

**AMENDMENT NO. 1
TO DISTRIBUTION SERVICES AGREEMENT**

This Amendment No. 1 to the Distribution Services Agreement, dated January 2015, between the National Railroad Passenger Corporation ("Amtrak") and Wanderu, Inc. ("Wanderu") (the "Agreement") is effective as of April 1, 2016 ("Amendment Effective Date").

1. All capitalized terms shall have the same meaning as defined in the Agreement unless otherwise specified.
2. In Section 3, "Company Compensation," is deleted in its entirety and replaced with the following provision:

For referral bookings and/or direct bookings of Amtrak Products, Amtrak shall pay Wanderu a fee of (b)(4) By the fifteenth (15th) day of each month, Amtrak shall provide Wanderu a report stating: (a) the total number of PNRs booked for the preceding month from Wanderu's referrals; (b) the total price of the PNRs; and (c) the amount due Wanderu. Wanderu shall invoice Amtrak within sixty (60) days of receipt of the invoice and Amtrak shall remit payment within forty-five (45) days of Amtrak's receipt of Wanderu's invoice.

3. All other terms and conditions of the Agreement shall remain in full force and effect.

By execution below, the parties agree to the above terms and conditions as of the Amendment Effective Date.

Wanderu Inc.

National Railroad Passenger Corporation

(b)(6)

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Sent Via Certified Mail and Email

July 15, 2016

(b)(6)

Wanderu, Inc.
80 Bedford St, Floor 2
Boston, MA 02111

(b)(6)

RE: Distribution Services Agreement, between the National Railroad Passenger Corporation (“Amtrak”) and Wanderu, Inc., dated 6th February, 2015, (“Agreement”)

Dear (b)(6)

This letter is to notify you that Amtrak is replacing Attachment I-Amtrak Products with the attached updated Attachment I-Amtrak Products Revised 07-15-16. Please note that under Section 1.2 of the Agreement, Wanderu has fourteen days of receipt of this notice by certified mail to make any necessary changes to its website, Wanderu.com.

We continue to appreciate the opportunity to work with you and your company.

Sincerely,

(b)(6)



TRAVEL ALLIANCE AGREEMENT
BETWEEN
NATIONAL RAILROAD PASSENGER CORPORATION
AND

[]

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counterparty.



TABLE OF CONTENTS

1.	Background.....	1
2.	Company Services and Connectivity to Amtrak Web Services	1
3.	Payment and After Sales for Amtrak Products	2
4.	Company Compensation	3
5.	Advertising, Marketing and Promotion.....	3
6.	Contract and Program Administration.....	4
7.	Term and Termination	4
8.	Reports	5
9.	Letters of Credit	5
10.	Confidentiality	6
11.	Security of Confidential Information.....	9
12.	Records and Audit	11
13.	Notices.....	12
14.	Indemnification.....	12
15.	Injunctive Relief	13
16.	Performance Standards and Ability to Perform	13
17.	Certain Representations and Warranties.....	14
18.	Insurance	15
19.	Survival	16
20.	Assignment.....	16
21.	Modifications.....	16
22.	Headings.....	17
23.	Severability	17
24.	Construction.....	17
25.	No Waiver	17
26.	Governing Law, Jurisdiction and Venue	17
27.	Compliance with Laws.....	17
28.	Relationship of the Parties	17
29.	Force Majeure.....	18
30.	Entire Agreement	18
31.	Facsimile Signatures Acceptable.....	18

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TABLE OF ATTACHMENTS

Attachment 1	Company Services
Attachment 2	Territory
Attachment 3	Amtrak Products
Attachment 4	Amtrak Web Services Interface Specification
Attachment 5	Amtrak Web Services Terms of Use
Attachment 6	Payment Cards Accepted
Attachment 7	Compensation
Attachment 8	Contacts
Attachment 9	Reports
Attachment 10	Data Security



TRAVEL ALLIANCE AGREEMENT

This Travel Alliance Agreement ("Agreement") is entered into as of the ___ day of _____, 20___ ("Effective Date") by and between the National Railroad Passenger Corporation, a corporation organized under 49 U.S.C. § 24101 *et seq.* and the laws of the District of Columbia, with its principal office located at 1 Massachusetts Avenue, N.W., Washington, D.C. 20001 ("**Amtrak**"), and _____, a _____ organized under the laws of _____, with its principal office located at _____ ("**Company**").

Commented [JAM3]: Insert the legal name of the contract counterparty.

Commented [JAM4]: Insert the form of the contract counterparty (e.g., corporation).

Commented [JAM5]: Insert the state or country's laws under which the counterparty is organized.

Commented [JAM6]: Insert the address of the counterparty's principal place of business.

1. Background

- 1.1 Amtrak, which provides nationwide passenger rail services in the United States, seeks to increase its sales in certain markets ("Territory").
- 1.2 Company [_____]
- 1.3 Company and Amtrak desire to use Company's market knowledge and resources to market and sell select Amtrak products and services ("Amtrak Products") in the Territory.

Commented [JAM7]: Insert a description of the Company's business.

2. Company Services and Connectivity to Amtrak Web Services

- 2.1 Company shall provide the services ("Company Services") set forth in **Attachment 1 – Company Services** in accordance with all requirements and time frames contained therein. The markets that Amtrak seeks to target with Company are set forth in **Attachment 2 – Territory**. Amtrak reserves the right, in its sole discretion, to modify **Attachment 2 – Territory** at any time to (a) add any market in which Company conducts its business or (b) remove any market by providing written notice of the changes to Company.
- 2.2 Company will be an authorized, non-exclusive seller of the Amtrak Products listed in **Attachment 3 – Amtrak Products** in the Territory. Amtrak reserves the right, in its sole discretion, to revise **Attachment 3 – Amtrak Products** at any time to add or remove any Amtrak Product(s) by providing written notice of the changes to Company.
- 2.3 In order for Company's reservation system (the "System") to connect to Amtrak's ticket reservation and booking engine, *Arrow*, and *Arrow's* web-interface application, *Amtrak Web Services*, Company must develop an application to the System. Company shall develop and support the application at its own cost and expense.
- 2.4 Company shall, at no cost to Amtrak, develop, implement, support and maintain the System, which will connect to *Arrow* and *Amtrak Web Services*. Amtrak shall provide reasonable assistance and cooperation, at Amtrak's sole discretion, to Company in the development, implementation, support and maintenance of the System, as well as in the on-going connectivity of the System to Amtrak Web Services. The technical requirements for interfacing with Amtrak Web Services are set forth in **Attachment 4 – Amtrak Web Services Interface Specification**.

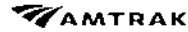


Amtrak reserves the right to revise **Attachment 4 – Amtrak Web Services Interface Specification** at any time by providing written notice to Company of such changes. In the event of any inconsistencies between **Attachment 4 – Amtrak Web Services Interface Specification** and **Attachment 3 – Amtrak Products** regarding authorized Amtrak Products, **Attachment 3 – Amtrak Products** controls.

