



## GENERAL TERMS AND CONDITIONS OF PURCHASE

In these General Terms and Conditions of Purchase, Buyer shall mean: Priority OnDemand, LLC, for itself and all its subsidiaries and affiliates (collectively Priority OnDemand)

### 1. AGREEMENT.

These general terms and conditions of purchase ("Terms and Conditions") shall govern and form an integral part of all agreements entered into and for all purchase orders placed by Buyer for the supply of goods and/or services by your company (hereafter referred to as "Supplier"). Each such agreement or purchase order shall be created in current Purchasing software and referred to herein as the "Agreement". As used herein, the term "goods" shall include both tangible and intangible goods, including software, service requirements, spare parts and any related software and/or documentation that may accompany the goods. Reference to "goods" shall where appropriate be deemed to include services.

The term "Affiliate" of Buyer or Supplier shall mean any entity or person which: (i) is Controlled by Buyer or Seller; or (ii) Controls Buyer or Seller; or (iii) is under common Control Buyer or Seller. For this purpose, "Control" means that more than fifty percent (50%) of the controlled entity's shares or ownership interest representing the right to make decisions for such entity are owned or controlled, directly or indirectly, by the controlling entity. An entity is considered an Affiliate only so long as such ownership or control exists.

These Terms and Conditions shall constitute all the terms and conditions of any Agreement between Buyer and Supplier relating to the purchase by Buyer and sale by Supplier of goods unless specifically agreed otherwise in writing by Buyer. Any terms and conditions set forth on any document or documents issued by Supplier either before or after issuance of any document by Buyer setting forth or referring to these Terms and Conditions are hereby explicitly rejected and disregarded by Buyer, and any such terms and conditions shall be wholly inapplicable to any purchase made by Buyer and shall not be binding in any way on Buyer. No Agreement constitutes an acceptance by Buyer of any other terms and conditions and Buyer does not intend to enter into an agreement other than under these Terms and Conditions. Any changes in these terms and/or the Agreement must be specifically agreed to by Buyer in writing.

Any purchase order of Buyer is expressly made conditional on Supplier's assent to all of the terms contained in the purchase order without deviation. Acceptance by Supplier of a purchase order may be evidenced by (i) Supplier's written or verbal assent or the written or verbal assent of any representative of Supplier, (ii) Supplier's delivery of the goods, or (iii) other conduct by Supplier or any representative of Supplier consistent with acceptance of the purchase order.

The supplier agrees to use only their company's official domain email address for all communications related to this agreement and will not use personal email services such as Gmail, Hotmail, or similar platforms.

### 2. TIMING, CHARGES, REPORTING, AND RIGHT TO AUDIT.

Time is of the essence for the purposes of Supplier's obligations under the Agreement. In the event Supplier for any reason anticipates any difficulty in complying with any agreed delivery date or otherwise in accordance with any requirement of the Agreement, Supplier shall promptly notify Buyer expeditiously in writing or via phone call. Supplier shall use its best efforts to accommodate any reasonable request by Buyer to reschedule confirmed delivery dates, or to change other parts of any Agreement. Upon Buyer's request Supplier shall without delay provide information in writing concerning the status of any order, shipments due and payments and such other items relating to the business flow between Supplier and Buyer as Buyer may

request. Supplier undertakes to inform Buyer immediately when it anticipates constraints on its capacity to supply goods as ordered by Buyer, in which case Supplier will provide suitable assurances to Buyer that its requirements will be adequately serviced.

Supplier and its subcontractors shall keep accurate records and books of accounting showing all charges and related expenses incurred in the services hereunder. Said records shall be maintained in conformance with generally accepted accounting principles and procedures. Buyer shall have the right to inspect such records and perform audits for three (3) years from the date of delivery, on Supplier's or its subcontractors' premises during business hours, or to assign said audits to outside parties.

