

## SOFTWARE AS A SERVICE AGREEMENT

Please read the following Software as a Service Agreement (“Agreement”) carefully before deciding whether to purchase the Caterease Connect service and access to the Caterease software as set forth below. **BY ACCEPTING THE TERMS OF THIS AGREEMENT OR OTHERWISE USING OR ACCESS THE SERVICES AS DEFINED BELOW, YOU ARE AGREEING, BOTH AS AN INDIVIDUAL AND IF YOU REPRESENT A COMPANY, ON BEHALF OF THE COMPANY YOU REPRESENT (“YOU” OR “CLIENT”), TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.**

**MAKE SURE TO PRINT A COPY OF THIS AGREEMENT FOR YOUR RECORDS. TO PRINT, SELECT “FILE” ON THE MENU OF YOUR BROWSER AND THEN SELECT “PRINT,” OR SELECT THE “PRINT” ICON LOCATED AT THE TOP OF THIS AGREEMENT.**

### 1. Definitions.

1.1 “Client Content” means all data, graphics and information you submit in connection with use of the Website, Software, or Services, including, without limitation, Personally Identifiable Information.

1.2 “Custom Developments” means any specific configurations or customizations to the Software, which you may request and Horizon agrees in writing to provide and subject to payment of additional fees as agreed upon by the parties.

1.3 “Documentation” means any operating instructions, specifications and other documentation related to the operation, description and function of the Software or Services, provided by Horizon whether supplied in paper or electronic form, as may be amended from time to time.

1.4 “Intellectual Property” means any patents and patent applications (including any foreign, divisional, continuation or continuations-in-part, reissues, reexams, and extensions based on or related to the same), copyrights, mask works, trademarks, service marks, trade names, domain names, inventions, improvements (whether patentable or not), trade secrets, Confidential Information, moral rights, and any other intellectual property and similar proprietary rights.

1.5 “Mobile Portal” means a mobile-friendly version of the Website as may be provided by Horizon, which allows access to the Software from certain mobile devices.

1.6 “Personally Identifiable Information” means any information that may be used to identify specific persons or individuals, which is collected by either you or Horizon for use in conjunction with the Software. Personally Identifiable Information shall be considered Confidential Information.

1.7 “Services” means the Caterease Connect service that allows access to the Software, creation of Custom Developments, Support, and any other services to be performed by Horizon as agreed upon by the parties in writing.

1.8 “Service Level Requirements” means the technical service levels Horizon strives to meet as set forth in Horizon's Service Level Commitments as they may be updated from time to time for the delivery of the Services, which shall not apply to the Mobile Portal or any use of the Mobile Portal, as made available at [www.caterease.com](http://www.caterease.com).

1.9 “Software” means the Caterease software application you have selected for purchase as set forth in a Horizon invoice and any Custom Developments, and includes any and all updates, enhancements and modifications as may be provided by Horizon via the Website or Mobile Portal.

1.10 “Support” means the support and maintenance services as they may be amended from time to time as described in Horizon's Support Terms made available at [www.caterease.com](http://www.caterease.com).

1.11 “Website” means the content and functionality currently located at the domain [catereaseconnect.com](http://catereaseconnect.com) on the Internet, or any successor or related domain that provides access to the Software. References to the "Website" shall include the "Mobile Portal" unless otherwise stated.

## 2. Provision of Application Service.

2.1 Provision of Password. Provided you pay all applicable fees to Horizon and comply with all other requirements of this Agreement, Horizon will make the Services available to you through the Website. Services may be made available via the Mobile Portal only in Horizon's discretion and access via the Mobile Portal is neither assured or guaranteed. Horizon will provide you with login and password information necessary to access the Services. Horizon will provide you one login and password for each named user seat you purchase.

2.2 License. Provided you pay all applicable fees to Horizon and comply with all other requirements of this Agreement, Horizon hereby grants to you a non-exclusive, revocable, non-assignable, non-transferable and non-sublicensable license to access and use the Software and Documentation solely for your internal business use.

2.3 Custom Developments. Provided you pay all applicable fees to Horizon and comply with all other requirements of this Agreement, Horizon will provide you with any Custom Developments mutually agreed upon by the parties in writing. Such Custom Developments may be subject to additional fees to be agreed upon in writing.

