

Cloud Services Subscription Agreement

This Cloud Services Subscription Agreement (“SSA”) is a binding legal contract between the person or company signing or accepting this SSA (hereinafter, “Company” or “you”) and Turntide Technologies Inc. (“Provider”). By accessing or using the Services, as defined below, you will be bound by the terms of this SSA. You are being provided with access to the Services as part of your purchase from Provider’s OEM partner, Price Industries, Inc. (the “OEM”). If you do not agree to the terms of this SSA, Provider is not willing to grant you any right to use or access the Services. If this SSA is being agreed to by a company or other legal entity, then the person agreeing to this SSA on behalf of that company or entity represents and warrants that he or she is authorized and lawfully able to bind that company or entity to this SSA. In that case, all references to “you” refer to your employer. You should print and retain a copy of this SSA for your records.

1. **Term.** This SSA will become effective on the first date (the “Effective Date”) that Provider assigns, in the Provider cloud services (the “Services”), a subscription license to your Site (defined below). The term (“Term”) of this SSA will begin on the Effective Date and will continue thereafter for the length of time (as described in your order) for which you purchased the Services. If you wish to continue using the Services past the end of the Term, you understand and agree that you must purchase additional Services pursuant to Provider’s then-current cloud services subscription agreement; and in order for there to be no interruption in the Services, you must order the new Services prior to the expiration of the Term. A “Site” is a physical and logical grouping of a customer’s equipment, defined by a single contiguous controls network.

2. **Services.** Subject to the terms and conditions of this SSA and your payment of all relevant fees, Provider grants you and your End Users (as defined below) a non-exclusive, non-transferable subscription to access and use Provider’s cloud services solely for your internal business purposes. Provider may, at its sole discretion, make non-material updates to the Services at any time, and Provider will use all reasonable efforts to make you aware of any such updates. To the extent any Provider software is provided to you for installation on your systems for use in connection with the Services, the Provider software will be included in the definition of Services and subject to the foregoing license. All software may only be used in support of your use of the Services and for no other purpose. For purposes of this SSA, “End Users” means your employees, contractors, tenants, and representatives who are authorized to access the Services on your behalf.

3. **End Users; Mobile Application.** To facilitate use of the Services, certain End Users may elect to download from an authorized app store Provider’s mobile application (the “Mobile App”). Use of the Mobile App and the associated Services requires the End User to accept and be bound by Provider’s then-current Mobile App end user license agreement (the “EULA”), which is furnished with the Mobile App. In the event of a conflict between this SSA and the EULA regarding your use of the Services through the Mobile App, the EULA will govern.

4. **Restrictions.** You and your End Users may only use the Services as described in this SSA and in Provider’s then-current documentation for the Services made generally available to Provider’s customers (the “Documentation”). You are responsible for ensuring your End Users comply with all relevant terms of this SSA and any failure to comply will constitute a breach by you. Except as expressly authorized by this SSA, you will not, and will not allow any End User or other third party to, (i) permit any third party to access or use the Services other than an End User; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the trade secrets

embodied in the Services, except to the extent expressly permitted by applicable law; (iii) use the Services or any Provider Confidential Information to develop a competing product or service; (iv) use any Services, or allow the transfer, transmission, export, or re-export of any Services or portion thereof, in violation of any export control laws or regulations administered by the U.S. Commerce Department or any other government agency; (v) remove any copyright, trademark, proprietary rights, disclaimer, or warning notice included on or embedded in any part of the Documentation and Services, including any screen displays, etc., or any other products or materials provided by Provider hereunder; or (vi) use the Services in a way other than as intended, including but not limited to, not entering any personal information (other than name and basic contact information (email and phone number)) into the Services. Under no circumstances will Provider be liable or responsible for any use, or any results obtained by the use, of the Services in conjunction with any services, software, or hardware that are not provided by Provider. All such use will be at your sole risk and liability. The Services are not intended to accept personal information (other than name and basic contact information (email and phone number)), but if you have questions regarding how Provider treats data that can identify any natural person or other privacy issues, please refer to Provider’s Privacy Policy available at <https://turntide.com/privacy-policy/>

