

MOGO

Product Resale Terms and Conditions for Dealers

These “Product Resale Terms and Conditions for Dealers” (the “*Agreement*”) form binding contractual obligations between **121 Future, Inc. dba MogoTrack**, a Texas corporation with offices located at 6700 Hollister, Houston, TX 77040 (“*Mogo*”) and the business organization (“*Dealer*”) identified on page 1 of this Agreement. Dealer and Mogo may be referenced as the “*Parties*” or each individually as a “*Party*”.

Section 1. Defined Words and Phrases. Certain capitalized words and phrases that are used in this Agreement, if not otherwise defined above, will have the meanings given in this Section 1:

Bona Fide Customer – an end customer who purchases a Product from Dealer at the Dealer’s physical location, not via an online transaction (e.g., eBay or other eCommerce purchases).

Dealer Portal – the website where Dealer may place orders, renew subscriptions, etc., as specified by Mogo, currently located at the URL www.mogotrackapp.com.

Mogotrack App – the software application published under the MOGOTRACK™ brand for the iOS and Android platforms.

Mogo Terms of Service – Mogo’s standard form of customer terms and conditions governing use of the Mogotrack App and subscriptions to the Mogo Services.

Mogo Customer Services – Product-related services provided by Mogo to Bona Fide Customers who have purchased one or more Products and have purchased a subscription to access Mogo’s Services using such Product and the Mogotrack App. For example, MOGOTRACK GPS tracking and theft recovery devices are commonly bundled with a subscription to the Mogo Customer Services.

Mogo Dealer Services – Product-related services provided by Mogo to Dealers through the Dealer Portal (by contrast to services provided to Bona Fide Customers). For example, Mogo Dealer Services may include monitoring of Mogo Products that Dealer has installed within vehicles prior to resale to Bona Fide Customers (e.g., anti-theft monitoring of vehicles on Dealer’s premises prior to vehicle sale). Mogo Dealer Services may be separately purchased by Dealer, and some Mogo Dealer Services (e.g. MOGOTRACK GPS tracking) are commonly bundled with a subscription to dealership lot tracking services.

Product – the MOGOTRACK™ GPS tracking and theft recovery devices as offered for sale by Mogo, as indicated in an accepted Buyer’s Order, which are designed for installation within motor vehicles (automobiles, trucks, tractors, motorcycles, etc.) and designed to provide data in connection with the Mogo’s Services, for which a separate Mogo subscription must be purchased by the end customer.

Purchase Order – an order issued by Dealer in a form specified or expressly approved by Mogo (e.g., a standard form of Mogo “Buyer’s Order”), either in written form or via an electronic order submission to the Dealer Portal, which expressly states that it is subject to this Agreement, and which identifies the Product, pricing and other terms applicable to such purchase.

Section 2. General Scope of Agreement

2.1 **Appointment as Dealer.** Subject to the terms and conditions herein, Mogo hereby appoints Dealer as an authorized reseller of Products supplied under this Agreement, solely to Bona Fide Customers, and Dealer accepts such appointment. The rights granted by Mogo to Dealer are non-exclusive in all cases. Except as otherwise expressly stated in this Agreement, Dealer acknowledges that Mogo retains the rights to market, sell, import and distribute all Products, directly or indirectly to any third party in any jurisdiction and in any market. Notwithstanding the foregoing, Mogo reserves the rights in its discretion (i) to modify Product specifications from time to time, and (ii) to discontinue the manufacture, sale or licensing of, or otherwise render or treat as obsolete, any or all of the Products covered by this Agreement.

2.2 **Bona Fide Customers Only.** Dealer may not sell Products to any third parties who are not Bona Fide Customers without Mogo’s prior consent. In no event will Dealer resell Products in bulk. Any non-compliance with this Section 2.2 will be considered a material breach of this Agreement.

2.3 **Non-exclusivity.** Except as otherwise expressly stated below in this Agreement, Dealer acknowledges that its status as a reseller of Mogo Products is nonexclusive, and Mogo may appoint additional resellers, sales representatives, agents or distributors for the Products and may sell any of the Products directly.