2.4 Service and Support. Provided you pay all applicable fees to Horizon and comply with all other requirements of this Agreement, Horizon will provide you with ongoing Support during the term of this Agreement and will materially comply with the Service Level Requirements during the term of this Agreement. Support may not be available for the Mobile Portal and the Mobile Portal may not comply with the Service Level Requirements. In addition, Horizon has no responsibility or liability for any failure to comply with the Service Level Requirements in the case of or with respect to any third party interfaces, any email notification service, any email relay service, or any other feature available within the Software that is provided solely as a courtesy and free of charge or is otherwise controlled by any third party. Horizon will provide any other Services subject to the terms and conditions of this Agreement and as may be mutually agreed

upon by you and Horizon in writing. Horizon may engage or otherwise utilize third party subcontractors to provide the Services to you in Horizon's discretion.

### 3. Fees.

3.1 Fees. Upon Horizon's receipt of your request for Services and Horizon's acceptance of such request, Horizon will issue you an invoice outlining the Services you have selected and the relevant fees, which must be paid in full prior to receiving access to the Services, unless otherwise agreed in writing by Horizon. The payment of fees under this Agreement includes any upgrades or enhancements to the Software as may be provided and generally released by Horizon via the Website from time to time. All fees are nonrefundable.

3.2 Payment. Fees for the monthly Services must be paid by credit card; if you are purchasing Services on an annual basis, fees may be paid by credit card or check. If the credit card information that you submit is incorrect or invalid, Horizon will not be able to process your payment. Credit card payment is subject to the approval of the financial institution issuing the credit card. Horizon assumes no responsibility or liability if the financial institution refuses to accept or honor your check or credit card. In the event Horizon is unable to process any payment for any reason or receives notice that your check is refused or credit card payment is rejected or disputed, Horizon may reject your application to receive Services and/or may suspend your receipt of Services, including without limitation access to the Software until valid payment in full is received. We will strive to provide notice of such rejected payment by emailing you at the address provided to us.

3.3 Taxes. The fees required to be paid under the terms of this Agreement do not include any applicable taxes. You must reimburse Horizon and hold Horizon harmless for all sales, use, VAT, excise, property, withholding or other taxes, if any, which Horizon is required to collect or remit to applicable tax authorities in connection to the provision of the Software, Documentation, or Services to you under the terms of this Agreement.

3.4 Interest and Late Fees. Past due accounts will be charged interest on a monthly basis, calculated at the greater of: (i) one and one-half percent (1.5%) per month of the unpaid balance or (ii) the maximum rate allowable by law.

### 4. Customer Obligations.

4.1 Password Protection. Access to the Services is password-protected. Only the named users set forth in a Horizon invoice may access the Website, Services or Software. You must notify Horizon in the event a named user no longer has or needs access to the same. You must inform your users that they are subject to, and must comply with, all of the terms of this Agreement. You are fully responsible for your use of the Website, Software and Services, the activities of your employees and authorized agents who access the Website, Services or Software and any use of your assigned passwords, whether by you or a third party. Horizon is not liable for any unauthorized access to the Website, Software or Services, including without limitation access caused by failure to protect the login and password information of your users. You should log off following use to protect your account.

4.2 Restrictions on Use. You agree to conduct all activities on the Website in accordance with all applicable laws and regulations. Access to the Website, Software, Services and Documentation must be solely for your own internal business use. You may not (and may not allow any third party to) (i) decompile, mirror, translate, disassemble or otherwise reverse engineer any part of the Software, source code, algorithms, or underlying ideas of the Software or Services; (ii) provide, lease, lend, subcontract, sublicense, re-publish or use for timesharing, service bureau or hosting purposes any or all of the Software, Website or Documentation; or (iii) reproduce, modify, copy, distribute, publish, display or create derivative works of any or all of the Software, Website or Documentation or (iv) alter, remove, or obscure any copyright, trademark or other proprietary notices or confidentiality legends on or in the Software, Website or Documentation.

4.3 Prohibited Uses. You may not use the Software, Website or Documentation, or any part or component thereof (i) for any purpose other than your internal business purposes, (ii) to post, submit or transmit unlawful, harmful, tortuous, defamatory, profane, libelous, hateful or otherwise offensive material, (iii) to discuss, incite or otherwise solicit illegal activity, or (iv) in any manner that violates or infringes upon the rights of any individual or other person, including, but not limited to intellectual property, publicity or privacy rights. Horizon may, but will have no obligation to, access and review all Client Content and other information and data you provide for compliance with this Agreement.

