

PiiQ by Cornerstone

TERMS AND CONDITIONS

Last updated: August 6, 2019

These Terms and Conditions (“Terms and Conditions”) are made a part of and incorporated by reference into the PiiQ by Cornerstone (“PiiQ”) Order by and between Client and Sonar Limited (“PiiQ”).

1. Definitions.

a) “Affiliate” means a party that partially (at least 50%) or fully controls, is partially or fully controlled by, or is under partial (at least 50%) or full common control with, another party.

b) “Agreement” means the Order and these Terms and Conditions.

c) “Client Content” means each and all of the following which is provided by Client: course, learning object, certification, quiz, test, material, instructor-led session, or document.

d) “Client Data” means proprietary or personal data regarding Client or any of its users which is uploaded to the Software pursuant to the Agreement.

e) “Confidential Information” means any non-public information of PiiQ or Client disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other party may have access, which a reasonable person would consider confidential and/or which is marked “confidential” or “proprietary” or some similar designation by the disclosing party. Confidential Information shall not, however, include any information which the recipient can establish: (i) was or has become generally known or available or a part of the public domain without direct or indirect fault, action, or omission of the recipient; (ii) was known by the recipient prior to the time of disclosure, according to the recipient’s prior written documentation; (iii) was received by the recipient from a source other than the discloser, rightfully having possession of and the right to disclose such information; or (iv) was independently

developed by the recipient, where such independent development has been documented by the recipient.

f) “Free Trial” means a period, lasting the length of time and for the number of Subscribers specified during sign-up, whereby PiiQ has allowed Client to use the Software on a provisional basis without payment for such use therefor.

g) “Implementation” means implementation, deployment, and/or training relating to the Software.

h) “Intellectual Property Right” means any patent, copyright, trade or service mark, trade dress, trade name, database right, goodwill, logo, trade secret right, or any other intellectual property right or proprietary information right, in each case whether registered or unregistered, and whether arising in any jurisdiction, including without limitation all rights of registrations, applications, and renewals thereof and causes of action for infringement or misappropriation related to any of the foregoing.

i) “Order” means an online purchase authorized by Client.

j) “Service” means any service rendered by PiiQ specifically to Client, including, but not limited to: (i) hosting of the Software and (ii) Implementation.

k) “Software” means any and all of PiiQ’s proprietary software offerings, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto, as well as software that has been modified in any way by PiiQ at the request of a client.

l) “Subscriber” means an employee, member, or customer of Client or one of its Affiliates who is permitted by Client to access the Software.

m) “Subscription” means a subscription purchased by Client for a Subscriber to access the Software.

n) “Term” means the Initial Term plus all Renewal Terms.

2. Support. Please refer to the Support Package PiiQ by Cornerstone and Service Level Agreement, which can be found at:

<https://www.cornerstoneondemand.com/piiq/terms/support-sla>. In no event shall PiiQ be responsible or liable for any errors, bugs or other problems contained in or originating from hardware or software not provided by PiiQ, including but not limited to, the ADP Marketplace product.

3. Fees and Payment.

a) Free Trial. If Client is using the Software pursuant to a Free Trial, PiiQ will, immediately following expiration of the Free Trial, begin billing Client on a recurring basis, via the payment method specified in the Order summary during Free Trial sign-up.

b) Billing. Unless otherwise stated in the Order, payment of annual fees will be due at the time of purchase and invoiced monthly in accordance with the Order summary. All payments must be made in United States dollars unless another currency is specified, and are exclusive of all applicable taxes and net of applicable withholding taxes. Fees are subject to an automatic five percent (5%) increase for each automatic renewal of an Order in accordance with Section 7(a) below. Services are subject to suspension for failure to timely remit payment therefor. Should PiiQ shut off Client's access to the Software as a result of non-payment and Client later pays said delinquent fees, PiiQ reserves the right to charge Client a reinstatement fee and/or a chargeback fee (as assessed by the payment processing provider) before restoring access to the Software. If Client fails to satisfy its tax and/or duty obligations herein, Client shall reimburse PiiQ upon demand for any taxes and/or duties paid on behalf of Client and shall indemnify and hold PiiQ harmless against any claim and/or liability (including penalties) resulting from Client's failure to pay such taxes and/or duties.