- 2.5 During the term of this Agreement, Company shall ensure that the System complies with Amtrak Web Services Terms of Use, set forth in **Attachment 5 – Amtrak Web Services Terms of Use**. Amtrak reserves the right to revise **Attachment 5 – Amtrak Web Services Terms of Use** at any time by providing written notice to Company of such changes.
- 2.6 Company agrees to immediately notify its agents and subcontractors of any changes made by Amtrak pursuant to this Section and to modify the System as necessary to incorporate and reflect the changes made to the relevant attachment within thirty (30) days of receiving written notice of such changes, except for certain circumstances that require immediate change as determined by Amtrak. Company shall comply at all times with Amtrak's then current ticket booking procedures, which Amtrak will specify from time to time.
- 2.7 Amtrak reserves the right, in its sole discretion, to prohibit the distribution, sale or resale of any or all Amtrak Products to any Company customer, agent or subcontractor upon reasonable written notice to Company. Company shall modify the System as necessary to prohibit the offering of the specified Amtrak Product(s) to those Company customers, agents or subcontractors within five (5) days of receipt of such notice from Amtrak.
- 2.8 Company shall authorize Amtrak to access the System for the sole purpose of monitoring and ensuring compliance with this Agreement. Only Amtrak employees and contractors may access the System. Amtrak may not access the System to print tickets and will not be allocated ticket stock. Company may revoke Amtrak's access to the System upon termination of the Agreement or upon any default by Amtrak.
 - a) Company shall supply Amtrak with the necessary software required to access the System. Company shall provide such software components and documentation to Amtrak within a reasonable time after execution of this Amendment.
 - b) Company shall offer System training to Amtrak as reasonably necessary to ensure that Amtrak has at least one trained Amtrak employee operating the System.
 - c) Company shall provide Amtrak with System technical support through access to Company's technical support desk.

3. Payment and After Sales for Amtrak Products

- 3.1 At the time of booking a reservation for an Amtrak product sold pursuant to this Agreement, Company shall securely submit to Amtrak for payment a valid credit



card which must be included in Amtrak's list of acceptable credit cards as per **Attachment 6 - Payment Cards Accepted**. Amtrak may revise **Attachment 6 – Payment Cards Accepted** upon thirty (30) days written notice, except for certain circumstances that require immediate change as determined by Amtrak. The parties may agree by amendment to this Agreement to have payment made "on account" by which Amtrak shall invoice Company on a monthly basis for bookings made during the previous month and Company shall pay the invoice amount as specified by Amtrak.

- 3.2 Company shall provide adequate communication to ensure that its customers will have access to appropriate customer support including, without limitation, providing its employees, agents and subcontractors appropriate training and maintaining call center and sales staff at adequate levels. Company will be responsible for all Amtrak-related after sales customer service issues, including but not limited to customer complaints, ticket changes or refunds, as appropriate.

4. **Company Compensation**

Amtrak shall initially compensate Company as set forth in **Attachment 7 – Company Compensation**. This attachment will be subject to review on an annual basis.

Commented [JAM8]: Revise as necessary, especially if Amtrak will NOT be compensating Company.

5. **Advertising, Marketing and Promotion**

- 5.1 Company shall advertise, market and promote the sale of Amtrak Products pursuant to an annual marketing plan developed by Company and approved by Amtrak.
- 5.2 All advertising and promotional materials must contain disclaimers, limitations of liability notices, proprietary notices (e.g., trademark and copyright notices) and such other notices as required by Amtrak.
- 5.3 To satisfactorily perform the duties and obligations set forth in this Agreement, Company may need to use certain service marks, trademarks, logos and trade names (collectively, "Marks") and copyrighted works owned by or licensed to Amtrak. Company agrees and acknowledges that its use of these Marks and copyrighted works exists pursuant to a royalty-free, nontransferable, nonexclusive license or sub-license. Company understands that it will not acquire any ownership interest in Amtrak's Marks or copyrighted works or have the right to use such Marks or copyrighted works other than for the sole purpose of performing its duties and obligations to Amtrak under this Agreement.
- 5.4 Company agrees to comply with all of Amtrak's instructions regarding the use of Marks and copyrighted works, including but not limited to the Amtrak Brand Guidelines. Company shall not use Amtrak's Marks or copyrighted works in any manner that does, threatens to or will likely diminish their value or harm the reputation of Amtrak.
- 5.5 Prior to publication, Amtrak will have the right to review and approve any and all content, artwork, copy, advertising, promotional materials, direct mail, inserts, press releases, newsletters, web pages or other communications or any other publicity published, distributed or displayed by Company or at its direction or



authorization which uses Amtrak's Marks, name(s) or trade names or which otherwise refers to Amtrak Products or this Agreement (collectively referred to as "Advertising Materials").

- 5.6 Company shall submit Advertising Materials to Amtrak's representative listed in **Attachment 8 - Contacts**, which may be changed at any time upon written notice, at least thirty (30) days in advance for Amtrak's written approval.
- 5.7 Notwithstanding Amtrak's written approval of any Advertising Materials, upon Amtrak's written request, Company shall employ commercially reasonable efforts to cease publishing, distributing and/or displaying any Advertising Material immediately or within such other period as requested by Amtrak.

6. Contract and Program Administration

Each party shall designate a Contract and Program Representative who shall handle all issues related to this Agreement. Each party shall designate a Technical Representative who shall address technical issues related to this Agreement. Current contacts will be listed in **Attachment 8 - Contacts**. Each party may change such representatives upon written notice to the other party.

7. Term and Termination

- 7.1 This Agreement shall commence on the Effective Date and continue until _____ ("Initial Term") unless terminated earlier pursuant to the terms herein; thereafter, either party may request to renew this Agreement for a successive twelve (12) month period (each, a "Renewal Term" and, together with the Initial Term, "Term") upon the other party's approval by providing notice to the other party within thirty (30) days prior to the end of the Term.
- 7.2 Either party may terminate this Agreement upon written notice to the other party if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days of receiving written notice of the breach. In the event of an incurable breach, the other party may terminate this Agreement upon ten (10) days written notice to the breaching party.
- 7.3 Either party may terminate this Agreement immediately upon written notice, without providing opportunity to cure, upon the occurrence of any of the following:
 - a) the filing of any petition by or against the other party under any chapter of the Bankruptcy Code, or other insolvency or bankruptcy act enacted by a duly constituted legislative body of government;
 - b) a dissolution and winding up of the other party's business;
 - c) an occurrence of a general assignment for the benefit of creditors of the other party; or
 - d) an appointment of a receiver or trustee to take possession of all or substantially all of the assets of the other party.



- 7.4 Amtrak may terminate this Agreement immediately upon written notice, without providing Company the opportunity to cure, if:
- a) Company, its directors, officers, employees, or agents commits any fraudulent act or makes any fraudulent representation under this Agreement;
 - b) Company is terminated by its credit card processor or merchant bank;
 - c) Company sells all or a substantial part of its assets; or
 - d) Company is subject to a data breach and/or PCI-DSS violation as defined in **Section 11 – Security of Confidential Information**.
- 7.5 Amtrak may terminate this Agreement immediately upon written notice if there is any adverse publicity arising out of:
- a) an alleged or actual fraudulent act or statement by Company, its directors, officers or employees; or
 - b) a misrepresentation by Company, its directors, officers or employees and Company fails to remedy such adverse publicity to the satisfaction of Amtrak within ten (10) days of Amtrak's written notice to Company.
- 7.6 Amtrak may terminate this Agreement immediately upon written notice if Company's risk rating falls within the "High" risk category as defined below and Company fails to cure such rating deficiency within ninety (90) days of Amtrak's written notice of the High-risk rating. The risk rating is calculated as set forth below:
- a) A weight of sixty percent (60%) is assigned to the Credit Score Class indicated in the Dunn & Bradstreet Comprehensive Report
 - b) A weight of forty percent (40%) is assigned to the Financial Stress Class indicated in the Dunn & Bradstreet Comprehensive Report
 - c) A resulting score of above 3.5 is deemed "High" risk.

8. Reports

- 8.1 Company shall provide to Amtrak the reports and information, in such format specified in **Attachment 9 – Reports**.
- 8.2 Company shall provide such other information and reports as reasonably requested by Amtrak at any time in such manner as prescribed by Amtrak.

