



MobileDemand, L.C.
Terms and Conditions of Sale

The terms and conditions of an existing sales/purchase agreement ("Agreement") in effect between you (the "Customer") and MobileDemand, L.C. ("MobileDemand"), that Agreement shall apply to your purchase order, and the following terms and conditions shall not apply to your purchase orders.

In the absence of an Agreement, all orders placed by the Customer are subject to the following terms and conditions, as well as all additional terms and conditions presented in or accompanying a MobileDemand quotation or order acknowledgement. Conflicting, inconsistent or additional terms and conditions added to or included in Customer's purchase order ("Order") are specifically objected to and are not applicable to the Order.

Orders:

All Orders are subject to acceptance by MobileDemand, at its sole discretion, at its offices in Hiawatha, Iowa, U.S.A., even if taken elsewhere by a salesperson, sales agent, or representative. Acceptance takes place when MobileDemand issues a signed Order Acknowledgement.

1. Prices:

Prices for products and licensing fees are based on MobileDemand's list prices in effect at time of Order and, exclude: (i) freight and insurance; (ii) all applicable sales, use, excise or other taxes or custom duties; and (iii) on-site installation assistance, training, and related services. List prices are subject to change by MobileDemand without notice. All prices are in United States dollars.

Unless otherwise specifically stated therein, all MobileDemand quotations: (i) are based on receiving a single Order; (ii) are effective for that quotation only; (iii) are valid for 30 days; and (iv) exclude on-site installation or installation assistance, training, and services.

2. Terms of Payment:

Standard payment terms for all customers consist of 50% deposit (down payment) at the time of order and the balance due prior to shipment. Payments received after the shipment are subject to a late charge of 1.5% per month or part thereof on the unpaid balance. Customer shall be liable for all costs of collection, including reasonable attorneys' fees and court costs, if any. All payments are to be made in United States dollars. MobileDemand may, at its sole discretion, extend a line of credit and extend payment terms to select customers after such customers demonstrate solid credit and on-time payment history directly with MobileDemand or their credit references, and this extended payment terms may still include down payment requirements.

3. Government Tax Obligations/Levies:

Customer is responsible for the payment of all sales, use, excise and other taxes, custom duties, import or export fees and taxes and any other governmental fees associated with the Order (collectively, "Taxes"), exclusive of taxes based upon MobileDemand's net income. If Customer is a tax-exempt entity, Customer shall provide MobileDemand with a copy of its tax exemption certificate. MobileDemand requires that Customer pays Taxes directly to its state. Customer shall provide the direct pay permit with its Order. Customer hereby holds MobileDemand harmless and indemnifies MobileDemand from Customer's failure to pay applicable Taxes to the appropriate taxing authority.

4. Packaging:

MobileDemand shall pack all shipments in commercially suitable containers that provide reasonable protection against damage during shipment, handling and storage under normal circumstances in reasonably dry, unheated transport and storage quarters. MobileDemand reserves the right to impose additional charges for packaging to comply with Customer's specifications or instructions.

5. Shipment; Risk of Loss; Insurance:

Acknowledged shipping dates are good faith estimates only, and MobileDemand is not liable for any loss, damage, cost or expense for any failure to ship by the acknowledged date. Title and risk of loss passes to Customer upon shipment from MobileDemand's facility. MobileDemand has no obligation to provide Customer notice of shipment. Orders may be tendered in partial shipments. All freight and insurance charges shall be paid by Customer. If an Order Acknowledgement does not contain custom shipping instructions, MobileDemand will ship via commercial surface transportation, selecting a carrier based on the shipping rates as negotiated in good faith by MobileDemand.

6. Testing and Inspection:

Any Customer test or inspection that is not standard will be charged an additional fee.

7. Product Return:

Products may not be returned without prior written authorization from MobileDemand. MobileDemand will consider requests for return of products of current design for credit against future purchases only unless the request is for a

warranty claim, subject to Customer prepaying return freight plus a reasonable handling charge as set forth below by MobileDemand. MobileDemand retains the right to make sole judgment in the acceptability of all returned items.

- a. Unopened items authorized for return within 30 days from receipt, are subject to a 20% restocking fee.
- b. Unopened items authorized for return 31 to 60 days from receipt are subject to a 35% restocking fee.
- c. No returns will be accepted if items were received more than 60 days from the date of request.
- d. No returns will be accepted for open items.