c) Payment Processing. Client agrees to promptly notify PiiQ of any changes to its billing information. If Client enrolled with a payment card, Client hereby authorize PiiQ to charge the payment card on a recurring basis for all applicable fees and to store such credit card information on a third party's payment processing provider's servers. PiiQ currently engages a third party for online payment processing services, and in addition to these Terms and Conditions, Client agrees that such third-party terms and conditions shall apply to Client's online payments of the Fees. PiiQ reserves the right to use other third-party payment processing services for such purposes in the future.

d) Subscriber Changes. Additional subscribers will be invoiced in the month following the month the subscribers were added to the Software. Client may reassign the license to an alternate Subscriber at any time. Client may cancel the subscription without further obligation, except for the amount due for the balance of the billing period. If the billing period is monthly, PiiQ will prorate the account to the nearest month-end after cancellation.

4. PiiQ Obligations. In accordance with the terms and conditions of the Agreement, PiiQ will: (i) make the Software and Services available on a non-exclusive basis to Client and Subscribers via the Internet; (ii) maintain appropriate safeguards for protection of Client Data, including regular back-ups and security protocols; (iii) not access, modify, or disclose Client Data (except as compelled by law, to prevent or address service or technical issues, or if otherwise permitted by Client). PiiQ shall process Client Data in accordance with Client's instructions consistent with and in the scope of the Agreement. Client authorizes PiiQ to transfer Client Data to PiiQ Affiliates and/or subcontractors in the United States, Israel, India, New Zealand and/or other locations reasonably required to provide support, perform technical projects or perform other types of services under the Agreement, provided that for EU Client Data either: (i) such locations

are recognized by the European Commission as providing adequate data protection; (ii) PiiQ has executed on behalf of the Client the EU Standard Contractual Clauses with such Affiliates and/or subcontractors (Client hereby grants such proxy to PiiQ); or (iii) upon Client's request, the parties execute the EU Standard Contractual Clauses directly with such Affiliates and/or subcontractors.

5. Client Obligations. Client may only use the Software and Services for its own lawful, internal business purposes and not for any purposes to compete with PiiQ. Client shall not: (i) use or deploy the Software in violation of applicable laws or these Terms and Conditions; (ii) resell the Software or Services; create any derivative works based upon the Software or Services; (iii) reverse engineer, reverse assemble, decompile or otherwise attempt to derive source code from the Software or any part thereof (except to the extent that such restriction is not permitted under applicable law); (iv) make the Software or Services available, directly or indirectly, to any unauthorized parties, including without limitation, competitors of PiiQ; or (v) perform, or release the results of, benchmark tests or other comparisons of the Software or Services with other software, services, or materials. Client will be responsible for Subscribers' compliance with the Agreement and liable for Subscribers' breach thereof. Client will ensure that it has obtained all necessary consents and approvals for PiiQ to access and use Client Data for the purposes permitted under this Agreement, and that the provision of Client Data to PiiQ hereunder does not violate or infringe any Intellectual Property Right of any third party. If Client is in breach of this section, PiiQ may suspend Services, in addition to any other rights and remedies PiiQ may have at law or in equity.

6. Intellectual Property. As between the parties, PiiQ will and does retain all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to the Software and Services. Client retains all ownership rights to Client Data.

