

# DRUVA CLOUD SERVICES

## CUSTOMER AGREEMENT

Last Updated: September 16, 2019

PLEASE READ THIS CUSTOMER AGREEMENT (“Agreement”) CAREFULLY. DRUVA’S PRIVACY POLICY, WHICH IS AVAILABLE AT [HTTP://WWW.DRUVA.COM/PRIVACY-POLICY/](http://www.druva.com/privacy-policy/), FORMS PART OF THIS AGREEMENT. BY CLICKING THE “CONTINUE” BUTTON, YOU:

- AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF CUSTOMER OF DRUVA (AS DEFINED BELOW) WITH WHICH YOU ARE EMPLOYED, ENGAGED, OR ASSOCIATED (“Customer”);
- AGREE THAT YOU ARE AN AUTHORIZED USER (AS DEFINED BELOW) OF CUSTOMER;
- AGREE THAT THIS AGREEMENT IS ENFORCEABLE AGAINST CUSTOMER THAT LICENSED THE CLOUD SERVICES AND ON WHOSE BEHALF SUCH IS USED, AND YOU; AND
- REPRESENT THAT YOU HAVE THE REQUIRED AUTHORITY FOR THE ABOVE AGREEMENTS.

IF CUSTOMER OR YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, CUSTOMER AND YOU SHALL NOT, AND SHALL HAVE NO RIGHT TO, ACCESS OR USE THE CLOUD SERVICES (INCLUDING ANY UPDATES), AS THE CASE MAY BE, IN ANY MANNER.

**This Agreement, along with the Exhibit and the Order Form(s) (as defined below), constitutes the entire agreement upon which Druva agrees to provide the products and/or services identified on the Order Form and supersedes all prior or contemporaneous agreements or arrangements, whether written or oral, covering the subject matter of this agreement. Additional, different, or conflicting terms proposed by Customer or a Reseller (as defined below) with which Customer contracted (i) by acknowledgement hereof, (ii) by a separate written document, (iii) by purchase order, and/or (iv) by any other means (including by trade usage or prior course of dealing) will not have any force or effect and are hereby rejected, even if submitted at a point in time after such agreement. Neither Druva’s commencement of performance, Druva’s failure to object to terms and conditions contained in any communication from Customer or such Reseller, nor delivery of products or services by Druva will constitute an acceptance of additional, different, or conflicting terms and conditions proposed by Customer or such Reseller.**

1. **Definitions.** A capitalized term not otherwise defined in this Agreement will have the following meaning:
  - a. “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “**Control**” for purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
  - b. “**Authorized Users**” means natural persons who are authorized by Customer to use the Cloud Services, as applicable, and who have been supplied user identification and passwords by Customer (or by Druva or Druva’s Affiliate) at Customer’s request).
  - c. “**Cloud Services**” means Druva’s software-as-a-service solution for managing data availability and information governance, any feature or functionality add-ons, and any modified versions of, and upgrades, updates and additions to such solution, ordered by Customer under an Order Form.
  - d. “**Customer Data**” means data, information and materials of Customer or its Authorized Users that Customer or its Authorized Users uploads to, stores on, or accesses with, Druva’s Cloud Services.
  - e. “**Documentation**” means the published user guides, manuals, instructions and/or specifications provided or made available to Customer with respect to the Cloud Services on <https://docs.druva.com/>, which may be amended from time to time. Customer may subscribe to alerts to receive changes to the Documentation in the customer documentation portal.
  - f. “**Order Form**” means an order confirmation of Druva (or Druva’s Affiliate) or other written document that identifies Druva’s products and services ordered by Customer, directly or through the reseller with which Customer contracted, which is accepted by Druva (or Druva’s Affiliate) in writing, but shall exclude any pre-printed or linked terms and conditions set forth in such written document that are in addition to, inconsistent, or in conflict with, or different than, the terms and conditions of this Agreement. The term “Reseller” in this Agreement shall refer to a reseller or a distributor of Druva’s products and services, as applicable.

