effect (Policy) and all applicable laws and regulations.

d) The Stakeholder hereby agrees to indemnify and hold harmless the Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and legal fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from the Stakeholder's use of Services. Although the Company has no obligation to monitor the Stakeholder's use of the Services, the Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

e) The Stakeholder shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, Equipment). The Stakeholder shall also be responsible for maintaining the security of the Equipment, the Stakeholder account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of the Stakeholder account or the Equipment with or without the Stakeholder's knowledge or consent.

4. Confidentiality and Proprietary Rights

a) Each party (Receiving Party) understands that the other party (Disclosing Party) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (referred to as Proprietary Information of the Disclosing Party).

b) Proprietary Information of the Company includes non-public information regarding the features, functionality and performance of the Service. Proprietary Information of the Stakeholder includes non-public data provided by the Stakeholder to the Company to enable the provision of the Services (Stakeholder Data).

c) The Receiving Party agrees:

- to take reasonable precautions to protect such Proprietary Information, and
- not to use (except in performance of the Services or as otherwise permitted in this Agreement) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without the use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

d) The Stakeholder shall own all right, title and interest in and to the Stakeholder Data, as well as any data that is based on or derived from the Stakeholder Data and provided to the Stakeholder as part of the Services. The Company shall own and retain all right, title and interest in and to (a) the Services, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all Intellectual Property related to any of the foregoing.

e) Notwithstanding anything to the contrary, the Company shall have the right to collect and analyse data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Stakeholder Data and data derived therefrom), and the Company will be free (during and after the term) to:

- use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and
- disclose such data solely in aggregate or other de-identified form in connection with its business.

f) Both parties agree to promptly destroy any Proprietary Information of the other party that is within their possession when this Agreement is terminated.

g) No rights or licenses are granted except as expressly set out in this Agreement.

5. Intellectual Property

a) Subject to clauses 5(a) and 5(b), the Company grants the Stakeholder a personal, non-exclusive, non-transferable and revocable license to permit its authorised users to access and use the Software and the Services (including the Intellectual Property contained therein) throughout the world during the Term.

b) All rights, title or interest in and to the Software and any information or technology that may be provided to, or accessed by, you in connection with your use of the Software or Services is owned, and will remain owned, by the Company or its licensors (Provider IP). Using the Software or the Services does not transfer any ownership or rights, title or interest in and to the Provider IP.

c) All Intellectual Property discovered, developed or otherwise coming into existence as a result of, for the purposes of, or in connection with, the Software or the provision of any Services will automatically vest in, and are assigned to, the Company, including any enhancements, improvements and modifications to the Provider IP (collectively, Developed IP).

d) The Stakeholder must not represent to anyone or in any manner whatsoever that they are the proprietor of the Software and/or the Provider IP.

e) The Stakeholder agrees that the Company may refer to the Stakeholder, their business name, publish their logo and/or trademark and refer to the Stakeholder as a customer of the Company

in any communications or publications for the purposes of marketing or promoting the Company's business.

f) The Stakeholder agrees to maintain the confidentiality of any proprietary information disclosed by the Company in connection with the Services, including but not limited to the Software's source code, algorithms, and technical specifications. The Stakeholder shall use such information solely for the purpose of using the Services as permitted under this Agreement and shall not disclose such information to any third party without the Company's prior written consent. This obligation of confidentiality shall survive the termination of this Agreement for a period of five (5) years.

g) The Stakeholder acknowledges and agrees that any feedback, suggestions, ideas, or other information provided by the Stakeholder regarding the Software or Services ("Feedback") will be owned by the Company. The Stakeholder hereby assigns all rights, title, and interest in and to such Feedback to the Company, and agrees to assist the Company, at the Company's expense, in perfecting and enforcing such rights.

