

**IN THE COURT OF COMMON PLEAS FOR  
LUZERNE COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA,  
BY ATTORNEY GENERAL  
MICHELLE A. HENRY,**

Petitioner,

v.

**SUNDANCE VACATIONS, INC.,**

Respondent.

**CIVIL DIVISION**

**No.**

**ASSURANCE OF VOLUNTARY COMPLIANCE**

**AND NOW**, comes the Commonwealth of Pennsylvania, by Attorney General Michelle A. Henry (“Commonwealth” or “Petitioner”), which submits this Assurance of Voluntary Compliance (“Assurance”) pursuant to the provisions of the *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1, *et seq.* (“Consumer Protection Law”) and states the following:

**WHEREAS**, Petitioner is the Commonwealth of Pennsylvania, Office of Attorney General, acting by Attorney General Michelle A. Henry, with offices located at 1600 Arch Street, Suite 300, Philadelphia, PA 19103 and 15<sup>th</sup> Floor, Strawberry Square, Harrisburg, PA 17120;

**WHEREAS**, Respondent Sundance Vacations, Inc. is a business corporation organized under the laws of the Commonwealth of Pennsylvania with a principal place of business at 264 Highland Park Boulevard, Wilkes-Barre, PA 18702-6768;

**WHEREAS**, Sundance is a hospitality corporation that engages in trade and commerce within the Commonwealth of Pennsylvania, by advertising, marketing, offering, selling, and/or providing a vacation services program operating under the name “Sundance Vacations”;

## DEFINITIONS

**WHEREAS**, for the limited purposes of this Assurance, the following definitions shall apply:

- A. “Annual Service Charge” shall mean the annual servicing fee (and/or any other recurring fee by whatever name denominated) that a Sundance Client is required to pay to maintain an active Vacation Package, as indicated in each Sundance Purchase Agreement.
- B. “Base Purchase Price” shall mean the purchase price for a Vacation Package.
- C. “Base Vacation Week Rate” shall mean the Base Purchase Price of a Vacation Package divided by the number of Vacation Weeks available for use as part of the Vacation Package.
- D. “Clear and Conspicuous” or “Clearly and Conspicuously” shall mean a statement that—regardless of the medium in which it is made—is readily understandable and presented in such size, color, contrast, duration, and location compared to the other information with which it is presented that renders it readily apparent, readable, and understandable. An audio statement or disclosure shall be delivered in a volume and cadence sufficient for a Sundance Customer to hear and understand the entire statement or disclosure. A statement may not contradict any other information with which it is presented.
- E. “Complaint” shall mean any communication that is received by Sundance, whether directly or through the Commonwealth or the Better Business Bureau (BBB), from a Sundance Customer expressing genuine dissatisfaction with any aspect of the advertising, marketing, offering, sale, provision, and/or characteristics of a Vacation Package.

- F. “Effective Date” shall mean the date that this Assurance is filed in the Luzerne County Court of Common Pleas.
- G. “Estimated Lodging Taxes” shall mean the average lodging (or similar occupancy) taxes paid by Sundance Clients during the prior calendar year to book a Vacation Week using the Sundance Booking System.
- H. “Estimated Reservation Rate” shall mean the average Reservation Rate paid by Sundance Clients during the prior calendar year to book a Vacation Week using the Sundance Booking System.
- I. “Including” shall mean “including, but not limited to”.
- J. “Lodging Taxes” shall mean lodging (or similar occupancy) taxes that a Sundance Client is required to pay to book a specific Vacation Week using the Sundance Booking System.
- K. “Modification Communication” shall mean any communication between Sundance and a Sundance Client, made within Pennsylvania and/or made to a Sundance Client that is a then-current resident of Pennsylvania, in which a Sales Representative describes or offers a Modified Purchase Agreement to the Sundance Client.
- L. “Modified Purchase Agreement” shall mean a Sundance Purchase Agreement that Sundance and the related Sundance Client mutually agreed to modify to reflect a reduction in the number of Vacation Weeks, the Base Purchase Price, and/or the Base Vacation Week Rate that was purchased pursuant to such Sundance Purchase Agreement.

- M. "Parties" shall mean the Commonwealth and Sundance, collectively, or individually, as a "Party."
- N. "Reservation Rate" (a/k/a "Booking Fee") shall mean the fee a Sundance Client is required to pay to book a specific Vacation Week using the Sundance Booking System.
- O. "Sales Communication" shall mean any communication in which a Sales Representative describes, markets or offers to sell a Vacation Package to a Sundance Prospect within Pennsylvania and/or to a Sundance Prospect that is a then-current resident of Pennsylvania, including during a Sales Presentation.
- P. "Sales Presentation" shall mean a presentation conducted by Sundance in Pennsylvania involving the description, offer, and sale of a Vacation Package to one or more Sundance Prospects, which, as of the Effective Date, sequentially consists of (i) a "podium" presentation to a group of Sundance Prospects in which a Sales Representative describes and introduces a Vacation Package, with an accompanying slideshow; (ii) an individualized sales presentation for each Sundance Prospect during which the Vacation Package is offered for sale; and (iii) the provision, review, and execution of all Sundance Purchase Documents.
- Q. "Sales Representative" shall mean any agent, employee, or representative of Sundance engaged in the description, offer, and/or sale of a Vacation Package on behalf of Sundance to a Sundance Prospect within Pennsylvania and/or to a Sundance Prospect that is a then-current resident of Pennsylvania.
- R. "Sundance" shall mean Sundance Vacations, Inc., and all of its officers, directors, shareholders, partners, agents, representatives, employees, successors, subsidiaries,

parents, or assigns, and all other persons or entities acting on their behalf, jointly or individually, directly or indirectly, or through any corporate or business device.

