SUBSCRIPTION SERVICES AGREEMENT

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THIS SERVICE.

BY USING THE SERVICE OR CLICKING "AGREE" YOU ARE AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU ARE AGREEING TO THIS AGREEMENT ON BEHALF OF OR FOR THE BENEFIT OF YOUR EMPLOYER OR A THIRD PARTY, THEN YOU REPRESENT AND WARRANT THAT YOU HAVE THE NECESSARY AUTHORITY TO AGREE TO THIS AGREEMENT ON THEIR BEHALF.

This agreement is between Funeral Director's Resource, Inc., an Oklahoma corporation (**FDR**), and the Customer agreeing to these terms (**Customer**).

1. SOFTWARE SERVICE.

This agreement provides Customer access to and usage of an Internet-based software service as specified on an order (**Service**).

2. USE OF SERVICE.

a. **Customer Owned Data.** All data uploaded by Customer to the Service, including but not limited to forms and templates, remains the property of Customer, as between FDR and Customer (**Customer Data**). Customer grants FDR the right to use the Customer Data solely for purposes of performing under this agreement. During the term of this agreement, Customer may export its Customer Data as allowed by functionality within the Service.

b. **Access and Usage.** Customer may allow its contractors and clients to access the Service in compliance with the terms of this agreement, which access must be for the sole benefit of Customer. Customer is responsible for the compliance with this agreement by its contractors and clients.

c. **Customer Responsibilities.** Customer: (i) must keep its passwords secure and confidential; (ii) is solely responsible for Customer Data and all activity in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify FDR promptly of any such unauthorized access; and (iv) may use the Service only in accordance with the Service's user guide and applicable law.

d. **FDR Support.** FDR must provide Customer support for the Service under the terms of FDR's Customer Support Policy (**Support**), which is located at www.fdrinc.net/support.

e. **30-Day Trial Version.** If Customer has registered for a trial use of the Service, Customer may access the Service for a 30-day time period (unless extended by FDR in writing). The Service is provided 'AS IS', with no warranty during this time period. All Customer Data will be deleted after the trial period, unless Customer converts its account to a paid Service.

3. DISCLAIMERS.

THE SERVICE IS PROVIDED 'AS IS' WITHOUT WARRANTY. FDR DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE. WHILE FDR TAKES REASONABLE PHYSICAL, TECHNICAL, AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, FDR DOES NOT GUARANTEE THAT THE SERVICE CANNOT BE COMPROMISED. CUSTOMER UNDERSTANDS AND AGREES THAT: (I) THE SERVICE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED; AND (II) CUSTOMER IS SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS IN ITS

USE OF THE SERVICE, AND FDR HAS NO RESPONSIBILITY OR LIABILITY FOR CUSTOMER'S UNLAWFUL USE OF THE SERVICE.

4. PAYMENT.

Customer must pay all fees as specified on the order, but if not specified, then within 30 days of receipt of an invoice. Customer is responsible for the payment of all sales, use, withholding, VAT, and other similar taxes. This agreement contemplates one or more orders for the Service, which orders are governed by the terms of this agreement.

5. MUTUAL CONFIDENTIALITY.

a. **Definition of Confidential Information.** Confidential Information *means* all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). FDR's Confidential Information includes, without limitation, the Service, its user interface design and layout, and pricing information, and the Software and Documentation (defined below). Customer's Confidential Information includes, without limitation, the Customer Data.

b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care), and it may not disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this agreement.

c. **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance notice to seek a protective order.

6. PROPERTY.

a. **Reservation of Rights.** The software, workflow processes, user interface, designs, Software and Documentation, API and other technologies provided by FDR as part of the Service are the proprietary property of FDR and its licensors, and all right, title, and interest in and to such items, including all associated intellectual property rights, remain only with FDR. Customer may not remove or modify any proprietary marking or restrictive legends in the Service or Software and Documentation. FDR reserves all rights unless expressly granted in this agreement.

b. **Restrictions.** Customer *may not*: (i) sell, resell, rent, or lease the Service or use it in a service-provider capacity; (ii) use the Service to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful, or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Service; (iv) attempt to gain unauthorized access to the Service or its related systems or networks; (v) reverse engineer the Service or the Software and Documentation; or (vi) access the Service or use the Software and Documentation to

build a competitive service or product, or copy any feature, function, or graphic for competitive purposes.

