

SUNDROP MOBILE (SUNDROP) STANDARD TERMS AND CONDITIONS

YOU MUST AGREE TO THESE TERMS AND CONDITIONS TO USE SUNDROP SERVICES

By using or registering for a Sundrop Mobile (“Sundrop”) Service (defined below), you agree to these terms and conditions (“Terms of Service”) and the Sundrop Privacy Policy. You agree to accept notices electronically. Each time you use a Sundrop Service, you reaffirm your acceptance of the then-current Terms of Service. If you do not wish to be bound by these Terms of Service, you may discontinue using the Sundrop Services. You cannot use or sign up for Sundrop Services until you have accepted these Terms of Service.

SUNDROP SERVICES

For purposes of these Terms of Service, the term “Sundrop Services” and “Services” shall mean Sundrop software (whether preinstalled, on a medium or offered by download), Sundrop services, Sundrop websites (including, without limitation, sundropmobile.com and couponredeemer.com) and all other software, features, tools, web sites and services provided by or through Sundrop Services from Sundrop Mobile, Inc. and its business divisions (collectively “Sundrop”) and Sundrop’s third-party vendors.

1. GENERAL.

- 1.1. **Applicability.** These Standard Terms and Conditions contain general provisions that apply to all Products and Services that a Sundrop-affiliated entity provides. “Agreement” refers to the terms and conditions under which Customer purchases Sundrop Products and Services, including all attachments, these Standard Terms and Conditions, documents incorporated by reference, and all related Order(s). Other capitalized terms are defined in this document or in the applicable Schedules or Product and Service-specific Annexes.
- 1.2. **Additional Terms and Conditions.** Customer’s purchase and use of Products and Services is also governed by product and service-specific terms and conditions found in the applicable Schedules and Product and Service-specific Annexes, posted to <http://www.sundropmobile.com/ratesandconditions> (the “Rates and Conditions Website”).
- 1.3. **Conflicts Provision.** If a conflict exists among provisions within the Agreement, specific terms will control over general provisions, and negotiated or added terms, conditions or pricing will control over standardized, posted or non-negotiated terms, conditions and pricing.

2. **TERM.** “Term” or “Agreement Term” refers to the period defined in the Agreement during which Sundrop provides Products and Services to Customer. These Standard Terms and Conditions and relevant Schedules and Product and Service-specific Annexes apply from the Effective Date until the Term expires or terminates. Sundrop will not accept Orders for Products and Services after expiration of the Term, but these Standard Terms and Conditions and relevant Schedules or Product and Service-specific Annexes will continue to apply to Orders properly placed during the Term. If Customer continues to use Sundrop maintenance, managed, or professional Services following the termination or expiration of the Term or an Order issued during the Term for such Services, Sundrop may, at its sole discretion, provide those Services on a time and material basis at Sundrop’s then-current rates without applying any discounts or credits under the Agreement, but these



Standard Terms and Conditions and the Time and Materials Product Annex (posted to www.sundropmobile.com/ratesandconditions) will govern Sundrop's provision of such Services.

3. CHARGES.

3.1. Sundrop Charges. Customer will pay Sundrop the rates and charges for Products and Services set forth in the Agreement and any Order under the Agreement, including all charges associated with establishing Customer's Products and Services or related to Sundrop's installation or provisioning costs.

3.2. Fixed Rates and Percentage Discounts. Except as expressly stated otherwise in the Agreement, rates and charges that are stated as a flat or fixed recurring or non-recurring charge will not change during the Term if Sundrop increases or decreases the list rate in a Schedule or price list. Rates and charges not fixed in the Agreement will be based on current Schedules or price lists and may change during the Term. If pricing in the Agreement is stated as a percentage discount off of a Schedule rate or list price, the percentage discount is fixed for the Term, but Sundrop may modify the underlying rate or list price to which the percentage discount is applied on no less than one day's notice. Changes to Schedules are posted to the Rates and Conditions Website.

