

HALCYON DEATH CARE MANAGEMENT SOLUTION TERMS OF SERVICE

Last Modified: June 13, 2024

By subscribing to and using the Halcyon Death Care Management Solution you are agreeing to comply with and be bound by the following Terms of Service. Please review the following terms carefully.

These Halcyon Death Care Management Solution Terms of Service (these "**Terms of Service**") form a binding contract between Batesville Casket Company, LLC, an Indiana limited company ("**Provider**," "**we**," or "**us**"), and the funeral home, crematory, pet crematory or multi-funeral home or crematory entity, or other entity entering into these Terms of Service with us ("**Company**," "**you**," or "**your**"). These Terms of Service govern your access to and use of the Halcyon website, applications, and the Halcyon Death Care Management Solution (collectively the "DCMS Services") made available by us.

THIS AGREEMENT TAKES EFFECT WHEN YOU CLICK THE "I ACCEPT"/ "I AGREE" BUTTON BELOW OR BY ACCESSING OR USING THE DCMS SERVICES (the "**Effective Date**"). BY CLICKING ON THE "I ACCEPT"/ "I AGREE" BUTTON OR BY ACCESSING OR USING THE DCMS SERVICES YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND, IF ENTERING INTO THIS AGREEMENT FOR AN ORGANIZATION, THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ORGANIZATION; AND (C) ACCEPT THESE TERMS OF SERVICE AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS.

IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, PLEASE SELECT THE "I DECLINE"/ "I DO NOT AGREE" BUTTON. IF YOU DO NOT ACCEPT THESE TERMS OF SERVICE, YOU MAY NOT ACCESS OR USE THE DCMS SERVICES FOR ANY PURPOSES WHATSOEVER.

These Terms of Service are in addition to, and do not nullify, any other agreement between you and us or any other applicable terms and conditions found on the DCMS Services. If you are a paying customer ("Paid Customer") and you or your organization are bound by an enterprise services agreement with Us, then these Terms will apply, if at all, only to use the DCMS Service to the extent such use is not already governed by those enterprise service agreement terms.

We may revise, update, and supplement these Terms of Service from time to time in our sole discretion. All changes are effective immediately upon posting and will apply to your use of the DCMS Services thereafter. If you do not agree to any changes these Terms of Service, you may terminate these Terms of Service and your access to the DCMS Services as provided herein. Your continued use of the DCMS Services following the posting of revised Terms of Service means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

1. Definitions.

(a) "**Aggregated Statistics**" has the meaning set forth in Section 2(e).

(b) "**Authorized User**" means you and your employees, consultants, contractors, agents and other third parties (e.g., your customers) (i) who are expressly authorized by you to access and use the DCMS Services subject to these Terms of Service, and (ii) for whom access to the DCMS Services has been properly authorized pursuant to the terms of your Order Form.

(c) "**Business Contact Data**" means any personally identifiable information that is used for the purpose of communicating, or facilitating communication, with an individual in relation to their employment, business, or profession, such as the individual's name, position title, and employment-related address, telephone number, or e-mail address.

(d) **"Company Data"** means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by you or your Authorized Users to the DCMS Services.

(e) **"Data Processing Addendum"** means the terms and conditions governing how the parties shall process and use Personal Information, and which is set forth at:

<https://www.halcyondcms.com/legal/DPA.pdf>

(f) **"DCMS Services"** means the Death Care Management Solution made available by us on the Site, including the funeral software, crematory software, pet cremation software, trade management software, enterprise management software, as well as all hardware, software, applications, data storage, and infrastructure we utilize to host and operate the Death Care Management Solution. The term 'DCMS Services' also includes all materials, information and content available in the Death Care Management Solution, and all of its associated Documentation.

(g) **"Documentation"** means any user manuals, handbooks, and guides setting forth the features, functions and specifications of the DCMS Services, as the same is published by us and made available to you either electronically or in hard copy form.

