



## Standard Service Application Terms and Conditions

CaterTrax Inc. owns or has the right to provide certain computer software applications ("Provided Service Application") as described on the client Quote ("Quote"). CaterTrax Inc. is also in the business of securing application hosting services and support services for its clients with respect to such software applications.

The executed Quote and these Standard Service Application Terms and Conditions (collectively the "Agreement") is between the individual or legal entity as stated on the Quote ("Client") using the Provided Service Application ("Services") and CaterTrax Inc. with its principal place of business at 274 North Goodman Street, Suite 500, Rochester, New York 14607. (herein and after referred to as "Provider") which invoices Client for the Services. By accessing, or otherwise using Services, Client agrees to be bound by the terms of this Agreement. Please maintain a copy for Client's records. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT EXECUTE THE QUOTE OR ACCESS, OR USE THE SERVICES. Please contact [sales@catertrax.com](mailto:sales@catertrax.com) with any questions.

### 1. Entire Agreement

This Agreement as defined above including the (i) [Hosting Service Level Agreement](#), (ii) [Privacy Statement](#), (iii) [Support Services Schedule](#), and (iv) [AI Use Policy](#) which are incorporated herein by reference and constitutes the entire agreement between Client and Provider with respect to the subject matter hereof, and supersedes all prior understandings and/or any prior agreements, written or oral, regarding such subject matter. Except as provided in Section 16, no modification, amendment, or waiver of any provision of this Agreement shall be binding unless in writing and signed by both Parties. Any terms or conditions proposed by either Party, whether in pre-contractual negotiations or otherwise, shall be null and void unless expressly reduced to writing incorporated into this Agreement. In the event of any conflict or inconsistency between the terms of this Agreement and any other document or agreement, the terms of this Agreement shall prevail.

### 2. Grant of Use

Provider hereby grants to Client a non-transferable, non-exclusive right of use for Client and the Client's end users to use the Provided Service Application for the Site described in the Quote. The Client may continue to use Provided Service Application so long as Client continues to pay the Monthly Recurring Fees as defined on the Quote due hereunder and adheres to the provisions of this Agreement.

A "Site" means the URL associated with the instance of the Provided Service Application. For clarification purposes, a single URL may be providing multiple levels of functionality, and the Quote will reflect the different levels of functionality that may be deployed for the Site.

### 3. Proprietary Rights

- 3.1 **Provider Property.** Client acknowledges and agrees that, as between Client and Provider, Provider is the sole and exclusive owner of all right, title and interest in and to the Provided Service Application, including (i) any and all updates, enhancements and modifications to the Provided Service Application, (ii) any documentation or data related to the Provided Service Application; (iii) any software, applications, inventions or other technology developed in connection with Provided Service Application; and (iv) any other such intellectual property rights therein. Client obtains no ownership interest in the Provided Service Application and shall not make any claim to the contrary.
- 3.2 **Client Property.** Provider acknowledges and agrees that, as between Client and Provider, Client is the sole and exclusive owner of all right, title and interest in and to the materials used in support of the Provided Service Application as well as any Client Data, including all Intellectual Property Rights therein, and Provider shall not make any claim to the contrary. Client further asserts and warrants that it is the sole and exclusive owner of all right, title and interest in and to the materials used in support of Provided Service Application which includes but not limited to text, photos, graphic content, and Copyrights, including all Intellectual Property Rights therein.