3.3. Rate Adjustments. Sundrop may impose additional fees, charges or surcharges on Customer to recover amounts that Sundrop is required or permitted by governmental or quasi-governmental authorities to collect, or pay to others in support of statutory or regulatory programs, plus a commercially reasonable amount to recover the administrative costs associated with such charges or programs. These charges may include state and federal taxes and surcharges.

3.4. Taxes.

3.4.1. Taxes Not Included. Sundrop's rates and charges for Products and Services do not include taxes. Customer will pay all taxes, including, but not limited to, sales, use, gross receipts, excise, VAT, property, transaction, or other local, state, or national taxes or charges imposed on or based upon the provision, sale or use of Products and Services.

3.4.2. Withholding Taxes. Notwithstanding any other provision of the Agreement, if Customer is required by law to make a deduction or withholding from any amount due to Sundrop, Customer must notify Sundrop in writing. Sundrop will then increase the gross amount of Customer's invoice so that, after Customer's deduction or withholding for taxes, the net amount paid to Sundrop will not be less than the amount Sundrop would have received without the required deduction or withholding.

3.4.3. Exclusions. Customer will not be responsible for payment of:

3.4.3.1. Sundrop's direct income taxes and employment taxes; and

3.4.3.2. any other tax to the extent that Customer demonstrates a legitimate exemption under applicable law.

4. BILLING AND PAYMENT.

4.1. Invoicing.

4.1.1. Commencement of Invoicing. Sundrop may begin invoicing Customer in full for rates and charges on the later of:

- 4.1.1.1. the date the Products or Services are installed and made available; or
 - 4.1.1.2. the first day of the first bill cycle after the Effective Date.
 - 4.1.2. Delays. If Sundrop cannot install or make available the Products or Services by the delivery date specified in the Order due to a Customer-caused delay, Sundrop may bill Customer as of the delivery date specified in the Order, or if no date is specified, any time 30 days after the Effective Date.
 - 4.1.3. Recurring Services. For recurring Services and nonrecurring charges, Sundrop bills fixed service charges in advance, and usage-based charges in arrears.
 - 4.1.4. Additional Invoice Information. Customer may make a written request to Sundrop for additional invoice-related information, including duplicate invoices, to the extent such information is reasonably available in Sundrop's sole discretion. Sundrop may charge Customer for such information. Customer may only request information from Sundrop for the 12-month period preceding the date of Customer's written request.
 - 4.2. Payment and Late Charges. Customer must pay all undisputed amounts within 30 days from Sundrop's invoice date, unless otherwise defined in the Agreement. Customer's payments to Sundrop must be in the form of electronic funds transfer (via wire transfer or ACH) or paper check. Other than items subject to a bona fide dispute, Sundrop may charge a late fee (up to the maximum rate allowed by law) or take other action to compel payment of past due amounts after written notice to Customer, including suspension or termination of Services, unless prohibited by applicable law or regulation. Service that is suspended or terminated for nonpayment may be subject to a reconnection charge. Customer may not offset disputed amounts from one invoice against payments due on the same or another account. Sundrop's acceptance of late or partial payments (even those marked, "Paid in Full") and late payment charges is not a waiver of its right to collect the full amount due. Customer's payment obligations include late charges and third party collection costs Sundrop incurs, including reasonable attorneys' fees, if Customer fails to cure its breach of these payment terms.
 - 4.3. Disputed Invoice Charges. If Customer disputes a charge in good faith, Customer may withhold payment of that charge if Customer (A) makes timely payment of all undisputed charges; and (B) within 30 days from Sundrop's invoice date, provides Sundrop with a written explanation of the reasons for Customer's dispute of the charge. Customer must cooperate with Sundrop to promptly resolve any disputed charge. If Sundrop determines, in good faith, that the disputed charge is valid, Sundrop will notify Customer and, within five business days of receiving notice, Customer must pay the charge.
5. CREDIT APPROVAL. Sundrop's provision of Products and Services is subject to Sundrop's credit approval of Customer. As part of the credit approval process, Sundrop may require Customer to provide a deposit or other security. Additionally during the Term, if Customer's financial circumstance or payment history becomes reasonably unacceptable to Sundrop, Sundrop may require adequate assurance of future payment as a condition of continuing Sundrop's provision of Products and Services. Customer's failure to provide adequate assurances required by Sundrop is a material breach of the Agreement. Sundrop may provide Customer's payment history or other billing/charge information to any credit reporting agency or industry clearinghouse.
6. ORDERS.