5. **Availability.** Provider will use reasonable efforts to make the hosted elements of the Services available for remote access 99% of the time each calendar month of the Term, excluding Excused Outages (as defined below) (“Availability”). Downtime as a result of any causes beyond the control of Provider or that are not reasonably foreseeable by Provider, including without limitation by any of the events noted below are excluded from the Availability calculations (collectively, “Excused Outages”):

- a. issues in your environment affecting connectivity or interfering with the Services, including without limitation your telecommunications connection or any of your other software or equipment, your firewall software, hardware or security settings, your configuration of anti-virus software or anti-spyware or malware software, or your operator errors;
- b. any third-party software, hardware, or telecommunication failures, including internet slow-downs or failures;
- c. Force Majeure Events, as defined in Section 19.3;
- d. issues related to third party domain name system (DNS) errors or failures;
- e. scheduled maintenance of the Services, conducted on a regular basis during non-peak hours;
- f. emergency maintenance of the Services.

In the event Provider fails to achieve the Availability requirement, Provider will use commercially reasonable efforts to correct the interruption as promptly as practicable. In the event Provider fails to achieve the Availability requirement in two (2) consecutive months during the term of this SSA, you may terminate this SSA within thirty (30) days of the end of the second consecutive month, without further obligation. Such termination will constitute your sole and exclusive remedy from Provider and Provider’s sole and exclusive liability for failure to achieve the Availability requirement.

6. **Information Security.** Consistent with any law or regulation applicable to the Services and Provider’s then-current practices and procedures, Provider will maintain and enforce administrative, technical, and physical safeguards to reasonably protect the confidentiality, availability, and integrity of your Confidential Information and Your Data, as defined below.

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7. **Connectivity; Required Third Party Software.** Unless otherwise specified in writing between you and Provider, you and your End Users are solely responsible for all telecommunication or internet connections required to access the Services, as well as all hardware and software at your site, including obtaining and licensing any third-party software or related applications specified by Provider for proper use of the Services (the “**Third Party Software**”). All use of the Third Party Software is governed by the terms and conditions furnished with those applications. Provider assumes no liability or responsibility for the Third Party Software. Your sole and exclusive remedies with regard to the Third Party Software are set forth in the relevant third party terms and conditions. You release Provider of all liability, claims, and damages, whether now known or later discovered, arising out of the Third Party Software. In addition to other third party costs that may apply, you are responsible for all telecommunications costs, fees and services required for and dedicated to your access to the Services.

8. **Proprietary Rights.** You acknowledge and agree that (i) all Services are protected by intellectual property rights, as applicable, of Provider and its vendors/licensors and that you have no right to transfer or reproduce any of the foregoing or any Provider software provided with the Services or prepare any derivative works with respect to, or disclose Confidential Information (as defined in Section 16 (Confidentiality)) pertaining to, any Services or any part of them and (ii) that Provider owns all right, title, and interest in and to the Services and any Provider software that is provided, including any changes or modifications made to the Services performed in connection with this SSA, together with all ideas, architecture, algorithms, models, processes, techniques, user interfaces, database design and architecture, and “know-how” embodying the Services. Under no circumstances will you be deemed to receive title to any portion of the Services; title to which at all times will vest exclusively in Provider. This is not a “work made for hire” agreement, as that term is defined in Section 101 of Title 17 of the United States Code. You will preserve all Services from any liens, encumbrances, and claims of any individual or entity. You will not use any Confidential Information disclosed by Provider to you in connection with this SSA to contest the validity of any intellectual property rights of Provider or its licensors. Any such use of Provider’s Confidential Information will constitute a material, non-curable breach of this SSA.