### **3. DELIVERY.**

All domestically sourced goods shall be delivered Free On Board (FOB) Delivered, Internationally sourced goods shall be Delivery Duty Paid (DDP). Risk and title to the goods (free and clear of any encumbrances) shall pass to Buyer on delivery, unless expressly otherwise agreed in writing by Buyer. Where the Agreement provides for installation, commissioning, or any other work to be carried out by Supplier such work shall be executed with good workmanship and using proper materials. As a minimum requirement, such goods shall comply with all applicable quality and certification standards. Supplier shall pack, mark and ship the goods in such a manner as to prevent damage during transport and which facilitates unloading, handling and storage. Supplier shall ensure that all Products shall have a shelf life of at least 12 months at its time of delivery to Priority OnDemand. Product with an expiration date shall have an expiration date of 12 months or greater from the date of delivery to Priority OnDemand. For all software, including without limitation device drivers, firmware and any necessary software for the proper operation and support of the goods (collectively "Software"), Buyer and its Affiliates are granted a perpetual, non-exclusive, non-transferable, irrevocable, royalty-free, worldwide right and license to use, reproduce, prepare derivative works of and distribute the Software in connection with Buyer's distribution and support of the goods including without limitation distribution in electronic form (e.g. via Buyer's website). Supplier agrees to provide all updates and modifications to the Software to Buyer during the term of the Agreement without additional charges. Any license fees for Software shall be included in the purchase price or any other amounts payable under the Agreement. The supplier should have the ability to ship to all states within the United States.

### **4. WARRANTIES.**

Without prejudice to any warranty extended, express or implied, by law, Supplier expressly warrants and represents to Buyer that all goods to be supplied to Buyer shall be new, of good quality, design, materials, construction and workmanship, and that all goods conform strictly to the specifications, approved samples, industry standards and all other requirements of the Agreement, and are suitable for the intended purpose. In the case of non-compliance with this warranty, Buyer may, at its discretion and without prejudice to any other right or remedy available under the Agreement or at law, reject the goods which do not comply with the provisions of the first sentence of this section 4 (hereinafter referred to as goods having a "defect" or "defective goods") by written notice to Supplier. In the event of such rejection or if Buyer detects any goods having a defect after acceptance thereof, Buyer, at its option, shall be entitled to a full refund of the purchase price of the defective goods, or may require Supplier to remedy promptly the non-conformance or to replace the defective goods. In such event Supplier shall be responsible for and indemnify Buyer against and shall hold Buyer harmless from any and all cost of repair, replacement and transportation of the defective goods, as well as for all costs and expenses (including, without limitation, recall, inspection, handling and storage costs) and damage incurred by Buyer in connection with such defective goods. Risk to the goods shall pass to Supplier as from the notice of rejection. Supplier will provide out of warranty service to Buyer and its



Affiliates at commercially reasonable prices for a period of five (5) years after the last date of manufacture of the goods.

#### **5. EPIDEMIC DEFECTS.**

Supplier warrants that the goods will be free from epidemic defects. An "epidemic defect" is a defect which appears in more than half a percent (0.5%), or any lower percentage as specified in the specifications, of the goods of the same or substantially the same type delivered by Supplier to Buyer or its Affiliates within the epidemic defect period as stated in the relevant specifications, or if no such period is stated, within any consecutive period of three (3) months, and which defect is either similar or substantially similar or has similar or substantially similar cause. In the event of an epidemic defect, Supplier shall urgently and at its costs and expense repair or replace goods delivered to Buyer which show such epidemic defect within the reasonably expected life time of such goods and Supplier shall further indemnify Buyer for all losses and damages incurred by Buyer, including without limitation all costs and damages in relation to recall of any goods or products in which the goods are used from the market (whether defective or not) in relation to the epidemic defect.

#### **6. PAYMENT.**

Subject to acceptance of the goods by Buyer, terms of payment shall be Net 60 days from the date a complete and accurate invoice for an applicable order is received by Priority OnDemand. Supplier shall accept payment for the goods regardless whether payment is made by Buyer or any of its Affiliates. Buyer shall, at all times, have the right to set-off any amounts owed by Supplier or any of its Affiliates to Buyer or any of its Affiliates against amounts owed by Buyer or any of its Affiliates to Supplier or any of its Affiliates. Supplier acknowledges and agrees that any debt of Buyer to Supplier may be paid on behalf of Buyer by any of its Affiliates and/or any third party designated by Buyer. Supplier will treat such payment as if it were made by Buyer itself and Buyer's debt to Supplier will automatically be satisfied and discharged for the amount paid by such Affiliate or third party.