9. Letters of Credit

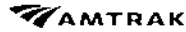
If payment is made "on account" as specified in Section 3.1 – Payment and After Sales for Amtrak Products above, Company shall, at its own expense, deliver to Amtrak an irrevocable letter of credit ("Letter of Credit") for the benefit of Amtrak as security for Company's proper performance under and compliance with this Agreement. This procedure will be detailed in a mutually agreed upon addendum to this Agreement.



10. Confidentiality

10.1 For purposes of this Agreement, "Confidential Information" means any of the following:

- a) information provided by or on behalf of either party (as the "Disclosing Party") to the other party (as the "Receiving Party") in connection with this Agreement, including any information collected or used to process payments for the Amtrak Products, including, without limitation, credit or debit cards or other payment or credit or debit card account information collected from or relating to customers or prospective customers ("Payment Related Information") belonging to a party to this Agreement and including information provided prior to the date hereof or the Effective Date;
- b) information about the Disclosing Party or its affiliates, or their respective business or employees, that the Receiving Party obtains in connection with this Agreement, in each case including, without limitation:
 - i. information concerning marketing plans, objectives and financial results;
 - ii. information regarding business systems, methods, processes, clients, financing data, programs and products;
 - iii. information unrelated to this Agreement obtained by the Receiving Party in connection with this Agreement, including, without limitation, by accessing or being present at the business location of the Disclosing Party;
 - iv. proprietary technical information, including trade secrets, source codes or other proprietary information of the Disclosing Party developed in connection with this Agreement; and
 - v. the terms and conditions of this Agreement.
- c) Without limiting the foregoing, Amtrak Confidential Information includes:
 - i. information relating to Amtrak customers or prospective customers created or obtained in connection with this Agreement or otherwise obtained from Amtrak or directly from Amtrak's customers or prospective customers, including the Payment Related Information of its customers, agents, and contractors,
 - ii. lists and data concerning Amtrak customers or prospective customers in the aggregate, and
 - iii. all information related to *Arrow* and the *Amtrak Web Services*.
- d) Without limiting the foregoing, Company Confidential Information includes the System, all information regarding Company's customers, including the



Payment Related Information of its customers, agents and subcontractors and Company's financial statements.

- 10.2 The Receiving Party shall maintain, dispose of and otherwise treat all Confidential Information of the Disclosing Party with the same degree of care as it accords its own Confidential Information, but in no event less than a reasonable degree of care.
- 10.3 The Receiving Party shall use and disclose Confidential Information only for the purpose of performing its obligations or enforcing its rights with respect to this Agreement or as otherwise expressly permitted by this Agreement, and shall not obtain, use or disclose Confidential Information for any other purpose. The Receiving Party shall, in accordance with the terms of this Agreement, limit access to Confidential Information to those employees, authorized agents, vendors, consultants, accountants, service providers who have a commercially reasonable need to access such Confidential Information in connection with this Agreement.
- 10.4 The Receiving Party agrees that any use or disclosure of Confidential Information other than that specifically permitted under this Agreement will cause immediate and irreparable harm to the Disclosing Party for which money damages might not constitute an adequate remedy. As a result, the Receiving Party agrees to the appropriateness of injunctive relief in addition to any other remedies the Disclosing Party may have under applicable laws.
- 10.5 Upon the termination or expiration of this Agreement, the Receiving Party shall comply with the Disclosing Party's instructions regarding the disposition of the Confidential Information, which may include return to the Disclosing Party of any and/or all of the Confidential Information (including any electronic or paper copies, reproductions, extracts or summaries thereof). The Receiving Party may retain one archived copy of such material, subject to the terms of this Agreement, which the Receiving Party may use solely for regulatory purposes and not for any other purpose. The Receiving Party shall certify such compliance in writing, including a certification that the Receiving Party has not kept any copies of Confidential Information except as necessary for regulatory purposes.
- 10.6 With respect to Amtrak Confidential Information, Company shall:
 - a) keep the Confidential Information confidential and secure in accordance with **Section 11 – Security of Confidential Information** of this Agreement and industry practices;
 - b) treat all Payment Related Information in accordance with the requirements of the Payment Card Industry (PCI) Security Standards;
 - c) implement and maintain commercially reasonable physical, electronic, administrative and procedural security measures, including commercially reasonable authentication, access controls, virus protection and intrusion detection practices and procedures in accordance with **Section 11 – Security of Confidential Information** of this Agreement; and



d) ensure that any person with access to the Confidential Information agrees in writing to follow the Confidentiality provisions of this Agreement (including but not limited to **Section 10 – Confidentiality** and **Section 11 – Security of Confidential Information**) and maintain the existence of this Agreement and the nature of their obligations hereunder strictly confidential. Company shall not provide any Amtrak customer or prospective customer non-public personal information (as defined herein) to any third party without Amtrak's express written approval. Furthermore, Company must make such sharing agreement in writing and ensure that the third party has security processes and procedures adequate to comply with its obligations both thereunder and under applicable laws. "Non-public personal information" means (i) personally identifiable information, and (ii) any list, description, or other grouping of customers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

e) in the event of an information security breach by Company resulting in a suspected or actual breach of the security of the data of any Amtrak customer or prospective customer whose nonpublic personal information or Payment Related Information is or is reasonably believed to have been acquired by an unauthorized person or for unauthorized purposes, Company shall (a) consult with Amtrak regarding the appropriate response to each actual or suspected breach, (b) be responsible for complying with all applicable laws requiring notification to customers whose nonpublic personal information or Payment Related Information may be compromised or reasonably believed to be comprised due to a security breach, including mailing notice, if required, to the Amtrak customers or prospective customers at Company's sole expense and (c) obtain a new PCI-DSS certification. In addition, Company shall provide affected customers with one (1) year of complimentary access to credit monitoring services, credit protection services, credit fraud alerts, or similar services. Company shall consult with Amtrak regarding the content of any such notice and the service to be provided. In advance of mailing the notice, and as between the parties, Amtrak, at its election, shall make the final determination of the content of any such notice.

10.7 The restrictions on disclosure of Confidential Information in this **Section 10 – Confidentiality** shall not apply to information that:

- a) is already rightfully known to the Receiving Party, wholly apart from this Agreement as shown by the Receiving Party's written records, at the time it obtains Confidential Information from the Disclosing Party;
- b) at the time of the disclosure is or becomes generally available to the public other than as a result of disclosure in breach of this Agreement or any other confidentiality obligations;
- c) is lawfully received by the Receiving Party on a non-confidential basis from a third party authorized to disclose such information without restriction and without breach of this Agreement;



- d) is contained in, or is capable of being discovered solely through examination of publicly available records or products;
- e) is required to be disclosed by applicable law, regulation, valid court order, government agency order, for law enforcement purposes, or by a self-regulatory body, provided that (i) if possible, the Receiving Party shall promptly notify the Disclosing Party of any such requirement prior to disclosure to afford the Disclosing Party an opportunity to seek a protective order or other appropriate remedy to prevent or limit that disclosure, and (ii) Confidential Information of the Disclosing Party must only be disclosed to the extent required; or
- f) is developed by the Receiving Party without the use of any proprietary or non-public information provided by the Disclosing Party under this Agreement, as demonstrated by the written records of the Receiving Party.