#### 4. Confidentiality, Privacy and Data Use

- 4.1 “Confidential Information” of a party means all technical, business, and other information disclosed by or obtained from such party that derives economic value, actual or potential, from not being generally known to others, including, without limitation, any technical or non-technical data, designs, methods, techniques, drawings, processes, products, inventions, improvements, methods or plans of operation, recipes, ingredients and cost information associated with the suite of menus, research and development, business plans and financial information of such party. Confidential Information of Provider includes, without limitation, all the Provided Service Applications and business processes in support of these applications. Confidential Information of Client includes, without limitation, all information contained in any requests for proposal, and all specifications, requirements and data provided to Provider in connection with this Agreement.
- 4.2 “Client Data” means all data (i) processed, stored, or transmitted by, in or through the Provided Service Application by or on behalf of Client or the Client’s end users, or (ii) obtained or produced by Provider with respect to Client and its business in connection with the Services.
- 4.3 Covenant. Each party (the “Receiving Party”) agrees to hold all Confidential Information of the other party (the “Disclosing Party”) in strictest confidence, and except as authorized in this Agreement, agrees not to copy, distribute, disclose, or transfer any such Confidential Information to any third party, or utilize the Confidential Information of the Disclosing Party for any purpose whatsoever other than as specifically required under this Agreement; provided, however, that each party may disclose Confidential Information of the other to its employees and approved subcontractors who have a specific need to know such information and who are advised of the confidential nature of the information and the provisions of this Section 4; provided, further, that the Receiving Party shall remain responsible for any violation of this Section 4 by its employees or subcontractors.
- 4.4 Exclusions. The obligations of the parties under Section 4.1 above shall not apply to Confidential Information of a Disclosing Party which (a) is in or enters the public domain without breach of this Agreement through no fault of the Receiving Party; (b) the Receiving Party can demonstrate was developed independently and without use of, or reference to, the Disclosing Party’s Confidential Information; or (c) the Receiving Party receives from a third party without restriction on disclosure; provided, however, that in no event shall Client Data fall within the foregoing exclusions. In addition, a Receiving Party may disclose Confidential Information of a Disclosing Party if the same is required to be disclosed in response to a valid court order issued by a court of competent jurisdiction, provided that the Disclosing Party is promptly notified in writing prior to disclosure of the information so that it can protect its interest in the Confidential Information.
- 4.5 Privacy and Data Use. The information Provider holds about Client will be used to provide the Services and for identification, account administration, analysis, and fraud/loss prevention purposes. Each party will comply with all applicable personal data protection and privacy laws where such party is located (the “Data Protection Laws”). The parties acknowledge and agree that: (i) Provider may have access to personal data under the Data Protection Laws and will: (a) use it in accordance with the Privacy Statement; (b) process it only in accordance with Client's instructions; and (c) take appropriate technical and organizational measures to prevent unauthorized or unlawful processing, accidental loss, destruction or damage to it; (ii) personal data will not be transferred outside of the U.S. or processed by any other processor except the Provider and its affiliates; and (iii) technical support on the hosting services may be performed outside of the U.S. ; and (iv) Client is the data controller and retains full responsibility for the data processed on its behalf by Provider acting as data processor. More details about how this information is used can be found in the [Privacy Statement](#).
- 4.6 Artificial Intelligence Disclosure and Use. Provider may leverage artificial intelligence (AI) technologies to enhance internal operational efficiency. This includes, without limitation, analyzing application usage patterns, generating reports, improving software performance, and optimizing help desk processes. AI is used solely for internal purposes to improve the Services and support and is not employed to profile or make decisions about individual users outside of the context of providing Service or support analytics. More details about how AI is used can be found in the [CaterTrax AI Use Policy](#).



- 4.7 Breach or Threatened Breach of Confidential Information. The parties agree that in the event of a breach or threatened breach of Confidential Information, the Disclosing Party may be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach or anticipated breach without the necessity of posting a bond.

## 5. Pricing and Fees

- 5.1 Implementation Fee. In accordance with the terms set forth in this Agreement, Client agrees to pay to Provider an implementation fee as set forth on the Quote. Upon acceptance and execution of the Quote, Provider will immediately invoice Client for the Implementation Fee amount as outlined in the Quote.
- 5.2 Monthly Subscription Fees. In accordance with the terms set forth in this Agreement, Client agrees to pay to Provider monthly recurring fees as set forth on the Quote. Upon acceptance and execution of the Quote, Provider will immediately invoice Client for a pro-rated amount of first month's Monthly Subscription Fee based on remaining days left in the month in which the quote was accepted and executed. Then commencing on the first day of the following month, and every first day of the month from that point forward, Provider will invoice Client the full Monthly Subscription Fee amount as outlined in the Quote.
- 5.3 Fee Changes. Provider reserves the right to review the Monthly Subscription Fees and upon a thirty (30) day electronic notification to Client, may make reasonable adjustments to Provider's Fees once per calendar year.
- 5.4 Pricing Structure. On an annual basis, Provider shall assess the Client's average active site count over the previous 90 days as a means of aligning all current and future site pricing based on Site volume in accordance with Provider pricing policies which shall be available upon request.
- 5.5 Additional Fees. In accordance with the terms set forth in this Agreement, Client agrees to pay Provider Additional Fees for additional services (such as professional or managed services) rendered, as listed on the Quote. Upon acceptance and execution of the Quote, Provider will immediately invoice Client for the Additional Fees amount as outlined in the Quote.