- 6.1. Application. The terms and conditions in any Orders will have no force or effect other than to denote quantity and description of Products or Services, delivery destinations, delivery dates, Customer billing addresses, installation addresses, the Agreement under which the Order is issued, and any other information required by Sundrop. Orders are binding only upon acceptance in writing by Sundrop. Sundrop will notify Customer of rejected Orders. Customer may cancel an Order at any time before Sundrop initiates delivery of Products and Services listed in the Order or otherwise begins performance, but Customer must pay Sundrop's costs resulting from Customer's cancellation, including costs specifically described in the applicable Schedule or Product and Service-specific Annexes.
 - 6.2. Cancellation. Sundrop will notify Customer of rejected Orders. Customer may cancel an Order at any time before Sundrop delivers the Products and Services listed in the Order or begins its performance, but Customer must pay any actual costs Sundrop incurs due to Customer's cancellation in addition to any amounts described in the applicable Product and Service-specific Annexes.
7. WARRANTIES. EXCEPT AS, AND ONLY TO THE EXTENT EXPRESSLY PROVIDED IN THE AGREEMENT, PRODUCTS AND SERVICES ARE PROVIDED "AS IS." SUNDROP DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT, AND WARRANTIES RELATED TO EQUIPMENT, MATERIAL, SERVICES OR SOFTWARE.
- 7.1. No Warranties or Representations. Sundrop makes no warranties or representations whatsoever with regard to the Sundrop Network, the Sundrop System, or the benefit, if any, that will inure to Customer by advertising on the Sundrop Network.
 - 7.2. Service Interruptions. The parties understand and agree that service interruptions are an unavoidable occurrence with any computer or Internet-based system. In consideration of this fact, Customer agrees not to hold Sundrop responsible for any liability, loss, cost, claim, damage, or cause of action of any kind that it may suffer as a result of any loss of or delayed, incomplete, or interrupted service to any Sundrop System, regardless of cause or fault.
8. EQUIPMENT AND SOFTWARE; SUNDROP-PROVIDED NETWORK MANAGEMENT.
- 8.1. Equipment or Software Not Provided by Sundrop. Customer is responsible for any items not provided by Sundrop, including installation, operation, and maintenance of such equipment or software and any equipment or software that impairs Product or Service quality or availability. Upon notice from Sundrop of such impairment, Customer will promptly cure the problem. Customer will continue to pay Sundrop for Products and Services during such impairment or related suspension. If the impairment interferes with the use of the Sundrop-provided network by Sundrop or third parties, Sundrop, in its reasonable discretion, may suspend or disconnect the affected Products and Services without advance notice to Customer, although Sundrop will provide advance notice where practical. Customer will not rearrange, disconnect, remove, or attempt to repair any Sundrop-provided items. At Customer's request, Sundrop will troubleshoot the impairment at Sundrop's then-current time and materials rates. Sundrop is not liable if a commercially reasonable change in Products or Services causes equipment or software not provided by Sundrop to become obsolete, require alteration, or perform at lower levels.
 - 8.2. Software License.
 - 8.2.1. Licensing Requirements. Where software is provided with a Product or Service, Customer is granted a non-exclusive and non-transferable license or sublicense to use the software, including any

related documentation, solely to enable Customer to use the Products and Services in accordance with the applicable licensing requirements. Software licensing terms and conditions, including enduser licensing agreements and terms and conditions from Sundrop's vendors, may be provided to Customer through click or shrink-wrap agreements. Sundrop may suspend, block or terminate Customer's use of any software if Customer fails to comply with any applicable licensing requirement.