8. **Warranty:**

a. **What is Covered:**

MobileDemand provides a limited warranty that its products will be free from defects in material and/or workmanship which occur during normal use and perform substantially in accordance with MobileDemand specifications for the specified warranty period. MobileDemand will repair the equipment during the warranty period with new or rebuilt parts, free of charge in the United States. All foreign orders will be subject to a \$50.00 USD charge. MobileDemand reserves the right in its sole judgment to determine if the failure or defect is a warrantable failure or defect. A purchase receipt or other proof of date of original purchase may be required before warranty performance is rendered. Products and/or Services MobileDemand acquires from or through a manufacturer, distributor or other third-party provider and resells and/or provides to Customer will carry the original manufacturer's pass-through warranty of parts only, if any.

b. **How to Obtain Warranty Service:**

Call MobileDemand Service and Support, 319-363-4121, between 8:00 a.m. and 6:00 p.m. Central Standard Time, Monday through Friday for warranty assistance, or email rma@mobiledemand.com. Should equipment require service, MobileDemand will issue a Return Material Authorization (RMA) and shipping instructions.

c. **Service Process:**

All products covered by this warranty will be serviced at MobileDemand's designated Service Center. Unless otherwise instructed by MobileDemand, all products returned under warranty are to be shipped to the following address:

MobileDemand Service Center
1350 Boyson Rd. Bldg B
Hiawatha, IA 52233

The RMA number is to be legibly written on the outside of the shipping container. Returns without an RMA number may be rejected. Product must be re-packaged in its original factory shipping packaging when returned for warranty service. If the original packaging is not available, Customer must purchase packaging material from MobileDemand. Warranty is considered void if products are not returned in original or MobileDemand purchased packaging.

d. **Data Storage Media:**

MobileDemand is not responsible for any software programs, data, or other information stored or used on any media or part of any product returned to MobileDemand for warranty service or other repair, including the costs of recovering such programs or data. If, during the warranty service or repair of the product, the contents of the hard disk or any other data storage media are altered, deleted, modified or lost, MobileDemand is not responsible and shall have no liability for the loss of data or damage or deletion to any non-factory installed software or hardware. It is Customer's sole responsibility to back up any software programs, data, or information stored on any storage media or any part of the product returned for warranty service or out-of-warranty repair.

e. **Battery warranty.** Batteries are considered consumable components and are limited to a 90 day limited warranty against defects in materials or workmanship.

f. **Accessories:** Accessories are limited to a 90 day limited warranty against defects in materials or workmanship.

g. **Damage and Other Repairs:**

Product returned for warranty service where the problem cannot be duplicated and no hardware failure is detected is subject to a service charge plus shipping costs. Service performed outside the scope of this warranty will be charged at current time and material rates plus shipping costs.

h. **Exclusions:**

This warranty specifically excludes damage to the product including, but not limited to, the following:

- damage during shipment other than original shipment to Customer;
- damage caused by liquid intrusion into the inside of the product as a result of case fracture or entry through an external port or door;
- damage caused by impact with other objects, or drops and falls, including but not limited to broken display glass, touch panel glass, hard drive sector damage or read/write head damage, physical breakaway of internal components;
- damage caused by faulty electrical / wiring connections and installations of the Product to vehicles or other electrical or power sources, or disregard for the methods and instructions in the wiring installation guides;
- damage caused by over-use and abuse of connectors on the product whereby alternative methods are available through docking or adapters to protect product connectors.
- damage caused by the use of the product for purposes other than those for which it was designed;
- damage caused by any other abuse, misuse, neglect, accident, negligence, mishandling or misapplication;
- damage caused by products not supplied by MobileDemand or failures which result from alterations, modifications or foreign objects;
- damage from improper maintenance; or
- damage attributable to acts of God.

In no event shall MobileDemand be liable, whether in contract, negligence, tort, or on any other basis, for cover or for incidental, consequential, punitive or exemplary damages arising out of or in connection with the sale, services, maintenance, use, performance, failure, or interruption in the operation of the hardware, software or services, even if MobileDemand is advised of the possibility of such damages.

i. **Warranty Disclaimer:**

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

j. **MobileDemand Limited Warranty:**

MobileDemand's entire liability and Customer's sole and exclusive remedy for any product that fails to comply with this warranty shall be, at MobileDemand's option and expense: (i) to repair the non-conforming product; or (ii) to provide an equivalent replacement. Customer is responsible for returning the non-conforming product, properly packaged, to the MobileDemand Service Center. Replacement parts or units shall not extend the original warranty and shall have a ninety (90) day limited warranty for defects in materials and workmanship.