## 6. Payment Terms and Processing

- 6.1 Payment Terms. All payments due from Client to Provider hereunder shall be due and payable within 30 days of the invoice date.
- 6.2 Payment Methods. Provider's Preferred Payment Method is credit card and ACH Debit. Upon Client's request, payment by check and EFT ("Alternate Payment Method") may be made by Client at the Provider's sole discretion. The use of an Alternate Payment Method may require an annual pre-payment of the Monthly Subscriptions Fees and/or a centralized billing approach (where the Provider sends all individual Site invoices (in the event the Client has more than one Site with the Provider) to one central contact at the Client).
- 6.3 Unpaid Invoices. Undisputed Invoices not paid within 30 days of invoice date may be subject to finance charges at a rate of 1.5% per month or the maximum legally allowable interest rate, whichever is lower. Client agrees that, in the event legal or collection action needs to be taken on Provider's behalf to collect unpaid invoices, all reasonable expenses and fees associated with the legal or collection actions will be paid for by Client.
- 6.4 Taxes, Fees, and Surcharges. Client is responsible for, and shall pay any/all applicable federal, state, or local fees, duties, tolls, administrative assessments, surcharges, or taxes now or hereafter attributable to the use of the Provided Service Application. Client must properly notify Provider of any tax-exempt status prior to accepting the Quote, or as soon as practical in the event the Client's status changes during the term of this Agreement.



## 7. Delivery and Acceptance

Provided Service Application is deemed accepted by the Client upon execution of Quote.

## 8. Term and Termination

- 8.1 Term. Unless earlier terminated as otherwise provided herein, the terms of this Agreement shall begin on the submission of the executed Quote and shall remain in effect unless or until the Standard Application Terms and Conditions are modified pursuant to Section 16, or either party shall have provided written notice to the other party of its intent not to renew the Monthly Subscription or Services prior to the end of the then-current initial term or any renewal term, as applicable.
- 8.2 Termination by Provider. Provider shall have the right to terminate this Agreement under the following circumstances:
- i. Client fails to pay any undisputed Monthly Recurring Fee when due and payable pursuant to the terms of this Agreement, after Provider has given Client electronic or written notification of such failure, and Client has failed to make the required payment within thirty (30) days of receipt of such notice;
  - ii. Client breaches any other provision of this Agreement, Provider has given Client electronic notification of such failure, and Client has failed to cure such breach to Provider's satisfaction within thirty (30) days of receipt of such notice;
  - iii. If (i) a receiver is appointed for Client or its property or Client is liquidated or dissolved, (ii) Client makes an assignment for the benefits of its creditors or (iii) any proceeding is commenced by, for or against Client under any bankruptcy, insolvency, or debtor's relief law for the purpose of seeking a reorganization of Client' debts, and such proceeding is not dismissed within ninety (90) calendar days of its commencement; or
  - iv. If it becomes unlawful for a party to perform its obligations under this Agreement.
- 8.3 Termination by Client. Client shall have the right to terminate this Agreement under the following circumstances:
- i. Provider fails to provide the monthly hosting and support services pursuant to the terms of this Agreement, after Client has given Provider written notice of such failure, and Provider has failed to take the necessary action to fulfill its obligations to Client under the terms of this Agreement within thirty (30) days of the receipt of such notice;
  - ii. Provider breaches any other provision of this Agreement, Client has given Provider written notice of such failure, and Provider has failed to cure such breach to Client' satisfaction within thirty (30) days of receipt of such notice;
  - iii. If it becomes unlawful for a party to perform its obligations under this Agreement.
- 8.4 Termination for Convenience. Notwithstanding the foregoing, Client may terminate this Agreement, in whole or in part, at any time without cause, upon not less than thirty (30) days prior written notice of termination to Provider. Client will be required to complete a Site Decommission Agreement or Site Archive Agreement prior to termination, which will be provided by the Provider at the time of notification by the Client. Except as otherwise set forth in this Agreement, in the event Client terminates this Agreement in accordance with Section 8.3 or 8.4, Provider shall be entitled to retain all Monthly Subscription Fees and Implementation Fees previously paid by Client to Provider and Fees invoiced by Provider to Client in accordance with the terms of this Agreement.
- 8.5 Termination Process. Upon termination of this Agreement for any reason, within five (5) business days, Provider will create and maintain an archived version of Client's Provided Service Application which will be accessible by Provider's personnel only for a period of sixty (60) days and will remove all access to Client's live version of



Provided Service Application. Client may request access to their terminated Provided Service Application, by submitting a request within this sixty (60) day period, in writing, to: mngsrvuser@catertrax.com or to CaterTrax Inc., ATTN: Vice President Professional Services, 274 North Goodman Street, Suite 500, Rochester, NY 14607. Client requested access to terminated Provided Service Application and additional Support and Services requested by the Client will be billed at the then-current professional services hourly rate and will be pre-paid by Client before any Services will commence.