- g. “Term” means the period of time during which Druva’s products and services, as applicable, are initially contracted to be available to Customer under this Agreement as set forth in the Order Form(s), unless earlier terminated under this Agreement. After the initial term and unless earlier terminated under this Agreement, this Agreement will automatically renew for successive 1 year terms, unless either party provides the other party with written notice of termination at least 30 days prior the end of this Agreement’s then-current term.
- 2. Druva Products and Services.
  - a. License Grant. Subject to Customer’s compliance with the terms and conditions of this Agreement, Druva hereby grants Customer a non-transferable, non-exclusive, revocable, limited, and restricted license to access and use the Cloud Services solely for Customer’s own internal business purposes only in a manner pursuant to this Agreement and the applicable Documentation for the Term unless earlier terminated. Druva will use commercially reasonable efforts to make the Cloud Services available to Customer in accordance with this Agreement during the Term unless earlier terminated. Customer may install and use the Cloud Services on any of Customer’s compatible endpoint devices up to the maximum number of permitted Authorized Users and storage limit per Authorized User set forth in the Order Form. Customer may make copies of the Documentation for its own internal use in connection with its use of the Cloud Services in accordance with this Agreement, but no more than the amount reasonably necessary.
  - b. Evaluation License. Prior to Customer’s purchase of Cloud Services, Druva may offer Cloud Services for a limited trial or evaluation (“Evaluation”). Subject to Customer’s compliance with this Agreement, with respect to Cloud Services during the Evaluation, Druva hereby grants Customer a non-transferable, non-exclusive, revocable, limited, and restricted license to access and use the Cloud Services only for demonstration, evaluation, and training purposes for Customer’s own internal business purposes only in a manner pursuant to this Agreement and the applicable Documentation for the applicable evaluation or trial term unless earlier terminated.
  - c. Government Customers’ License. If Customer is the United States government, or anyone that is licensing the Cloud Services under a United States government contract or with United States government funds, Druva is licensing the Cloud Services and Documentation solely in accordance with the following: The Cloud Services and Documentation are “commercial items” as that term is defined in 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.211, 12.212, 227.7102-1 through 227.7102-3 and 227.7202-1 through 227.7202-4, as applicable, or its successor provisions, all government end users acquire only those rights in the Cloud Services and Documentation that are expressly granted in this Agreement. In the case of any other government, Druva’s rights are protected to the maximum extent possible as set forth in this Agreement, but in any event to at least the same extent they would be protected under the immediately preceding sentences.
- 3. Customer Information.
  - a. Ownership. As between Druva and Customer, Customer retains title to and ownership of all right, title, and interest in the Customer Data.
  - b. Customer Responsibility. Customer is solely responsible for (i) maintaining the confidentiality of its Authorized Users’ credentials, passwords, and encryption keys associated with its accounts, (ii) properly configuring the settings of the Cloud Services and taking its own steps to maintain appropriate security and protection of passwords and encryption keys and settings for any backup of Customer Data, (iii) all activities that occur with respect to Customer’s accounts regardless of whether the activities are undertaken by it, its employees, or a third party (including its contractors or agents), (iv) its and its Authorized Users’ access and use of the Cloud Services and compliance with this Agreement and the applicable Documentation, (v) all content of Customer Data, , and (vi) all product settings, which may override individual end point settings of Authorized Users, if applicable. Druva is not responsible for any alteration, compromise, corruption, or loss of Customer Data that arises from any access to, sharing or use of Customer’s accounts, credentials, passwords or encryption keys.
- 4. Ownership. The Cloud Services, the Documentation, and any authorized copies thereof made by Customer are the intellectual property of and are owned by Druva and its Affiliates and their licensors, and constitute the confidential information of Druva. As between Druva and Customer, Druva and its Affiliates retain title to and ownership of all right, title, and interest in the Cloud Services and the Documentation, including all intellectual property and other proprietary rights therein, and subject to the applicable limited licenses expressly granted by Druva to Customer in Section 2. Customer does not have any right, title or interest in the Cloud Services or the Documentation. To the extent that the Cloud Services contain or may be provided with components that are offered under an open source license, Druva agrees to make that license available to Customer and the provisions of that license may expressly override some of the terms set forth in this Agreement for such components. All rights not expressly granted in this Agreement are reserved by Druva and its Affiliates and their licensors.
- 5. Restrictions and Requirements.