11. Security of Confidential Information

- 11.1 Company shall at all times maintain physical, electronic, administrative and procedural security measures sufficient to protect all Confidential Information from both internal and external threats and sufficient to comply with all applicable local, state and federal laws and all applicable credit card association rules and regulations concerning the security of such data.
- 11.2 Company, its employees, agents and subcontractors shall at all times comply with the Payment Card Industry Data Security Standard (PCI-DSS) required by the credit card associations. Company must, at all times during the term of this Agreement, obtain, retain, and renew, as appropriate, its certification of compliance with the PCI-DSS. Company shall provide Amtrak with a copy of its current PCI-DSS certification and annual audits upon the Effective Date of this Agreement and on each anniversary date thereof for the duration of this Agreement.
- 11.3 Company shall maintain an adequate information security policy and provide Amtrak with a copy of the current policy upon the Effective Date of this Agreement. During the term of this Agreement, Company shall provide Amtrak timely updates and revisions thereto.
- 11.4 Company shall maintain and enforce safety and physical security procedures with respect to its access and maintenance and disposal of Confidential Information that:
 - a) meets or exceeds industry standards for the territories listed in **Attachment 2 - Territory**;
 - b) in the case of Payment Related Information, meets or exceeds PCI requirements for safety and physical security; and
 - c) provides appropriate technical and organizational safeguards against accidental or unlawful destruction, loss, alteration or unauthorized disclosure of or access to the Confidential Information under this Agreement.



Company shall take all commercially reasonable measures to secure and defend its location and equipment against "hackers" and others who may seek, without authorization, to access or modify its systems or the information found therein. Company shall regularly test its systems for potential areas where "hackers" and others could breach security, such testing to be conducted on at least a quarterly basis. Company agrees to advise Amtrak immediately by telephone and in writing via facsimile of any suspected security breach that may have compromised any Confidential Information, or of any suspected unauthorized misappropriation, disclosure or use by any person of the Confidential Information or Payment Related Information, which may come to Company's attention. Company shall take all steps and employ its best and most diligent efforts to remedy such breach of security or unauthorized access in a timely manner and to deliver to Amtrak a root cause assessment and future, incident-mitigation plan with regard to any breach of security or unauthorized access affecting Confidential Information or Payment Related Information.

- 11.5 Company must store all Confidential Information in a physically and logically secure environment that protects it from unauthorized access, modification, theft, misuse and destruction. In addition to these general standards, Company shall maintain an adequate level of physical security controls over its facility including, but not limited to, appropriate alarm systems, fire suppression, access controls (including off-hour controls) which may include visitor access procedures, security guard force, video surveillance, and staff egress searches. Company shall maintain an adequate level of data security controls, including, but not limited to, those set forth in **Attachment 10 – Data Security Controls**. Amtrak may revise the data security controls at any time upon written notice to Company, giving at least thirty (30) days advance notice when possible and/or practical.
- 11.6 Company shall maintain and implement disaster recovery and avoidance procedures and backup procedures as it relates to Confidential Information. During the term of this Agreement, Company shall provide Amtrak with an opportunity to review at Company's premises its current disaster recovery and avoidance plan and backup procedures and all updates thereto. Company shall review and update, as necessary, its disaster recovery and avoidance plan and backup procedures based on the respective recovery priority of each business unit. If Company performs any audit with regard to its disaster recovery and avoidance plan and backup procedures (e.g., ISO 9000), Company shall make the results of that audit available to Amtrak's information security director for on-site review. Amtrak may elect, at its option, to conduct onsite reviews of Company's facilities for, among other things, assessing disaster recovery preparedness and backup procedures.

12. Records and Audit

- 12.1 During the term of this Agreement and for a period of at least three (3) years thereafter, Company and its subcontractors shall keep and maintain complete and accurate books, records and accounts relating to this Agreement and shall conduct such internal audits reasonably required to verify continuing full compliance with the terms and conditions of this Agreement.



- 12.2 Amtrak reserves the right to inspect, copy and audit the records of Company and its agents and subcontractors ("Company's Records") in connection with all matters related to this Agreement. Company's Records shall include, but not be limited to: accounting records (hard copy and electronic); internal audit files; policies and procedures; cost and pricing data; subcontract, purchasing, and agreement files; correspondence; computations and projections; general ledger entries; and any other evidence sufficient to substantiate, in accordance with sound and generally accepted accounting principles and practices consistently applied, all direct and indirect charges, credits, or other financial transactions related in any way to this Agreement.
- 12.3 In addition, Amtrak will have the right to examine copy and audit Company's Records in order to evaluate and verify compliance of Company with governmental and legal requirements as well as all terms, conditions, and requirements of this Agreement.
- 12.4 Company's Records and systems that are used in connection with the sale of Amtrak Products will be made available to Amtrak or its representatives at all reasonable times. Amtrak may interview any of Company's employees, pursuant to the provisions of this Section, throughout the term of this Agreement and for three (3) years thereafter. Company shall provide adequate and appropriate workspace for Amtrak or its representatives to conduct audits in compliance with this Section. Company shall cooperate with all audit procedures, including, without limitation, the furnishing of a management representation letter upon request of the auditor.
- 12.5 Company shall promptly pay Amtrak the amount of any underpayment (and correct any other noncompliance) revealed by any such audit, and otherwise provide any restitution recommended by the results of the audit.
- 12.6 Company shall require all of its agents and subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in a written contract or agreement between Company and each of its agents and subcontractors.
- 12.7 This Section is not in derogation of any rights, obligations or responsibilities that Amtrak's Office of the Inspector General has under the Inspector Generals Act of 1978, as amended, including, without limitation, the right to seek information by subpoena.

13. Notices

Each party must provide any notice, request, demand or other communication required or permitted hereunder in writing and in reference to this Agreement. The following constitutes proper notice:

- a) personal delivery;
- b) delivery by registered or certified mail, return receipt requested and acknowledged, postage prepaid; or



- c) two (2) business days after deposit with a private industry express courier, with written confirmation of receipt.

Each party agrees to send all notices to the addresses set forth in **Attachment 8 – Contacts**, which either party may change by providing proper notice to the party hereunder.

14. Indemnification

14.1 Company (as the "Indemnifying Party") agrees to defend, indemnify and hold harmless Amtrak (as the "Indemnified Party") and its officers, directors, employees, agents, servants, successors, assigns and subsidiaries and their respective successors, assigns and personal representatives (collectively "Indemnified Parties"), from and against any claims, losses, liabilities, fines, penalties, actions, damages, costs and expenses whatsoever (including costs of defense and attorneys' fees) (collectively "Claims"), which any of the Indemnified Parties may hereafter incur, have responsibility for or pay arising out of or related to:

- a) any act or failure to act by the Indemnifying Party and/or its directors, officers, employees, agents, subcontractors, servants, or any other person acting for or on behalf of the Indemnifying Party;
- b) the Indemnifying Party's breach of any term of this Agreement;
- c) any actual or claimed infringement or misappropriation of third-party intellectual property right(s) by the Indemnifying Party;
- d) the Indemnifying Party's breach of any contract, promise or undertaking with or to any third party and related to this Agreement.

Amtrak shall notify Company in writing within a reasonable time after notice of any such Claim.

14.2 Consistent with and in addition to **Section 14.1**, Company accepts sole liability for any failure of Company or any of Company's officers, directors, employees, agents, servants, subcontractors, or any other person acting for or on behalf of Company to maintain the confidentiality of Payment Related Information. Company shall defend, indemnify and hold harmless Amtrak against any and all Claims brought against Amtrak related to Payment Related Information, including those resulting from the action or inaction of Company or any of its directors, officers, employees, agents, servants, subcontractors, or any other person acting for or on behalf of Company.

14.3 The existence of any insurance policy procured or maintained by Company or any limitation on the amount or type of damages, compensation or benefits payable by or for Company or any subcontractor shall not limit the indemnification obligations under this Section.