2.4 **Third-Party Resellers and Sub-Distributors.** Dealer may not appoint third-party resellers or sub-distributors without Mogo’s prior written consent, and, absent such consent, Dealer agrees to resell Products only to Bona Fide Customers. Dealer shall require any authorized third-party resellers or sub-distributors of the Products to execute a binding, written contract pursuant to which the applicable third party agrees to act consistent with this Agreement, and, accordingly, Dealer will be solely responsible for any acts or omissions of such third parties that, if undertaken by Dealer, would constitute a breach of this Agreement. Upon termination of this Agreement, Dealer shall cause to terminate any agreement with any such third-party to the extent such agreement authorizes resale or distribution of Products. Dealer shall be responsible for any and all compensation payable to such third-party resellers and distributors.

2.5 **No Trademark Usage Without Authorization.** Dealer acknowledges that no license is granted by this Agreement with respect to any Mogo trademarks or service marks (“Mogo Marks”). In no event will Dealer make any use of Mogo Marks without Mogo’s express, prior, written consent in each case. Without limiting the foregoing, Dealer acknowledges that, as between the parties, Mogo owns and retains all rights in the Mogo Marks and the goodwill associated with the Mogo Marks, and Dealer shall refrain from any reference or display of Mogo Marks that would indicate or suggest sponsorship or endorsement by Mogo, or affiliation with Mogo, or any other display or usage of Mogo Marks in advertising or public communications except as may be expressly authorized in writing by Mogo from time to time.

Section 3. Ordering Process; Shipment and Delivery

3.1 **Order Placement.** During the term of this Agreement, Dealer may have access to the Dealer Portal, through which Dealer may submit orders for Products and orders for subscriptions (or subscription renewals) to Mogo Customer Services and/or Mogo Dealer Services. Dealer shall

submit Purchase Orders to Mogo for the purchase of any Products identified in the Dealer Portal at the then-current prices specified therein. Purchase Orders may also be submitted in writing or by any other mutually agreed means (e.g., EDI). Each such Purchase Order shall expressly identify the applicable Product(s), the quantities to be purchased, and, if applicable, the requested delivery date(s). No Purchase Order shall be binding upon Mogo unless accepted by Mogo; Mogo may accept a Purchase Order by counter-signing and returning a copy of the applicable Purchase Order (if submitted in paper form), by sending express written notice of acceptance to Dealer for paper or electronic orders (for which purpose an email shall suffice), or by commencing delivery of the Products requested under the applicable Purchase Order. A Purchase Order will not otherwise be deemed to have become binding upon Mogo merely by Mogo's inaction or the passage time. All accepted Purchase Orders constitute binding commitments by Dealer to purchase the Products contemplated therein, at the price indicated therein, to be delivered in accordance with the requirements of this Agreement. Purchase Orders may not be cancelled once accepted. In the event of a conflict between the terms of a Purchase Order and the terms of this Agreement, this Agreement shall govern unless the Purchase Order is mutually executed and expressly identifies the applicable provision of this Agreement and states the Parties' intent to supersede that provision for purposes of that Purchase Order. No pre-printed or boilerplate terms of any Purchase Order shall have any binding effect.

3.2 Methods of Delivery.

(a) Mogo will use reasonable commercial efforts to meet desired shipment dates, but will not be liable to Dealer in any way for any late shipment. If Mogo's inventory of Products is insufficient to meet orders that Mogo has accepted, Mogo will allocate its available inventory on a basis that Mogo deems equitable in its sole discretion. Partial shipments will be allowed.

(b) Shipments of Product shall be made in accordance with instructions provided in the applicable Purchase Order, or, if not specified therein, according to Mogo's standard shipping practices. Packaging for Product shipments will be standard commercial packaging acceptable to commercial carriers. All Products will be shipped Ex Works (INCOTERMS 2020) unless otherwise expressly agreed in the applicable Purchase Order.

(c) All Products are deemed accepted upon delivery, subject to applicable warranty provisions set forth in Section 7.2 below.

Section 4. Price and Payment Terms

4.1 Prices Generally. The prices for Products purchased under this Agreement shall be the then-current prices for the Products as in effect at the time a Purchase Order is submitted. A Purchase Order may reference a price offered by Mogo in a valid quote. Prices set forth in any price list published by Mogo are subject to change, provided that all Products shipped under orders placed by Dealer shall be shipped and invoiced at the price in effect at the time of order placement. All prices shall be expressed and will be paid in U.S. dollars, unless otherwise indicated in the applicable Purchase Order (e.g., Canadian dealerships shall pay in Canadian dollars when so indicated in the Purchase Order).