9. **Your Data.** You grant Provider a non-exclusive, worldwide, royalty-free license to use the documents, information, graphics, data, content, and other materials input by you or collected from you into the Services (“**Your Data**”) for purposes of performing this SSA. You will be responsible for obtaining all rights, permissions, and authorizations to grant the foregoing license. Except for the licenses granted in this SSA, nothing contained in this SSA will be construed as granting Provider any right, title, or interest in Your Data. You grant Provider a non-exclusive, perpetual, irrevocable, fully-paid-up, royalty free license to use, copy, distribute, and otherwise utilize statistical, anonymized, and/or aggregated data derived from your use of Services (the “**Aggregated Data**”) for Provider’s business purposes, including the improvement of Provider’s products and services and the provision of products and services to Provider’s customers; provided the Aggregated Data does not include (directly or by inference) any information identifying you or any identifiable individual. The Aggregated Data will not be considered your Confidential Information.

10. **Feedback.** You may provide suggestions, comments or other feedback (collectively, “**Feedback**”) to Provider with respect to its products and services, including the Services. Feedback is voluntary. Provider may use Feedback for any purpose without obligation of any kind. To the extent a license is required under your intellectual property rights to make use of the Feedback, you grant

Provider an irrevocable, non-exclusive, perpetual, fully-paid-up, royalty-free license to use the Feedback in connection with Provider’s business, including the enhancement of the Services.

11. **Support and Maintenance.** The OEM is responsible for providing support and maintenance for the Services to you and your End Users. The support and maintenance services described in this Section may be referred to, collectively, as the “**Support Services**,” which are deemed included in the definition of “**Services**.” Please contact the OEM for any Support Services and/or maintenance issues or questions. If the OEM needs assistance from Provider to provide you or your End Users the Support Services, the OEM will contact Provider.

12. **Fees.** You will pay the OEM the fees and costs associated with the Services.

13. **Warranties.**

13.1 **Your Warranty.** You represent and warrant that (a) you have full power, capacity, and authority to enter into this SSA and to grant the license set forth in Section 9 (Your Data); and (b) use of Your Data as permitted under this SSA and your use of the Services does not and will not infringe the intellectual property, publicity, or privacy rights of any person and is not defamatory, obscene, or in violation of applicable foreign, federal, state and local laws, rules and regulations (including but not limited to applicable policies and laws related to spamming, privacy, and consumer protection) (collectively, “**Applicable Law**”).

13.2 **Provider Warranty.** During the Term, Provider represents and warrants (i) the Services will substantially comply with the Documentation; (ii) it will use commercially reasonable efforts to screen the Services for viruses, Trojan horses, worms, and other similar intentionally harmful or destructive code; and (iii) it will comply with Applicable Law in performing this SSA. In the event of a breach of the warranty in this Section 13.2(i), Provider’s sole and exclusive liability and your sole and exclusive remedy will be to perform the defective Services again. In the event Provider is unable through reasonable efforts to correct the defective Services within thirty (30) days from receipt of notice from you of the breach, you may elect to terminate this SSA.

13.3 **Disclaimer of Warranties.** EXCEPT AS PROVIDED IN SECTION 13.2 (PROVIDER WARRANTY), THE SERVICES AND SUPPORT SERVICES ARE PROVIDED “AS IS” AND “AS-AVAILABLE,” WITH ALL FAULTS, AND WITHOUT WARRANTIES OF ANY KIND. PROVIDER AND ITS RESELLERS/OEM, VENDORS, AND LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, QUALITY OF INFORMATION, AND TITLE/NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PROVIDER OR ITS AUTHORIZED REPRESENTATIVES OR RESELLERS/OEM WILL CREATE ANY OTHER WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF PROVIDER’S OBLIGATIONS HEREUNDER. THE SERVICES MAY BE USED TO ACCESS AND TRANSFER INFORMATION OVER THE INTERNET. YOU ACKNOWLEDGE AND AGREE THAT PROVIDER AND ITS RESELLERS/OEM, VENDORS, AND LICENSORS DO NOT OPERATE OR CONTROL THE INTERNET AND THAT: (I) VIRUSES, WORMS, TROJAN HORSES, OR OTHER UNDESIRABLE DATA OR SOFTWARE; OR (II) UNAUTHORIZED USERS (E.G., HACKERS) MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE YOUR DATA, WEBSITES, COMPUTERS, OR NETWORKS. PROVIDER WILL NOT BE

RESPONSIBLE FOR SUCH ACTIVITIES. YOU ARE RESPONSIBLE FOR PRESERVING AND MAKING ADEQUATE BACKUPS OF YOUR DATA.