The Supplier agrees to submit all invoices for goods and services provided under this Agreement through the Company's designated procurement software platform. The Supplier shall be responsible for ensuring that all invoice submissions comply with the technical specifications and guidelines outlined by the Company, as may be updated from time to time. The Supplier will be provided access to the procurement software and any necessary training materials to ensure proper usage. Failure to submit invoices through the designated procurement software may result in delays in processing, payment, or the rejection of the invoice. The Company reserves the right to modify or update the preferred software platform at its discretion, and the Supplier agrees to comply with any such updates within a reasonable time frame.

#### **7. PRICES.**

All prices are inclusive of all taxes and duties except to the extent the same are to be borne by Buyer pursuant to the applicable FOB or Incoterms. All such taxes and duties deemed included in the price shall be borne by Supplier, and Supplier shall pay such taxes and duties itself or, where these have been paid by Buyer, reimburse Buyer for such taxes and duties. Supplier warrants that the prices for goods will not be less favorable than prices applicable to sales by Supplier to any other customer purchasing like quantities of



substantially comparable products. Pricing shall remain firm for a period of 12 months from the date of first delivery of such product to Priority OnDemand.

#### **8. INSPECTION.**

Buyer shall have the right to inspect or test the goods at all times and places. Payment, inspection, testing or acceptance of any goods by Buyer shall not relieve Supplier of any of its obligations under the Agreement, nor shall it constitute acceptance or approval of any goods or constitute or operate as a waiver of any defect, nonconformity or any rights or remedies available under the Agreement or at law.

#### **9. DRAWINGS, TOOLS AND MATERIALS.**

Any specifications, drawings, information, tools, molds, masks, jigs, dies and other materials furnished to Supplier or funded or paid for by Buyer (whether separate or as a part of the unit price), in whole or in part, shall (i) remain or become as of the moment of completion thereof, Buyer's property, provided the risk therefor (including risks of loss or damage) remains with Supplier until delivery to Buyer, (ii) if use thereof by Supplier is allowed by Buyer, be used exclusively for the purposes of the Agreement, be properly used, maintained and kept in good working condition at Supplier's expense, (iii) be clearly marked as Buyer's property and be kept in separate storage when not in use, and (iv) be delivered to Buyer promptly on Buyer's demand. Supplier shall inform any third parties who might seek recourse thereon of Buyer's proprietary right; Supplier shall immediately inform Buyer of any such event. Supplier shall take out adequate insurance, mentioning Buyer as beneficiary, for all property of Buyer in the possession of Supplier.

#### **10. INDEMNIFICATION.**

Without prejudice to any other right or remedy available to Buyer under the Agreement or at law, Supplier shall indemnify and hold Buyer and its Affiliates and their successors and assigns, harmless from and against all liabilities, claims, suits, losses, damages, costs and expenses (including reasonable attorney's fees), whether direct or indirect, arising from or relating to a third party's claim arguing that the goods constitute(d) infringement, violation or misappropriation of any intellectual property right or other proprietary right of a third party. Without prejudice to any other right or remedy available to Buyer under the Agreement or at law, Supplier (1) shall procure the right for Buyer to continue to use the goods at no extra costs to Buyer, and (2) agrees that it will indemnify and hold Buyer, its Affiliates and their successors and assigns harmless from and against all liabilities, including without limitation product liability, claims, losses, damages, costs and expenses (including reasonable attorney's fees), whether direct or indirect (including, without limitation, loss of profits), arising from or relating to Supplier's (or its officers', employees', agents' or subcontractors') failure to comply with any of its obligations under the Agreement.

Supplier represents and warrants that, to the best of its knowledge after proper due diligence and inquiry, software or other goods to be provided to Buyer for use or distribution by Buyer (including in Buyer's product packages or through a download from Buyer's website, or otherwise) does not include any portion of any Open Source Software. Supplier agrees that it will defend, indemnify and hold harmless Buyer and its customers against any and all losses, damages, costs and expenses arising from a breach by Supplier of any of its obligations or representations hereunder, including, without limitation, any third-party claims in connection with any such breach.