4.2 Deposit Requirements. If so stated in the applicable Purchase Order, Customer shall pay the deposit amount stated therein, and such deposit shall be due and payable when so stated in the Purchase Order or when otherwise mutually agreed, provided that, if the Purchase Order does not state a due date and none has otherwise been mutually agreed, required deposits shall be due upon Customer's execution of the applicable Purchase Order. Any such deposit shall not limit Customer's obligations to make payments in the ordinary course, as and when due, and Mogo may hold such deposit as security against liabilities arising under this Agreement and/or more apply the same, in whole or in part, against such liabilities. Upon full payment and satisfaction of any outstanding liabilities hereunder, Mogo shall remit to Customer any residual portion of such deposit amount.

4.3 Invoicing. Dealer will be invoiced by Mogo for all amounts due under this Agreement. All invoices will be sent to Dealer via electronic mail (e-mail) over the Internet. Dealer agrees to provide Mogo a valid Internet e-mail address to receive such invoices. Mogo shall not be required to provide a hard copy invoice. In the event that Dealer desires Mogo to provide invoices by an alternative means other than via e-mail as described above, Mogo reserves the right to charge Dealer an administrative fee for such. Payment is due upon receipt of invoice. If any payment is not received within thirty (30) days of the invoice date, Dealer will be in default of this Agreement. Dealer agrees to pay Mogo a late fee in the amount of 2.0% per month, or the maximum rate permitted by law, whichever is less, on all amounts unpaid after thirty (30) days from the invoice date. Mogo's failure to furnish Dealer with an invoice for all amounts due shall not relieve Dealer of the obligation to make payment in accordance with this Agreement. The obligations of Mogo under this Agreement are conditioned upon Dealer's timely payment of the amounts due hereunder.

4.4 Price Revisions. Mogo may increase the monthly/annual rates listed on this Agreement any time after the first twelve (12) months from the date of execution of this Agreement by Mogo without further notice to Dealer. Such increase will be to Mogo's then prevailing price or by an amount based on the percentage rate of price increases for all goods and services as determined by the Bureau of Labor Statistics of the U.S. Department of Labor (Consumer Price Index) plus 2%. The foregoing limitation does not apply to third party fees, costs and related price increases, which may be passed along to Dealer under this Agreement. All other fees payable by Dealer pursuant to this Agreement are subject to change to Mogo's then-prevailing price without further notice, or are subject to change as otherwise noted in this Agreement.

4.5 Restrictive Endorsements. No statement on any check or any letter accompanying any payment will be deemed an accord and satisfaction, and KTI may accept such payment without prejudice to KTI's right to recover the balance of amounts due under this Agreement or pursue any other remedy available in this Agreement, at law or in equity. All amounts are in U.S. dollars.

4.6 Taxes. Dealer agrees to pay all taxes in connection with transactions under this Agreement that Mogo is at any time obligated to pay or collect according to the laws of the state where Dealer is domiciled. Such taxes may include, but are not limited to, state and local sales and use taxes, or other such taxes, including taxes which may be billed retroactively as a result of an audit imposed by any government entity on the provision, sale or use of any service provided under this Agreement, but excluding any taxes based on the net income of Mogo. If Mogo is obligated by law to pay or collect such taxes, then Dealer shall either pay such taxes through Mogo, or Dealer shall provide to Mogo written proof of direct payment of such taxes to the taxing authority.

4.7 Resale Pricing. Dealer shall have the right, in its sole discretion, to establish the prices and terms according to which it sells Products to Customers, provided that such terms are consistent with this Agreement. Mogo shall from time to time inform Dealer of Mogo's suggested retail pricing for Products.