8.2.2. Prohibitions. Customer is not granted any rights to use any software on behalf of third parties or related to time share or service bureau activities. No rights are granted to source code, and Customer will not reverse engineer, decompile, modify, enhance, copy, prepare derivative works, or reproduce any software.

8.3. Title to Software or Equipment. Sundrop (or Sundrop vendors, if applicable) retain title and property rights to Sundrop-provided software and equipment (excluding Products sold to Customer under the Agreement), including copies, and any related patents, copyrights, trademarks, or IP addresses assigned to Customer. Upon termination or expiration of the Agreement or an applicable Order, Customer will surrender and immediately return the Sundrop-provided equipment and software, including all copies, to Sundrop or will provide Sundrop access to reclaim such equipment and software.

8.4. Network Management. Sundrop reserves the right to perform preventative maintenance and software upgrades to the Sundrop-provided network at its sole discretion on a scheduled or as-needed basis. Sundrop may charge Customer where additional technical limitations or Sundrop must construct network facilities to provide Services to Customer. If software or equipment not provided by Sundrop is connected to Sundrop-provided network facilities, Sundrop's obligations relate only to the Services under the Agreement.

9. USE OF NAME, SERVICE MARKS, TRADEMARKS. Neither party will use the name, service marks, trademarks, or carrier identification code of the other party or any of its Affiliates for any purpose without the other party's prior written consent.

10. CUSTOMER RESPONSIBILITIES.

10.1. Installation. Customer will reasonably cooperate with Sundrop or its agents to install the Products and Services. Customer is responsible for damage to Sundrop-owned Products and Services located on Customer premises, excluding reasonable wear and tear or damage caused by Sundrop. Sundrop may refuse to install Products and Services or may discontinue and disconnect Products and Services without notice, if any condition on Customer's premises is unsafe or likely to cause injury to any person using Products and Services. Additional Customer responsibilities relating to a particular Product or Service may be defined in the applicable Schedules or Product and Service-specific Annexes.

10.2. Use of Products and Services.

10.2.1. Acceptable Use Policy. If Customer purchases Products or Services that connect to the Internet, Customer must conform to the Sundrop acceptable use policy posted to <http://www.sundropmobile.com/>, as reasonably amended from time to time.

10.2.2. Abuse and Fraud. Customer will not use Products or Services: (1) for fraudulent, unlawful or destructive purposes, including unauthorized or attempted unauthorized access to, or alteration,

abuse or destruction of, information; or (2) in any manner that causes interference with Sundrop's or another's use of the Sundrop-provided network. Customer will cooperate promptly with Sundrop to prevent third parties from gaining unauthorized access to the Products and Services via Customer's facilities.

10.2.3. Resale - General Prohibition. Except to the extent permitted by state or federal law and regulations, Customer will not resell Products and Services.