14. **Provider Indemnity.** Provider will defend and indemnify you and hold you harmless from any and all claims, losses, deficiencies, damages, liabilities, costs, and expenses (including but not limited to reasonable attorneys' fees) arising from a claim by a third party that your licensed use of the Services infringes that third party's United States patent, copyright, or trade secret rights. The foregoing indemnification obligation of Provider is contingent upon you promptly notifying Provider in writing of such claim, permitting Provider sole authority to control the defense or settlement of such claim and providing Provider reasonable assistance (at Provider's sole expense) in connection therewith. If a claim of infringement under this Section 14 (Provider Indemnity) occurs, or if Provider determines a claim is likely to occur, Provider will have the right, in its sole discretion, to either (i) procure for you the right or license to continue to use the Services free of the infringement claim, or (ii) modify the Services to make it non-infringing, without loss of material functionality. If neither of these remedies is reasonably available to Provider, Provider may, in its sole discretion, immediately terminate this SSA. Notwithstanding the foregoing, Provider will have no obligation with respect to any claim of infringement that is based upon or arises out of (i) the use or combination of the Services with any hardware, software, products, data, or other materials not provided by Provider, (ii) modification or alteration of the Services by anyone other than Provider, (iii) use of Services in excess of the rights granted in this SSA, or (iv) Your Data (collectively, the "**Excluded Claims**"). The provisions of this Section 14 (Provider Indemnity) state the sole and exclusive obligations and liability of Provider and its Resellers/OEM, licensors, and suppliers for any claim of intellectual property infringement arising out of or relating to the Services or this SSA, and are in lieu of any implied warranties of non-infringement, all of which are expressly disclaimed.

15. **Your Indemnity.** You will defend and indemnify Provider and hold it harmless from any and all claims, losses, deficiencies, damages, liabilities, costs, and expenses (including but not limited to reasonable attorneys' fees) incurred by Provider as a result of any claim by a third party arising from the Excluded Claims. The foregoing indemnification obligations of yours are contingent upon Provider promptly notifying you in writing of such claim, permitting you sole authority to control the defense or settlement of such claim and providing you reasonable assistance (at your sole expense) in connection therewith.

16. **Confidentiality.** During the course of this SSA, each party may disclose to the other certain non-public information or materials relating to a party's products, intellectual property, business, marketing programs and efforts, and other confidential information and trade secrets ("**Confidential Information**"). Notwithstanding the foregoing, Confidential Information does not include information that: (a) is or becomes publicly available through no breach by the receiving party of this SSA; (b) was previously known to the receiving party prior to the date of disclosure, as evidenced by contemporaneous written records; (c) was acquired from a third party without any breach of any obligation of confidentiality; (d) was independently developed by a party hereto without reference to Confidential Information of the other party; or (e) is required to be disclosed pursuant to a subpoena or other similar order of any court or government agency, provided, however, that party receiving such subpoena or order will promptly inform the other party in writing and provide a copy thereof, and will only disclose that Confidential Information necessary to comply with such subpoena or order. Except as expressly provided herein, the receiving party will not use or disclose any Confidential Information of the disclosing party without

the disclosing party's prior written consent, except disclosure to and subsequent uses by the receiving party's employees or consultants on a need-to-know basis, provided that such employees or consultants have executed written agreements restricting use or disclosure of such Confidential Information that are at least as restrictive as the receiving party's obligations under this Section. Subject to the foregoing nondisclosure and non-use obligations, the receiving party agrees to use at least the same care and precaution in protecting such Confidential Information as the receiving party uses to protect the receiving party's own Confidential Information and trade secrets, and in no event less than reasonable care. Each party acknowledges that due to the unique nature of the other party's Confidential Information, the disclosing party will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, in equity or otherwise, the disclosing party will be entitled to seek injunctive relief to prevent such unauthorized use or disclosure. Neither party will remove or alter any proprietary markings (e.g., copyright and trademark notices) on the other party's Confidential Information.