15. Injunctive Relief



Each party acknowledges that the breach of any provision of **Section 5 – Advertising, Marketing and Promotion** (excluding Section 5.1); **Section 10 – Confidentiality**; or **Section 11 – Security of Confidential Information** may cause irreparable injury to the other party, and agrees that the other party shall have the right to seek temporary, preliminary and permanent injunctive relief, without the necessity of proving actual damages or posting a bond, to prevent any such breach.

16. Performance Standards and Ability to Perform

- 16.1 Company represents and warrants that it shall perform its responsibilities under this Agreement with promptness and diligence and in a professional manner, in accordance with best practices and highest industry standards.
- 16.2 Company shall handle all customer inquiries and complaints in a prompt, courteous and diligent manner. Company shall cooperate with Amtrak to deal appropriately with any customer complaint.
- 16.3 Each party represents and warrants that it knows of no circumstances that would materially impede its ability to perform under this Agreement and shall promptly notify the other party in writing if it acquires knowledge of any circumstances that would materially impede its ability to perform under this Agreement. Without limiting the foregoing, Company represents and warrants that it shall immediately notify Amtrak of:
- a) any change in its ownership or control; and/or
 - b) its involvement in any actual or threatened major litigation.
- 16.4 Neither party will be liable for any malfunction of System, Arrow, or Amtrak Web Services due to any incompatibility with either party's systems or due to either party's failure to adhere to the guidelines and system parameters under which System, Arrow, or Amtrak Web Services is installed.
- 16.5 EXCEPT AS OTHERWISE PROVIDED HEREIN, AMTRAK MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, UNDER THIS AGREEMENT AND AMTRAK HEREBY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES REGARDING FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR NONINFRINGEMENT.
- 16.6 EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS HEREIN, TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY OR ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY, ITS "REPRESENTATIVES") SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY, EVEN IF SUCH PARTY OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR EVEN IF ANY SUCH LOSS OR DAMAGES WERE REASONABLY FORESEEABLE.



17. Certain Representations and Warranties

- 17.1 Each party represents and warrants to the other that it has the requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement.
- 17.2 Each party represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and the requisite corporate action on the part of such party for the consummation of the transactions contemplated by this Agreement have occurred.
- 17.3 Company represents and warrants that, it currently is and throughout the entire term of this Agreement shall be, in compliance with all applicable local, state, federal and foreign laws, rules and regulations.
- 17.4 Company represents and warrants that, it currently is and throughout the entire term of this Agreement shall be, in compliance with the then current automated clearinghouse and bankcard association guidelines, rules, regulations and procedures applicable to its payment processing and other services, including, without limitation, the provisions of the Federal Reserve Board's regulations E and Z, the operating rules and operating guidelines of the National Automated Clearing House Association and the rules, regulations and procedures of all credit card associations and companies.
- 17.5 Company represents and warrants that it is not the subject of any litigation initiated by any credit card association or credit card processor with respect to its acceptance of credit card payments on behalf of itself or any other merchant. Company represents and warrants that no agreements, injunctions, restrictions or otherwise exist which may prohibit it from performing its obligations under this Agreement either by statute, rule, regulation, agreement or otherwise.
- 17.6 Company represents and warrants that its advertising, marketing and promotional materials, including Company websites, other web space that Company controls and the content and other information contained or referred to therein will not:
- a) constitute libel, defamation, false or illegal advertising;
 - b) constitute an invasion of privacy or a violation of the rights to publicity of any third party;
 - c) infringe any patent, copyright or trademark;
 - d) contain, link or refer to any offensive or indecent information of any kind;
 - e) contain any information that could be deemed proprietary, except proprietary information owned by or licensed to Company for use therein or therewith (other than trade name(s), trademarks, service marks, or any comparable intellectual property rights); or
 - f) suggest or state that Company and Amtrak have any relationship as agents for one another, as partners, as joint venturers or similar relationship, except as expressly provided herein.



If Company becomes aware of any claim, allegation or notification that the foregoing warranties have been breached, Company shall promptly notify Amtrak.

18. Insurance

Commented [JAM9]: If the cumulative value of the contract exceeds \$10 million, this Section 18 must be revised by Amtrak Risk Management.

18.1 Company shall procure and maintain, at its own cost and expense, continuously during the term of this Agreement, and to the extent it carries any insurance on a "claims-made," "claims-reported," or "occurrences-reported" basis for three (3) years beyond the term of this Agreement, the types of insurance specified below:

a) Commercial General Liability Insurance. A policy issued to and covering liability imposed upon Company arising out of Company's premises or operations or the services to be performed and/or planned and those of any subcontractors or agents and all obligations assumed by Company under the terms of this Agreement. The policy must include products/completed operations liability, independent contractors liability, contractual liability, personal injury liability and advertising liability coverages. The policy must name National Railroad Passenger Corporation as an additional insured with respect to Company's premises, operations and services, and the policy shall contain a waiver of subrogation against National Railroad Passenger Corporation, its subsidiaries and their directors, officers, employees, and agents. Coverage under this policy, or policies, shall have a combined single limit of liability of (b)(4)

b) Professional Liability Insurance. A professional liability insurance policy covering liability imposed on Company for all errors or omissions committed by Company, its subcontractors, agents, or employees in the performance of services under this Agreement. Coverage under this policy shall have limits of liability of (b)(4) per claim and in the annual aggregate.

c) Claims-Made Insurance. If Company provides any insurance specified above on a "claims-made", or "occurrences-reported" basis, then in addition to the coverage requirements above, such policy shall provide that: (i) the retroactive date coincides with or precedes Company's start of Services (including subsequent policies purchased as renewals or replacements); (ii) the policy allows for the reporting of circumstances or incidents that might give rise to future claims; (iii) Company will employ its best efforts to maintain similar insurance for at least three (3) years following completion of the Services; and (iv) if insurance terminates for any reason, Company agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from performance of this Agreement.

d) Crime Insurance. Covering the loss of funds, remittances, vouchers or any other property belonging to Amtrak and caused by fraud, theft, dishonesty, and other wrongful acts by any Company employee, agent or subcontractor employee. Coverage under this policy will have a limit of liability of (b)(4)

(b)(4)



18.2 Company shall submit to Amtrak a certificate of insurance giving evidence of the required coverages prior to the Effective Date of this Agreement. Company shall continue to submit certificates of insurance during the term of this Agreement for those policies to which **Section 18 – Survival** applies, as often as needed to reflect any material changes in, or renewal or replacement of, the required coverages.

18.3 Company shall procure all insurance from insurers which: (a) Amtrak reasonably deems acceptable; (b) have financial ratings of A VIII or better in the Best's Key Rating Guide, latest edition in effect as of the Effective Date of this Agreement, and subsequently in effect at the time of renewal of any policies required hereunder, and (c) agree to give Amtrak thirty (30) days advance written notice of cancellation, non-renewal, or material change in coverage.

19. Survival

The following provisions shall survive expiration or termination of this Agreement: **Section 5 – Advertising, Marketing and Promotion** (excluding Section 5.1); **Section 10 – Confidentiality**; **Section 11 – Security of Confidential Information**; **Section 12 – Records and Audit**; **Section 13 – Notices**; **Section 14 - Indemnification**; **Section 18 – Insurance**; **Section 19 – Survival**; **Section 26 – Governing Law, Jurisdiction and Venue**; and any other provision reasonably understood to survive termination or expiration of this Agreement.