- a. Proprietary Notices. Customer and its Authorized Users will not remove or modify any trademarks, trade names, service marks, service names, logos or brands, or copyright or other proprietary notices on the Cloud Services or the Documentation, or add any other markings or notices to the Cloud Services or the Documentation.
  - b. Use Obligations. Customer and its Authorized Users (i) will access and use the Cloud Services in accordance with this Agreement and the applicable Documentation, (ii) will not use or permit the Cloud Services to perform any file storage or other services for any third party, (iii) will not upload or permit the Cloud Services to be used to upload any Customer Data that (A) infringes the intellectual property rights or other proprietary rights of any third party, (B) is unlawful or objectionable material, or (C) contains software viruses or other harmful or deleterious computer code, files or programs such as trojan horses, worms, time bombs or cancelbots, (iv) will not use or permit the use of any software, hardware, application or process that (A) interferes with the Cloud Services, (B) interferes with or disrupts servers, systems or networks connected to the Cloud Services, or violates the regulations, policies or procedures of such servers, systems or networks, (C) accesses or attempts to access another customer's accounts, servers, systems or networks without authorization, (D) harasses or interferes with another customer's use and enjoyment of the Cloud Services or (E) in Druva's sole discretion, inordinately burdens the resources of Druva and/or its Affiliates that are providing the Cloud Services, or (v) will not tamper with or breach the security of the Cloud Services.
  - c. Prohibited Activities. Customer and its Authorized Users will not (i) modify, port, adapt, translate or create any derivative work based upon, Cloud Services or the Documentation, (ii) reverse engineer, decompile, disassemble or otherwise derive or attempt to derive the source code of the Cloud Services, except for any non-waivable right to decompile the Cloud Services expressly permitted by applicable mandatory law, (iii) copy, distribute, sell, assign, pledge, sublicense, lease, loan, rent, timeshare, use or offer the Cloud Services on a service bureau basis, deliver or otherwise transfer the Cloud Services, in whole or in part, or (iv) access Cloud Services to create competitive products to Druva or engage in the competitive analysis of Cloud Services.
  - d. No Illegal or Hazardous Use. Customer and its Authorized Users will comply with all applicable laws and regulations in its use of the Cloud Services. Customer acknowledges that the Cloud Services are not designed, intended or authorized for use in hazardous or mission-critical circumstances or for uses requiring fail-safe performance. Customer and its Authorized Users will not use the Cloud Services for activities where use or failure of Cloud Services could lead to environmental damage, property damage, death or personal injury. Customer, not Druva, is responsible for any applicable vertical or industry-specific regulation compliance.
  - e. Usage and Configuration Metrics. Druva, its Affiliates, and its third party service providers that perform services in connection with Druva's performance of this Agreement may collect information regarding number of users, number of devices, per user storage capacity, aggregate storage usage and storage locations of Customer (which information shall not include any Customer Data, or any "personal identifiable information" or "protected health information" as such terms are defined in applicable U.S. privacy laws) remotely, through functionality integrated with the Cloud Services or otherwise. Druva, its Affiliates, and its third party service providers may use such information only for their internal business purposes, including to perform and to ensure compliance with this Agreement. Druva, its Affiliates, and its third party service providers agree to keep such information confidential.
6. Limited Warranty.
- a. Authority. Each party represents and warrants that (i) this Agreement has been duly entered into and constitutes a valid and binding agreement enforceable against such party in accordance with its terms, (ii) no authorization or approval from any third party is required in connection with such party's entering into or performance of this Agreement, and (iii) the entering into and performance of this Agreement does not violate the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.
  - b. Limited Warranty. Druva warrants that Cloud Services will perform substantially in accordance with the applicable published specifications when used in accordance with this Agreement and the Documentation for the Term of this Agreement. Non-substantial variations of performance from the published specifications or other Documentation do not establish a warranty right. THIS LIMITED WARRANTY DOES NOT APPLY TO BETA, PRE-RELEASE, EVALUATION, STARTER, TRIAL AND PRODUCT SAMPLER, WHICH ARE MADE AVAILABLE "AS IS" AND WITHOUT WARRANTY FROM DRUVA, AND ANY USE OF SUCH CLOUD SERVICES IS ENTIRELY AT CUSTOMER'S OWN RISK. This limited warranty is void if failure of the Cloud Services has resulted from installation, deployment, use, maintenance or support not in accordance with the Documentation, modification by Customer, an Authorized User, or a third party not authorized by Druva, force majeure, or any breach of this Agreement by Customer or an Authorized User. In the event of a Cloud Services warranty claim, Customer's sole and exclusive remedy and Druva's entire obligation and liability shall be, at Druva's sole option, to either (i) provide a correction, update or upgrade of the Cloud Services, (ii) correct or replace the Cloud Services or (iii) refund Customer, directly or through the reseller with which Customer contracted, a pro-rated amount of the applicable Fees pre-paid by Customer covering the whole months that would have remained, absent such early termination, in the Term following the effective date of such early termination and terminate this Agreement. Any corrected, upgraded or updated version of the Cloud Services will be warranted for the remainder of the warranty period. All warranty claims must be made to Druva in writing within such warranty period.