7. Term and Termination.

a) Term. The term of the Agreement runs from the Order Effective Date (as defined in the Agreement) through the Order Term/End Date. Unless otherwise agreed by the parties in writing, each Order will automatically renew for additional, consecutive one-year periods, unless and until a party provides written notice to the other party, at least thirty (30) days prior to the expiration of the Order, that the party does not wish to renew the Order. PiiQ will use commercially reasonable efforts to notify Client of an upcoming renewal date not less than seven days in advance of such date. PiiQ will charge the payment card on file on the renewal date. Should such card become expired, PiiQ will work with the payment processor to update the expiration date of the payment card. Client may notify PiiQ of its intent to not renew by email to: piiqsupport@csod.com. If Client was invoiced the annual fees in the initial Order, PiiQ will send an invoice thirty (30) days in advance of each renewal date and payable thirty (30) days of receipt of such invoice.

b) Termination for Cause. Either party may immediately terminate the Agreement if the other party materially breaches its obligations hereunder, and, where capable of remedy,

such breach has not been materially cured within forty-five (45) days of the breaching party's receipt of written notice describing the breach in reasonable detail.

c) Bankruptcy Events. A party may immediately terminate the Agreement if the other party: (i) has a receiver appointed over it or over any part of its undertakings or assets; (ii) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (iii) makes a general assignment for the benefit of its creditors.

d) Effect of Termination. In the event Client terminates prior to the Order End Date, PiiQ will continue invoicing the annual fees in accordance with Section 3.b). Immediately following termination of the Agreement, Client shall cease using the Software. Within ten (10) business days of termination of the Agreement, Client may request that Client Data be returned at no additional charge in a standard format to be determined by PiiQ, or as otherwise agreed by the parties. Following termination of the Agreement, PiiQ will maintain backups of Client Data for no more than thirteen months, after which time all remaining Client Data will be destroyed.

8. Objection. If Client objects to any term or condition of these Terms, or any subsequent modification thereto, or becomes dissatisfied with the Software in any way, the sole recourse is to immediately discontinue use of the Software and cancel the subscription to prevent automatic renewal in accordance with Section 7.a).

9. Confidentiality. Each of the parties agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those subcontractors of PiiQ providing Services hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in these Terms and Conditions; (ii) not to use any Confidential Information for any purposes except carrying out such party's rights and responsibilities under the Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such party uses to protect its own confidential information; provided, however, that such party shall use at least reasonable care. These obligations shall survive termination of the Agreement. If a party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages.

10. Indemnification.

a) PiiQ's Indemnification Obligations. PiiQ agrees to indemnify, defend, and hold harmless Client from and against any and all third party claims and causes of action, as well as related losses, liabilities, judgments, awards, settlements, damages, expenses and costs (including reasonable attorney's fees and related court costs and expenses) incurred or suffered by Client which directly relate to or directly arise out of the violation or infringement of any third-party Intellectual Property Rights by Client's authorized use of the Software. The foregoing provisions of this section shall not be applicable, with respect

or related to, or in connection with: (i) Client Data; or (ii) unauthorized or negligent use and/or alteration of the Software.

b) Indemnification by Client. Client agrees to indemnify, defend, and hold harmless PiiQ from and against any and all damages incurred or suffered by PiiQ which directly relate to or directly arising out of (i) Client Data or Client Content; (ii) Client's breach of the Agreement; (iii) Client's breach of any representation or warranty; (iv) Client's non-compliance with any applicable law; or (v) Client's non-payment hereunder. The foregoing provisions of section 9(b)(i) shall not be applicable to the extent the damages relate to or arise from PiiQ's use of Client Data or Client Content in violation of the Agreement.

c) Indemnification Procedures. To obtain indemnification, indemnitee shall: (i) give written notice of any claim promptly to indemnitor; (ii) give indemnitor, at indemnitor's option, sole control of the defense and settlement of such claim, provided that indemnitor may not, without the prior consent of indemnitee (not to be unreasonably withheld), settle any claim unless it unconditionally releases indemnitee of all liability; (iii) provide to indemnitor all available information and assistance; and (iv) not take any action that might compromise or settle such claim.

d) Infringement Cures. Should the Software or any part thereof become, or in PiiQ's reasonable opinion be likely to become, the subject of a claim for infringement of a third party Intellectual Property Right, then PiiQ shall, at its sole option and expense: (i) procure for Client the right to use and access the infringing or potentially infringing item(s) of the Software free of any liability for infringement; or (ii) replace or modify the infringing or potentially infringing item(s) of the Software with a non-infringing substitute otherwise materially complying with the functionality of the replaced system. If (i) and (ii) are not reasonably available in PiiQ's reasonable opinion, PiiQ may terminate the Agreement in which case Client shall receive a refund of prepaid, unearned fees.

e) Exclusive Remedies. The remedies set forth in this section shall be exclusive with respect to any infringement claim hereunder.