4.4 Client Content. Horizon assumes no liability or responsible for Client Content that you choose to provide to Horizon for use in connection with the Services or for any Client Content provided to Horizon by a third party. You are solely responsible for any and all such Client Content.

4.5 Suspension. Horizon reserves the right to suspend or terminate access to Software without notice and at any time that Horizon suspects or has reason to suspect a violation of this Agreement or any misuse of the Website, Services, Software or Documentation or in the event Horizon reasonably believes such suspension or termination is necessary to protect its rights or the rights of a third party.

## 5. Confidentiality.

5.1 Definition. “Confidential Information” means information of either you or Horizon as disclosing party (“Disclosing Party”), which is disclosed under this Agreement in oral, written, graphic, machine recognizable, electronic or any other visually perceptible form by one of us to the other, and which is considered to be proprietary or trade secret by the Disclosing Party, including, without limitation, supplier lists, business plans, technical information, software, product ideas, plans, methods, processes, designs, know-how, experience, concepts, formulas, algorithms, research, studies, technologies, and marketing information of products and services. Horizon's Confidential Information expressly includes, without limitation, the Software and Documentation. Your Confidential Information includes, without limitation, Personally Identifiable Information. Confidential Information shall not include information which the party receiving the information can document: (i) was in the possession of or known by it without an obligation of confidentiality prior to receipt of the information, (ii) is or becomes general public knowledge through no act or fault of the party receiving the information, (iii) is or becomes lawfully available to the receiving party from a third party without an obligation of confidentiality,

or (iv) is independently developed by the receiving party without use of any Confidential Information.

5.2 Confidentiality. Confidential Information may not be, directly or indirectly, copied, reproduced, distributed or otherwise used by the party receiving the Confidential Information except to the extent necessary for the receiving party to perform under the terms of this Agreement and then only for the sole benefit of the party disclosing the Confidential Information. The party receiving Confidential Information may not, directly or indirectly, sell, license, lease, assign, transfer or disclose the Confidential Information of the disclosing party, except as allowed under the terms of this Agreement or upon written consent of the disclosing party.

5.3 Personally Identifiable Information. The parties recognize that certain data you or Horizon may use in conjunction with the Software may be confidential Personally Identifiable Information. Horizon shall use all best efforts to protect the confidentiality of Personally Identifiable Information. Horizon shall have no liability for disclosure of Personally Identifiable Information caused by your negligence or misconduct. You may not send to Horizon, or otherwise upload to the Services or permit any data subject to do the same, unless you have first provided notice to the applicable data subject of such collection and sharing of such Personally Identifiable Information with Horizon. You must ensure the provision and collection of all Personally Identifiable Information and use of the same by Horizon as necessary to provide the Services complies with all applicable federal and state laws, including without limitation all data privacy and security laws.

5.4 Disclosure Required by Law. In the event that any Confidential Information is required to be disclosed pursuant to any law, code, regulation or court order from a court of competent jurisdiction, the receiving party shall give the disclosing party immediate notice of such requirement and shall use its best efforts to seek or to cooperate with the disclosing party in seeking a protective order with respect to the Confidential Information requested.

## 6. Ownership of Intellectual Property.

6.1 Horizon Ownership. Horizon (or its suppliers, as applicable) retains all right, title and interest in and to the Software, Documentation and Website and related Intellectual Property, and any work product and related Intellectual Property created by or for Horizon as a result of any Services, including without limitation any Custom Developments. Upon full payment to Horizon of all sums due for the related Services, any Custom Developments will become "Software" with the rights and restrictions set forth in this Agreement. Nothing in this Agreement conveys any ownership interest to you. Any suggestions, solutions, improvements, corrections or other contributions you provide regarding the Software, Documentation or Website will become the property of Horizon and you hereby assign all such rights to Horizon without charge.

6.2 Client Ownership. You retain all right, title and interest in and to the Client Content and all related Intellectual Property in the same. You hereby grant to Horizon and Horizon hereby accepts, a non-exclusive, non-transferable, worldwide, fully-paid license to use, copy, and modify the Client Content solely to the extent necessary and for the sole purposes of providing access to

the Software, Documentation and Services or otherwise complying with its obligations under this Agreement.