Section 5. Additional Acknowledgments

5.1 **App and Subscription Required by Customer.** Dealer acknowledges that each Product sold to a Bona Fide Customer (i) is designed to provide functionality to each Bona Fide Customer through MOGO Customer Services available within the MOGOTRACK App, and is not capable of full functionality unless and until the Bona Fide Customer has purchased a subscription to the MOGO Customer Services and until the device is activated, and (ii) shall provide full functionality only during the term for which a Mogo Customer Services subscription has been purchased. Some Products available for purchase from Mogo are bundled with Mogo Services for some period of time (e.g., 6 months of included services). However, unless expressly stated in the applicable Product description provided by Mogo or otherwise expressly stated in the applicable purchase order, Dealer acknowledges that no subscription to the Mogo Services is included with the purchase of Products under this Agreement.

5.2 **Mogo Terms of Service.** Dealer further acknowledges that each Bona Fide Customer's purchase of a subscription to the Mogo Services is subject to such customer's agreement to the Mogo Terms of Service. In no event may Dealer purport to modify or negotiate any provisions of the Mogo Terms of Service, nor purport to make any binding commitments on Mogo's behalf.

5.3 **Mogo Dealer Services.** Dealer acknowledges that Products may be bundled with certain Mogo Dealer Services, as expressly indicated in the applicable Product description provided by Mogo or otherwise expressly stated in the applicable Purchase Order, such as anti-theft monitoring of dealership vehicle inventory in which Products have been installed. Dealer acknowledges that Mogo Dealer Services are accessible only via the online portal available at the URL(s) specified by Mogo. Dealer further acknowledges that Mogo Dealer Services may include access to functionality within the Dealer Portal that enables Dealer to send communications to its Bona Fide Customers who have purchased Products, provided that such functionality will not be available with respect to Bona Fide Customers who have indicated to Mogo that they do not consent to receive such emails, or who have withdrawn previously granted consent. Mogo Dealer Services are provided only as included with Product purchases and mutually agreed.

5.3 **Acknowledgement of Mogo IP Rights.** Dealer acknowledges that the Products are comprised of hardware components that embody sophisticated proprietary technology of Mogo and its third-party licensors and suppliers, and Mogo's proprietary firmware is installed within such hardware components. Mogo and its suppliers retain title in all worldwide intellectual property rights that are embodied in, or practiced by, the Products. Nothing in this Agreement will be deemed to grant, by implication, estoppel or otherwise, a license under any of Mogo's existing or future patents. No license is granted to Dealer with respect to any Mogo trademarks or service marks.

5.4 **Certain Restrictions.** Dealer agrees not to (i) modify the Products, (ii) integrate any Products into any other product or system for sale, rent or other distribution (provided that the foregoing shall not be interpreted to prevent installation of Products within motor vehicles sold by Dealer, such as automobiles and motorcycles), or (iii) reverse engineer the Products. Dealer must not remove, alter or obscure in any way any proprietary notices (including copyright, trademark or patent notices) of Mogo or its suppliers on or within any Products.

Section 6. Warranties and Disclaimers; Limitations of Liability

6.1 **General Mutual Representations.** Each of the Parties represents and warrants to the other, and for the benefit of the other Party only, that (i) it is properly chartered under federal law or is a properly incorporated organization in good standing in the state where it is formed; (ii) it has the corporate power to enter and perform this Agreement under applicable law and under its charter or articles of incorporation, bylaws and/or other governance documents; (iii) it has obtained any consent it requires from its management, its board of directors and any third parties to the extent consent is necessary to authorize it to enter and perform this Agreement; (iv) it has had adequate opportunity to review and negotiate the terms of this Agreement and to seek the advice of counsel about its rights and duties under this Agreement; and (v) full performance of its duties under this Agreement will not conflict with its performance under any other legally binding agreement.

6.2 **Standard Product Warranty.** Mogo warrants, solely for the benefit of the Bona Fide Customer purchasing each Product, that, for a period of one (1) year from the date of purchase, the Product shall be free of defects in materials and workmanship and will substantially conform to its functional description in its accompanying documentation. Warranties provided under this paragraph and/or pursuant to the MOGO Terms of Service shall extend directly to Bona Fide Customers as if they had purchased the Products directly from Mogo. Warranty claims shall be deemed perfected upon the Bona Fide Customer's written notice to Mogo issued within any time limited warranty period.