(h) **"Order Form"** means either a manually signed or electronically accepted ordering document that sets forth the details of your subscription to the DCMS Services including the number of Authorized Users, the term, applicable Subscription Fees, and any additional details regarding the specific subscription package elected by you.

(i) **"Personal Information"** has the meaning ascribed to it in the Data Processing Addendum, which is located at <https://www.halcyondcms.com/legal/DPA.pdf>.

(j) **"Process"** or **"Processing"** means any action performed by Provider on Personal Information, including collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure, transfer or otherwise making available, alignment or combination, restriction, deletion, or destruction.

(k) **"Provider IP"** means the DCMS Services, the Documentation, and all intellectual property provided to you or any other Authorized User in connection with the foregoing. For the avoidance of doubt, Provider IP includes Aggregated Statistics.

(l) **"Site"** means the website from which we make the DCMS Services available through the Internet, currently at www.halcyondcms.com/platinum.

(m) **"Supplemental Terms of Service"** means the terms and conditions governing Your use of specific features or products that may be available to You within the DCMS Services, which may be revised and updated from time to time and are effective immediately upon posting and will apply to your use of the DCMS Services thereafter and are available here:

<https://www.halcyondcms.com/legal/SupplementalTerms.pdf>.

(n) **"Third-Party Products"** has the meaning set forth in Section 3(e).

2. Access and Use.

(a) Provision of Access. Subject to and conditioned upon your payment of the applicable Subscription Fees and your compliance with these Terms of Service, we hereby grant to you and your Authorized Users a revocable, non-exclusive, non-transferable, non-sublicensable, limited right to access and use the DCMS Services during the Term solely for your internal business

operations. In connection with the foregoing license, we will provide you the necessary passwords and access credentials to allow your Authorized Users to access the DCMS Services.

(b) Documentation License. Subject to the terms and conditions contained in these Terms of Service, we hereby grant to you a non-exclusive, non-sublicensable, non-transferable license for your Authorized Users to use the Documentation during the Term solely for your internal business purposes only in connection with use of the DCMS Services.

(c) Use Restrictions. You shall not, and shall not permit any Authorized Users to, use the DCMS Services, any software component of the DCMS Services, or Documentation for any purposes beyond the scope of access granted in these Terms of Service. You shall not at any time, directly or indirectly, and shall not permit any Authorized User to: (i) copy, print (except for the express limited purpose permitted herein), republish, display, distribute, transmit, sell, rent, lease, loan or otherwise make available in any form or by any means all or any portion of the DCMS Services or any content or Documentation, in whole or in part; (ii) create compilations or derivative works of all or any part of the DCMS Services or use the DCMS Services or any content available therein to develop, as a component of, any information, storage and retrieval system, database, information base, or similar resource (in any media now existing or hereafter developed), that is offered for commercial distribution of any kind, including through sale, license, lease, rental, subscription, or any other commercial distribution mechanism; (iii) use the DCMS Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of Provider or any other person, or in a manner that violates any applicable law, regulation, or rule; (iv) remove, change or obscure any copyright notice or other proprietary notice or terms of use contained in the DCMS Services; (v) make all or any portion of the DCMS Services available through any timesharing system, or service bureau, or lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the DCMS Services or Documentation except as expressly permitted under this Agreement; (vi) remove, decompile, disassemble or reverse engineer any of the DCMS Services software or use any network monitoring or discovery software to determine the architecture of the DCMS Services; (vii) use any automatic or manual process to harvest information from the DCMS Services; (viii) use the DCMS Services for the purpose of transmitting email that makes use of headers, invalid or nonexistent domain names, or other means of deceptive addressing; (ix) use the DCMS Service in a manner that violates any state or federal law regulating email, facsimile transmissions or telephone solicitations; (x) export or re-export the DCMS Services or any portion thereof, or any software available on or through the DCMS Services, in violation of the export control laws or regulations of the United States; or (xi) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the DCMS Services, in whole or in part.