#### **11. CONFIDENTIAL INFORMATION.**

Supplier agrees to treat as confidential and to use only for the purposes of the Agreement all information, including but not limited to technical and commercial information, which is provided “as is” in whatever form or medium by or on behalf of Buyer and of its Affiliates and to give access to such information only on a need to know basis to its employees and not to transfer, publish, disclose or otherwise make available such information or any portion thereof to any third party without Buyer’s prior written consent. All information shall remain Buyer’s property and no licenses or rights are granted in any such information and Supplier shall, upon Buyer’s demand, promptly return to Buyer or destroy all such materials and information, not retaining any copies thereof, upon Buyer’s demand. Supplier shall not use the name, logo, trademark, or any other reference to Buyer, either direct or indirect, in press releases, advertisements, sales literature or other publications and shall not disclose the existence or the terms and conditions of the Agreement, without the prior written consent of Buyer.

## **12. INTELLECTUAL PROPERTY RIGHTS.**

Supplier agrees that any information, drawings, know-how, specifications, designs, concepts, techniques, developments, inventions, technologies and other work products generated or developed in the course of work performed under the Agreement by Supplier and any intellectual property and other proprietary rights therein or thereto shall vest in Buyer. Supplier assigns or shall cause to be assigned to Buyer all rights, title and interest to any and all such items and rights and to do everything necessary to perfect such rights and to protect Buyer’s interest therein. Supplier shall inform any third parties who might seek recourse thereon of Buyer’s proprietary rights; Supplier shall immediately inform Buyer of such an event.

## **13. TERMINATION.**

Buyer may terminate all or any part of its obligations under any Agreement to purchase or accept goods at any time for its convenience upon written notice to Supplier. If Buyer provides the written notice to Supplier at least thirty (30) days prior to the specified shipping date of the relevant goods, Buyer shall have no liability for the termination. If Buyer terminates the Agreement on less than thirty (30) day notice, Buyer and Supplier will negotiate a reasonable termination charge, if any, based on all appropriate factors, including, without limitation, the percentage of work performed by Supplier prior to termination, Supplier’s ability to resell or reuse the goods or services, and market conditions prevailing at the time of termination. Supplier has a duty to use its best efforts to mitigate any damages or losses resulting from a termination by Buyer. Buyer shall have the right to audit all elements of the termination charge and Supplier shall make available to Buyer on request, all books, records and papers relating thereto.

If Supplier fails to comply with any obligations of the Agreement, Supplier shall be in default without further notice being required. In the event of default, insolvency or bankruptcy proceedings are instituted against Supplier (including voluntary insolvency or bankruptcy proceedings), Supplier is liquidated or dissolved, any attachment is made over the assets of Supplier or on its behalf, Supplier makes an unauthorized assignment for the benefit of creditors, or any other person or entity than the person or entity having control over Supplier at the date of the Agreement acquires control over Supplier, Buyer shall be entitled to rescind or terminate the Agreement, in whole or in part, without prejudice to any other rights or remedies available to Buyer under the Agreement or at law (including, without limitation, the right to seek damages). If Buyer for any reason anticipates any difficulty for Supplier in complying with any obligations of the Agreement, Buyer shall be entitled to require Supplier to remedy such non-compliance within a period to be set by Buyer in its discretion.

All provisions of the Agreement destined to survive the dissolution, termination or expiration thereof shall survive such dissolution, termination or expiration.

#### **14. CONTINUITY OF SUPPLY.**

In the event that Supplier is in default under any Agreement, Buyer may notify Supplier of its intent to have the goods manufactured (or services performed) directly by Supplier's designated manufacturer or subcontractor (hereafter "Subcontractor") or by any third party designated by Buyer as stipulated below if such default is not remedied within fourteen (14) days or if within same period no precautions are taken by Supplier to Buyer's reasonable satisfaction to prevent future defaults with the same or substantially similar cause. If Supplier does not remedy such default within such fourteen (14) day period, Buyer will have the right to have the affected goods manufactured or services performed directly for Buyer by the Subcontractor. At the same time Buyer provides notice to Supplier, Buyer will have the right to contact the Subcontractor and work with the Subcontractor to ensure that the Subcontractor will be ready to ship goods to or perform services for Buyer immediately if Supplier does not cure the default or does not take precautions to Buyer's reasonable satisfaction to prevent future defaults with the same or substantially similar cause within the aforesaid period of fourteen (14) days. In the event that Supplier does not use a Subcontractor for production of the goods or performance of services or the Subcontractor is unable or unwilling to manufacture and sell the goods directly to or perform services directly for Buyer, Supplier will immediately provide to Buyer all materials, specifications and other items necessary to enable Buyer, or a third party designated by Buyer, to manufacture, support, distribute, license and sell the goods or perform the services ("Materials"). In addition, Supplier grants to Buyer a worldwide, royalty free, irrevocable, non-exclusive right, under all necessary intellectual property rights, to: (i) use, execute, reproduce and prepare derivative works of the Materials for the purposes of making, manufacturing and supporting the goods and performing the services, (ii) distribute and sell such goods, and (iii) authorize third parties to do any of the foregoing on Buyer's behalf. The Materials will be provided to Buyer's third party manufacturer or service provider under a non-disclosure agreement and such third party manufacturer or service provider will only be permitted to use the Materials to manufacture the goods or perform the services for Buyer. Supplier agrees to extend its warranty and indemnity obligations as set forth under sections 4 and 10 of these Terms and Conditions, to any goods manufactured or services performed by Subcontractor or a third party pursuant to the provisions of this section 14.