6.3 **Non-compliant Product Returns.** If any Product fails to meet the applicable warranties under this Agreement, Dealer may, after notice to Mogo, and compliance with Mogo's return material authorization request process, return such Product to Mogo. Dealer shall bear the cost of return shipment and insurance. Mogo shall, at its discretion, repair or replace the applicable Product, and shall, at Mogo's expense, either deliver the same to Dealer or, at Dealer's direction, drop-ship the same directly to the Bona Fide Customer. At Mogo's election, Mogo may refund amounts paid to Mogo by Dealer with respect to the particular Product in lieu of repair or replacement. Mogo's performance of its obligations under this paragraph shall constitute Mogo's sole obligation and Dealer's and the Bona Fide Customer's exclusive remedy with respect to any breach of the warranty provided by this Agreement.

6.4 **Warranties Made by Dealer.** Dealer will not, without Mogo's specific prior written approval, make or publish any representations, warranties or guarantees (i) concerning the Products or (ii) on behalf of Mogo or its suppliers concerning the MOGO Services. Further, Dealer shall make no representations and warranties related to the Services that are inconsistent with this Agreement, nor shall Dealer imply in any way that Dealer is an agent of Mogo or that Mogo is in any way liable to any Bona Fide Customer under or in connection with any agreement between Dealer and such Bona Fide Customer. Dealer warrants that it shall comply with all Product installation instructions and training provided by Mogo. Dealer further warrants that it shall comply with all applicable laws in the marketing, sale, distribution and export of Products and in performance of this Agreement. Without limiting the foregoing, Dealer warrants that it shall comply with all applicable laws in connection with transmission of email or other communications to Bona Fide Customers and others, including, by way of example, communications transmitted through the Mogo Dealer Services.

6.5 **Compliance Warranty.** Dealer represents and warrants that (i) it will not directly or indirectly export any Products, including, but not limited to parts, equipment, software or technical data/documentation, without first obtaining the required U.S. Government export license(s); and (ii) that the Products sold under this Agreement will not be resold, transferred, exported or reused in any way by Dealer in violation of any

laws, regulations or export control imposed by any jurisdiction or government entity to which Dealer is subject, including, without limitation, the U.S. Government.

6.6 **Indemnification by Dealer.** Dealer agrees to defend, indemnify and hold harmless Mogo, its affiliates, and its and their respective officers, directors, employees and agents from and against any damages, liabilities and expenses (including reasonable attorneys' fees) arising as a result of any claim brought by any third party (including any Bona Fide Customer) resulting from or relating to (i) any breach by Dealer of its representations, warranties, obligations, duties or responsibilities under this Agreement, (ii) any claims in connection with Dealer's obligations under any contract or agreement with any third party (including any Bona Fide Customer), (iii) any negligent or willful actions or omissions on the part of Dealer in marketing or distributing the Products, (iv) Dealer's improper installation of any Products purchased under the terms of this Agreement, or (v) any breach by Dealer of applicable law.

6.7 **Disclaimers and Limitations.** DEALER AND MOGO AGREE THAT ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS AGREEMENT AND SHALL NOT APPLY TO THE PRODUCTS. NO WARRANTIES ARE PROVIDED UNDER THIS AGREEMENT WITH RESPECT TO THE MOGOTRACK APP AND MOGO SERVICES. IN NO EVENT SHALL MOGO BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF MOGO HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS OR GOOD WILL AND LOSS OF REVENUE OR PROFIT, WHETHER IN TORT, STATUTE OR CONTRACT, ARISING OUT OF THE FURNISHING OF CONTENT COVERED BY THIS AGREEMENT OR ANYTHING DONE IN CONNECTION WITH THIS AGREEMENT. IN NO EVENT SHALL MOGO'S LIABILITY TO ANY PARTY, INCLUDING DEALER, EXCEED THE CONSIDERATION PAID BY DEALER TO MOGO UNDER THIS AGREEMENT. THIS PARAGRAPH, AS WELL AS THE OTHER PARAGRAPHS OF THIS AGREEMENT, EXPRESSES MOGO'S SOLE LIABILITY AND DEALER'S EXCLUSIVE REMEDY, WHETHER IN TORT, STATUTE OR CONTRACT, AND SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Section 7. Term and Termination of Agreement

7.1 **Term.** This Agreement shall be in effect for the period set forth on page 1 beginning on the Effective Date (the "Original Term"). Following the expiration of the Original Term, this Agreement shall automatically renew for additional 12 month periods (each, a "Renewal Term") (the "Original Term" and any "Renewal Term" may be referenced, collectively, as the "Term"), unless either party gives written notice to the other party of its intent not to renew the Agreement at least 30 days prior to the end of the Term. Dealer agrees that Mogo may terminate this Agreement or any item or service provided hereunder at any time, and for any reason, upon 30 days prior written notice to Dealer. The "Effective Date" shall be the date of execution of this Agreement by Mogo.