c. **Software and Documentation.** All software provided by FDR as part of the Service, and the Service documentation, sample data, marketing materials, training materials, and other materials provided through the Service or by FDR (**Software and Documentation**) are licensed to Customer as follows: FDR grants Customer a non-exclusive, non-transferable license during the term of this agreement, to use and copy such Software in accordance with the Documentation, solely in connection with the Service.

d. **Mobile Software**. Some Software licensed above may include mobile software to access the Service via a mobile device (**Mobile Software**). To use the Mobile Software, Customer must have a mobile device that is compatible with the Mobile Software, and have an active subscription to the Service. The Mobile Software is only designed to operate on supported mobile operating systems and devices. Customer may use mobile data in connection with the Mobile Software and may incur additional charges from Customer's wireless provider for these services. Customer agrees that it is solely responsible for any such charges. Customer acknowledges that FDR may from time to time issue upgraded versions of the Mobile Software, and may automatically electronically upgrade the version of the Mobile Software that Customer is using on its mobile device. Customer consents to such automatic upgrading on its mobile device.

e. **Mobile Software from Apple App Store**. The following applies to any Mobile Software Customer acquires from the Apple App Store (**App Store Software**): Customer agrees that this agreement is solely between Customer and FDR, not Apple, and that Apple has no responsibility for the App Store Software or content thereof. Customer's use of the App Store Software must comply with the App Store Terms of Service. Customer acknowledges that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Software. In the event of any failure of the App Store Software to conform to any applicable warranty, Customer may notify Apple, and Apple will refund the purchase price for the App Store Software to Customer. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by this agreement and any law applicable to FDR as provider of the App Store Software. Customer acknowledges that Apple is not responsible for addressing any claims by Customer or any third party relating to the App Store Software or Customer's possession and/or use of the App Store Software, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Software fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation; and all such claims are governed solely by this agreement and any law applicable to FDR as provider of the App Store Software. Customer acknowledges that, in the event of any third-party claim that the App Store Software or Customer's possession and use of that App Store Software infringes that third party's intellectual property rights, FDR, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this agreement. Customer and FDR acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of this agreement as relates to Customer's license of the App Store Software, and that, upon Customer's acceptance of the terms and conditions of this agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this agreement as relates to Customer's license of the App Store Software against Customer as a third-party beneficiary thereof.

f. **API.** FDR provides access to its application-programming interface (API) as part of the Service for no additional fee. Subject to the other terms of this agreement, FDR grants Customer a non-exclusive, nontransferable, terminable license to interact only with the Service as allowed by the API.

- Customer may not use the API in a manner--as reasonably determined by FDR--that exceeds reasonable request volume, constitutes excessive or abusive usage, or fails to comply with any part of the API. If any of these occur, FDR can suspend or terminate Customer's access to the API on a temporary or permanent basis.

- FDR may change or remove existing endpoints or fields in API results upon at least 30 days notice to Customer, but FDR will use commercially reasonable efforts to support the previous version of the API for at least 6 months. FDR may add new endpoints or fields in API results without prior notice to Customer.

- The API is provided on an AS IS basis. FDR has no liability to Customer as a result of any change, temporary unavailability, suspension, or termination of access to the API.

g. **Aggregated Data.** During and after the term of this agreement, FDR may use and owns all anonymized data within the Service for purposes of enhancing the Service, aggregated statistical analysis, technical support, and other business purposes.

h. **Third Party Integrated Services**. The Service integrates with third-party services (e.g. Quickbooks, Dropbox, etc.) with which Customer has a contract (**Third Party Services**), and depends on the continuing availability and access to such third-party service and any data or information interfaces. If for any reason FDR cannot access or use the applicable Third-Party Service (including without limitation, change in terms or increase in fees charged by a third-party service provider), FDR may not be able to provide all of the functions of its Service.

7. TERM AND TERMINATION.

a. **Term.** This agreement continues until all orders have expired or are terminated for material breach under **Section 7(b)**.

b. **Mutual Termination for Material Breach.** If either party is in material breach of this agreement, the other party may terminate this agreement at the end of a written 30-day notice/cure period, if the breach has not been cured.

c. **Return of Customer Data.**

   i. *Within 60 days after termination,* upon request FDR will make the Service available for Customer to export Customer Data as provided in **Section 2(a)**.

   ii. *After such 60-day period,* FDR has no obligation to maintain the Customer Data and may destroy it.

d. **Return FDR Property Upon Termination.** Upon termination of this agreement for any reason, Customer must pay FDR for any unpaid amounts and destroy or return all property of FDR. Upon FDR's request, Customer will confirm in writing its compliance with this destruction or return requirement.

e. **Suspension for Violations of Law.** FDR may temporarily suspend the Service and/or remove the applicable Customer Data if it in good faith believes that, as part of using the Service, Customer has violated a law. FDR will attempt to contact Customer in advance.

f. **Suspension for Non-Payment.** FDR may temporarily suspend the Service if Customer is more than 30 days late on any payment due pursuant to an order.