11. CONFIDENTIALITY AND PRIVACY.

11.1. Nondisclosure Requirements. If the parties have not executed a mutual nondisclosure agreement, this provision will govern their exchange of information. Each party will not disclose any Confidential Information (defined below) received from the other party, or otherwise discovered by the receiving party, to any third party, except as expressly permitted in the Agreement. This obligation will continue until two years after the Agreement expires or terminates. Confidential Information includes, but is not limited to, pricing and terms of the Agreement, and information relating to the disclosing party's technology, business affairs, trade secrets, development and research information, and marketing or sales plans (collectively the "Confidential Information"). The receiving party may disclose Confidential Information to its subsidiaries, Affiliates, agents and consultants with a need to know, if they are not competitors of the disclosing party and are subject to a confidentiality agreement at least as protective of the disclosing party's rights as this provision. The parties will use Confidential Information only for the purpose of performing under the Agreement or for the provision of other Sundrop Mobiles. The foregoing restrictions on use and disclosure of Confidential Information do not apply to information that: (A) is in the possession of the receiving party at the time of its disclosure and is not otherwise subject to obligations of confidentiality; (B) is or becomes publicly known, through no wrongful act or omission of the receiving party; (C) is received without restriction from a third party free to disclose it without obligation to the disclosing party; (D) is developed independently by the receiving party without reference to the Confidential Information, or (E) is required to be disclosed by law, regulation, or court or governmental order. The parties acknowledge that the receiving party's unauthorized disclosure or use of Confidential Information may result in irreparable harm. If there is a breach or threatened breach of the Agreement, the disclosing party may seek a temporary restraining order and injunction to protect its Confidential Information. This provision does not limit any other remedies available to either party. The party who breached or threatened to breach its nondisclosure obligation under the Agreement will not raise the defense of an adequate remedy at law.

11.2. Privacy. Sundrop's privacy policy, as amended from time to time, is available at www.sundropmobile.com. The privacy policy includes information about Sundrop's customer information practices and applies to the provisioning of Products and Services.

12. LIMITATIONS OF LIABILITY.

12.1. Direct Damages. Each party's maximum liability for damages caused by its failure(s) to perform its obligations under the Agreement is limited to: (A) proven direct damages for claims arising out of personal injury or death, or damage to real or personal property, caused by the party's negligent or willful misconduct; and (B) proven direct damages for all other claims arising out of the Agreement, not to exceed in the aggregate, in any 12-month period, an amount equal to Customer's total net payments for the affected Products and Services purchased in the month preceding the month in which the injury

occurred. Customer's payment obligations, Customer's liability for early termination charges, and the parties' indemnification obligations under the Agreement are excluded from this provision.

12.2. Consequential Damages. NEITHER PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT. CONSEQUENTIAL, INCIDENTAL, AND INDIRECT DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND LOSS OF BUSINESS OPPORTUNITY, WHETHER OR NOT THE OTHER PARTY WAS AWARE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES.

12.3. Unauthorized Access and Hacking. Except for physical damage to Customer's transmission facilities or Customer premise equipment directly caused by Sundrop's negligence or willful misconduct, Sundrop is not responsible for unauthorized access to, or alteration, theft, or destruction of, Customer's data, programs or other information through accident, wrongful means or any other cause while such information is stored on or transmitted across Sundrop-provided network facilities or Customer premise equipment.

12.4. Liability for Content. Sundrop is not responsible for the content of any information transmitted, accessed, or received by Customer through Sundrop's provision of the Products and Services.

13. INDEMNIFICATION.

13.1. Mutual Indemnification for Personal Injury, Death or Damage to Personal Property. Each party will indemnify and defend the other party, its directors, officers, employees, agents and their successors from and against all third party claims for damages, losses, liabilities, or expenses, including reasonable attorneys' fees, arising directly from performance of the Agreement and relating to personal injury, death, or damage to tangible personal property that is alleged to have resulted, in whole or in part, from the negligence or willful misconduct of the indemnifying party or its subcontractors, directors, officers, employees or authorized agents.

13.2. Customer Indemnification. Customer will indemnify and defend Sundrop, Sundrop's officers, directors, agents, and employees and their successors, against all third party claims for damages, losses, liabilities or expenses, including reasonable attorneys' fees, arising out of:

13.2.1. Customer's failure to obtain required permits, licenses, or consents necessary to enable Sundrop to provide the Products and Services (e.g., landlord permissions or local construction licenses). This provision does not include permits, licenses, or consents related to Sundrop's general qualification to conduct business;

13.2.2. Customer's transmissions, or transmissions by parties authorized by Customer, of, information, data, or messages over the Sundrop-provided network leading directly or indirectly to third party claims: (1) for libel, slander, invasion of privacy, infringement of copyright, and invasion or alteration of private records or data; (2) for infringement of patents arising from the use of equipment, hardware or software not provided by Sundrop; and (3) based on transmission and uploading of information that contains viruses, worms, or other destructive media or other unlawful content;

13.2.3. Sundrop's failure to pay any tax to the extent that Sundrop relied on Customer's claimed legitimate exemption under applicable law;

13.2.4. Customer's breach of software licensing requirements; and

13.2.5. Customer's failure to comply with the usage requirements in the Customer Responsibilities Section of these Standard Terms and Conditions.