17. **Limitation of Liability and Damages.** NEITHER PROVIDER NOR ITS RESELLERS/OEM, VENDORS, OR LICENSORS WILL HAVE ANY LIABILITY TO YOU OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, SALES, TRADING LOSSES, BUSINESS, DATA, OR OTHER INCIDENTAL, CONSEQUENTIAL, OR SPECIAL LOSS OR DAMAGE, INCLUDING EXEMPLARY AND PUNITIVE, OF ANY KIND OR NATURE RESULTING FROM OR ARISING OUT OF THIS SSA, INCLUDING USE OF OR INABILITY TO USE THE SERVICES AND SUPPORT SERVICES. THE TOTAL LIABILITY OF PROVIDER AND ITS RESELLERS/OEM, VENDORS, AND LICENSORS TO YOU OR ANY THIRD PARTY ARISING OUT OF THIS SSA, THE SERVICES, OR SUPPORT SERVICES IN CONNECTION WITH ANY CLAIM OR TYPE OF DAMAGE (WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE) WILL NOT EXCEED THE TOTAL FEES PAID BY YOU TO THE OEM FOR THE SERVICES DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. THIS LIMITATION OF LIABILITY WILL APPLY EVEN IF THE EXPRESS WARRANTIES SET FORTH ABOVE FAIL OF THEIR ESSENTIAL PURPOSE.

18. **Termination.**

18.1 **Termination.** This SSA will terminate (a) on the thirtieth (30th) day after either party gives the other written notice of a breach by the other of any material term or condition of this SSA, unless the breach is cured before that day; or (b) upon written notice by either party, immediately, if (i) a receiver is appointed for the other party or its property; (ii) the other party becomes insolvent or unable to pay its debts as they mature in the ordinary course of business or makes a general assignment for the benefit of its creditors; or (iii) any proceedings (whether voluntary or involuntary) are commenced against the other party under any bankruptcy or similar law and such proceedings are not vacated or set aside within sixty (60) days from the date of commencement thereof.

18.2 **Suspension of Services.** Notwithstanding any other provision of this SSA, Provider may, in its sole discretion, suspend your access to the Services for any of the following reasons (a) to prevent damages or risk to, or degradation of, the Services; (b) to comply with any law, regulation, court order, or other governmental request; (c) to otherwise protect Provider from potential legal liability; or (d) in the event the OEM notifies Provider that the fees you owe to the OEM for the Services remain unpaid after the due date. Provider will use reasonable efforts to provide you with notice prior to or promptly following any suspension of the Services. Provider will

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promptly restore access to the Services as soon as the event giving rise to suspension has been resolved. This Section will not be construed as imposing any obligation or duty on Provider to monitor use of the Services.

18.3 Effect of Termination. Upon termination of this SSA or termination of the Services for any reason: (a) your and all End Users' access to and use of the Services will cease as of the effective date of termination; and (b) on your written request made within thirty (30) days after the effective date of termination or expiration of this SSA, Provider will make Your Data available for export or download for a period of thirty (30) days from the date of such written request. After the foregoing period, Provider will have no obligation to maintain Your Data. Notwithstanding any other provision in this Agreement, upon your written request, Provider shall permanently delete and destroy Your Data (excluding any Aggregated Data), unless and except Your Data, in whole or in part, is required to be retained by any applicable laws.

19. General Provisions.

19.1 Affiliates, Subcontractors and Vendors. Some or all of the Services may be provided by Provider's affiliates, agents, subcontractors and information system vendors. The rights and obligations of Provider may be, in whole or in part, exercised or fulfilled by the foregoing entities. Provider will ensure such entities comply with all relevant terms of this SSA and any failure to do so will constitute a breach by Provider.