20. Assignment

Company shall not assign, delegate or otherwise transfer this Agreement or any right or obligation hereunder (whether by express transfer, operation of law or otherwise) without the prior written consent of Amtrak. Notwithstanding the foregoing, Company may delegate the performance of certain obligations to certain third party contractors, provided that Company gives Amtrak thirty (30) days written notice of the proposed delegation and Company controls the delivery of such obligations to Amtrak and remains responsible to Amtrak for the delivery of such obligations. Any attempted or purported assignment or other transfer not complying with the foregoing will be null and void. Subject to the foregoing, this Agreement will inure to the benefit of and bind the successors and assigns of the parties.

21. Modifications

Any waiver, modification or amendment of any provision of this Agreement shall be effective only if in writing and signed by the authorized representatives of both parties.

22. Headings

The various section headings exist for convenience of reference only and shall not affect the meaning or interpretation of this Agreement or any section thereof.

23. Severability



Subject to **Section 26 – Governing Law, Jurisdiction and Venue**, if any provision of this Agreement is determined to be invalid, void or unenforceable in any respect, such determination shall not affect, impair or invalidate any other provision hereof.

24. Construction

All parties drafted this Agreement and, in the event of a dispute, no party hereto may attempt to construe any provision against any other party by claiming that one particular party drafted it.

25. No Waiver

No course of dealing, course of performance or failure of either party strictly to enforce any term, right or condition of this Agreement constitutes a waiver of such term, right or condition. No waiver or breach of any provision of this Agreement constitutes a waiver of any subsequent breach of the same or any other provision.

26. Governing Law, Jurisdiction and Venue

Each party agrees to execute and interpret this Agreement in accordance with and subject to the internal laws of the District of Columbia, without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the District of Columbia. Each party agrees to commence any legal suit, action or proceeding arising out of or relating to this Agreement in the United States District Court for the District of Columbia, and each party irrevocably submits to the exclusive jurisdiction and venue of such court in such suit, action or proceeding.

27. Compliance with Laws

Company, its directors, officers, employees, agents and subcontractors shall comply with all applicable local, state, federal and foreign laws, rules and regulations enacted by duly constituted governmental bodies. Company hereby agrees to notify Amtrak in writing within a reasonable time after receiving notice of any failure to or allegation of a failure to comply with the applicable laws. Company must defend, indemnify and hold harmless Amtrak from and against any loss, damage, expense or other harm or liability incurred or suffered by Amtrak due to any failure by Company, any of its directors, officers, employees, agents or subcontractors to comply with such laws, rules, or regulations.

28. Relationship of the Parties

It is understood and agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture, agency or employment relationship between Amtrak and Company. Nothing contained herein or in any agreement between Company and any agent or subcontractor shall create (a) any contractual relationship between Amtrak and such agent or subcontractor or (b) any third-party beneficiary rights in any such agent or subcontractor. The terms agent, subcontractor and independent contractor as used throughout this Agreement do not include travel agents and tour operators.

29. Force Majeure



Except for the payment of monies due hereunder, and subject to **Section 7 – Term and Termination**, neither party has any responsibility or liability for any delay or failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including, without limitation, acts of God, earthquake, fire, flood, embargoes, labor disputes and strikes, riots, acts of terrorism, war, and acts of civil and military authorities, provided that such party gives the other party prompt written notice of its failure to perform and the reason therefore and employs its reasonable efforts to limit the resulting delay in performance. If either party fails to perform any of its obligations under this Agreement due to a Force Majeure condition, as defined in this Section, for sixty (60) successive days, the other party has the right to terminate this Agreement immediately upon written notice.

30. Entire Agreement

This Agreement, and any attachments and exhibits thereto, contain the entire understanding of the parties with respect to the subject matter of this Agreement and merges and supersedes all prior and contemporaneous agreements and understandings between the parties, whether oral or written, with respect to the subject matter of this Agreement. All attachments are incorporated by reference and made a part of this Agreement.

31. Facsimile Signatures Acceptable

This Agreement may be executed by facsimile in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute the same instrument.

[SIGNATURE

PAGE

FOLLOWS]



IN WITNESS WHEREOF, Amtrak and Company have each caused this Agreement to be signed and delivered by its duly authorized officer, all as of the date first set forth above.

NATIONAL RAILROAD PASSENGER CORPORATION

[_____]

Commented [JAM10]: Insert the full legal name of the Company.

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____



ATTACHMENT 1 – COMPANY SERVICES

Company shall provide Amtrak the following services:

Commented [JAM11]: List the services Company will provide and include specific requirements and time frames.



ATTACHMENT 2 – TERRITORY

Amtrak seeks to target the following markets with Company:

Commented [JAM12]: List the markets Amtrak would like to target with Company.



ATTACHMENT 3 – AMTRAK PRODUCTS

Company will be an authorized, non-exclusive seller of the following Amtrak Products in the Territory:

Commented [JAM13]: List the Amtrak Products that Company will be authorized to sell in the Territory.



ATTACHMENT 4 – AMTRAK WEB SERVICES INTERFACE SPECIFICATIONS

To interface with Amtrak Web Services, Company must satisfy the following technical requirements:

Commented [JAM14]: List and describe the technical requirements for interfacing with Amtrak Web Services.



ATTACHMENT 5 – AMTRAK WEB SERVICES TERMS OF USE

Company must ensure that its System complies with the following terms of use:

Commented [JAM15]: Insert Amtrak Web Services Terms of Use.



ATTACHMENT 6 – PAYMENT CARDS ACCEPTED

Company's valid credit card, which will be submitted to Amtrak for payment under this Agreement, must be one of the following acceptable credit cards:

Commented [JAM16]: List Amtrak's acceptable credit cards.



ATTACHMENT 7 – COMPENSATION

Commented [JAM17]: Describe how Amtrak will compensate Company, including the amounts.



ATTACHMENT 8 – CONTACTS

Any notices, reports, or other information required under this Agreement, should be sent to the following addresses:

If to Amtrak:

National Railroad Passenger Corporation

Attn: _____

Commented [JAM18]: Insert the appropriate Amtrak address.
Commented [JAM19]: Insert title and name of appropriate Amtrak officer.

If to Company:

Attn: _____

Commented [JAM20]: Insert full name and address of the Company.
Commented [JAM21]: Insert title and name of appropriate Company officer.



ATTACHMENT 9 – REPORTS

Company shall provide Amtrak the following reports and information in the format specified below:

Commented [JAM22]: List the reports that Company must provide and specify any formatting requirements.



ATTACHMENT 10 – DATA SECURITY

To keep the Confidential Information secure and confidential, Company shall:

Commented [JAM23]: List the required confidentiality standards and practices.

**AMENDMENT NO. 1 TO
GLOBAL SALES AND SERVICES AGREEMENT**

This Amendment No. 1 to Global Sales and Services Agreement ("Agreement"), dated April 1, 2014, between the National Railroad Passenger Corporation ("Amtrak"), a corporation organized under 49 U.S.C. § 24101 et seq. and the laws of the District of Columbia and SilverRail Technologies, Inc. ("SilverRail"), a corporation organized under the laws of the State of Washington, with its principal office located at 300 Trade Center, Ste 6700, Woburn, MA 01801 is effective as of April 1, 2018 ("Amendment Effective Date").

Whereas, Amtrak had entered into the Agreement with SilverRail Technologies, Inc.;

Whereas, the parties now desire to amend the Agreement.

Now Therefore, the parties agree to the following modifications to the Agreement.

1. All defined terms shall have the meaning set forth in the Agreement unless otherwise defined herein.
2. Section 7.1 (Term and Termination) is deleted and replaced with the following provision:

This Agreement shall commence on the Effective Date and continue until September 30, 2018.