13.3. Sundrop Indemnification. Sundrop will indemnify and defend Customer, Customer's officers, directors, agents, and employees and their successors against third party claims enforceable in the United States alleging that Services as provided infringe any third party United States patent or copyright or contain misappropriated third party trade secrets. But Sundrop's obligations under this Section will not apply if the infringement or violation is caused by Customer's modification to Sundrop-provided software, equipment or Services; combination of Sundrop-provided services or products with other services or products; functional or other specifications that were provided by or requested by Customer; or Customer's continued use of infringing Services after Sundrop provides reasonable notice to Customer of the infringement. For any third party claim that Sundrop receives, or to minimize the potential for a claim, Sundrop may, at its sole option, either:

13.3.1. procure the right for Customer to continue using the Services;

13.3.2. replace or modify the Services with comparable Services; or

13.3.3. terminate the Services.

13.4. Indemnification of Sundrop's Other Customers. The foregoing agreement to indemnify, save, and hold harmless by Customer shall also apply for the benefit and protection of any member of Sundrop's Network (and such person or entity's employees and agents) that hosts one or more Sundrop Mobile displaying Customer's content.

13.5. Rights of Indemnified Party. To be indemnified, the party seeking indemnification must promptly notify the other party in writing of the claim (unless the other party already has notice of the claim); give the indemnifying party full and complete authority, information and assistance for the claim's defense and settlement; and not, by any act, admission, or acknowledgement, materially prejudice the indemnifying party's ability to satisfactorily defend or settle the claim. The indemnifying party will retain the right, at its option, to settle or defend the claim, at its own expense and with its own counsel. The indemnified party will have the right, at its option, to participate in the settlement or defense of the claim, with its own counsel and at its own expense, but the indemnifying party will retain sole control of the claim's settlement or defense.

13.6. Remedies. The foregoing provisions of this Section state the entire liability and obligations of the indemnifying party and any of its Affiliates or licensors, and the exclusive remedy of the indemnified party, with respect to the claims described in this Section.

14. TERMINATION.

14.1. Sundrop Right to Terminate.

14.1.1. Sundrop may immediately suspend or terminate Products or Services or the Agreement if:

14.1.1.1. Customer fails to cure its default of the payment terms in the Agreement; or

14.1.1.2. If Customer has vacated the premises to which Services are furnished; or

14.1.1.3. Customer fails to cure any other material breach of the Agreement within 30 days after receiving Sundrop's written notice; or

14.1.1.4. Customer provides false or deceptive information establishing, using or paying for Services or Customer engages in false, deceptive, fraudulent, or harassing activities when establishing, using or paying for Services; or

14.1.1.5. Customer fails to comply with applicable law or regulation and Customer's noncompliance prevents Sundrop's performance under the Agreement.

14.1.2. If Sundrop terminates the Agreement under this Section, Customer will be liable for any Products and Services provided up to the date of termination, whether or not invoiced by the termination date, as well as any applicable early termination liabilities.

14.2. Customer Right to Terminate.

14.2.1. Material Failure. If Sundrop materially fails to provide a Product or Service and Sundrop fails to cure after Customer provides Sundrop with written notice of the failure and a reasonable opportunity to cure within 30 days from receipt of notice, Customer may terminate the affected Products or Services without early termination liability 30 days after Sundrop's receipt of Customer's written notice to terminate. Sundrop's material failure does not include a failure caused by circumstances outside Sundrop's sole control, a failure caused by a third party access provider, a Force Majeure Event, or Customer or Customer-provided software or equipment.