8. LIABILITY LIMIT.

a. **Exclusion of Indirect Damages. FDR is not liable for any indirect, special, incidental, or consequential damages arising out of or related to this agreement (including, without limitation, costs of delay; loss of or unauthorized access to data or information; and lost profits, revenue, or anticipated cost savings), even if it knows of the possibility or foreseeability of such damage or loss.**

b. **Total Limit on Liability. Except for FDR's indemnity obligations, FDR's total liability arising out of or related to this agreement (whether in contract, tort, or otherwise) does not exceed the amount paid by Customer within the 12-month period prior to the event that gave rise to the liability.**

9. INDEMNITY.

a. **Defense of Third-Party Claims.** FDR will defend or settle any third-party claim against Customer to the extent that such claim alleges that FDR technology used to provide the Service violates a copyright, patent, trademark, or other intellectual property right, if Customer promptly notifies FDR of the claim in writing, cooperates with FDR in the defense, and allows FDR to solely control the defense or settlement of the claim.

   i. *Costs.* FDR will pay infringement claim defense costs it incurs in defending Customer, FDR negotiated settlement amounts, and court-awarded damages.

   ii. *Process.* If such a claim appears likely, then FDR may modify the Service, procure the necessary rights, or replace it with the functional equivalent. If FDR determines that none of these are reasonably available, then FDR may terminate the Service and refund any prepaid and unused fees.

   iii. *Exclusions.* FDR has no obligation for any claim arising from: FDR's compliance with Customer's specifications; a combination of the Service with other technology or aspects where the infringement would not occur but for the combination; use of Customer Data; or technology or aspects not provided by FDR. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND FDR'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

b. **By Customer.** If a third party claims against FDR that any part of the Customer Data violates a law or infringes or violates that party's patent, copyright, or other right, Customer will defend FDR against that claim at Customer's expense and pay all costs, damages, and attorneys' fees that a court finally awards or that are included in a settlement approved by Customer, provided that FDR promptly notifies Customer of the claim in writing, cooperates with Customer in the defense, and allows Customer to solely control the defense or settlement of the claim.

10. GOVERNING LAW AND FORUM.

This agreement is governed by the laws of the State of Oklahoma (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts for Oklahoma County, Oklahoma, and Customer submits to this personal jurisdiction and venue. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in any litigation is entitled to recover its attorneys' fees and costs from the other party.

11. OTHER TERMS.

a. **Entire Agreement and Changes.** This agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not

relying on any representation concerning this subject matter, oral or written, not included in this agreement. No representation, promise, or inducement not included in this agreement is binding. No modification or waiver of any term of this agreement is effective unless both parties sign it, however this agreement may be modified through an online process provided by FDR.

b. **No Assignment.** Neither party may assign or transfer this agreement to a third party, nor delegate any duty, except that the agreement and all orders may be assigned, without the consent of the other party, as part of a merger or sale of all or substantially all the businesses or assets of a party.

c. **Independent Contractors.** The parties are independent contractors with respect to each other.

d. **Enforceability and Force Majeure.** If any term of this agreement is invalid or unenforceable, the other terms remain in effect. Except for the payment of monies, neither party is liable for events beyond its reasonable control, including, without limitation, force majeure events.

e. **Money Damages Insufficient.** Any breach by a party of this agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach of this agreement.

f. **No Additional Terms.** FDR rejects additional or conflicting terms of a Customer's form-purchasing document.

g. **Order of Precedence.** If there is an inconsistency between this agreement and an order, the order prevails.

h. **Survival of Terms.** Any terms, that by their nature survive termination of this agreement for a party to assert its rights and receive the protections of this agreement, will survive (including, without limitation, the confidentiality terms). The UN Convention on Contracts for the International Sale of Goods does not apply.

i. **Feedback.** If Customer provides feedback or suggestions about the Service, then FDR (and those it allows to use its technology) may use such information without obligation to Customer.

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