- S. “Sundance Client” shall mean any individual who (i) purchased or purchases a Vacation Package from Sundance within Pennsylvania, and/or (ii) is a then-current resident of Pennsylvania who purchased or purchases a Vacation Package from Sundance within or outside Pennsylvania, whether prior to or after the Effective Date. Sundance Client shall not include any employee or agent of Sundance.
- T. “Sundance Customer” shall mean and includes each Sundance Client and Sundance Prospect.
- U. “Sundance Prospect” shall mean any individual (other than a Sundance Client) to whom a Sales Communication is made within Pennsylvania and any then-current resident of Pennsylvania to whom a Sales Communication is made within or outside Pennsylvania.
- V. “Sundance Purchase Agreement” shall mean any contract or agreement by which a Sundance Prospect purchases a Vacation Package from Sundance and thereby becomes a Sundance Client.
- W. “Sundance Purchase Documents” shall mean and includes a Sundance Purchase Agreement, and all other documents Sundance provides to a Sundance Customer in connection with their purchase of a Vacation Package including, if applicable, a federal Truth in Lending Disclosure Statement.
- X. “Sundance Vacations” shall mean the vacation services program operating under the name “Sundance Vacations,” which is owned, administered, and provided by Sundance, as well as any other vacation services program as may be owned,

administered, or provided by Sundance under a different business entity or name, but only to the extent such vacation services program(s) is/are offered or sold by Sundance within Pennsylvania and/or to a then-current resident of Pennsylvania within or outside Pennsylvania.

- Y. “Sundance Vacations Booking System” or “Sundance Booking System” shall mean the Application Program Interface (API), website, or other method, arrangement, or procedure by which Sundance Customers can view, access, and book Vacation Weeks and other vacation services and benefits of a Vacation Package.
- Z. “Total Vacation Week Price” shall mean the total price for a Vacation Week booking based on a representative total amount to be paid for the booking of a given Vacation Week, which shall be calculated as the sum of: (i) the applicable Base Vacation Week Rate; (ii) the Estimated Reservation Rate or Reservation Rate (whichever is applicable); (iii) the Estimated Lodging Taxes or Lodging Taxes (whichever is applicable); (iv) the then-current Annual Service Charge; and (v) any other mandatory fees or charges, if known.
- AA. “Vacation Package” shall mean a collection of Vacation Weeks and other travel services offered by Sundance and/or purchased by a Sundance Prospect from Sundance through a Sundance Purchase Agreement.
- BB. “Vacation Week” shall mean an individual vacation accommodation offered by Sundance and/or eligible to be booked by a Sundance Client through the Sundance Booking System, as defined in a Sundance Purchase Agreement.

## BACKGROUND

WHEREAS, based upon its investigation, the Commonwealth believes that a typical consumer transaction with Sundance progresses as follows:

- A. Sundance engages in lead-generation practices by inviting Sundance Prospects to participate in promotional drawings at venues such as concerts and sporting events;
- B. After obtaining a Sundance Prospect's consent to be contacted via entry slips for the promotional drawings, Sundance subsequently contacts the Sundance Prospect by phone and offers a complimentary gift or incentive in connection with an invitation to attend an in-person Sales Presentation regarding Sundance Vacations;
- C. Sundance conducts in-person Sales Presentations at multiple sales offices throughout Pennsylvania, during which Sales Representatives make representations to Sundance Prospects regarding Sundance Vacations;
- D. Sundance initiates each in-person Sales Presentation with a slide presentation for a group of Sundance Prospects, during which a Sales Representative generally describes Sundance Vacations and the Vacation Package. Sundance's product—a Vacation Package which, per Sundance's form contract provides consumers with "the right to the use of [a certain number of] Vacation Weeks"—is framed by Sales Representatives as a way for consumers to purchase vacations for an up-front wholesale price. The terms and conditions of Sundance's contract also explain that consumers will pay Sundance an "Annual Service Charge" each year regardless of usage (in the approximate amount of \$580 for new Sundance Clients, as of the Effective Date), plus a variable reservation rate historically ranging between \$199 and \$999 to book a Vacation Week, as well as certain accommodation-specific fees and taxes;

- E. Sundance continues each in-person Sales Presentation by bringing each Sales Prospect to a separate area at which the Sales Prospect interacts one-on-one with a Sales Representative;
- F. In the course of these post-group presentation interactions, Sales Representatives present a standard opening offer, referred to as Sundance’s “Charter” package—framed as a promotional, same-day offer for a Vacation Package—which generally purports to provide Sundance Prospects “30 Vacation Weeks for \$15,000,” not including the additional fees and charges described in Subparagraph D above;
- G. If the Sundance Prospect does not want to purchase the entire Charter Package, the Sales Representatives will attempt to customize the Vacation Package to suit their specific needs, which may involve a fewer number of Vacations Weeks for a proportionately lower purchase price and a lower up-front payment; and
- H. If the Sundance Prospect agrees to the sale, the Sundance Prospect typically finances the purchase with Sundance (with account servicing provided by its affiliate, Tri State Financial, Inc.), paying an initial down payment and financing the remaining balance over a longer time period, with interest.