- c. General Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTIONS 8(a) AND 8(b), THE CLOUD SERVICES ARE PROVIDED “AS IS” AND (i) DRUVA SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; AND (ii) DRUVA DOES NOT WARRANT THAT THE CLOUD SERVICES OR ANY PART THEREOF, OR USE THEREOF WILL BE UNINTERRUPTED, ERROR-FREE, UNBREACHABLE OR VIRUS FREE, OR WILL MEET CUSTOMER’S QUALITY AND PERFORMANCE REQUIREMENTS. CUSTOMER ASSUMES THE ENTIRE RISK OF AND SHALL NOT HOLD DRUVA RESPONSIBLE FOR ANY ALTERATION, COMPROMISE, CORRUPTION, OR LOSS OF CUSTOMER DATA, NOTWITHSTANDING ANY SECURITY OR OTHER MEASURE THAT MAY BE PROVIDED BY DRUVA.
7. Indemnification. Customer shall defend and indemnify Druva and Druva’s Affiliates, employees, officers, directors, agents, successors, and assigns against any claims, damages, liabilities, losses, and expenses, including reasonable attorneys’ and experts’ fees, to the extent it arises out of Customer’s breach of this Agreement or in connection with the content of Customer Data, including intellectual property infringement right claims.
8. Limitation of Liability. EXCEPT FOR CUSTOMER’S BREACH OF CONFIDENTIALITY AND MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF BUSINESS, GOODWILL, REVENUE, USE OR OTHER ECONOMIC ADVANTAGE, BUSINESS INTERRUPTION, OR ANY ALTERATION, COMPROMISE, CORRUPTION, OR LOSS OF CUSTOMER DATA) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE CLOUD SERVICES, THE DOCUMENTATION OR USE THEREOF, OR THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY’S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID AND PAYABLE BY CUSTOMER FOR THE CLOUD SERVICES FOR THE TWELVE MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. FOR CLARITY, THE ABOVE LIMITATIONS SHALL NOT LIMIT CUSTOMER’S PAYMENT OBLIGATIONS UNDER SECTION 7. No claim against Druva may be brought more than one year after the facts giving rise to such claim have arisen. The limitations of liability and exclusions of damages in this Section 9 form an essential basis of the bargain between the parties and shall survive and apply even if any remedy specified in this Agreement is found to have failed its essential purpose.
9. Insurance. Druva agrees to maintain at its expense during the Term workers’ compensation insurance as required by applicable law, and commercial general liability insurance, errors and omissions liability insurance and umbrella liability insurance from financially sound insurance companies having coverages and limits of liability that are commercially reasonable. Upon request, Druva will provide Customer with proof of such insurance.
10. Marketing. Neither party may disclose the specific terms of this Agreement or issue a public statement or press release regarding this Agreement without the other party’s prior written consent. Notwithstanding the foregoing, Druva may identify Customer as its customer and display Customer’s name, mark, and logo on the website of Druva and/or other marketing materials.
11. Suspension; Termination.
- a. Suspension. In the event of any actual or threatened breach of this Agreement by Customer (including non-payment of fees), without limiting Druva’s other rights and remedies and notwithstanding anything in this Agreement to the contrary, Druva may immediately suspend Customer’s use of the Cloud Services.
  - b. Termination. This Agreement may only be terminated by a party upon written notice to the other party (i) if the other party breaches a material term of this Agreement that is uncured within 30 days (or, in the case of non-payment, 15 days) after delivery of notice of such breach, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors not dismissed within 30 days. For license-based Cloud Services, in the event the cost of providing Cloud Services exceeds the Fees paid and payable by Customer, Druva will notify Customer and Customer shall work with Druva in good faith to remediate the issue. If no resolution is found within 60 days from the date of the notice to Customer, then Druva may either terminate the Agreement or increase the Fees. Notwithstanding the above, Druva may immediately terminate this Agreement without prior written notice or an opportunity to cure in the event of an actual or threatened breach of Section 2, 5 or 6.
  - c. Fees. Upon expiration of this Agreement, Customer will pay Druva, directly or through the Reseller with which Customer contracted, any unpaid amounts that are owed to Druva for the Term. Upon termination of this Agreement based on Customer’s breach (following any applicable cure period), Customer will pay Druva any