6. Payment of Fees

a) The Stakeholder will pay the Company the applicable fees as described in the SaaS Services Order Form for the Services and Implementation Services in accordance with this Agreement (Fees).

b) Payments of Fees may be made using third-party applications and services not owned, operated, or otherwise controlled by the Company. The Stakeholder acknowledges and agrees that the Company will not be liable for any losses or damage arising from the operations of third-party payment applications and services. The Stakeholder further acknowledge and warrant that they have read, understood and agree to be bound by the terms and conditions of the applicable third-party payment applications and services they choose to use as a payment method for the Services.

c) If the Stakeholder's use of the Services exceeds the Service Capacity set forth on the SaaS Services Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement), the Stakeholder shall be billed for such usage and the Stakeholder agrees to pay the additional fees in the manner provided in this Agreement.

d) The Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or the current renewal term, upon 30 days prior notice to the Stakeholder (which may be sent by email).

e) If the Stakeholder believes that the Company has billed the Stakeholder incorrectly, the Stakeholder must contact the Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to the Company's customer support department.

f) The Company shall bill through an invoice, in which case full payment for invoices issued in any given month must be received as set forth on the SaaS Services Order Form.

g) Unpaid amounts are subject to an interest charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service.

h) Where applicable, any goods or services tax, charge, impost or duty payable in respect of this Agreement or the supply of any goods or service made under or in respect of this Agreement and any other taxes, duties or levies will be paid by the Stakeholder at the then-prevailing rate.

7. Term and Termination

a) Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the SaaS Services Order Form, and shall be automatically renewed for additional

periods of the same duration as the Initial Service Term (collectively, Term), unless either party requests termination at least 30 days prior to the end of the then-current term.

b) In addition to any other remedies it may have, either party may also terminate this Agreement upon 30 days' notice (or without notice in the case of non-payment), if the other party materially breaches any of the terms or conditions of this Agreement. The Stakeholder will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, the Company will make Stakeholder Data available to the Stakeholder in a form the Company deems appropriate for a period of 30 days, but thereafter the Company may, but is not obligated to, delete stored Stakeholder Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

c) Notwithstanding any other provision of this Agreement, the Company reserves the right to suspend or terminate the Stakeholder's access to the Services immediately and without notice if the Company reasonably believes that the Stakeholder has violated any provision of this Agreement or poses a threat to the security or integrity of the Services or other users. In such event, the Stakeholder shall not be entitled to any refund of prepaid fees, and the Company shall not be liable for any damages resulting from such suspension or termination.

8. Warranty and Disclaimer

a) The Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimises errors and interruptions in the Services and shall perform the Implementation Services in a professional and proper manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by the Company or by third-party providers, or because of other causes beyond the Company's reasonable control, but the Company shall use reasonable efforts to provide advance notice in writing or by email of any scheduled service disruption. However, the Company does not warrant that the Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the Services.

b) While all due care has been taken, the Company does not warrant that the operation of the Services will be uninterrupted or error free or that any third-party components of the Services will be accurate or error free or that the Services will be compatible with any application, program or software not specifically identified as compatible by the Company.

c) To the maximum extent permitted by law, no further warranty, condition, undertaking or term, express or implied, statutory or otherwise as to the condition, quality, performance or fitness for purpose of the Software provided hereunder is given or assumed by the Company other than as required at law.

d) The Company makes no representations, warranties or guarantees:

- that content available on, or produced by or via, the Software is accurate, complete, reliable, current, error-free or suitable for any particular purpose; or
- that the Software and/or the Services are or will be free from viruses, worm, trojan or other malicious code. The Stakeholder responsible for taking precautions in this respect.

e) The Company's obligation and the Stakeholder's exclusive remedy during the Term are limited, in the Company's absolute discretion, to:

- the Company, at its own expense, using all reasonable endeavours to rectify any non-conformance of the Services by repair (by way of a patch, workaround, correction or otherwise) within a reasonable period of time; or
- a refund of the Fees paid if, in the Company's reasonable opinion, it is unable to rectify such non-conformance within a reasonable timescale or at an economic cost, whereupon this Agreement will terminate.

f) The Stakeholder acknowledges and accepts that it is the Stakeholder's sole responsibility to ensure that:

- the facilities and functions of the Services meet the Stakeholder's requirements;
- the Services are appropriate for the specific circumstance of the Stakeholder and are within the laws and regulations of the Stakeholder's jurisdiction.
- the Company does not purport to provide any legal, taxation or accountancy advice by providing the Service under this Agreement.

g) The Company will not be liable for any failure of the Services to provide any function not described in the documentation (provided online as part of the Services) or any failure attributable to:

- any modification to the Services other than by the Company;
- accident, abuse or misapplication of Services by the Stakeholder;
- use of the Services with other software or equipment without the Company's written consent;
- use of other than the latest, unaltered current release of the Services; or
- use other than in accordance with this Agreement.

h) If, upon investigation, a problem with the Services is determined not to be the Company's responsibility, the Company may invoice the Stakeholder immediately for all reasonable costs and expenses incurred by the Company in the course of or as a consequence of such investigation.

i) The Stakeholder acknowledges and agrees that the Company's sole liability, and the Stakeholder's exclusive remedy, for any breach of warranty shall be limited to the Company's reasonable efforts to correct the non-conforming Services as described in clause 5(e). In no event shall the Company be liable for any loss of data, loss of profits, or any other special, incidental, consequential, or indirect damages arising from the Stakeholder's use of the Services, even if the Company has been advised of the possibility of such damages.

9. Indemnity

The Stakeholder will at all times indemnify and hold harmless the Company and its officers, employees and agents in respect of any third-party claim for any injury, loss, damage or expense occasioned by or arising directly or arising directly or indirectly from:

a) a breach by the Stakeholder of its obligations under this Agreement;

b) any wilful, unlawful or negligent act or omission of the Stakeholder.

10. Limitation on liability

a) Except in the case of death or personal injury caused by the Company's negligence, the liability of the Company under or in connection with this Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise must not exceed the fees paid by the Stakeholder to the Company for the Services under this Agreement in the 12 months prior to the act that gave rise to the liability, in each case, whether or not the Company has been advised of the possibility of such damages.

b) Neither party is liable to the other party in terms of contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other party of an indirect or consequential nature including any economic loss or other loss of turnover, profits, business or goodwill.

11. Dispute Resolution and Mediation

a) If a dispute arises out of or relates to the terms of this Agreement, neither Party may commence any legal proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sought).

b) A Party to this Agreement claiming a dispute (Dispute) has arisen under the terms of this Agreement, must give written notice to the other Party detailing the nature of the Dispute, the desired outcome, and the action required to settle the Dispute (Dispute Notice).

c) On receipt of the Dispute Notice by the other Party, the Parties to this Agreement must within 7 days of the Dispute Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree.

d) If for any reason whatsoever, 21 days after the date of the Dispute Notice, the Dispute has not been resolved the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by Mr Stephen Cartwright or his or her nominee and attend a mediation.

e) It is agreed that mediation will be held in New South Wales, Australia.

f) The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing, undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation.

g) All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the fullest extent possible, must be treated as "without prejudice" communications.

h) If 30 days have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation, and the mediator must do so.

i) In the event that the Dispute is not resolved at the conclusion of the mediation, either Party may institute legal proceedings concerning the subject matter of the Dispute thereafter.

j) Notwithstanding the foregoing, nothing in this dispute resolution process shall prevent either Party from seeking urgent interlocutory relief from a court of competent jurisdiction in respect of any matter arising under this Agreement. The Parties agree that any legal proceedings must be filed within one (1) year after the cause of action arises, otherwise such claim shall be deemed waived and time-barred.

12. General

a) Except as otherwise permitted by this Agreement, no variation to its terms will be effective unless in writing and signed by both the Company and the Stakeholder.

b) If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

c) This Agreement is not assignable, transferable or sublicensable by the Stakeholder except with the Company's prior written consent. The Company may transfer and assign any of its rights and obligations under this Agreement without consent.

d) This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in writing signed by both parties, except as otherwise provided in this Agreement.

e) No agency, partnership, joint venture, or employment is created as a result of this Agreement, and the Stakeholder does not have any authority of any kind to bind the Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and legal fees.

f) All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognised overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

g) This Agreement takes effect, is governed by, and will be construed in accordance with the laws from time to time in force in New South Wales, Australia. The Parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

13. Amendments to This Agreement

The Company may amend this Agreement, including these terms and conditions, the pricing, and the features of the Service, from time to time. We will provide you with 30 days' notice of any material changes.

Any changes will be applied to your Subscription, unless you notify us within 7 days that you do not accept the changes. If you do not accept the changes, your subscription may be terminated, or we may negotiate an alternative agreement with you. We will communicate these changes to you via email.