**WHEREAS**, based upon its review of Sundance’s business practices (the “Review”), the Commonwealth alleges that Sundance has engaged in conduct that constitutes unlawful, unfair, and/or deceptive trade practices prohibited by Sections 201-2 and 201-3 of the Consumer Protection Law, by:

- A. misrepresenting to consumers the overall price of its Vacation Packages, as well as the cost to book individual Vacation Weeks through its Sundance Booking System;



- B. misrepresenting to consumers the value of its vacation services and the affordability of its product relative to similar vacations available via the retail market;
- C. misrepresenting to consumers the nature and characteristics of accommodations available through its Sundance Booking System;
- D. failing to provide consumers an adequate opportunity to review written materials and otherwise engaging in high-pressure sales tactics;
- E. making false or misleading statements of fact concerning special, promotional, or otherwise limited-time offers;
- F. failing to fully disclose Sundance's policies regarding canceling consumer contracts;
- G. misrepresenting to consumers the extent to which consumers, by paying up-front for Vacation Weeks through Sundance, would be protected from rising costs due to inflation;
- H. misrepresenting its affiliation with, and sponsorship by, various third-party entities; and
- I. misrepresenting the characteristics of sweepstakes prizes to consumers (collectively, the "Covered Conduct");

**WHEREAS**, Sundance contends that it has fully cooperated with the Review and denies the Commonwealth's allegations and any implication that it has violated any law in connection with those allegations or otherwise. To the contrary, Sundance maintains that it did not and does not misrepresent any aspect of a Vacation Package and, at all times, clearly disclosed and discloses all material terms, conditions, costs, fees, prices, and other expenses related to its advertising, marketing, offering, selling, and provision of Vacation Packages;

**WHEREAS**, the Parties seek to conclude the Review through Sundance's agreement to, and the Commonwealth's acceptance of, this Assurance pursuant to Section 201-5 of the Consumer Protection Law, in lieu of commencing statutory proceedings under Section 201-4 of the Consumer Protection Law, 73 P.S. §§ 201-4 and 201-5;

**WHEREAS**, nothing contained herein may be taken as or construed to be an admission or concession of any violation of law or regulation, or of any other matter of fact or law, or of any liability or wrongdoing and, under Section 201-5 of the Consumer Protection Law, this Assurance may not be considered an admission of a violation for any purpose, 73 P.S. § 201-5; and

**WHEREAS**, Sundance desires to comply with the laws of the Commonwealth of Pennsylvania and to undertake the additional assurances set forth herein.

#### **ASSURANCE TERMS**

**WHEREAS**, the above recitals are true and correct and are incorporated herein by reference.

#### **I. INJUNCTIVE AND AFFIRMATIVE RELIEF**

A. The provisions of this Assurance apply to Sundance and its officers, directors, shareholders, partners, agents, representatives, employees, successors, subsidiaries, parents, or assigns, and all other persons or entities acting on their behalf, jointly or individually, directly or indirectly, or through any corporate or business device, in connection with the advertising, marketing, offering, sale, and provision of Vacation Packages.

B. Sundance shall fully comply with and shall not violate any provisions of the Consumer Protection Law, including any amendments thereto.

C. In any Sales Communication made: (i) orally during the course of a “podium” presentation or equivalent component of a Sales Presentation; or (ii) in writing, including presentation slides or other visual aids:

1. Each time that Sundance presents, depicts, describes, or otherwise mentions the cost or price of a Vacation Package, including the Base Purchase Price, Sundance shall Clearly and Conspicuously:
  - a. Disclose that such cost or price represents the initial purchase price for a Vacation Package and does not include the Annual Service Charge or other additional fees and charges necessary to purchase or use the Vacation Package; and
  - b. Contemporaneously disclose the Total Vacation Week Price.
2. Each time that Sundance presents, depicts, describes, or otherwise mentions the cost or price of a Vacation Week, including the Base Vacation Week Rate, shall Clearly and Conspicuously:
  - a. Disclose that such cost or price is the initial purchase price for a Vacation Week and does not include additional fees and charges necessary to book or use the Vacation Week; and
  - b. Contemporaneously disclose the Total Vacation Week Price.

D. In any written component of a Sales Communication or Modification Communication presenting, depicting, describing, or otherwise mentioning the cost or price of a Vacation Week, including any individual presentation slide or other visual aid, the Total Vacation Week Price shall be the most prominently displayed price.

E. Nothing contained in this Assurance shall prevent Sundance from providing only the Total Vacation Week Price in any advertisement, offer, or Sales Communication or Modification Communication or separately stating or disclosing in such advertisement, offer, or Sales Communication or Modification Communication that the components of the Total Vacation Week Price are included in the displayed total price(s).

F. Whenever disclosing the Total Vacation Week Price to a Sundance Prospect, either orally or in writing, Sundance shall Clearly and Conspicuously disclose, wherever appropriate, that such Total Vacation Week Price is the estimated total amount the Sundance Prospect would pay to book a single Vacation Week.