14.2.2. Termination for Convenience. Customer may terminate a Product or Service or the Agreement during the Term by providing 60 days' written notice to Sundrop. In the case of such termination for convenience, Customer will be liable for early termination fees set forth in the Agreement.

14.3. Early Termination Liability.

14.3.1. Calculation of Early Termination Liability. If Customer terminates a Product or Service in whole or in part, before expiration of the Term or, if applicable, an Order issued during the Term that extends beyond the Term (unless due to Sundrop's material failure), or Sundrop terminates a Product or Service or applicable Order as permitted under the Agreement, Customer will pay the following early termination charges, which represent Sundrop's reasonable liquidated damages and not a penalty:

14.3.1.1. General Liability. A lump sum equal to (a) 50% of the applicable monthly charges, multiplied by the number of months remaining in the Agreement or, if applicable, an Order issued during the Term that extends beyond the Term, plus (b) a pro rata amount of any waived installation charges, any credits issued (excluding any service level credits issued for any Service outages), and initialization fees waived based upon the number of months remaining in the Term or applicable Order Term at the time of termination, plus (c) a pro rata amount of any advertising contract sold on the Customer's hosted Product or Service that would have been payable to Sundrop from the time of cancellation through the end date of the Customer's contract; and

14.3.1.2. Third Party Liability. Any liabilities imposed on Sundrop by third parties, such as licensed content and all nonrecoverable costs incurred by Sundrop as a result of ordering facilities required to operate the Product or Service , as a result of Customer's early termination.

14.3.2. Waiver of Early Termination Liability. With Sundrop's written approval, Customer will not be liable for the early termination liability described in this Section for a Service if Customer purchases another Service at the same time with the same or greater monthly recurring charge for a Term at least equal to the greater of: the remaining months in the Term or one year.

14.4. Disconnect Notice. Sundrop will have up to 30 days to complete disconnection of a Service. To complete disconnection, Customer must provide information required by Sundrop. Customer's failure to provide such information may delay or prevent the disconnection. Customer will be responsible for all charges through the later of the 30th day after Sundrop received the disconnect notice, or the date Customer stops using the Services.

15. FORCE MAJEURE. Neither party will be responsible for any delay, interruption or other failure to perform under the Agreement due to acts, events, and causes beyond the control of the responsible party (a "Force Majeure Event"). Force Majeure Events include: natural disasters (e.g., lightning, earthquakes, hurricanes, floods); wars, riots, terrorist activities, and civil commotions; inability to obtain parts or equipment from third party suppliers; cable cuts by third parties, a local exchange carrier's activities, and other acts of third parties; explosions and fires; embargoes, strikes, and labor disputes; and governmental decrees and any other cause beyond the reasonable control of a party.

16. DEFINITIONS.

16.1. "Affiliate" is a legal entity that directly or indirectly controls, is controlled by, or is under common control with the party. An entity is considered to control another entity if it owns, directly or indirectly, more than 50% of the total voting securities or other such similar voting rights.

16.2. "Effective Date" is the date the last party signs the Agreement.

16.3. "Order" means a written, electronic or verbal order, or purchase order governed by the terms and conditions of the Agreement, submitted or confirmed by Customer and accepted by Sundrop, which identifies specific Products and Services; quantity ordered; Sundrop's Agreement number, title, and execution date; billing address; ship to address; and service/installation address, as applicable. Verbal Orders are deemed confirmed upon Customer's written acknowledgement, or Customer's use, of Products or Services.

16.4. "Product(s)" includes equipment, devices, hardware, software, cabling or other materials sold or leased to Customer by or through Sundrop as a separate item from, or bundled with, a Service.

16.5. "Product and Service-specific Annexes" refers to separate descriptions, terms and conditions for certain Products and Services, including those offered under applicable Sundrop local terms of service in select states. Product and Service-specific Annexes are incorporated into the Agreement.