## 9. Warranties

- 9.1 Authority; Intellectual Property. Provider represents and warrants that it has and will continue to have the full right, power, and authority to enter into and perform its obligations under this Agreement. Provider represents and warrants that it is and will continue to be the owner of all right, title and interest in and to the Provided Service Application. Provider represents and warrants that the use by Client of the Provided Service Application pursuant to this Agreement does not and will not infringe upon any patents, copyrights, or other proprietary rights of any Person.
- 9.2 Software Warranties. So long as this Agreement is in effect, Provider represents, warrants and covenants to Client that (i) the Provided Service Application will conform in all material respects to the Documentation; (ii) except for any third-party hardware and/or software as expressly set forth in this Agreement, Client will not need any other hardware or software products, other than a standard browser such as Internet Explorer, to operate the Provided Service Application; (iii) the Provided Service Application will be free of viruses and programming devices that are designed to disrupt the use of the Provided Service Application or any system with which the Provided Service Application operates, or destroy or damage data or make data inaccessible or delayed; (iv) the Documentation will provide a reasonably detailed description of the functions, features and performance capabilities of the Provided Service Application and will set forth the minimum requirements for the Provided Service Application; and (v) to the best knowledge of Provider, there are no existing security issues related to the Provided Service Application. If any warranty in this Section is breached, then Provider shall promptly remedy the problem that caused the breach. If Provider is unable to provide such remedy within 30 days of notice of breach, or if more than three breaches of warranty occur during any 12-month period, Client shall be entitled to terminate this Agreement as it relates to the non-conforming Provided Service Application.
- 9.3 Service Warranties. Provider represents, warrants, and covenants to Client that (a) Provider shall perform the Services with reasonable skill and care, using suitably qualified personnel who are legally permitted to work in the United States, in a manner consistent with industry standards and in compliance with all applicable laws, and (b) the Services will conform in all material respects with the descriptions set forth in this Agreement and any agreed upon specifications for such Services. If any warranty in this Section is breached, then Provider shall promptly remedy the problem that caused the breach. If Provider is unable to provide such remedy within 30 days of notice of breach, or if more than three breaches of warranty occur during any 12-month period, Client shall be entitled to terminate this Agreement as it relates to the non-conforming Service.
- 9.4 DISCLAIMER OF PRICING, TAX CALCULATION, AND USER ACCESS WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN OTHER WRITTEN OR ELECTRONIC MATERIALS PROVIDED TO CLIENT, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, WITH RESPECT TO SETUP OF THE PROVIDED SERVICE APPLICATION IN THE AREAS OF PRICING, TAX CALCULATIONS, AND USER ACCESS. CONFIRMATION THAT THE RESPONSIBILITY FOR PRICING, TAX CALCULATION CRITERIA, AND USER ACCESS HAVE BEEN CORRECTLY SETUP IN PROVIDED SERVICE APPLICATION REMAINS WITH CLIENT.
- 9.5 DISCLAIMER OF CERTAIN WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN OTHER WRITTEN OR ELECTRONIC MATERIALS PROVIDED TO CLIENT, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROVIDED SERVICE APPLICATION OR THE SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND PROVIDER HEREBY DISCLAIMS THE SAME.



- 9.6 LIMITATION OF LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF EITHER PARTY UNDER THIS AGREEMENT EXCEED TWICE THE AMOUNT OF FEES DUE FOR THE YEAR IN WHICH SUCH CLAIM ARISES; PROVIDED, HOWEVER, THAT NOTHING IN THE AGREEMENT SHALL LIMIT EITHER PARTY'S LIABILITY FOR (i) DEATH, PERSONAL INJURY OR TANGIBLE PROPERTY DAMAGE CAUSED BY A PARTY'S NEGLIGENCE, (ii) FRAUD, OR (iii) CLAIMS OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.
- 9.7 Breach of Warranty. if Provider receives notice from Client of any breach of the warranties of Provider set forth in this Agreement, then Provider shall, at its own expense, remedy the same in such time and manner as is reasonable.