(d) Aggregated Statistics. Notwithstanding anything to the contrary in these Terms of Service, we may monitor use of the DCMS Services and may collect and compile data and information related to use of the DCMS Services and may use all such information in an aggregated and anonymized manner, including to compile statistical and performance information related to the provision and operation of the DCMS Services ("**Aggregated Statistics**"). As between you and us, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by us. You acknowledge that we may compile Aggregated Statistics based on your Company Data transmitted to the DCMS Services. You agree that we may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law provided that such Aggregated Statistics do not identify you or any or disclose any of your Confidential Information.

(e) Reservation of Rights. We and/or our licensors are the owner of the DCMS Services. Except for the limited rights and licenses expressly granted herein, nothing in these Terms of Service grants, by implication, waiver, estoppel, or otherwise, to you or any third party, any intellectual property rights or other right, title, or interest in or to our Provider IP. Provider IP includes all content, organization, graphics, design, compilation, magnetic translation, digital conversion, software, Documentation, and other materials available through the DCMS Services. The copying, redistribution, use or publication by you of any such Provider IP is strictly prohibited.

(f) Modification of Services; Suspension. Notwithstanding anything to the contrary in these Terms of Service, we reserve the right without advance notice or liability to you, to add, discontinue, update, modify or replace any aspect of the DCMS Services in our sole discretion. In addition, we reserve the right to temporarily suspend your or any Authorized User's access to any portion or all of the DCMS Services if: (i) we reasonably determine that (A) there is a threat or attack on the DCMS Services; (B) your access disrupts or poses a security risk to the DCMS Services or to any other users; (C) you or an Authorized User is using the DCMS Services for fraudulent or illegal activities; (D) subject to applicable law, you have ceased to continue business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) the continued provision of the DCMS Services to you or any other Authorized User is prohibited by applicable law; (ii) a vendor has suspended or terminated our access to any third-party services or products that is required for us to provide the DCMS Services to you; or (iii) in accordance with Section 5 (any such suspension described in subclause (i), (ii), or (iii), a "**Service Suspension**"). We will use commercially reasonable efforts to provide you written notice of any Service Suspension and to resume providing access to the DCMS Services as soon as reasonably possible after the event giving rise to the DCMS Services Suspension is cured. We will have no liability for any damage, liabilities, losses (including any loss of or profits), or any other consequences that you or any other Authorized User may incur as a result of a Service Suspension.

3. Company Responsibilities.

(a) Acceptable Use Policy. The DCMS Services may not be used for unlawful, fraudulent, offensive, or obscene activity, as further described and set forth in our acceptable use policy ("**AUP**") located at <https://www.halcyondcms.com/legal/AUP.pdf> as the same is incorporated herein by reference. The AUP may be updated by us from time to time by posting a revised copy to the Site. The AUP is a material part of these Terms of Service and you agree to hold us harmless from, and to protect and defend us from any claim, suit, penalty, tax, fine, penalty, or tariff arising from your failure to comply with the AUP or this Section 3(a).

(b) Account Use. You are solely responsible and liable for all uses of the DCMS Services by you and your Authorized Users and for all use of access credentials provided to you. Without limiting the generality of the foregoing, you are responsible for all acts and omissions of your Authorized Users. You shall bind all Authorized Users to these Terms of Service and shall cause Authorized Users to comply with such provisions. As used herein, the term "you" shall include the subscribing organization and its Authorized Users.

(c) Company Data. You hereby grant to us a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Company Data and perform all acts with respect to the Company Data as may be necessary for us to provide the DCMS Services and any additional services you may order to you, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Company Data (a) that is incorporated within the Aggregated Statistics, (b) to improve Provider's

products, and (c) as necessary or useful for Provider to enforce these Terms of Services and exercise its rights and perform its obligations hereunder. You will ensure that Company Data and any Authorized User's use of Company Data will not violate any policy or terms referenced in or incorporated into these Terms of Service by reference, or any applicable law, rule or regulation. You are solely responsible for the data and information that you or your users input or upload to the DCMS Services. You are further responsible for obtaining any necessary right and licenses for use of the Company Data by you and Provider as contemplated by these Terms. You agree that you have the legal right and authority to access, use and disclose to Provider any Company Data.