## 7. Warranty

7.1 Limited Warranty. Horizon warrants it will provide access to and use of the Software, and deliver any Services required by this Agreement, in material accordance with (i) the then-current Documentation, (ii) any other written specifications agreed in writing by both parties, and (iii) the Support and Service Level Requirements, during the term of this Agreement and provided your account has no outstanding balances. Horizon warrants that the Services will be provided in a professional manner in material accordance with industry standards. No representations or warranties as to the use, functionality or operation of the Website, Software or Documentation are made by Horizon other than as expressly stated in this Agreement. Horizon makes no representations or warranties as to the use, functionality or operation of the Mobile Portal, which if provided by Horizon shall be provided "AS IS" and "WITH ALL FAULTS." If the Website, Software, Documentation or Services provided under this Agreement do not materially comply with the requirements stated this Section, Horizon's sole obligation and your sole remedy shall be to correct or modify the Website, Software or Documentation, or re-perform the Services, at no additional charge. If Horizon determines it is unable to correct the non-conformance or re-perform the Services, your sole remedy will be to receive, and our sole obligation will be to provide, a refund of the fees paid for the non-conforming Software, Documentation or Services, even if such remedy fails of its essential purpose. You may also terminate this Agreement as set forth in the termination provision of this Agreement. Your sole and exclusive remedy for any failure of the Mobile Portal shall be to cease use of the Mobile Portal, even if such remedy fails of its essential purpose.

7.2 Internet. Horizon makes the Website and Software available to you through the Internet to the extent commercially reasonable, and subject to outages, communication and data flow failures, interruptions and delays inherent in Internet communications. You recognize that problems with the Internet, including equipment, software and network failures, impairments or congestion, or the configuration of your computer systems, may prevent, interrupt or delay your access to the Client Content, Services, Website and Software or any component thereof. Horizon is not liable for any delays, interruptions, suspensions or unavailability of the Client Content, Services, Website or Software attributable to problems with the Internet or the configuration of your computer systems. Notwithstanding anything to the contrary in this Agreement, access to the Mobile Portal may be terminated or suspended at any time.

7.3 System Requirements. You recognize that the Software and Website are intended to perform with, and Horizon provides the Services based upon, the system requirements specified by Horizon at its website [www.caterease.com](http://www.caterease.com), as those may be updated by Horizon from time to time. Horizon has no liability for any failure of the Services or the Software based upon your failure to comply with such system requirements. Horizon may provide the Mobile Portal based upon the system requirements specified by Horizon at its website [www.caterease.com](http://www.caterease.com), as those may be updated by Horizon in the future.

7.4 Warranty Limitation. The warranties set forth in this Agreement do not apply if non-compliance is caused by, or has resulted from (i) your failure to use any bug fixes, corrections,

patches, updates, upgrades or new or corrected versions of the Software or Documentation made available by Horizon, (ii) use of the Website, Services, Software or Documentation by you for any purpose other than that authorized in this Agreement, (iii) use of the Website, Services, Software or Documentation in combination with other software, data or products that are defective, incompatible with, or not authorized in writing by Horizon for use with the Website, Services, Software or Documentation, (iv) misuse of the Website, Services, Software or Documentation by, (v) any malfunction of your software, hardware, computers, computer-related equipment or network connection, (vi) any modification of the Software not performed by or otherwise authorized by Horizon in writing, or (vii) an event of Force Majeure.

7.5 Disclaimer. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS AND IMPLIED, WHICH ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING OUT OF A USE IN TRADE OR COURSE OF DEALING OR PERFORMANCE. HORIZON DOES NOT WARRANT (i) THAT ACCESS TO OR USE OF ALL OR ANY PART OF THE SOFTWARE OR DOCUMENTATION OR WEBSITE WILL BE CONTINUOUS, ERROR-FREE OR UNINTERRUPTED, (ii) THAT THE RESULTS ARISING OUT OF YOUR USE OF THE SOFTWARE OR DOCUMENTATION OR WEBSITE WILL BE ACCURATE, COMPLETE OR ERROR-FREE, OR (iii) THAT THE SERVICES, SOFTWARE, DOCUMENTATION OR WEBSITE WILL MEET YOUR NEEDS.