G. In addition to the provisions of Section I., Paragraphs C. through F., herein above, for a period of five (5) years after the Effective Date, Sundance shall:

1. Clearly and Conspicuously disclose, orally and in writing using a presentation slide or other visual aid, the Total Vacation Week Price at least once in each of the following portions of the Sales Presentation: (i) during the “podium” presentation to a group of Sundance Prospects, or equivalent component of the Sales Presentation; (ii) at the conclusion of the “podium” presentation or at the outset of the individualized sales presentation, or equivalent components of the Sales Presentation, prior to offering the Vacation Package for sale; and (iii) at the conclusion of the individualized sales presentation, or equivalent component of the Sales Presentation, prior to the provision of Sundance Purchase Documents.
2. In any Modification Communication in which Sundance presents, depicts, describes, or otherwise mentions the cost or price of a Vacation Week and/or

Vacation Package, including the Base Vacation Week Rate and/or Base Purchase Price, Clearly and Conspicuously disclose that such price is the initial purchase price for a Vacation Week or Vacation Package and does not include additional fees and charges necessary to use the Vacation Week or maintain the Vacation Package.

H. Sundance shall Clearly and Conspicuously inform each Sundance Prospect and/or group of Sundance Prospects during the Sales Presentation (i) of the obligation to pay the Annual Service Charge to maintain an active Vacation Package, and (ii) that certain vacation properties may separately impose mandatory resort fees, taxes, and other fees or charges that must be paid in connection with the booking of a Vacation Week or the use of other vacation services or benefits available through a Vacation Package.

1. In any Sales Communication that presents, depicts, or describes a price comparison between a Vacation Week booking and a booking through a third-party, Sundance shall include in its price the Total Vacation Week Price for the booking, plus all mandatory resort fees, taxes, and other fees or charges in connection with the booking. Sundance shall ensure that any such comparisons present, depict, or describe identical destinations, accommodations, and travel dates, and that the third-party price reflects a price available to the general public within the thirty (30) days immediately preceding the presentation, depiction, or description.

I. Sundance shall accurately represent Sundance's inventory of available vacation accommodations to Sundance Customers including, by Clearly and Conspicuously disclosing

when a destination depicted in a Sales Communication is not currently available or is only available on a limited basis.

I. Sundance may comply with this provision by displaying the contemporaneous availability of the depicted destination in the Booking System during the related Sales Communication.

J. Sundance shall accurately describe any discounts or time limitations relating to the price and availability of its Vacation Package. Specifically, Sundance shall not make false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

K. Sundance shall provide Sundance Prospects with sufficient time to review written materials and ask any questions about the Sundance Purchase Agreement and other Sundance Purchase Documents before signing them.

L. To the extent Sundance offers an incentive, gift, benefit, or other consideration to Sundance Prospects in exchange for participating in a Sales Presentation, Sundance shall (i) Clearly and Conspicuously disclose all material costs, terms, and conditions required to receive and utilize the incentive, gift, benefit, or other consideration, and (ii) not improperly withhold any offered incentive, gift, benefit, or other consideration.

M. Sundance shall provide each Sundance Prospect who purchases a Vacation Package within Pennsylvania with written notice of the non-waivable right to cancel the purchase of his or her Vacation Package at any time prior to midnight of the third business day after the date the Sundance Prospect executes their Sundance Purchase Agreement and receive a full refund of all sums otherwise paid to Sundance within fifteen business days of such cancellation, minus the actual and reasonable cost of processing the refund, including credit card fees if applicable, and

minus any payments made for any Sundance travel product or service actually used by the Sundance Prospect prior to the date of cancellation.

1. Sundance may comply with this Paragraph by providing the Sundance Prospect with a written “Notice of Cancellation” which contains the form and content required by the Federal Trade Commission’s (FTC’s) Cooling-Off Rule (*i.e.*, 16 CFR Part 429). Nothing in this Assurance shall require Sundance to offer or provide any cancellation, rescission, refund, forgiveness, or any other accommodation to any Sundance Prospect who does not timely and properly exercise the right to cancel provided for in this Paragraph.

N. Sundance shall implement and maintain enhanced measures reasonably necessary to oversee and train all Sales Representatives and to properly monitor the performance of their duties so that they are compliant with this Assurance and all applicable laws, including the Consumer Protection Law. Specifically:

1. Sundance shall, within forty-five (45) days after the Effective Date, adopt and implement an enhancement of its currently existing framework of written quality assurance and compliance management system standards, policies, systems, and procedures (the “Enhanced Q.A. Policy”) to facilitate Sundance’s continuing compliance with this Assurance and the Consumer Protection Law.
2. The Enhanced Q.A. Policy shall provide for one or more “Quality Assurance Officers” who shall remain (i) responsible for overseeing the

implementation and enforcement of the Enhanced Q.A. Policy, and  
(ii) independent from Sundance's sales and marketing departments.

3. The Enhanced Q.A. Policy shall specifically include policies and procedures designed to (i) monitor Sales Representative activities for consistency and compliance with this Assurance; (ii) utilize information received from any Complaints from Sundance Customers to improve quality assurance training; (iii) utilize information received through the Enhanced Q.A. Policy to improve disclosures to Sundance Customers; (iv) promptly identify and remedy any material misrepresentations made by Sales Representatives to Sundance Customers, in accordance with Paragraph N.4, below; and (v) discipline and/or terminate any Sales Representative who fails to comply with the Enhanced Q.A. Policy or this Assurance of Voluntary Compliance on more than two (2) occasions within an eighteen (18) month period.
4. Sundance shall take reasonable steps to identify misrepresentations made to Sundance Customers by Sales Representatives after the Effective Date. Within three (3) days after a material misrepresentation is identified, Sundance shall affirmatively contact the Sundance Customer to whom the misrepresentation was made and who purchased a Vacation Package. Sundance shall correct the misrepresentation by providing accurate information and shall offer the consumer the option to cancel their Vacation Package and receive a full refund of all monies paid to Sundance.