The warranty period is not extended as a result of upgrading the product. To receive warranty service Customer must promptly notify MobileDemand of the warranty claim prior to expiration of the applicable warranty period. This warranty is not transferable and applies only to the original end-user and the original product.

9. **Software License:**

Subject to the terms and conditions of the appropriate license agreement, MobileDemand grants Customer a nonexclusive, nontransferable, perpetual license to use any software provided with or installed on the hardware product. All such software is subject to the applicable end-user license agreement(s) included with the product(s) ("EULA"). Your MobileDemand sales representative can furnish you a copy of the applicable EULA if one was not included with your quotation. Customer shall be bound by the EULAs once the software is opened, the packaging is opened or its seal is broken, or the hardware is turned on. Warranty for any software shall be in accordance with the EULA.

- a. Such software shall be used only for the processing of Customer's own business information, which may include servicing and maintaining records on behalf of its customers. Except as may be permitted under the EULA, Customer may not: (i) permit any third party to use the software; or (ii) reverse engineer, disassemble, decompile, modify, prepare derivative works of, or otherwise alter the software.
- b. Title to any software provided to Customer under any Order shall remain with the applicable licensor(s). Customer acknowledges that MobileDemand or the third-party licensor(s) own all right, title and interest

(including but not limited to all related patent, copyright, and other intellectual property rights) in the software, any related documentation, and any software modifications and enhancements thereof, and title shall remain the sole and exclusive property of MobileDemand or the third-party licensor(s).

- c. Hardware product may contain software for internal operation, or as embedded software or firmware that is generally not sold or licensed as a separate software product. Such software is proprietary, copyrighted, and may also contain valuable trade secrets and may be protected by patents. MobileDemand grants Customer a license to use the software code on, or in conjunction with, only the hardware product purchased under Customer's Order.

10. Force Majeure:

MobileDemand shall not be liable for any default or delay attributable to any cause or circumstance beyond its reasonable control, or the reasonable control of its suppliers or sub-contract manufacturers, which prevents or impedes the ability of MobileDemand to deliver product in accordance with an Order. Such causes and circumstances include, but are not limited to: acts of God; governmental acts, decrees or restrictions; accidents; wars, riots, terrorism or civil commotion; explosion, fire or flood; boycotts, trade disputes or quarantines; strikes, lockouts, slowdowns or other labor problems; restraints affecting shipment or credit; non-arrival or delay of carriers; inadequate or reduced supply or excessive cost of suitable raw materials or components, transportation or production facilities; or any other cause or circumstance affecting the ability of MobileDemand, its suppliers, or manufacturers to manufacture and supply product. In the event of such default or delay, the date for shipment shall be extended accordingly. MobileDemand may make delivery on an equitable basis with reference to all its Customers. No Orders may be cancelled due to a force majeure event without MobileDemand's prior written approval.

11. Not for Resale:

Customer agrees and represents that it is buying for its own internal use only, and not for resale or distribution to any other third party. MobileDemand authorized resellers are subject to the terms and conditions of the separate reseller agreement executed between MobileDemand and such reseller.

12. Compliance with Laws:

MobileDemand is in compliance with all laws, rules, regulations, standards, ordinances, and Executive Orders of the United States, all applicable state and local government rules and regulations with respect to the manufacture and sale of the Products and in the performance of the services covered by this contract for sale.

Products purchased by Customer shall be subject to export laws and regulations of the United States of America. Customer agrees to comply with all applicable laws and regulations of the various states and of the United States.

13. Intellectual Property:

MobileDemand shall hold Customer harmless from any and all expenses or losses resulting from infringement of a United States patent in connection with the purchase, manufacture, or use of MobileDemand products, provided MobileDemand is promptly notified in writing of any alleged infringement and given the right, at its option, to either: (i) to modify the products and make them non-infringing; (ii) procure for Customer the right to continue using such products; or (iii) remove such products and refund Customer the purchase price less reasonable and customary depreciation. Further Customer shall permit MobileDemand, at its option, to control the defense or settlement negotiations. There is no coverage for non-MobileDemand products that are infringing a third party's patent.