(d) Passwords and Access Credentials. You are responsible for keeping all passwords and access credentials assigned to your Authorized Users or associated with your use of the DCMS Services confidential. You will not sell, transfer or share the access credentials with any other person or entity. You will promptly notify us about any unauthorized access to your passwords or access credentials, or if you believe any access credentials have been lost, stolen or compromised.

(e) Linking; Third-Party Products.

(i) Linking to the DCMS Services. You may provide links to the DCMS Services, provided (A) that you do not remove or obscure, by framing or otherwise, the copyright notice, or other notices on the DCMS Services, (B) your site complies with all applicable laws and the terms of the AUP, (C) you notify us in advance of your intent to link to the Site and the URL of the linking site and (D) you discontinue providing links to the DCMS Services immediately upon request by us.

(ii) Portions of the DCMS Services may utilize or include third party software, opensource software, and other copyrighted material. The DCMS Services may also permit access to certain third-party products. Information for such third-party software or opensource software or third-party products (collectively, "**Third-Party Products**") will be available either within the DCMS Services or at the website for such applicable Third-Party Product. Your use of such Third-Party Products is governed exclusively by the terms and conditions of use presented to you for acceptance at any such Third-Party Products website or link, and not by these Terms of Service. Do not install, access, or use such Third-Party Products if you do not agree to abide by the applicable terms for any such Third-Party Products. We are not responsible or liable to you for the Third-Party Products and disclaim all liability associated with your use of the Third-Party Product. We do not endorse or recommend the Third-Party Products.

4. Support. We will maintain an email support help desk and will provide online support documentation for your use of the DCMS Services. We will also provide an online support ticket system and phone support for Company at the numbers published on the Site. Support is limited to the functionality of the DCMS Services. General computer support is not included.

5. Subscription Fees and Payment.

(a) In exchange for access to the DCMS Services, you shall pay us the subscription fees described in the applicable invoice, including any applicable taxes ("**Subscription Fees**"). Invoices will be sent by email only. Your Company is responsible for providing and maintaining a valid, monitored, unblocked email address for the purposes of billing and any other required communication, and your Company will be responsible for payment of all late fees for non-payment as a result of not maintaining such a valid email for your account. If you substantially exceed the disk space and bandwidth usage for an average subscriber, we reserve the right to charge you additional fees. Before any additional amount is charged to you, we will give you thirty (30) days'

notice before assessing such additional fees so that you have the option to adjust your required disk space or bandwidth to bring it in line with average usage parameters.

(b) Monthly subscribers are billed monthly in advance. Annual payment plans are paid a year in advance and are due on your annual subscription anniversary date. Payment of all Subscription Fees and charges is due within thirty (30) days from the invoice date without offset or deduction.

(d) You must make all payments in US dollars on or before the due date. If you fail to make any payment when due, without limiting our other rights and remedies (all of which are cumulative under these Terms of Service): (i) we may charge you interest on the past due amount at the rate of 1.5% per month (18% APR) or, if lower, the highest rate permitted under applicable law; and (ii) you shall be required to reimburse us for our reasonable costs of collection, including any late payments or interest, attorneys' fees, court costs, and collection agency fees; and (iii) if your failure continues for 60 days or more, we may suspend, in accordance with Section 2(g), your access to any portion or all of the DCMS Services until such amounts are paid in full; and (iv) if such failure continues for 90 days or more, we may terminate these Terms of Service and delete all of your Company Data without penalty or liability to you.

(e) All Subscription Fees and other amounts payable hereunder are exclusive of taxes and similar assessments. You are responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable hereunder, other than any taxes imposed on Provider's income.