O. For the next three (3) years following the Effective Date, Sundance shall retain the following business records related to sales of Vacation Packages made after the Effective Date to Sundance Prospects within Pennsylvania and to Sundance Prospects who are then-current residents of Pennsylvania and shall make the same available to the Commonwealth within fourteen (14) days after receipt of its written request:

1. Audio recordings of all “podium” presentation portions (or equivalent components of the Sales Presentation) of any Sales Presentations that Sundance conducted in the immediately preceding twelve (12) months;
2. Audio recordings of the individualized portions of the Sales Presentations during which Sundance: (i) orally discloses the Total Vacation Week Price and the corresponding presentation slide or other visual aid in accordance with Section I, Paragraph G; and (ii) provides all Sundance Purchase Documents for review and execution by the Sundance Prospect, for all sales of Vacation Packages to Sundance Prospects that took place in the immediately preceding twelve (12) months;
3. Sundance shall have obtained each Sundance Prospect’s consent prior to commencing the recordings described herein;
4. Copies of all sales scripts, training materials, advertisements, and other marketing materials utilized by Sundance (and/or by any third party on Sundance’s behalf) in connection with Sundance’s offer of Vacation Packages to Sundance Prospects;
5. Copies of the Enhanced Q.A. Policy and any other policies, procedures, standards, and technology utilized by Sundance that are designed to further

and/or monitor Sundance's compliance with the Enhanced Q.A. Policy and this Assurance; and

6. Copies of any Complaints (whether received by Sundance directly or through a third party), and any responses to those Complaints.

P. Sundance, within one (1) business day after the Effective Date, shall send a written notice (a "Cancellation Notice"), via both regular U.S. mail and email, to each Sundance Client in the following categories (collectively, a "Cancellation Eligible Client"), offering a one-time opportunity to cancel their Sundance Purchase Agreement (or Modified Purchase Agreement, wherever appropriate), forfeit all remaining Vacation Weeks and other services of their Vacation Package, and receive forgiveness of any remaining purchase price amounts (and/or other outstanding financial obligation) due and owing to Sundance, Tri State Financial, Inc., or any other Sundance affiliate:

1. Any Sundance Client who (i) entered into a Sundance Purchase Agreement between January 1, 2019 and the Effective Date; (ii) has filed a *bona fide* Complaint that the Commonwealth identified to Sundance in writing prior to the Effective Date; and (iii) whose Sundance Purchase Agreement or Modified Purchase Agreement is still in effect as of the Effective Date; and/or
2. Any Sundance Client who: (i) entered into a Sundance Purchase Agreement between January 1, 2019 and April 30, 2024; (ii) within ten (10) days of entering into the Sundance Purchase Agreement, entered into a Modified Purchase Agreement which is active as of the Effective Date; and (iii) has

booked one (1) or fewer Vacation Weeks or Bonus Weeks using the Sundance Booking System.

3. The language and method of distribution of the Cancellation Notice will be mutually agreed upon by Sundance and the Commonwealth and, *inter alia*, will provide that the Cancellation Eligible Clients will have thirty (30) days from their receipt of the Cancellation Notice to notify Sundance in writing, including electronically, of their election to cancel their Sundance account.
  - a. Any timely written response (whether paper, electronic, or otherwise) received by Sundance from a Cancellation Eligible Client clearly indicating their election to cancel shall entitle the Client to cancel their Sundance account under this Paragraph P. For clarity, a response sent by U.S. mail must only be postmarked by the 30-day deadline to be deemed timely.
  - b. Sundance shall send the Cancellation Notice by U.S. Mail in a clearly labelled Sundance envelope that contains only the Cancellation Notice and no other materials or information. The outside of the envelope shall indicate that a “time sensitive offer is enclosed.”
4. Within forty-five (45) days after the Effective Date, if Sundance is unable to successfully transmit the Cancellation Notice by email or U.S. Mail to any Cancellation Eligible Client, Sundance shall make commercially reasonable efforts to (i) verify such Cancellation Eligible Client’s contact information, and (ii) effectuate his or her receipt of the Cancellation Notice.

5. If any Sundance Client contacts the Commonwealth to inquire about their eligibility to cancel their Sundance account under this Paragraph P, the Commonwealth will notify Sundance within three (3) business days of the Commonwealth's receipt of such inquiry, and Sundance will provide the Commonwealth with information sufficient to determine the Sundance Client's eligibility status within one (1) business day of Sundance's receipt of the Commonwealth's request for such information.
6. Nothing in this Assurance shall require Sundance to offer or provide any cancellation, rescission, refund, forgiveness, or any other accommodation to any Sundance Clients other than as specifically set forth herein.
7. Nothing in this Assurance prohibits Sundance from offering or providing any additional cancellation, rescission, refund, forgiveness, or any other accommodation to any Sundance Clients, as Sundance may determine in its sole and absolute discretion.

Q. Nothing in this Assurance or otherwise shall prohibit, restrict, or prevent Sundance from continuing to offer and provide fulfillment and support services and additional vacation programs and products to, and bill and collect all applicable fees due and owing from, Sundance Clients who purchased a Vacation Package prior to or after the Effective Date.

R. Nothing in this Assurance or otherwise shall prohibit or prevent Sundance from (i) advertising, marketing, offering, and selling Vacation Packages to Sundance Prospects in accordance with the terms of this Assurance and the Consumer Protection Law or (ii) engaging in any other lawful business in accordance with all applicable Pennsylvania laws.