## 8. Limitation of Liability.

HORIZON IS NOT LIABLE OR RESPONSIBLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT, EVEN IF HORIZON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION, WHETHER ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), STATUTE OR OTHERWISE. UNLESS OTHERWISE SPECIFICALLY STATED, ALL REMEDIES AVAILABLE UNDER THIS AGREEMENT AND ALL REMEDIES PROVIDED BY LAW, WILL BE DEEMED CUMULATIVE AND NOT EXCLUSIVE. REGARDLESS OF THE FORM OF ANY CLAIM YOU MAY HAVE ARISING UNDER OR RELATING TO THIS AGREEMENT, HORIZON'S LIABILITY FOR ANY DAMAGES SHALL NOT EXCEED THE FEES YOU HAVE PAID TO HORIZON PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

## 9. Indemnification.

9.1 Client's Indemnification. You will indemnify, defend, and hold harmless Horizon from and against any and all liability, damage, loss or expense (including reasonable attorneys' fees) arising out of (i) any claim, demand, action or proceeding, statutory or otherwise, based on allegations arising as a result of use of the Website, Software, Documentation or Services in a

manner not expressly described or permitted by this Agreement, (ii) use of the Website, Software, Documentation or Services in any unlawful manner or for any unlawful purpose, (iii) breach or alleged breach of this Agreement by you or your personnel, (iv) Horizon's use of Client Content that infringes any third party Intellectual Property, or (v) Horizon's use of Client Content as permitted by this Agreement that violates the privacy rights or the rights to Personally Identifiable Information of a third party.

## 9.2 Horizon's Indemnification.

9.2.1 Horizon will at its own expense (including payment of attorneys' fees) defend you in the event that any suit is brought against you based on a claim from a third party that your use of the Software as permitted by this Agreement directly infringes any valid U.S. Intellectual Property right and shall indemnify you from any amounts assessed against you in a resulting judgment or settlement of such claims. Horizon will not be liable for any cost or expense of defense you incur in connection with any such suit or claim, without Horizon's prior and specific written authorization and consent.

9.2.2 Notwithstanding the foregoing, Horizon has no obligations under this Section 9 in the event any infringement claim is solely or in part based upon or arising out of (i) any modification or alteration to the Software not made by Horizon, (ii) any combination or use of the Software with products, hardware or services not supplied by Horizon or approved in writing by Horizon in advance of such combination, (iii) your continuance of allegedly infringing activity after being notified of such activity, or after being informed of modifications that would have avoided the alleged infringement, (iv) your failure to use corrections or enhancements made available by Horizon, (v) use of the Software not in accordance with the applicable Documentation or outside the scope of this Agreement, (vi) your use of the Software in an otherwise patented processes or business method, or (vii) the use of the Software in a manner for which it was neither designed nor contemplated.

9.2.3 Horizon's aggregate liability and obligation under this Section 9 will be limited to a suit formally commenced within a term of five (5) years starting on the delivery date of the Software subject to such suit, and will not exceed the fees you have paid to Horizon under this Agreement in the twelve (12) months preceding the event giving rise to the claim.

9.2.4 The foregoing remedies constitute your sole and exclusive remedies, and Horizon's entire liability and obligation, with respect to any suit or claim for infringement or misappropriation of third party Intellectual Property or other right by the license and/or use of the Software.

9.2.5 If any portion of the Software or Documentation becomes, or in Horizon's opinion is likely to become, the subject of a claim of infringement, then Horizon may, at its sole discretion, (i) procure for you the right to continue using the Software or Documentation, (ii) replace or modify the Software or Documentation so that it becomes non-infringing without material loss of functionality, or (iii) if the preceding remedies in (i) and (ii) are in Horizon's judgment not reasonably practicable, terminate this Agreement, along with your right and license to use the Software and Documentation, and refund to you the balance of any related fees pre-paid but unearned prior to such termination.

9.3 Notification. The indemnification obligations set forth above will apply only if and to the extent (i) the indemnified party gives prompt written notice to the indemnifying party of the assertion of any such claims, demands, action or proceeding, (ii) the indemnifying party has the right to select counsel and control the defense and all negotiations for settlement thereof and (iii) the indemnified party provides all reasonable information, assistance and cooperation required to defend such claim, demand, action or proceeding. The indemnifying party shall not settle or dispose of any such claim, demand, action or proceeding without written notification to the indemnified party provided the settlement or disposal materially adversely impacts the indemnified party.