3. In Attachment 7 (Compensation), the Transaction Fee is changed to (b)(4)

4. In Attachment 8 (Contracts), the contact for the Amtrak Contract and Program Representative is changed to: (b)(6)

(b)(6)

5. All other terms and conditions of the Agreement remain in full force and effect.

The parties have caused this Amendment No. 1 to be executed by their duly authorized representatives as of the Amendment Effective Date.

National Railroad Passenger Corporation

SilverRail Technologies, Inc.

(b)(6)

**AMENDMENT NO. 1 TO
GLOBAL SALES AND SERVICES AGREEMENT**

This Amendment No. 1 to Global Sales and Services Agreement ("Agreement"), dated April 1, 2014, between the National Railroad Passenger Corporation ("Amtrak"), a corporation organized under 49 U.S.C. § 24101 et seq. and the laws of the District of Columbia and SilverRail Technologies, Inc. ("SilverRail"), a corporation organized under the laws of the State of Washington, with its principal office located at 300 Trade Center, Ste 6700, Woburn, MA 01801 is effective as of April 1, 2018 ("Amendment Effective Date").

Whereas, Amtrak had entered into the Agreement with SilverRail Technologies, Inc.;

Whereas, the parties now desire to amend the Agreement.

Now Therefore, the parties agree to the following modifications to the Agreement.

1. All defined terms shall have the meaning set forth in the Agreement unless otherwise defined herein.
2. Section 7.1 (Term and Termination) is deleted and replaced with the following provision:

This Agreement shall commence on the Effective Date and continue until September 30, 2018.

3. In Attachment 7 (Compensation), the Transaction Fee is changed to (b)(6)
4. In Attachment 8 (Contracts), the contact for the Amtrak Contract and Program Representative is changed to (b)(6) (b)(6) National Railroad Passenger Corporation, 10 G Street, NE, Washington, DC 20002. The contact for SilverRail is: (b)(6) SilverRail Technologies, Inc., 300 Trade Center, Woburn, MA 01801.
5. All other terms and conditions of the Agreement remain in full force and effect.

The parties have caused this Amendment No. 1 to be executed by their duly authorized representatives as of the Amendment Effective Date.

National Railroad Passenger Corporation

SilverRail Technologies, Inc.

(b)(6)

AMENDMENT NO. 2 TO AGREEMENT

This Second Amendment ("Amendment") is made as of July 17, 2018 to the Global Sales and Services Agreement effective as of April 1, 2014 ("Agreement") by and between National Railroad Passenger Corporation ("Amtrak") and SilverRail Technologies, Inc. ("SilverRail"). Amtrak and SilverRail are collectively referred to herein as the "Parties". All capitalized terms used herein shall have the meaning assigned to them in the Agreement, unless otherwise defined herein.

WHEREAS, Amtrak and SilverRail wish to amend certain terms and conditions of the Agreement, and Amtrak and SilverRail consent to and approve the amendment of the Agreement as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Effective Date.** The Effective Date of this Amendment shall be October 1, 2018.
2. **Term.** The original term of the Agreement, defined in Section 7.1 of the Agreement and extended by Amendment No. 1 to the Agreement, is extended for an additional 1 year beginning on October 1, 2018 and ending on September 30, 2019.
3. **Compensation.** Attachment 7 – Compensation, is deleted in its entirety.

Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the Effective Date.

NATIONAL RAILROAD PASSENGER CORPORATION
(b)(6)

SILVERRAILTECHNOLOGIES Inc.
(b)(6)

DISTRIBUTION SERVICES AGREEMENT
BETWEEN
NATIONAL RAILROAD PASSENGER CORPORATION
AND
RAILKEY TECHNOLOGY SOLUTIONS, LLC

TABLE OF CONTENTS

1.	Background.....	1
2.	Company Services and Connectivity to Amtrak Web Services	1
3.	Payment and After Sales Support for Amtrak Products.....	3
4.	Company Compensation	4
5.	Advertising, Marketing and Promotion.....	4
6.	Contract and Program Administration.....	5
7.	Term and Termination	5
8.	Reports	6
9.	Letters of Credit	6
10.	Confidentiality	6
11.	Security of Confidential Information.....	10
12.	Records and Audit	11
13.	Notices.....	11
14.	Indemnification.....	13
15.	Injunctive Relief	13
16.	Performance Standards and Ability to Perform	14
17.	Certain Representations and Warranties.....	14
18.	Insurance	15
19.	Survival	17
20.	Assignment.....	17
21.	Modifications.....	17
22.	Headings.....	18
23.	Severability	18
24.	Construction.....	18
25.	No Waiver	18
26.	Governing Law, Jurisdiction and Venue	18
27.	Compliance with Laws	18
28.	Relationship of the Parties	18
29.	Force Majeure.....	19
30.	Entire Agreement.....	19
31.	Facsimile Signatures Acceptable.....	19

TABLE OF ATTACHMENTS

Attachment 1	Company Services
Attachment 2	Territory
Attachment 3	Amtrak Products
Attachment 4	Amtrak Web Services Interface Specification
Attachment 5	Amtrak Web Services Terms of Use
Attachment 6	Payment Cards Accepted
Attachment 7	Compensation
Attachment 8	Contacts
Attachment 9	Reports
Attachment 10	Data Security

DISTRIBUTION SERVICES AGREEMENT

This Distribution Services Agreement ("**Agreement**") is entered into as of the 1st day of August, 2014 ("**Effective Date**") by and between the National Railroad Passenger Corporation, a corporation organized under 49 U.S.C. § 24101 *et seq.* and the laws of the District of Columbia, with its principal office located at 60 Massachusetts Avenue, N.E., Washington, D.C. 20002 ("**Amtrak**"), and Railkey Technology, LLC a Company organized under the laws of Massachusetts, with its principal office located at 15 Hancock Ave Newton, MA 02459 ("**Company**").

1. Background

- 1.1 Amtrak, which provides nationwide passenger rail services in the United States, seeks to increase its sales in certain markets ("**Territory**").
- 1.2 Railkey is in the business of providing travel booking distribution solutions. Railkey's travel booking distribution solutions enable its clients to (a) obtain travel information and book travel from their systems and/or (b) provide to clients' customers the ability to obtain travel information and book travel from the customers' reservation systems by connecting to the reservation systems of travel providers. Railkey's clients may include corporate travel offices, travel agents, tour operators, and reservation systems operators. Railkey's travel distribution solutions are referred to herein as "**Distribution Products**."
- 1.3 Railkey and Amtrak desire to use Railkey's Distribution Products for the sale of Amtrak's products and services ("**Amtrak Products**").

2. Company Services and Connectivity to Amtrak Web Services

- 2.1 Railkey shall provide the services ("**Company Services**") set forth in **Attachment 1 – Company Services** in accordance with all requirements and time frames contained therein. The markets that Amtrak seeks to target with Railkey are set forth in **Attachment 2 – Territory**. Amtrak reserves the right, in its sole discretion, to modify **Attachment 2 – Territory** at any time to (a) add any market in which Railkey conducts its business or (b) remove any market by providing written notice of the changes to Railkey. Railkey shall modify its Distribution Products as necessary to incorporate and reflect changes to **Attachment 2 – Territory** within ninety (90) days of receiving written notice of such changes. If a longer time period is necessitated to modify the products, the parties shall use good faith efforts to agree upon the time period for such modification.
- 2.2 Railkey will be an authorized, non-exclusive seller of the Amtrak Products listed in **Attachment 3 – Amtrak Products** in the Territory. Amtrak reserves the right, in its sole discretion, to revise **Attachment 3 – Amtrak Products** at any time to add or remove any Amtrak Product(s) by providing written notice of the changes to Railkey. Railkey shall modify its Distribution Products as necessary to incorporate and reflect changes to **Attachment 3 – Amtrak Products** within ninety (90) days of receiving written notice of such changes. If a longer time

period is necessitated to modify the products, the parties shall use good faith efforts to agree upon the time period for such modification.