## II. MONETARY RELIEF

A. Costs. Sundance hereby agrees to pay **ONE HUNDRED THOUSAND Dollars (\$100,000)** to the Commonwealth of Pennsylvania, Office of Attorney General, for the costs incurred in connection with its Review (“Review Costs”).

B. Commonwealth Payment. Sundance hereby agrees to pay **FIVE HUNDRED THOUSAND Dollars (\$500,000)** to the Commonwealth of Pennsylvania, Office of Attorney General (the “Commonwealth Payment”), which shall provide a fixed amount to compensate any Sundance Client (including, without limitation, any Cancellation Eligible Client) who proves to the reasonable satisfaction of the Commonwealth that they have a *bona fide* claim for compensation.

1. The Commonwealth Payment shall be administered by the Commonwealth, at its sole discretion, and distributed by the Commonwealth, at its sole discretion, in accordance with the provisions of this Assurance.
2. After the Commonwealth has completed the distribution of compensation, including making reasonable attempts to contact payees of uncashed checks and waiting a reasonable period not less than ninety (90) calendar days, all uncashed checks may be voided. Once such uncashed checks have been voided, any remaining funds in the Commonwealth Payment account (including any accrued interest) will be distributed to the Commonwealth to be deposited in an interest-bearing account from which both principal and interest shall be expended for public protection and education purposes.
3. This Assurance does not create or impose any liability or obligation on the part of Sundance to any Sundance Client or any other person or entity who claims to be entitled to receive compensation out of the Commonwealth

Payment or otherwise. The Commonwealth Payment does not constitute a fine, forfeiture, penalty, sanction or payment in lieu thereof.

C. Payment Terms.

1. Sundance shall pay the Review Costs to the Commonwealth within three (3) days of Sundance executing this Assurance.
2. Sundance shall pay the Commonwealth Payment to the Commonwealth in accordance with the following:
  - a. Sundance shall pay Two Hundred Fifty Thousand Dollars (\$250,000) within thirty (30) days of the Effective Date.
  - b. Sundance shall pay the remaining Two Hundred Fifty Thousand Dollars (\$250,000) within sixty (60) days of the Effective Date.
3. Payments shall be made by wire transfer to an account designated by the Commonwealth or by certified check, cashier's check, or money order, made payable to the Commonwealth of Pennsylvania, and forwarded to James S. Wise, Senior Deputy Attorney General, Pennsylvania Office of Attorney General, Bureau of Consumer Protection, 1600 Arch Street, Third Floor, Philadelphia, PA 19103.

**III. RELEASE**

A. By the Parties' execution of this Assurance, and the Commonwealth's receipt of the payments set forth below, the Commonwealth terminates its Review, issues the release set forth in this Paragraph (the "Release") and discharges, to the fullest extent permitted by law, Sundance and its past, present, and future officers, directors, shareholders, partners, employees, agents, contractors, representatives, suppliers, attorneys, parents or controlling entities, affiliates, subsidiaries, and their predecessors, successors, and assigns (collectively, the "Released

Parties”), from any and all claims, civil causes of action, claims, compensation, demands, damages, costs, attorneys’ fees, restitution, penalties, fines, actions, and other causes of action arising from the Commonwealth’s Review, including the Covered Conduct, which the Commonwealth asserted or could have asserted and/or brought before or as of the Effective Date, against the Released Parties under the Consumer Protection Law (collectively, the “Released Claims”). Nothing contained in this Paragraph shall be construed to limit the ability of the Commonwealth to enforce Sundance’s obligations under this Assurance. Notwithstanding any term of this Assurance, any and all of the following forms of liability are specifically reserved and excluded from the Release contained herein as to any entity or person:

1. Any criminal liability that any person or entity, including Sundance, has or may have to the Commonwealth.
2. Any civil or administrative liability that any person or entity, including Sundance, has or may have to the Commonwealth under any statute, regulation or rule not covered by the Release set forth above, including any and all of the following claims:
  - a. Commonwealth or federal antitrust violations;
  - b. Commonwealth or federal securities violations; and
  - c. Commonwealth or federal tax claims.

#### **IV. MISCELLANEOUS TERMS**

A. Meet and confer. Within twenty (20) days of the Effective Date, Sundance shall designate a person or persons whom the Commonwealth may contact regarding any concerns about disclosures or representations regarding the advertising, marketing, offering, and sale of Vacation Packages under and during the term of this Assurance. Consistent with Sundance’s legal obligations to safeguard the confidential or proprietary information of consumers and third parties,

Sundance shall respond to any information or requests from the Commonwealth within a reasonable period of time and shall cooperate in good faith with the Commonwealth, including by investigating any reports of alleged misleading representations regarding the advertising, marketing, offering, and sale of Vacation Packages that it receives from the Commonwealth.

1. If the Commonwealth determines that Sundance has failed to comply with any of the terms of this Assurance, and if in the Commonwealth's sole discretion the failure to comply does not threaten the health or safety of the citizens of the Commonwealth and/or does not create an emergency requiring immediate action, the Commonwealth exercising such discretion shall notify Sundance in writing of such failure to comply and Sundance shall then have thirty (30) days from receipt of such written notice to provide a good faith written response to the Commonwealth. The response shall include, at a minimum, either:
  - a. a statement explaining why Sundance believes that it is in full compliance with this Assurance; or
  - b. a detailed explanation of how the alleged violation(s) occurred, and either:
    - i. a statement that the alleged violation has been addressed and how; or
    - ii. a statement that the alleged violation cannot be reasonably addressed within thirty (30) days from receipt of the notice but that Sundance: has begun to take corrective action to address the alleged violation; is pursuing such corrective



action with reasonable diligence and has provided the Commonwealth with a detailed and reasonable timetable for addressing the alleged violation.