11. Warranties. Each party represents and warrants to the other party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such party; (iii) the Agreement is a legally valid and binding obligation of such party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party. PIIQ WARRANTS THAT ANY AND ALL SERVICES PROVIDED BY IT HEREUNDER SHALL BE PERFORMED IN A PROFESSIONAL MANNER CONSISTENT WITH PREVAILING INDUSTRY STANDARDS, AND THAT THE SOFTWARE WILL PERFORM SUBSTANTIALLY IN MATERIAL ACCORDANCE WITH THE AGREEMENT AND APPLICABLE DOCUMENTATION PROVIDED BY PIIQ. CLIENT'S EXCLUSIVE REMEDY FOR ANY BREACH OF THESE WARRANTIES SHALL BE TO TERMINATE THE AGREEMENT FOR CAUSE. TO THE EXTENT PERMITTED BY

APPLICABLE LAW, PIIQ DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT (EXCEPT FOR THE INFRINGEMENT INDEMNIFICATION PROVIDED HEREUNDER) AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. CLIENT UNDERSTANDS THAT THE SOFTWARE IS SOFTWARE-AS-A-SERVICE. ACCORDINGLY, SOFTWARE ENHANCEMENTS MAY BE MADE BY PIIQ ON A PERIODIC BASIS, AND CLIENT WILL ONLY HAVE ACCESS TO THE MOST RECENT VERSION OF THE SOFTWARE MADE AVAILABLE TO CLIENT.

12. Liability. PIIQ'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL FEES PAID BY CLIENT TO PIIQ HEREUNDER FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CAUSE OF ACTION AROSE. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN CLIENT AND PIIQ ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. PIIQ WILL NOT BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, PROVIDING REPLACEMENT SOFTWARE (EXCEPT AS SET FORTH IN SECTION "RIGHT TO PROCURE OR SUBSTITUTE"), OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THE AGREEMENT REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. Communications. Neither party shall issue any publicly disseminated statement using the name of the other party as a customer or provider without the other party's consent (not to be unreasonably withheld or delayed). Notwithstanding the foregoing, PiiQ may mention Client by name during investor-related communications and list Client's name and logo alongside PiiQ's other clients on the PiiQ website and in marketing materials, unless and until Client revokes such permission.

14. Miscellaneous Provisions.

a) Governing Law; Jurisdiction. If Client is an entity registered in: (i) New Zealand or Australia, the Agreement will be governed by and construed in accordance with the laws of New Zealand, and the courts of New Zealand shall have exclusive jurisdiction in any proceedings relating to it; (ii) the United States, the Agreement will be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America, without regard to conflict of law principles, and the state and federal courts of the State of California located in the County of Los Angeles shall have exclusive jurisdiction in any proceedings relating to it; (iii) any jurisdiction other than New

Zealand, Australia, or the United States, the Agreement will be governed by and construed in accordance with the laws of England and Wales, and the courts of England and Wales shall have exclusive jurisdiction in any proceedings relating to it.

b) Force Majeure. Neither party will be liable for any failure or delay in its performance under the Agreement due to any cause beyond its reasonable control, including without limitation, acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, sabotage, labor shortage or dispute, governmental act, failure of the Internet or other acts beyond such party's reasonable control, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.

c) Counterparts; Facsimile. Orders may be executed in any number of counterparts and in facsimile or electronically, each of which shall be an original but all of which together shall constitute one and the same instrument.

d) Entire Agreement. The Agreement contains the entire understanding of the parties with respect to the Software and Services purchased hereunder, and supersedes all prior agreements and understandings (oral or written) between the parties with respect to such subject matter. Purchase orders submitted by Client are for Client's internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force and effect.