7.2 **Termination for Breach.** Mogo may terminate this Agreement immediately by providing a notice to Dealer if Dealer has failed to perform any of its material obligations and has not fully cured the failure within thirty (30) calendar days after it has been given an initial notice specifying the breach.

7.3 General consequences of termination.

(a) Following termination of this Agreement, Mogo will deliver any Products remaining to be delivered pursuant to Purchase Orders that were accepted prior to such termination or expiration, and, unless this Agreement has been terminated pursuant to Section 7.2 as a result of Dealer's uncured material breach, shall complete the performance of any outstanding Mogo Dealer Services included with the Products having been purchased. Following termination, Dealer shall pay all amounts accrued and owing, or that become due and payable following the date of termination or expiration, at such times as the amounts would otherwise come due in the ordinary course. Notwithstanding the foregoing, in the event that this Agreement has been terminated due to Dealer's breach, Mogo shall have no obligation to deliver any Products Mogo Dealer Services following termination, or may, at its election, require advance payment for any such deliveries.

(b) Following Mogo's performance of obligations arising under the preceding paragraph, Dealer's appointment as a reseller under this Agreement shall be null and void, provided that Dealer shall retain the right to sell or otherwise distribute Products having already been purchased under this Agreement.

Section 8. Dispute Resolution

The parties agree that any and all claims, disputes, or controversies arising out of or relating to this Agreement will be submitted to mandatory arbitration to be administered by, and in accordance with the commercial rules of, the American Arbitration Association ("AAA"). All arbitrators shall be attorneys and shall swear an oath of neutrality. After the arbitration proceeding has been completed, Mogo or Dealer may seek enforcement of the award in accordance with the Federal Arbitration Act. Aside from filing or other fees required to initiate the arbitration, all fees of arbitration will be split evenly between Mogo and Dealer unless an award is made by the arbitrators as otherwise allowed by this Agreement. The arbitrator, and not any court, shall have the exclusive authority to resolve any dispute relating to the enforceability or formation of this Agreement and the arbitrability of the dispute between the parties. If a party does not pay its respective share of arbitration fees, then all claims (including counterclaims) of the non-paying party shall be dismissed by the arbitrators or AAA, and the non-paying party shall not be allowed to bring any further claims in the arbitration for affirmative relief. The non-paying party may still participate in the arbitration to defend claims brought against it. No dispute of any party to this Agreement may be resolved by class action or class arbitration. The parties agree that any arbitration proceeding will take place in Houston, Texas, unless otherwise agreed in writing by the parties. At Mogo's sole discretion, enforcement of intellectual property rights may be excepted from this arbitration requirement, and the parties agree to be subject solely and exclusively to the jurisdiction of the courts of Harris County, Texas for any such collection efforts.

Section 9. Miscellaneous Provisions

9.1 **Entire Agreement.** This Agreement will be effective and binding only when executed by an authorized representative of both parties. This Agreement, including any schedules and amendments thereto, contains the entire understanding between the parties. This Agreement supersedes all prior agreements and understandings, written or oral, between the parties regarding the Collaborative Marketing Campaigns to

be performed under this Agreement, and may not be changed or terminated orally. No change, termination, or attempt to waive any of the provisions hereof shall be binding unless in writing and signed by an authorized representative of both parties. No prior representations or statements, written or oral, shall be deemed to be a part of this Agreement unless specifically set forth herein. Dealer hereby acknowledges that any and all representations made by Mogo and its employees or agents, either orally or in writing, which are not specifically included in the terms and conditions of this Agreement, are not material to this Agreement and are not binding upon Mogo.