2. Nothing herein shall prevent the Commonwealth from agreeing in writing to provide Sundance with additional time beyond the thirty (30) day period to respond to the notice provided pursuant to this Paragraph.
3. Subject to the foregoing provisions of this Paragraph, nothing herein shall be construed to exonerate any failure to comply with any provision of this Assurance after the Effective Date, or to compromise the authority of the Commonwealth to initiate a proceeding for any failure to comply with this Assurance.

B. The Court of Common Pleas of Luzerne County, Pennsylvania shall maintain jurisdiction over the subject matter of this Assurance and over Sundance for the purpose of enforcing this Assurance.

C. No Admission or Finding of Wrongdoing. This Assurance, including the payment of monetary relief set forth above, which does not constitute or imply any admission or finding of wrongdoing by Sundance, is a compromised settlement of disputed issues and shall not be deemed or construed as: (i) an admission of the truth or falsity of any claims or allegations made herein or any potential claims; (ii) an admission by Sundance that it has violated or breached any law, statute, regulation, term, provision, covenant or obligation of any agreement, decision, or other source of law; or (iii) an acknowledgment or admission by Sundance of any duty, obligation, fault, or liability whatsoever to any other party or to any third party. This Assurance does not constitute a finding of law or fact, or any evidence supporting any such finding, by any court or agency that

Sundance has engaged in any act or practice declared unlawful by any laws, rules, or regulations of the Commonwealth. This Assurance does not constitute an adverse administrative order or a public reprimand. Sundance denies any liability or violation of law and enters into this Assurance without any admission of liability. To the extent that Sundance makes changes to its advertising or business acts, practices, policies, procedures, or materials to achieve or to facilitate conformance with this Assurance or in furtherance of its goals, such changes shall not be taken as or construed to be an admission by Sundance of any kind, and shall not constitute or be used by any person as evidence supporting the Commonwealth's allegations that Sundance violated any law, rule or regulation, or liability or wrongdoing, including any allegation that that any of Sundance's advertising or business acts, practices, policies, procedures, or materials are or have been in violation of any law, rule or regulation. It is the intent of the Parties that neither the existence nor the terms of this Assurance shall constitute or be used as evidence or precedent in any action or proceeding by any person, except by a Party to this Assurance in an action regarding enforcement of this Assurance or, without limitation, any action by a Released Party or involving a Released Claim to support a defense of *res judicata*, collateral estoppel, compromise and settlement, accord and satisfaction, release or other theory of claim preclusion, issue preclusion, or other legal or equitable defenses.

D. This Assurance does not supplant or in any way restrict Sundance's legal rights and ability to demand formal legal process to protect its customers' privacy rights and/or to protect Sundance from potential liability for disclosing or sharing such information without legal process. In all other respects, Sundance hereby accepts and expressly waives any defect in connection with such service of process issued to Sundance by the Commonwealth related to this Assurance.

E. This Assurance is entered into and accepted without trial or adjudication of any issue of fact or law or finding of liability of any kind, and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed upon it by this Assurance, and Sundance consents to its entry without further notice.

F. This Assurance is the result of good faith negotiations, and the Parties agree that its terms are fair and reasonable and, for purposes of interpretation, it shall be deemed to have been drafted mutually by the Parties.

G. This Assurance represents the full, complete, and final terms of the settlement, resolution, and conclusion of the above-captioned matter. In any future review, investigation, action, or proceeding, no prior version of this Assurance or any of its terms that were not entered by a Court or agreed to in writing by the Parties may be introduced for any purpose whatsoever.

H. To seek modification of this Assurance to account for changes in technology or in the marketplace, or for any other reason, Sundance may send a written request for modification with a detailed explanation to the Commonwealth. The Commonwealth shall give such written request reasonable consideration and shall agree to meet and confer in good faith with Sundance within thirty (30) days of receiving such request. A resolution of such meet and confer efforts may include, but is not limited to, equitable modifications or suspension of certain terms in this Assurance. At the conclusion of this thirty (30) day period, the Parties reserve all rights to pursue any legal or equitable remedies that may be available to them. The Commonwealth acknowledges that it is not its intent to cause Sundance to be at a material economic disadvantage as compared with other industry members whose business practices do not conform to the Commonwealth's expectations under the terms of this Assurance.

1. No waiver, modification, or amendment of the terms of this Assurance shall be valid or binding unless made in writing, signed by all Parties, and then only to the extent set forth in such written waiver, modification, or amendment. To the extent that any law requires a waiver, modification, or amendment of this Assurance to be approved and entered by a Court, the Commonwealth and Sundance agree to use their best efforts to obtain Court approval.
2. While the Parties are seeking Court approval, if required, the Commonwealth shall not take any action to enforce the terms of the particular provision for which a modification is being requested, other than for prior violations of said terms, with respect to such waiver, modification, or amendment. In the event that Court approval and entry of a waiver, modification or amendment of this Assurance is required under applicable law and the Court does not approve such waiver, modification or amendment, said waiver, modification, or amendment shall be null and void as to the Commonwealth; provided, however, that nothing herein shall be construed to prohibit or otherwise restrict any Party's right to seek reconsideration or review of, or to appeal a decision not to approve, such waiver, modification, or amendment.
3. Nothing in this Paragraph shall limit the Commonwealth from pursuing any action against Sundance for failure to comply with this Assurance, nor shall it release liability for any violations prior to or during the waiver, modification, or amendment period.