## 10. Term and Termination.

10.1 Term. The term of this Agreement shall be for either (i) one (1) year or (ii) one (1) month, whichever term you have selected, and will begin upon Horizon's receipt of your full payment of the applicable fees. Such term shall automatically renew for subsequent terms of equal length, unless either Horizon or you gives notice to the other party thirty (30) days prior to the expiration of the then-current term of an intent not to renew. In the event you are receiving Services on a monthly basis, your credit card on file will be charged the then-current monthly renewal fee unless Horizon receives your notice of an intent not to renew as set forth above. In the event you are receiving Services on an annual basis, Horizon will send you a renewal invoice, which must be paid in full within thirty (30) days from the date of the invoice.

10.2 Termination. You may terminate this Agreement upon written notice to Horizon if Horizon materially breaches a provision of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice of such alleged breach, except in the event such breach is a failure to pay by you in which case such breach must be cured within ten (10) days after receipt of such written notice. Horizon may immediately suspend this Agreement and access to the Software, Website and Client Content in the event it reasonably suspects a material breach of a provision of this Agreement, including without limitation a failure to pay any amount due and owing. Horizon will use commercially reasonable efforts to notify you of such suspension as soon as possible in accordance with Horizon's standard policies. Either party may immediately terminate this Agreement in the event the other party (i) files for, or has filed against it, a bankruptcy petition, and such petition is not dismissed within sixty (60) days of the filing date; or (ii) ceases to conduct business in the normal course, (iii) makes an assignment for the benefit of its creditors, (iv) is liquidated or otherwise dissolved, (v) becomes insolvent or unable to pay its debts in the normal course, or (vi) has a receiver, trustee or custodian appointed for it.

10.3 Rights After Expiration or Termination. Upon expiration or termination of this Agreement, Horizon will immediately terminate your access to and use of the Website, Documentation, and the Software, along with any other Services. Upon expiration or termination of this Agreement, each party shall immediately cease to make use of any Confidential Information received from the other party. Within fifteen (15) days of your written request following termination or expiration of this Agreement, Horizon shall return all Client Content and Confidential Information obtained or shared during the course of the Agreement, provided such termination was not the result of your breach of this Agreement. Upon any termination or expiration of this Agreement, you must return to Horizon (or destroy at Horizon's option) any

Documentation or other materials provided by Horizon, whether in written or electronic form, regarding the Website, Software or Services provided under this Agreement and certify in writing such return or destruction. Termination is not an exclusive remedy. The following paragraphs shall survive any termination of this Agreement: 1, 2, 4, 5, 6, 7, 8, 9, 10, 12, 13 and 14.

#### 11. Marketing.

You agree that Horizon may identify you as a customer of Horizon using your name and/or logo in Horizon's written promotional and marketing materials, as well as in any oral or visual presentations regarding the business of Horizon. You will provide Horizon with an electronic copy of your logo and you hereby grant Horizon a non-exclusive, non-transferable, worldwide, fully-paid license to use, copy, display and distribute your name and logo for this purpose. Horizon may use any non-Confidential Information, such as aggregate statistical information as part of Horizon's overall statistics for any purpose including any marketing and promotional efforts.

#### 12. Compliance with Laws/Government Approvals.

Each party warrants that it will comply in all respects with all government laws and regulations, including without limitation any and all export restrictions. You will not knowingly transfer, export or re-export Software, Documentation, or Horizon's Intellectual Property or Confidential Information, directly or indirectly, to (i) any country to the extent export to such country at the time of export requires an export license or other governmental approval, without first obtaining such license or approval or (ii) any country prohibited by the Department of Treasury or its Office of Foreign Asset Control or to any individual on the list of Specially Designated Nationals. You may not sell, transfer, export or re-export any Software, Documentation or Horizon's Intellectual Property or Confidential Information for use in activities that involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use products in any facility that engages in activities relating to such weapons. You are responsible for and must take all necessary steps to obtain any approval and effect any registration of this Agreement required under the laws, regulations or practices of any country, and shall indemnify Horizon for any damage arising out of your application for or failure to apply for such approvals.

#### 13. General Provisions

13.1 Assignment. This Agreement will inure to the benefit of and be binding upon both parties and our respective successors and assigns. Notwithstanding the foregoing, you may not assign or otherwise transfer this Agreement or your rights and obligations under this Agreement without the prior written consent of Horizon, and any purported assignment or other transfer without such consent will be void and of no force or effect. Horizon may assign and/or transfer this Agreement or our rights and obligations under this Agreement at any time.

13.2 Injunctive Relief. Any breach of Sections 5 or 6 will cause irreparable harm to the other party. The parties agree that the non-breaching party may enforce the provisions of Sections 5 or 6 by seeking an injunction, specific performance or other equitable relief without prejudice to any other rights and remedies the non-breaching party may have.

