



4040 Sorrento Valley Blvd Ste D San Diego, CA 92121 (877)5-PRIORITY [www.priorityco.com](http://www.priorityco.com)

**2010 - 2011 FLU VACCINE - PURCHASE AGREEMENT**

**Seller: Priority Pharmaceuticals Inc., 4040 Sorrento Valley Blvd., Suite D, San Diego, CA 92121**

<b>Date:</b>	
<b>Customer Name:</b>	
<b>Price:</b>	
<b>Per:</b>	<b>f.o.b. San Diego, CA</b>
<b>Quantity:</b>	<b>Vials or Syringes of the 2010-2011 strains</b>
<b>Delivery Schedule:</b>	<b>Seller shall ship all vials or syringes on or before Oct. 1, 2010</b>

**TERMS AND CONDITIONS**

1. This Agreement must be signed by Buyer and returned to Seller.
2. Payment Terms: credit terms. Payment will be due upon receipt for all orders submitted without credit applications.
3. Buyer shall pay for 100% of order even if Buyer refuses shipment. The order is non-cancelable
4. Price is guaranteed.
5. Seller shall ship all vials or syringes approximately on or before October 1, 2010.
6. Force Majeure: Buyer acknowledges that any act beyond the reasonable control of Seller will release Seller from the obligations of this Agreement.
7. Returns: No returns of any order will be permitted except for product damaged in shipment.
8. Cancellation: Buyer agrees that the order is non-cancelable.
9. Changes: The above quantities and scheduled delivery dates are subject to change for circumstances beyond Seller’s control, including, without limitation, manufacturer delays or governmental guidelines relating to allocations or prioritizations. Absent any changes, Seller will ship the order as soon as Seller gets the product. Should a partial order come in, Seller will allocate each partial order shipment until Buyer’s order is completed in full.
10. Remedies: In the event of non-delivery by the delivery date due to Seller’s fault, Buyer’s sole remedy is to cancel this Agreement. Seller shall not be liable for incidental, consequential or special damages. Buyer acknowledges that Seller has made no other representations or warranties.
11. Entire Agreement: This Agreement contains the entire agreement between the Parties. There are no other agreements, except as stated in this Agreement. No modification of this Agreement shall be binding unless executed in writing by all Parties.
12. No Waiver. No waiver shall be binding unless it is executed in writing by the Party making the waiver.
13. Jurisdictions and Venue. California law shall govern this Agreement. Venue shall be exclusively in San Diego, California.
14. Construction. This Agreement shall not be construed for or against either Party by reason of that Party, or its counsel, having drafted the Agreement.
15. Counterparts. This Agreement may be executed in counterparts, each of which shall be considered an original and together shall constitute one document.
16. Attorney Fees. If either Party incurs attorney fees to enforce this Agreement, the prevailing Party shall be entitled to recover reasonable attorney fees, expert witness fees and costs.
17. Further Acts. Each Party agrees to take such further action and to execute and deliver such further documents as may be necessary to carry out the purposes of this Agreement.
18. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors, permitted assigns, heirs and legal representatives of the Parties.
19. Severability of Agreement. If a court holds any part of this Agreement to be unenforceable, the enforceability of the remaining provisions will not be affected unless an essential purpose of this Agreement would be defeated by the loss of the unenforceable provision.
20. Third Party Beneficiary. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and permitted assigns and no other person shall have any right by virtue of this Agreement.

21. Warranty of Authority. The persons executing this Agreement warrant that: a) they are duly authorized to execute this Agreement; and b) by their signature, this Agreement constitutes a valid and binding obligation of the entity on whose behalf they have executed this Agreement.
22. In accordance with recent CDC guidelines regarding the distribution of flu vaccine for the 2010-2011 season, we do hereby certify that the flu vaccine purchased from Priority Pharmaceuticals, Inc is to be used for the inoculation of high –risk patients at buyer’s medical facility.
23. We are aware that these high-risk groups include children 6 months to 2 years and people with diabetes, immune-suppression, severe forms of anemia and chronic diseases of the heart, lung or kidneys, including asthma. The vaccine is also recommended for women who will be in the second or third trimester of pregnancy during flu season, health care personnel, residents of nursing homes or other chronic-care facilities, children and teenagers who are receiving long-term aspirin therapy, and people who are in close contact with someone in a high-risk group.
24. We are aware that the following people should not get the flu vaccine: People who have had previous vaccine-associated allergic reactions should not get the vaccine. Also, people with egg allergies should avoid immunization because the viruses used in the vaccine are grown in hen’s eggs. The vaccine may be given in the presence of minor illnesses, but adults with acute febrile illnesses should usually wait until their symptoms abate.
25. We are aware of the following side effects: Less than one-third of those who receive the vaccine have some soreness at the injection site, and about 5 to 10 percent experience mild side effects, such as headache or low-grade fever for about a day after vaccination. Rarely, an allergic reaction may occur among people who have severe allergies to eggs. Since the vaccine is not a live vaccine, it is not possible to get influenza from it.
26. We understand that this product is being voluntarily rationed for the expressed use of said high-risk patients.
27. We certify that the facility will not re-sell this product into the open market. Priority Pharmaceuticals, Inc is selling the flu vaccine upon the buyer’s request at prevailing market pricing basis our cost and profit margin.
28. We hold Priority Pharmaceuticals, Inc and its employees whole harmless for any and all legal actions regarding the purchase of the flu vaccine.

**I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND ALL OF THE ABOVE ITEMS:** \_\_\_\_\_ Initials

**BUYER:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Authorized Signature

**SELLER: PRIORITY PHARMACEUTICALS, INC**

**By : Its: National Account Executive**

**Questions should be addressed to:**

Akane Seki, Sales Manager  
(858)404-9250 X 310

Janet Marsh, Operations Manager/Buyer  
(858)404-9250 X 303

Corporate Fax: 858-404-9258