16.6. "Service(s)" means any advertising, development, or professional services provided to Customer by or through Sundrop under the Agreement, excluding Products.

16.7. "Schedules" are the terms and conditions governing Sundrop's provision of certain Services and are posted to the Rates and Conditions Website.

17. MISCELLANEOUS.

17.1. Independent Contractor. Sundrop provides the Products and Services as an independent contractor. The Agreement will not create an employer-employee relationship, association, joint venture, partnership, or other form of legal entity or business enterprise between the parties, their agents, employees or affiliates.

17.2. No Waiver of Rights. The failure to exercise any right under the Agreement does not constitute a waiver of the party's right to exercise that right or any other right in the future.

17.3. No Third Party Beneficiaries. The Agreement's benefits do not extend to any third party.

17.4. Dispute Resolution.

17.4.1. Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES IS GOVERNED BY THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO ITS CONFLICT OF LAWS PRINCIPLES.

17.4.2. Forum Selection. Any court proceeding brought by either party must be brought, as appropriate, in the Lake County Circuit Court, located in Tavares, Florida, or in the United States District Court for the Middle District of Florida, Orlando District, in Orlando, Florida. Each party agrees to personal jurisdiction in either court.

17.4.3. Waiver of Jury Trial.

17.4.3.1. EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY COURT ACTION ARISING AMONG THE PARTIES, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, AND WHETHER MADE BY CLAIM, COUNTER-CLAIM, THIRD PARTY CLAIM OR OTHERWISE.

17.4.3.2. If for any reason the jury waiver is held to be unenforceable, the parties agree to binding arbitration for any dispute arising out of this Agreement or any claim arising under any federal, state, or local statutes, laws or regulations, under the applicable commercial rules of the CPR Institute for Dispute Resolution and 9 U.S.C. § 1, et. seq. Any arbitration will be held in the Orlando, Florida metropolitan area and be subject to the governing law provision of these Standard Terms and Conditions. Discovery in the arbitration will be governed by the Local Rules applicable in the United States District Court for the Middle District of Florida.

17.5. Compliance with Laws. Each party agrees that it will comply with all applicable laws in performing its obligations under the Agreement.

17.6. Customer may not assign any rights or obligations under the Agreement or an Order without Sundrop's prior written consent, except that Customer may assign the Agreement, after 30 days prior written notice, to an Affiliate or an entity that has purchased all or substantially all of Customer's assets. Following written notice to Customer, Sundrop may assign the Agreement or an Order, in whole or in part, without Customer's prior written consent.

17.7. Amendments and Alterations. The Agreement may only be amended in a writing signed by both parties' authorized representatives. Alterations to the Agreement are not valid unless accepted in writing by authorized representatives of both parties.

17.8. Notice. Notices required under the Agreement must be submitted in writing to the party's address for notice listed in the Agreement or Order and, in the case of a dispute, notices must also be sent to:

Sundrop Mobile, Inc.
Attn: Vice President, Commercial Law
2301 Lucien Way, Ste. 425
Maitland, FL 32751

17.9. Severability. If any provision of the Agreement is found to be unenforceable, the Agreement's unaffected provisions will remain in effect and the parties will negotiate a mutually acceptable replacement provision consistent with the parties' original intent.

17.10. URLs and Successor URLs. References to Uniform Resource Locators (URLs) in the Agreement include any successor URLs designated by Sundrop.

17.11. Survivability. The terms and conditions of the Agreement regarding confidentiality, indemnification, warranties, payment, dispute resolution and all others that by their sense and context are intended to survive the expiration of the Agreement will survive.

17.12. Entire Agreement. This Agreement, including all referenced documents, annexes, Schedules, or exhibits, the related Orders and the parties' mutual nondisclosure agreement constitutes the entire agreement and understanding between the parties and supersedes all prior or contemporaneous negotiations or agreements, whether oral or written, relating to its subject matter.