13.3 Modification and Waiver; Severability. Any modifications of this Agreement must be in writing and signed by both parties. A waiver by either party of a term or condition will not be deemed a waiver of any other or subsequent term or condition. Should any arbitrator or court of competent jurisdiction determine that any term or provision of this Agreement is unenforceable, or otherwise invalid, the offending term or provision will be modified to the minimum extent necessary to render it enforceable. If such modification is not possible, the term or provision will be severed from this Agreement with the remaining terms to be enforced to the fullest extent possible under the law.

13.4 Force Majeure. Except for a party's payment obligations hereunder, neither party shall be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach thereof are delayed or prevented by reason of any act of God, government, fire, natural disaster, accident, terrorism, network or telecommunication system failure, sabotage or any other cause beyond the control of such party ("Force Majeure"), provided that such party promptly gives the other party written notice of such Force Majeure.

13.5 Independent Contractors. The parties will be deemed to have the status of independent contractors, and nothing in this Agreement will be deemed to place the parties in the relationship of employer-employee, principal-agent, or partners or joint ventures. Neither party has the authority to bind, commit or make any representations, claims or warranties on behalf of the other party without obtaining the other party's prior written approval.

13.6 Notices. Any notices provided under this Agreement will be in writing in the English language and will be deemed to have been properly given if delivered personally or if sent by (i) a recognized overnight courier, (ii) certified or registered mail, postage prepaid, return receipt requested, or (iii) facsimile, if confirmed by mail. Horizon's address for such notices is set forth below. Your address for such notices will be the address on file with Horizon as provided by you. Such address or contact information may be revised from time to time by provision of notice as described in this Section. All notices sent by mail will be deemed received on the tenth (10<sup>th</sup>) business day after deposit in the mail. All notices sent by overnight courier will be deemed given on the next business day after deposit with the overnight courier. All notices sent by facsimile will be deemed given on the next business day after successful transmission.

Horizon Business Services, Inc.  
801 Orchid Drive  
Naples, FL 34102  
(239) 261-5828  
Sales@caterease.com

### 13.7 Governing Law and Dispute Resolution.

13.7.1 This Agreement is to be construed and governed by the laws of the United States and the State of Florida, without regard to conflict of laws provisions. The parties agree that this Agreement is not subject to and shall not be interpreted under the United Nations Conventions on Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act as it may exist in any state.

13.7.2 In the event of any dispute between the parties arising out of or in connection with this Agreement, the parties agree that such dispute shall not be addressed publicly through any social media or other Internet platform. Disputes must be addressed confidentially between the parties and may be raised solely with the other party in accordance with this Section.

13.7.3 Any dispute arising out of or in connection with this Agreement, which cannot be settled amicably between the parties must be brought exclusively in the appropriate court located in Collier County, Florida, and you expressly waive any and all objections regarding jurisdiction and forum non conveniens. If either Horizon or you employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees and costs.

13.8 Electronic Signatures. Facsimile signatures or any other form of electronic signatures are binding and fully enforceable to the same extent as written signatures. You understand that your act of accessing or using the Software constitutes your electronic signature and consent to the terms of this Agreement.

#### 14. Entire Agreement

This document constitutes the entire agreement between you and Horizon with respect to the subject matter discussed above. Any waiver of any provision of this Agreement will be effective only if in writing and signed by Horizon. This Agreement supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding this subject matter. This Agreement will inure to the benefit of Horizon's successors, assigns and licensees. Print a copy of this Agreement for your records.

## **SERVICE LEVEL REQUIREMENTS**

- Availability of the Website and Software shall exceed 99%, excluding planned downtime for maintenance events. Planned downtime shall not exceed 4 hours in any 24-hour period and shall be performed from the hours of 11:00 p.m. to 5:00 a.m. EST.
- Software will be hosted in physical facilities that meet industry standards for power and cooling technologies and fire suppression systems and other environmental controls.
- The Website and Software uses industry-standard system security, including without limitation firewall and intrusion detection, and 256 bit encryption via HTTPS/SSL/TLS protocols.
- The Website and Software uses industry-standard antivirus software and procedures.
- Horizon will perform weekly full and daily incremental Website and Software backups.
- Horizon will perform all software updates and maintenance without end-user intervention.