## 10. Indemnification

- 10.1 Indemnification of Client. Except for and subject to the provisions of Section 10.4, Provider shall indemnify, defend, and hold harmless Client, its Affiliates, and their respective officers, directors, agents, and employees ("Client Indemnitees"), at Provider's expense, against any third-party claim, suit or proceeding resulting from, relating to, or arising out of a claim that any use of the Provided Service Application infringes, or misappropriates any Intellectual Property Rights of a third party. This indemnity shall not apply to the extent any such claim results from, relates to, or arises out of the negligence or actions of any Indemnitee. Provider's obligation to indemnify Client includes, without limitation, payment of any reasonable costs and expenses incurred by Client Indemnitees in connection therewith, including, without limitation, reasonable attorneys' fees, expenses, and damages awarded to third parties. Provider may settle, at Provider's sole expense, any claim, suit, or other action for which Provider is responsible under this Section 10.1 provided that (a) such settlement shall not limit, unduly interfere with, or otherwise adversely affect the rights granted under this Agreement or Provider's obligations under this Agreement or impose any additional liability on any Client Indemnitee, and (b) Client consents to the same in writing (such approval not to be unreasonably withheld). Each Client Indemnitee reserves the right to employ counsel at its own expense and participate in the defense and/or settlement of any claim.
- 10.2 Notification to Client. Provider shall use reasonable efforts to notify Client of any claim of infringement it becomes aware of and for which it believes Client is responsible for under this Section 10. Provider shall provide Client with reasonable assistance in the defense of any such claim, at Client's sole cost and expense.
- 10.3 Remedy to Client. Without limiting Client's other rights under this Agreement, if in Provider's opinion, regardless of whether there has been notice from Client, a valid claim has been or is likely to be asserted against a Client Indemnitee or Provider or alternatively, if Client's rights hereunder are restricted pursuant to a valid court order, then Provider shall at its option and sole expense: (a) procure the right to continue using the alleged infringing material; (b) replace the material with non-infringing material which is equivalent in features, functionality and quality; (c) modify the material to make it non-infringing while retaining all features, functionality and quality; or if none of (a), (b) or (c) can be procured under commercially reasonable terms within thirty (30) days, terminate this Agreement.
- 10.4 Indemnification of Provider. Except for and subject to the provisions of Section 10.1, Client shall indemnify, defend and hold harmless Provider, its Affiliates, and their respective officers, directors, agents and employees ("Provider Indemnitees"), at Client's expense, against any third party claim, suit or proceeding resulting from, relating to or arising out of a claim that any use of the Client Provided Service Application Materials, to include but not limited to, text, photos, and graphic content infringes, or misappropriates any Intellectual Property Rights or Copyrights of a third party. Client's obligation to indemnify Provider includes, without limitation, payment of any reasonable costs and expenses incurred by Provider Indemnitees in connection therewith, including, without limitation, reasonable attorneys' fees, expenses, and damages awarded to third parties. Client may settle, at Client's sole expense, any claim, suit, or other action for which Client is responsible under this Section 10.4 provided that (a) such settlement shall not limit, unduly interfere with, or otherwise adversely affect the rights granted under this Agreement or Client's obligations under this Agreement or impose any additional liability on any Provider



Indemnatee, and (b) Provider consents to the same in writing (such approval not to be unreasonably withheld). Each Provider Indemnatee reserves the right to employ counsel at its own expense and participate in the defense and/or settlement of any claim.

- 10.5 Notification to Provider. Client shall use reasonable efforts to notify Provider of any claim of infringement it becomes aware of and for which it believes Provider is responsible for under this Section 10. Client shall provide Provider with reasonable assistance in the defense of any such claim.
- 10.6 Limitation. Notwithstanding the foregoing, Provider shall have no obligation to indemnify and defend any Indemnatee under this Section 10 for any claim to the extent such claim arises due to (i) the combination, operation, or use of the Provided Service Application with other equipment, code, programs or data not supplied by Provider if such infringement would have been avoided but for such combination, operation or use; (ii) modifications of the Provided Service Application by any party other than Provider, if such infringement would have been avoided but for such modifications; or (iii) use outside the scope of the license granted herein.

