

**PRODUCT ORDER
TERMS AND CONDITIONS**

1. General. All software and hardware, and any related maintenance, (collectively, “*Items*”) acquired under this Order are subject to the end user license and other terms provided by the manufacturer of such Items, and Customer agrees to be bound by such terms and conditions. Furthermore, in the event that any maintenance or support agreements are purchased as Items under this Order, the terms and conditions of this Order (other than price and payment terms) shall apply to any annual or other renewal of any such maintenance or support agreement. Customer has performed reasonable due diligence in regards to the Items and understands that the selection of Items is determined by Customer.

2. Delivery and Acceptance. All Items shall be delivered FOB Shipping Point. All Items will be considered accepted by Customer upon delivery to the carrier.

3. Payment. Payment terms are 50% of the purchase price upon execution of this Order and the remaining 50% is due and payable immediately upon delivery, or availability of, Items to Customer’s business location without withholding, deduction or offset of any amounts for any purpose. Customer shall be responsible for all taxes (including sales taxes) imposed as a result of this Order, excluding only U.S. taxes based on the net income of ePartners. Any amount not paid within thirty (30) days of the date of each invoice shall be subject to an interest charge equal to the lesser of 1.5% monthly or the maximum interest charge permissible under applicable law, payable on demand.

4. ALL SALES ARE FINAL. ePartners will have no obligation to return or refund any payments related to any Item acquired under this Order. This provision will not limit any rights Customer may otherwise have under an end user license, maintenance, or support agreement, if any, between Customer and the manufacturer(s) of such Item(s).

5. Warranty Disclaimer. Any warranty with respect to the Items will be provided by the manufacturer. EPARTNERS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY MATTER, INCLUDING, WITHOUT LIMITATION, THE MERCHANTABILITY, SUITABILITY, ORIGINALITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, OR RESULTS TO BE DERIVED FROM THE USE OF ANY ITEM PROVIDED UNDER THIS ORDER.

6. Limitation of Liability. ePartners shall not be liable to Customer for any incidental, indirect, exemplary, special or consequential damages, under any circumstances, including, but not limited to, lost profits, revenues, or savings, or the loss or use of any data, even if ePartners had been advised ePartners, Inc., Product Order

of, knew, or should have known, of the possibility thereof. Under no circumstances shall ePartners’ aggregate cumulative liability hereunder, whether in contract, tort (including, without limitation, negligence), or otherwise, exceed the total amount of fees actually paid to ePartners under this Order for claims arising under or related to this Order. Customer acknowledges that the fees paid by it reflect the allocation of risk set forth in this Order and that ePartners would not enter into this Order without these limitations on liability.

7. Security Interest and Default. Until ePartners receives full payment of the purchase price for all Items purchased under this Order, ePartners shall retain a security interest in such Items and may, at its option and without any further agreement or signature by Customer, file evidence of such security interest in accordance with the provisions of the Uniform Commercial Code. So long as ePartners retains a security interest in such items, the buyer shall keep the Items in good condition and free from any other liens or encumbrances. ePartners may avail itself to all of the remedies afforded to it by the Uniform Commercial Code for the breach of a contract for the sale of goods and for the enforcement of the security interest herein granted by Customer to ePartners.

8. ePartners Customer Support. In conjunction with the purchase of software license(s), ePartners requires that Customer purchase a support agreement from ePartners. Please reference the document entitled ‘ePartners Call Center Support Services’ for information pertaining to the services rendered in accordance with this clause. The payment schedule for ePartners Call Center Services will be as follows: 5% of software license for the first year after ‘go-live’, 9% during years two and three.

9. Miscellaneous

9.1 Arbitration. Except for collection actions for payment of charges and for the right of either party to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm, any controversy or claim arising out of or relating to this Order or to its breach shall be settled by arbitration by a single arbitrator in accordance with Commercial Arbitration Rules of the American Arbitration Association, pursuant to an arbitration held in Dallas County, Texas, and judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

9.2 Assignment. Neither party shall assign its rights or obligations under this Order without the prior written consent of the other party, which shall not be

unreasonably withheld or delayed. Notwithstanding the foregoing, either party may assign this Order to an entity who acquires substantially all of the stock or assets of such party; provided that consent will be required in the event that the non-assigning party reasonably determines that the assignee will not have sufficient capital or assets to perform its obligations hereunder. All terms and provisions of this Order shall be binding upon and inure to the benefit of the parties hereto and their respective permitted transferees, successors and assigns. This provision shall not affect the assignment provisions or restrictions set forth in the applicable end user license, support, or maintenance agreement purchased hereunder.

9.3 Governing Law. This Order shall be governed by and construed in accordance with the laws of the State of Texas, without reference to conflict of laws principles. Customer hereby irrevocably consents to the jurisdiction of the state courts of the State of Texas and U.S. District Court for the Northern District of Texas.

9.4 Export Regulations. Customer shall, at its own expense, comply with any laws or regulations, including trade restrictions and embargoes, relating to the Items and shall procure all licenses and pay all fees and other charges required thereby. Customer shall limit its actions to conform to applicable laws and regulations regarding the use, licensing, import, export or reexport of the Items, including the regulations of the U.S. Department of Commerce and/or the U.S. State Department, to the extent applicable.

9.5 Notice Of Service. Service of all notices under this Order shall be sufficient if made by registered mail to the specific party involved herein at its respective address noted in the cover page to this Order.

9.6 Entire Agreement and Modifications. Customer acknowledges that it has read this Order and agrees that the Order is the complete and exclusive statement of the parties and supersedes all prior or contemporaneous proposals understandings and agreements, oral or written, between the parties relating to the subject matter hereof, including without limitation, the terms of any Customer request for proposal or the standard printed terms on any Customer purchase order. No modification, amendment, supplement to or waiver of this Order shall be binding upon the parties hereto unless made in writing and duly signed by both parties.

9.7 Severability. In the event any one or more of the provisions of this Order is held to be invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired.

9.8 Force Majeure. ePartners shall not be responsible for failure to perform under this Order when its failure results from any of the following causes: Acts of God or public enemies, civil war, insurrection or riot, fire, flood, explosion, earthquake or serious accident, strike, labor trouble or work interruption or any cause beyond its reasonable control.

9.9 Headings and numbering. Paragraph headings and numbers used in this Order are included for convenience of reference only, and, if there is any conflict between any such numbers and headings, and the text of the Order, the text shall control.

9.10 Execution of Order. This Order may be executed in one or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same instrument.

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