e) Modifications. PiiQ may modify these Terms and Conditions at any time, and such modification shall be effective after PiiQ gives notice of the modifications. Client's continued use of the Software following any amendment of these Terms and Conditions will signify Client's assent to and acceptance of the revised terms. Any modification, amendment or addendum to an Order must be in writing and signed by both parties or via online consent and acceptance.

f) Assignment. Client may not assign the Agreement or any of its rights, obligations, or benefits hereunder, by operation of law or otherwise, without PiiQ's prior written consent; provided, however, Client, without PiiQ's consent, may assign the Agreement to an Affiliate or to a successor (whether direct or indirect, by operation of law, and/or by way of purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of such party, where the responsibilities or obligations of PiiQ are not increased by such assignment and the rights and remedies available to PiiQ are not adversely affected by such assignment. Subject to that restriction, the Agreement will be binding on, inure to the benefit of and be enforceable against the parties and their respective successors and permitted assigns.

g) No Third Party Beneficiaries. The representations, warranties and other terms contained herein are for the sole benefit of the parties hereto and their respective successors and

permitted assigns, and they shall not be construed as conferring any rights on any other persons.

h) Aggregated Data Use. Without limiting the confidentiality rights and protections set forth in these Terms and Conditions, PiiQ owns the aggregated, anonymized, and statistical data (“Aggregated Data”) derived from the operation of the Software, and nothing herein shall be construed as prohibiting PiiQ from utilizing the Aggregated Data for business and/or operating purposes, provided that PiiQ does not share with any third party Aggregated Data which reveals the identity of Client, Client’s users, or Client’s Confidential Information.

i) Third-Party Applications.

i) External Applications. The Software may contain features capable of interoperating with third-party applications not offered by PiiQ (“External Applications”). To use such features, Client may be required to obtain access to such applications from a third-party provider. PiiQ shall not be responsible for Client’s access to, or operation of, External Applications.

ii) Embedded Applications. PiiQ may offer or sell certain third-party applications embedded within the Software that may adhere to similar or different security standards than PiiQ (“Embedded Applications”). A list of Embedded Applications and information relevant thereto are available upon request.

j) Minimum Technical Requirements for Software Use. Client understands that, in order to use the Software, a Subscriber must utilize a web browser (preferably PiiQ’s qualified browsers, which are listed at

<https://www.cornerstoneondemand.com/piiq/terms/supported-browsers>).

k) Severability. If any provision of the Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of the Agreement shall remain in full force and effect.

l) Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by facsimile or mailed by registered or certified mail, return receipt requested, postage prepaid to the address for the other party first written above or at such other address as may hereafter be furnished in writing by either party hereto to the other party. Such notice will be deemed to have been given as of the date it is delivered, if by personal delivery; the next business day, if deposited with an overnight courier; upon receipt of confirmation of facsimile delivery (if followed up by such registered or certified mail); and five days after being so mailed.

Notices to PiiQ shall be delivered to Sonar Limited, c/o Cornerstone OnDemand, 1601 Cloverfield Blvd., Suite 600S, Santa Monica, CA 90404, attn.: General Counsel.

m) Independent Contractors. Client and PiiQ are independent contractors, and nothing in the Agreement shall create any partnership, joint venture, agency, franchise, sales representative or employment relationship between Client and PiiQ. Each party understands that they do not have authority to make or accept any offers or make any representations on behalf of the other. Neither party may make any statement that would contradict anything in this section.

n) Headings and Capitalized Terms. The headings of the sections of these Terms and Conditions are for convenience only and do not form a part hereof, and in no way limit, define, describe, modify, interpret or construe their meaning, scope or intent. Capitalized terms used, but not otherwise defined, herein shall have the same meanings assigned to those terms in the Agreement.

o) Waiver. No failure or delay on the part of either party in exercising any right, power or remedy under the Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power or remedy.

p) Survival. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.