- 2.3 In order for Railkey's reservation system (the "**System**") to connect to Amtrak's ticket reservation and booking engine, *Arrow*, and *Arrow's* web-interface application, *Amtrak Web Services*, Railkey must develop a connection to the System. Railkey shall develop and support the connection at its own cost and expense.
- 2.4 Connectivity to *Arrow* through Amtrak Web Services may be through (a) a **Managed Access Channel** or (b) an **Unmanaged Access Channel** with different security requirements. The Managed Access Channel is available to Railkey only if it has in place system administration controls that (a) limit access solely to Railkey's authorized travel managers and/or employees and (b) validates authorized users identity and access rights.
- 2.5 Railkey shall, at no cost to Amtrak, develop, implement, support and maintain the System, which will connect to *Arrow* and *Amtrak Web Services*. Amtrak shall provide reasonable assistance and cooperation, at Amtrak's sole discretion, to Railkey in the development, implementation, support and maintenance of the System, as well as in the on-going connectivity of the System to Amtrak Web Services. The technical requirements for interfacing with Amtrak Web Services are set forth in **Attachment 4 – Amtrak Web Services Interface Specification**. Amtrak reserves the right to revise **Attachment 4 – Amtrak Web Services Interface Specification** at any time by providing written notice to Railkey of such changes. Railkey shall modify its Distribution Products as necessary to incorporate and reflect changes to **Attachment 4 – Amtrak Web Services Interface Specification** within ninety (90) days of receiving written notice of such changes. If a longer time period is necessitated to modify the products, the parties shall use good faith efforts to agree upon the time period for such modification. In the event of any inconsistencies between **Attachment 4 – Amtrak Web Services Interface Specification** and **Attachment 3 – Amtrak Products** regarding authorized Amtrak Products, **Attachment 3 – Amtrak Products** controls.
- 2.6 During the term of this Agreement, Railkey shall ensure that the System complies with Amtrak Web Services Terms of Use, set forth in **Attachment 5 – Amtrak Web Services Terms of Use**. Amtrak reserves the right to revise **Attachment 5 – Amtrak Web Services Terms of Use** at any time by providing written notice to Railkey of such changes. Railkey shall modify its Distribution Products as necessary to incorporate and reflect changes to **Attachment 5 – Amtrak Web Services Terms of Use** within ninety (90) days of receiving written notice of such changes. If a longer time period is necessitated to modify the products, the parties shall use good faith efforts to agree upon the time period for such modification.
- 2.7 Railkey agrees to immediately notify its agents and subcontractors of any changes made by Amtrak pursuant to this Section and to modify the System as necessary to incorporate and reflect the changes made to the relevant attachment within ninety (90) days of receiving written notice of such changes, except for certain circumstances that would reasonable require immediate

change as determined by Amtrak. If a longer time period is necessitated to modify the interface, the parties shall use good faith efforts to agree upon the time period for such modification. Railkey shall comply at all times with Amtrak's then current ticket booking procedures, which Amtrak will specify from time to time. Amtrak shall strive to provide Railkey with thirty (30) days advance notice of any change to the ticket booking procedures.

- 2.8 Amtrak reserves the right, in its sole discretion, to prohibit the distribution, sale or resale of any or all Amtrak Products to any Railkey customer, agent or subcontractor upon reasonable written notice to Railkey. Railkey shall modify the System as necessary to prohibit the offering of the specified Amtrak Product(s) to those Railkey customers, agents or subcontractors within five (5) days of receipt of such notice from Amtrak.
- 2.9 Railkey shall authorize Amtrak to access the System for the sole purpose of monitoring and ensuring compliance with this Agreement. Only Amtrak employees and contractors may access the System. Amtrak may not access the System to print tickets and will not be allocated ticket stock. Railkey may revoke Amtrak's access to the System upon termination of the Agreement or upon any default by Amtrak.
- a) Railkey shall supply Amtrak with the necessary software required to access the System. Railkey shall provide such software components and documentation to Amtrak within a reasonable time after execution of this Agreement.
 - b) Railkey shall offer System training to Amtrak as reasonably necessary to ensure that Amtrak has at least one trained Amtrak employee operating the System.
 - c) Railkey shall provide Amtrak with System technical support through access to Railkey's technical support desk.

3. Payment and After Sales Support for Amtrak Products

- 3.1 At the time of booking a reservation for an Amtrak product sold pursuant to this Agreement, Railkey shall securely submit to Amtrak for payment a valid credit card which must be included in Amtrak's list of acceptable credit cards as per **Attachment 6 - Payment Cards Accepted**. Amtrak may revise **Attachment 6 – Payment Cards Accepted** upon thirty (30) days written notice, except for certain circumstances that require immediate change as determined by Amtrak. The parties may agree by amendment to this Agreement to have payment made "on account" by which Amtrak shall invoice Railkey on a monthly basis for bookings made during the previous month and Railkey shall pay the invoice amount as specified by Amtrak.
- 3.3 If connectivity to Arrow through Amtrak Web Services is through an Unmanaged Access Channel, Railkey must include a credit card CVV / CID number and a billing postal code for each payment transaction.

- 3.4 Railkey shall provide adequate communication to ensure that its customers will have access to appropriate customer support including, without limitation, providing its employees, agents and subcontractors appropriate training and maintaining call center and sales staff at adequate levels. Railkey will be responsible for all Amtrak-related after sales customer service issues, including but not limited to customer complaints, ticket changes or refunds, as appropriate.

4. **Company Compensation**

Amtrak shall initially compensate Railkey as set forth in **Attachment 7 – Company Compensation**. This attachment will be subject to review on an annual basis.

5. **Advertising, Marketing and Promotion**

- 5.1 Railkey shall advertise, market and promote the sale of Amtrak Products pursuant to an annual marketing plan developed by Railkey and approved by Amtrak.
- 5.2 All advertising and promotional materials must contain disclaimers, limitations of liability notices, proprietary notices (e.g., trademark and copyright notices) and such other notices as required by Amtrak.
- 5.3 To satisfactorily perform the duties and obligations set forth in this Agreement, Railkey may need to use certain service marks, trademarks, logos and trade names (collectively, "Marks") and copyrighted works owned by or licensed to Amtrak. Railkey agrees and acknowledges that its use of these Marks and copyrighted works exists pursuant to a royalty-free, nontransferable, nonexclusive license or sub-license. Railkey understands that it will not acquire any ownership interest in Amtrak's Marks or copyrighted works or have the right to use such Marks or copyrighted works other than for the sole purpose of performing its duties and obligations to Amtrak under this Agreement.
- 5.4 Railkey agrees to comply with all of Amtrak's instructions regarding the use of Marks and copyrighted works, including but not limited to the Amtrak Brand Guidelines. Railkey shall not use Amtrak's Marks or copyrighted works in any manner that does, threatens to or will likely diminish their value or harm the reputation of Amtrak.
- 5.5 Prior to publication, Amtrak will have the right to review and approve any and all content, artwork, copy, advertising, promotional materials, direct mail, inserts, press releases, newsletters, web pages or other communications or any other publicity published, distributed or displayed by Railkey or at its direction or authorization which uses Amtrak's Marks, name(s) or trade names or which otherwise refers to Amtrak Products or this Agreement (collectively referred to as "Advertising Materials").
- 5.6 Railkey shall submit Advertising Materials to Amtrak's representative listed in **Attachment 8 - Contacts**, which may be changed at any time upon written notice, at least thirty (30) days in advance for Amtrak's written approval.