#### **15. COMPLIANCE WITH LAW.**

Supplier represents and warrants to Buyer that the goods will and have been designed, manufactured and delivered and/or the services will and have been performed in compliance with all applicable laws and regulations (including, without limitation, environmental, health and safety laws and regulations and any Buyer's policies or guidelines on the environment and banned substances from time to time informed to Supplier). In the event of dangerous or hazardous goods, Supplier shall provide to Buyer written and detailed specifications of the composition of such goods and of all laws, regulations and other requirements relating to such goods in order to enable Buyer to properly transport, store, process and use such goods.

#### **16. USE OF TRADEMARKS, TRADENAMES.**

Supplier shall use any trademark, tradename or other indication in relation to the goods, whether owned by Buyer and/or its Affiliates, Supplier or any third party, only in accordance with Buyer's instructions or prior written approval and solely for the purposes expressly specified by Buyer in writing. Supplier shall not have nor obtain any right, title or interest in or to any Buyer's or its Affiliates' owned trademarks, tradenames or other indications. All rights related to or resulting from the use by Supplier shall inure to the benefit of the Buyer and its Affiliates. Supplier herewith acknowledges all rights, title and interest of Buyer and/or its Affiliates in respect of and to the Buyer's and/or its Affiliates' owned trademarks, tradenames and other indications.

## **17. SUBCONTRACTING AND ASSIGNMENT**

Supplier shall not subcontract, transfer or assign any of its rights and obligations under the Agreement to any third party or any of its affiliates without the prior written consent of Buyer. In case Supplier is permitted to subcontract any of its obligations hereunder, it shall remain fully responsible and liable for the proper performance of its obligations under any Agreement. Buyer may assign any Agreement to any of its Affiliates or to any third party in connection with any merger, acquisition, re-structuring, disposal, change of control, or sale or other transaction in relation to all or substantially all or part of Buyer's business and/or assets upon notice to Supplier.

## **18. NO WAIVER**

No waiver by Buyer of any breach of any condition, covenant or term of the Agreement shall be effective unless it is in writing and no failure or delay by Buyer in enforcing any provision of the Agreement or in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

## **19. EXPORT RESTRICTION**

Supplier agrees that it will not export or re-export, directly or indirectly, any of Buyer Confidential Information, goods, software and/or technology, without complying with all applicable international and national export control laws, to any country for which The United States of America or any other country, at the time of export or re-export requires an export license or other governmental approval, without first obtaining such license or approval.

## **20. CONSEQUENTIAL DAMAGES.**

IN NO EVENT SHALL SUPPLIER BE ENTITLED TO LOSS OF PROFITS, REVENUE, GOODWILL, OR PRODUCTION DOWNTIME, OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF BUYER IS ADVISED OF THE SAME.

## **21. GOVERNING LAW AND DISPUTE RESOLUTION.**

The Agreement shall be governed by the laws of the United States and the State of Tennessee (without regard to choice of law rules).. All disputes arising out of or in connection with the Agreement shall first be attempted by Supplier and Buyer to be settled through consultation and negotiation in good faith and a spirit of mutual cooperation. All disputes that are not so settled within a period of thirty (30) days from the date the relevant dispute first arose may be submitted to court of competent jurisdiction.

## **22. SEVERABILITY.**

In the event that any provision(s) of the Agreement or these Terms and Conditions shall be held invalid or unenforceable by a court or by any future legislative or administrative action, such holding, or action shall not negate the validity or enforceability of any other provisions hereof.