## 11. Governing Law; Arbitration

- 11.1 Governing Law. This Agreement and any disputes or issues arising out of, relating to or in connection with, this Agreement shall be governed by, construed, and enforced in accordance with the internal laws of the State of New York, without regard to its provisions concerning choice of laws, choice of forum or any principle that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction. Without limiting the provisions of Sections 9 or 10, the parties hereto consent and submit to the exclusive jurisdiction of the federal or state courts located in New York, New York to hear any action or suit concerning Sections 9 or 10 hereof or issues not subject to arbitration arising out of this Agreement or related matters. Neither party shall raise, and the parties hereby waive, any defenses based upon venue, inconvenience of forum, lack of personal jurisdiction, improper service of process or the like in any such action or suit. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES EACH HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION, OR COUNTERCLAIM ARISING UNDER OR IN ANY WAY RELATED TO THIS AGREEMENT AND UNDER ANY THEORY OF LAW OR EQUITY.
- 11.2 Arbitration. Any controversy, dispute, or claim arising out of or relating to this Agreement that may be subject to arbitration, shall be settled by binding arbitration by the American Arbitration Association (“AAA”) before a single arbitrator with experience in the information technology industry in accordance with the AAA’s Commercial Arbitration Rules in New York, New York. If the parties cannot agree upon a single arbitrator, the AAA shall appoint the arbitrator within ten (10) days of the parties’ failure to agree upon a single arbitrator. Judgment upon any award of the arbitrator may be entered in any court having jurisdiction as stated in Section 11.1 (such judgment to include an award of reasonable attorneys’ fees and expenses, including the expense of arbitration, to the prevailing party).

## 12. Force Majeure

Provider will not be responsible for delays and/or defaults in its performance due to causes beyond its reasonable control, including, but without limiting the generality of the foregoing; acts of terrorism, wars, hostilities, revolutions, riots, civil commotion, national emergency, fire or explosion, flood, force of nature, embargoes, accidents, acts of God, or stability or availability of the Internet, the elements; telecommunication system failure; technology attacks, epidemic; quarantine; viruses; strike; lockouts; disputes with workmen or their labor disturbances; total or partial failure of transportation, utilities, delivery facilities, or supplies; acts or request of any governmental authority; or any other cause beyond Provider’s control, whether or not similar to the foregoing.

## 13. Assignment

Neither party may assign this Agreement without the prior written consent of the other party (which consent shall not be unreasonably withheld), and any attempted assignment without such consent shall be void. Notwithstanding the foregoing,



Client may assign this Agreement without such consent to an affiliate or in connection with a merger, consolidation, or other business combination, or the sale of all or substantially all the equity securities or assets of Client. All terms and provisions of this Agreement will be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

#### **14. Third Party Services**

- 14.1 [Hosting Services](#). Provider may contract with any third-party Tier 1 hosting services it selects and Provider shall remain responsible for performance in accordance with the terms of this Agreement and the Hosting Service Level Agreement.
- 14.2 [CaterTrax Assist](#). Provider is an authorized distributor of the subscription-based license to use accessiBe. The Client's use of CaterTrax Assist, which is powered by accessiBe, is subject to the terms of service available at <https://accessibe.com//terms-of-service>. In the event of a conflict between the terms of service for CaterTrax Assist and this Agreement, the terms of service will be interpreted and applied accordingly in the following order, (1) having the highest precedence: 1) this Agreement, and 2) to the extent applicable, the use of CaterTrax Assist pursuant to the accessiBe terms of service.

#### **15. Notices**

All notices or other communications required or permitted to be given or made hereunder shall be in writing and (a) delivered personally or (b) sent by pre-paid, first class, certified or registered mail, return receipt requested, or by a national express courier service (including, without limitation, DHL and Federal Express). Any party hereto may change its address for the purpose of this Agreement by giving written notice to the other parties at the address and in the manner as stated in this Section 15.

#### **16. Modification of Terms and Conditions**

Provider may revise these Terms and Conditions from time to time by posting a modified version on the Provider's website and updating links. If, in Provider's sole discretion, the modifications to these Terms and Conditions are material, Provider will provide Client with reasonable notice prior to the change taking effect, either by emailing the email address associated with Client's account or by alerting Client through the Services. If Client does not agree to or cannot comply with the modified Terms and Conditions, they must stop using the Services. Please contact [sales@catertrax.com](mailto:sales@catertrax.com) with any questions. Unless otherwise stated elsewhere in this Agreement or in Provider's notice, the updated Terms and Conditions will take effect upon their posting and will apply on a going-forward basis to new Quotes. Client's continued use of the Services after any update to these Terms constitutes Client's acceptance of such changes.

#### **17. Waiver**

No provision of this Agreement shall be deemed waived by either party unless the waiver is executed in writing. No such waiver shall be deemed a waiver of any other breach unless expressly set forth in such waiver. All rights and remedies conferred under this Agreement or by any other instrument or law shall be cumulative and may be exercised singularly or concurrently. Failure by either party to enforce any provision shall not be deemed a waiver of future enforcement of that or any other provision.

*Updated October 2025*