9.2 Governing Law / Severability. This Agreement shall be governed by the laws of the State of Texas, exclusive of choice of law rules. If any of the provisions or portions of this Agreement are determined to be invalid or unenforceable, such invalid provisions or invalid portions shall be severed from this Agreement, and all other provisions hereof shall remain in full force and effect. Further, it is expressly understood and agreed that in the event any remedy hereunder is determined to have failed of its essential purpose, all limitations of liability and exclusions of damages set forth herein shall remain in effect.

9.3 Limitation. No action, regardless of form, arising out of transactions under this Agreement may be brought by either party more than 1 year after the cause of action has occurred.

9.4 Assignment. Dealer may not assign this Agreement without the prior written consent of Mogo, and any attempt to do so shall be void and of no effect. Customer acknowledges that if an assignment is consented to by Mogo, Customer or assignee must pay Mogo a transfer charge of \$200.00 before any such assignment shall be effective. Mogo may assign any of its rights and responsibilities under this Agreement in whole or in part without the consent of, or notice to, Dealer.

9.5 Binding Nature / Compliance with Laws. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns as permitted hereunder. Dealer represents and warrants that Dealer shall comply with all applicable federal, state, and local laws, rules, and regulations.

9.6 Survival. Any terms of this Agreement, which by their nature extend beyond its termination, cancellation or expiration, remain in effect until fulfilled and apply to respective successors and permitted assignees.

9.7 Waiver. Forbearance or indulgence by either party in any regard shall not constitute a waiver of the terms or conditions to be performed under this Agreement and until the performance of the terms or conditions is complete, the other party may invoke any remedy available under this Agreement or by law, despite the forbearance or indulgence.

9.8 Notice. Any notice required or permitted to be sent under this Agreement shall be delivered by hand, or mailed by registered or certified mail, return receipt requested, proper postage prepaid, or by nationally recognized overnight courier (i.e., Federal Express, UPS) properly addressed to the addresses of the parties set forth in this Agreement. Notice so sent will be deemed effective upon receipt or refusal to receive. A party may change their notice address by complying with the notice provisions of this paragraph.

9.9 Confidentiality. Dealer agrees that all information communicated by Mogo to Dealer whether before or after the date hereof, shall be received in strict confidence, including, but not limited to, the pricing terms of any proposal or the terms and conditions of this Agreement, and shall not be disclosed by Dealer, its agents, or employees to any third party without the prior written consent of Mogo, except as may be necessary by reason of legal, accounting, or regulatory requirements beyond the reasonable control of Dealer.

9.10 Counterparts / Headings. This Agreement may be executed in several counterparts, all of which taken together, shall constitute a single Agreement between the parties. The section headings used herein are for reference and convenience only and shall not enter into the interpretation of this Agreement.

9.11 Independent Contractors. Dealer and Mogo are independent contractors and shall not be deemed to be partners, joint venturers or each other's employees or agents. Dealer is not authorized to create or assume in Mogo's name or behalf any obligation for any purpose.

9.12 Construction / Electronic Signatures. The parties waive any common law or statutory rule of construction that ambiguity should be construed against the drafter of this Agreement and agree that the language in all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning. Electronically transmitted signatures shall be deemed originals for all purposes relating to this Agreement.

9.13 Force Majeure. Neither party shall be liable for delay or failure to perform under this Agreement which delay or failure is due to acts of God, acts of war, governmental act, labor disputes, riots, terrorism, power supply or telecommunications failure, or any other causes, contingencies, or circumstances not subject to the party's reasonable control.

9.14 Respect for Personnel. Dealer acknowledges and agrees that Mogo's personnel have been acquired and trained by Mogo at considerable expense. Throughout the term and for a period of 1 year following the expiration or termination of this Agreement, Dealer shall not knowingly solicit for employment or employ any employee of Mogo until the expiration of 1 year following such employee's termination of employment with Mogo. If Dealer fails to abide by the restrictions contained herein, then Dealer agrees to pay to Mogo a placement fee of 150% of the former employee's total gross earnings during the employee's last 12 months of employment by Mogo, which Dealer shall pay to Mogo within 10 days of demand.

[End of Resale Terms.]

WBD (US) 51434168v5