unpaid amounts that would have been owed to Druva for the remainder of the then-current Term if such early termination had not occurred as well as any other amounts owed to Druva under this Agreement, without limiting Druva's other rights and remedies. Upon termination of this Agreement based on Druva's breach (following any applicable cure period), Druva will refund Customer, directly or through the Reseller with which Customer contracted, any amounts pre-paid pursuant to this Agreement for the remaining full calendar months in the then-current Term.

- d. **Effect.** Upon expiration or termination of this Agreement, the license rights granted by Druva to Customer under this Agreement will cease immediately and Customer will immediately cease all use of the Cloud Services, as applicable, and delete (or, at Druva's request, return) related Documentation, passwords, and any Druva confidential information in its possession or control. Upon expiration or termination of this Agreement (other than termination by Druva for breach), at the Customer's written request made within 30 days after expiration, Druva will provide Customer with temporary access to the Cloud Services solely for Customer to retrieve its then-current back-up of the Customer Data (but not for any other purpose) and/or provide, at its standard export fee, a copy of its Customer Data on a portable storage device. If applicable, and after such 30-day period, Druva will have no obligation to maintain or provide access to the Customer Data and will thereafter, unless legally prohibited, delete all Customer Data stored on the Cloud Services.
- e. **Survival.** Sections 3, 4, 5, 7, 8, and 12 will survive any expiration or termination of this Agreement.

## 12. General.

- a. **Parties.** Druva and Customer are independent contractors. Nothing in this Agreement shall be deemed to constitute a joint venture or partnership between the parties, nor constitute any party as the agent of the other party for any purpose, or entitle any party to commit or bind the other party in any manner. Nothing in this Agreement, express or implied, (nor if this Agreement is governed by Singapore law, under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore) is intended to confer upon any party other than the parties hereto, Druva's Affiliates and their licensors and their respective successors and permitted assigns any rights or obligations.
- b. **Governing Law, Jurisdiction and Attorneys' Fees.** Pursuant to the table below, Druva contracting entity and the applicable law will depend on where Customer is domiciled:

<b>If Customer is domiciled in:</b>	<b>Customer is contracting with:</b>	<b>The governing law is:</b>	<b>The courts having exclusive jurisdiction are:</b>
A country in North America or South America	Druva, Inc. a Delaware corporation	California and controlling United States federal law	Santa Clara, California, U.S.A.
A country in Asia Pacific	Druva Technologies Pte. Ltd., a Republic of Singapore company	Singapore law	Singapore
Japan		Japan law	Tokyo, Japan
A country in India subcontinent (which includes India, Pakistan, Sri Lanka, Bangladesh, Nepal and Bhutan)	Druva Data Solutions Private Limited	India law	Mumbai, India
A country in Europe, Middle East, or Africa	Druva Europe Limited, an England and Wales, United Kingdom company	Wales and England law	London, England
Germany	Druva GmbH	German law	Frankfurt, Germany

Unless California laws apply, THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRIAL BY JURY. This Agreement shall not be governed by the conflict of law rules of any jurisdiction, the United Nations Convention on Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act, the application of which is expressly excluded. If any action is pursued to enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which such party may be entitled.

- c. **Export Laws.** Customer understands that the Cloud Services and the export and re-export of data via the Cloud Services may be controlled by the laws of one or more countries governing technology use and transfer, including U.S. Export Administration Regulations. Customer will not use or transfer any technology or data in violation of such laws.

- d. Entire Agreement; Amendment; Waiver. This Agreement, together with the Exhibit and the Order Form(s), is the parties' entire agreement with respect to its subject matter, and supersedes any prior communications, discussions, understandings or agreements. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived with the written consent of duly authorized representatives of the parties.
- e. Severability. If any provision of this Agreement is held to be unenforceable, the unenforceable provision shall be replaced by an enforceable provision that comes closest to the parties' intentions underlying the unenforceable provision, and the remaining provisions of this Agreement shall remain in full force and effect. The unenforceability of any provision in any jurisdiction shall not affect the enforceability of such provision in any other jurisdiction.
- f. Subcontracts; Assignment. Druva may subcontract any services to be performed pursuant to this Agreement without Customer's consent and without providing notice. Druva may assign or transfer this Agreement, in whole or in part, to any Affiliate or in connection with any acquisition, consolidation, merger, reorganization, transfer of all or substantially all of its assets or other business combination, or by operation of law without Customer's consent and without providing notice. Customer may not assign or transfer any part of this Agreement by business combination, operation of law or otherwise without Druva's prior written consent. Subject to the foregoing, this Agreement will bind and benefit the parties and their respective successors and permitted assigns.
- g. Data Center Providers. Customer hereby consents to data center providers supply hosting services for the Cloud Services. For the purposes of this Agreement, such data center providers will not be considered subcontractors.
- h. Force Majeure. Druva shall not be liable for its inadequate performance caused by any condition beyond the reasonable control of Druva or its suppliers, including accidents, acts of God or nature, government acts, civil unrest, acts of war or terrorism, strikes or other labor problems, failures in computer, hardware, telecommunications, internet service provider or hosting facilities, power shortages and denial of service attacks.
- i. Notices. All notices given pursuant to this Agreement shall be in writing and shall be deemed given upon the earlier of actual receipt or: (i) when sent, if sent by email during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (ii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iii) one business day after the business day of deposit with an internationally recognized overnight courier, freight prepaid, specifying priority delivery, with written verification of receipt. All notices shall be sent to the parties at their respective address on the Order Form, or to such email address, facsimile number or address as subsequently modified by written notice given in accordance with this Section.
- j. Conflict. In the event of any inconsistencies or conflicts between the provisions of the contract documents, they shall apply in the following order of priority: (1) this Agreement and (2) the applicable Order Form. Any pre-printed terms and conditions of Customer set forth in the purchase order that are in addition to, inconsistent or in conflict with, or different than, this Agreement and/or the Order Form are void and of no effect. In the event the parties have a mutually executed customer agreement on the subject matter herein, those terms will supersede the terms of this Agreement.