19.2 USA Patriot Act Notice. The U.S. federal USA Patriot Act ("USA Patriot Act") provides generally for the operator of a communication host and law enforcement to be able to monitor any content, upon request of the operator. Provider anticipates fully complying with all its obligations, and availing itself of all its rights, under the USA Patriot Act.

19.3 Force Majeure. Except for the payment of money to the OEM as described in Section 12 (Fees) of this SSA, neither party will be liable for any failure or delay in performance under this SSA which is due to any event beyond the reasonable control of such party, including without limitation, fire, explosion, unavailability of utilities or raw materials, internet delays and failures, telecommunications failures, unavailability of components, labor difficulties, war, riot, act of God, quarantines, pandemic, export control regulation, laws, judgments or government instructions (collectively, "**Force Majeure Events**").

19.4 Entire Agreement; Amendment. This SSA sets forth the entire agreement between the parties with regard to the subject matter hereof. No other agreements, representations, or warranties have been made by either party to the other with respect to the subject matter of this SSA, except as referenced herein.

19.5 Governing Law, Venue, and Limitation of Actions. This SSA will be construed according to, and the rights of the parties will be governed by, the law of the State of California, without reference to its conflict of laws rules. The parties agree that all actions or proceedings arising in connection with this SSA will be tried and litigated exclusively in the state or federal courts (if permitted by law and a party elects to file an action in federal court) located in Santa Clara, California. This choice of venue is intended by the parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this SSA in any jurisdiction other than that specified in this Section. Each party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or theory or to object to venue with respect to any proceeding brought in accordance with this Section. No action, regardless of form, arising out of this

SSA, may be brought by either party more than one (1) year after the cause of action has arisen.

19.6 No Third-Party Beneficiaries. There are no third-party beneficiaries to this SSA. In particular, no End User will be deemed a third-party beneficiary of this SSA or have any rights under this SSA.

19.7 Relationship of the Parties. The parties agree that Provider will perform its duties under this SSA as an independent contractor. Nothing contained in this SSA will be deemed to establish a partnership, joint venture, association, or employment relationship between the parties. Personnel employed or retained by Provider who perform duties related to this SSA will remain under the supervision, management, and control of Provider.

19.8 Assignment. You may not assign this SSA without the prior written consent of Provider. Notwithstanding the foregoing, upon advance written notice to Provider, you may assign this SSA to an entity that is either (a) acquiring all or substantially all of your assets and assuming all liabilities related to such assets or (b) acquiring the division, business unit or operation of yours which uses Services and assuming the liabilities of such division, business unit or operation. Additionally, in order for you to be released from liability under this SSA, the assignee must agree in writing with Provider that the assignee (i) accepts the terms and conditions of this SSA (and any amendments) or accepts the then-current form of Provider's SSA with Provider, and (ii) accepts full responsibility for any existing payment obligations to the OEM as described in Section 12 (Fees) of this SSA.

19.9 Severability. If any of the provisions of this SSA are found or deemed by a court to be invalid or unenforceable, they will be severable from the remainder of this SSA and will not cause the invalidity or unenforceability of the remainder of this SSA.

19.10 Waiver. Neither party will by mere lapse of time without giving notice or taking other action hereunder be deemed to have waived any breach by the other party of any of the provisions of this SSA. Further, the waiver by either party of a particular breach of this SSA by the other party will not be construed as, or constitute, a continuing waiver of such breach, or of other breaches of the same other provisions of this SSA.

19.11 Survival. The following provisions will survive termination or expiration of this SSA: 8 (Proprietary Rights), 13.3 (Disclaimer of Warranties), 14 (Provider Indemnity) (for claims accruing prior to termination), 15 (Your Indemnity) (for claims accruing prior to termination), 16 (Confidentiality), 17 (Limitation of Liability and Damages), 18 (Termination), and 19 (General Provisions).

19.12 Electronic Execution. This SSA may be accepted in electronic form (e.g., by an electronic or digital signature or other means of demonstrating assent) and your acceptance will be deemed binding between the parties. You acknowledge and agree you will not contest the validity or enforceability of this SSA and related documents, including under any applicable statute of frauds, because they were accepted and/or signed in electronic form.