I. This Assurance may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

J. All notices sent pursuant to this Assurance should be sent via first class and electronic mail as follows unless a different address is specified in writing by the Party changing such address:

1. For Sundance:

Sundance Vacations, Inc.  
Attention: John Dowd, President  
264 Highland Park Blvd  
Wilkes-Barre, PA 18702  
jdowd@vacmail.com

*with a copy to*

Myers, Brier & Kelly, LLP  
Attention: Daniel T. Brier, Esq.  
425 Biden Street, Suite 200  
Scranton, PA 18503  
Telephone: (570) 342-6100  
dbrier@mbklaw.com

2. For the Commonwealth:

James S. Wise, Esq.  
Senior Deputy Attorney General  
Pennsylvania Office of Attorney General  
1600 Arch Street, Third Floor  
Philadelphia, PA 19103  
Telephone: (215) 560-3684  
jwise@attorneygeneral.gov

K. Any failure by any Party to insist upon the strict performance by any other Party of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions of this Assurance, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Assurance.

L. If any clause, provision, or section of this Assurance other than Paragraph A shall— for any reason—be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Assurance and this Assurance shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein. If any clause, provision, or section of this Assurance shall, for any reason, be held illegal, invalid, or unenforceable against any Party, such clause, provision, or section of this Assurance shall be illegal, invalid, or unenforceable against any other Party that enters a substantively identical Assurance with the Commonwealth. If any of the substantive laws cited in this Assurance changes due to amendment, repeal, or disposition by the legislature, an agency, or court so that such change permits any action prohibited by any provision of this Assurance, such provision of this Assurance shall be severed and no longer have any force or effect and the remaining terms and conditions of this Assurance shall remain enforceable as if such severed provision had not been contained herein.

M. Nothing in this Assurance shall be construed as relieving Sundance of the obligation to comply with all applicable laws, regulations, or rules, nor shall any of the provisions of this Assurance be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

N. Sundance shall not represent or imply that the Commonwealth acquiesces in, or approves of, Sundance's past or current business practices, efforts to improve their practices, or any future practices that Sundance may adopt or consider adopting.

O. Other than provisions relating to no admissions or finding or wrongdoing and those set forth below in this Paragraph, nothing in this Assurance shall be construed to confer or limit any private right of action that a consumer, person, or entity, or any cause of action that a local,

Commonwealth, federal, or other governmental entity, may hold against Sundance or any other Released Party. Similarly, nothing contained herein shall be interpreted to permit multiple recoveries for the same harm or conduct or to waive the right of Sundance or any other Released Party to assert any lawful defenses in response to a complaint or inquiry from any consumer, person or governmental entity.

P. Sundance shall not participate, directly or indirectly, in any activity or practice, or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part, that are prohibited in this Assurance or for any other purpose that would otherwise circumvent any part of this Assurance or the spirit or purposes of this Assurance.

Q. If the Commonwealth receives a Complaint from a Sundance Customer related to the terms of this Assurance, the Commonwealth shall bring such Complaint(s) to Sundance's attention by forwarding the Complaint(s) to the person identified in Section IV, Paragraph J. Sundance shall have twenty-one (21) calendar days to respond to the Complaint, or such other period of time as reasonably specified by the Commonwealth and shall in good faith attempt to resolve any issue(s) identified in the Complaint, which shall include providing notice to the Commonwealth of how the Complaint was explained or resolved. The Commonwealth shall provide Sundance with a copy of any written communications or notices sent to or received from any Sundance Customers related to the existence or terms of this Assurance.

R. Sundance's certifies that the signatory to this Assurance is the president of Sundance and is authorized to enter into and execute this Assurance on its behalf.

**WHEREFORE**, intending to be legally bound, the Parties have hereto set their hands and seals.


**SIGNATURES ON FOLLOWING PAGES**



**For the Petitioner:**

**COMMONWEALTH OF  
PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL**

**MICHELLE A. HENRY  
ATTORNEY GENERAL**



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James S. Wise  
Senior Deputy Attorney General  
Attorney I.D. #314913  
Patrick Gavin  
Deputy Attorney General  
Attorney I.D. #323044  
Commonwealth of Pennsylvania  
Office of Attorney General  
1600 Arch Street, Third Floor  
Philadelphia, Pennsylvania 19103  
(215) 560-3684  
*Counsel for Petitioner*

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**For the Respondent:**

**SUNDANCE VACATIONS, INC.**



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John Dowd, President

**MYERS, BRIER & KELLY, LLP**

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Daniel T. Brier, Esq.  
Attorney I.D. #53248  
Counsel for Respondent  
Myers, Brier & Kelly, LLP  
425 Biden Street, Suite 200  
Scranton, Pennsylvania 18503  
(570) 342-6100  
*Counsel for Respondent*


**For the Respondent:**

**SUNDANCE VACATIONS, INC.**

---

John Dowd, President

**MYERS, BRIER & KELLY, LLP**



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Daniel T. Brier, Esq.  
Attorney I.D. #53248  
Counsel for Respondent  
Myers, Brier & Kelly, LLP  
425 Biden Street, Suite 200  
Scranton, Pennsylvania 18503  
(570) 342-6100  
*Counsel for Respondent*