14. Limitations on Liability:

DUE TO THE NATURE OF WIRELESS COMMUNICATIONS, MOBILEDEMAND WIRELESS PRODUCTS SHOULD NOT BE USED IN SITUATIONS WHERE LIVES OR PROPERTY WOULD BE ENDANGERED BY AN INABILITY TO FUNCTION OR ESTABLISH COMMUNICATIONS. THEREFORE IN NO EVENT SHALL MOBILEDEMAND BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT, NEGLIGENCE, TORT, OR ON ANY OTHER BASIS, FOR COVER OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES FOR ANY BREACH OF THESE TERMS AND CONDITIONS OR USE OF THE PRODUCTS INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF BUSINESS OR GOODWILL, OR LOSS OF USE, EVEN IF MOBILEDEMAND HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE OR ANY CLAIM BY ANY THIRD PARTY. FOR ANY BREACH OF THESE TERMS AND CONDITIONS, MOBILEDEMAND'S SOLE AND EXCLUSIVE MAXIMUM LIABILITY SHALL NOT IN ANY EVENT EXCEED THE TOTAL PRICE OF THE PRODUCTS ORDERED BY CUSTOMER THAT GIVE RISE TO THE CLAIM.

15. Order Cancellation and Rescheduling:

After an Order is accepted, Customer may only cancel the Order by providing MobileDemand written notice at least sixty (60) days prior to the original acknowledged delivery date, subject to fees and reimbursement to MobileDemand for its direct expenses (included, but not limited to material costs and labor costs) incurred prior to such cancellation.

- a. After an Order is accepted, Customer may only reschedule the Order one (1) time subject to: (i) providing MobileDemand written notice at least sixty (60) days prior to the original acknowledged delivery date; (ii) the requested rescheduled delivery date being no greater than thirty (30) days beyond the original acknowledged delivery date; and (iii) applicable fees will be assessed to Customer and reimbursement to MobileDemand for its direct expenses incurred as a result of such reschedule.
- b. MobileDemand may, upon written notice to Customer, cancel any Order or portion thereof immediately if Customer's financial condition, in MobileDemand's reasonable judgment, indicates that it may not be able to comply with the specified payment terms, unless, upon MobileDemand's request, Customer immediately pays for all products shipped and that portion of the Order that has not yet shipped.

16. Additional Terms and Conditions:

- a. **Assignments:**
Customer may not sublease or assign any of its rights or obligations under this contract without the prior written consent of MobileDemand, and any alleged assignment without such consent shall be void.
- b. **Contract:**
This Agreement and the Order Acknowledgement form sets forth the entire agreement amongst the parties with respect to the purchase and ordering of products. All other representations, agreements, warranties, conditions, or obligations, expressed or implied, relating to the sale and purchase of MobileDemand products, are hereby superseded.
- c. **Choice of Law:**
The construction, validity, and performance of the contract for sale between MobileDemand and Customer shall be governed by the laws of the State of Iowa, United States of America, without reference to its choice of law principles. Customer irrevocably consents to the personal jurisdiction of the state and federal courts having jurisdiction over Linn County, Iowa, for the trial of any lawsuit arising out of the contract for sale. Any action for the breach of the contract for sale brought by Customer must be commenced within one (1) year after the cause of action has occurred.
- d. **Attorney Fees:**
In the event of litigation to enforce the terms of the contract of sale, the prevailing party shall be entitled to reasonable attorneys' fees, both at the time of trial and on appeal.
- e. **Waiver; Enforceability:**
Any waiver of the terms and conditions hereof, or any waiver of any breach hereof by Customer, either directly by MobileDemand or by operation of law or in equity, shall not be deemed to be a waiver of any subsequent failure of strict compliance with the performance of each and every item of the contract for sale. If any provision or provisions of the contract for sale are held to be invalid, illegal or unenforceable, such provision shall be enforced to the fullest extent permitted by applicable law, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.
- f. **Confidentiality:**
All information contained here in, including, but not limited to the quote, is confidential and the property of MobileDemand and the customer shall not disclose the details thereof with any other party.