6. Confidential Information. From time to time during the Term, each of the parties may disclose or make available to the other party information about its business affairs, products, confidential intellectual property, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media/in written or electronic form or media, that is marked, designated, or otherwise identified as "confidential" at the time of disclosure (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving party; (c) rightfully obtained by the receiving party on a non-confidential basis from a third party; or (d) independently developed by the receiving party. The receiving party shall not disclose the disclosing party's Confidential Information to any person or entity, except to the receiving party's employees, agents, or subcontractors who have a need to know the Confidential Information for the receiving party to exercise its rights or perform its obligations hereunder and who are required to protect the Confidential Information in a manner no less stringent than required under these Terms of Service. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (i) to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other party and made a reasonable effort to obtain a protective order; or (ii) to establish a party's rights under these Terms of Service, including to make required court filings. Each party's obligations of non-disclosure with regard to Confidential Information are effective as of the date such Confidential Information is first disclosed to the receiving party and will expire five years thereafter.

6. Data Processing Addendum. You acknowledge that, except as described in these Terms of Service or applicable Supplemental Terms, the information you provide to us or that we collected will be used and protected as described in Our Privacy Policy available at <https://www.halcyondcms.com/legal/PrivacyPolicy.pdf>. Company, and each Authorized User, acknowledges and further agrees that in order to use the DCMS Services, including any additional services and features that may be offered by Provider, Company and each Authorized User may have to input into the DCMS Services, certain Personal Information, and such Personal Information will be subject to the Data Processing

Addendum. The Data Processing Addendum is hereby incorporated into, and forms an integral part of, this Agreement. If Company and/or Authorized User do not agree to, or do not comply with, the Data Processing Addendum, Company and Authorized User may not access or use the DCMS Services, and Provider shall have no liability to Company arising from the processing of Personal Information under Data Protection Laws, and Company shall indemnify Provider, hold harmless, and, at our option, defend us and our officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all Losses arising under applicable Data Protection Laws as a result of Company's use of the DCMS Services. Company acknowledges and agrees that Company will be solely responsible for the following: (i) the accuracy, quality, and legality of Personal Information submitted and transmitted to the Services, (ii) complying with all necessary transparency and lawfulness requirements under applicable law for the collection and use of the Personal Information, including obtaining any necessary consents and authorizations, and (iii) ensuring Company and each Authorized User has the right to submit Personal Information to the DCMS Services.

7. Intellectual Property Ownership; Feedback. As between you and us, (a) we own all right, title, and interest, including all intellectual property rights, in and to the DCMS Services and (b) you own all right, title, and interest, including all intellectual property rights, in and to the Company Data. If you or any of your employees, contractors, or agents sends or transmits any communications or materials to us by mail, email, telephone, or otherwise, suggesting or recommending changes to the DCMS Services, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), we are free to use such Feedback irrespective of any other obligation or limitation between you and us governing such Feedback. All Feedback is and will be treated as non-confidential. You hereby assign to us on your behalf, and shall cause your employees, contractors, and agents to assign, all right, title, and interest in, and we are free to use, without any attribution or compensation to you or any third party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although we are not required to use any Feedback.

8. Limited Warranty and Warranty Disclaimer.

(a) We warrant that the DCMS Services shall materially conform to the Documentation when used by you in accordance with these Terms of Service. THE FOREGOING WARRANTY DOES NOT APPLY, AND WE STRICTLY DISCLAIM ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS. In the event of any breach of the foregoing warranty, as your sole and exclusive remedy and our sole and exclusive obligation, we will use commercially reasonable efforts to promptly correct any failure of the DCMS Services to conform to the Documentation at our expense provided that (a) you promptly notify us of the failure to conform to specifications upon becoming aware of the same, and (b) the failure to conform is not due to any modifications or misuse of the DCMS Services by you, or your failure to operate the DCMS Services using the recommended hardware and software environment. If we are unable to correct the non-conformance within a commercially reasonable period of time, you shall have the right to terminate these Terms of Service and your use of the DCMS Services upon written notice to us and we will refund to you any prepaid Subscription Fees relating to periods after the date you notified us of the failure of the DCMS Services to comply with the Documentation.

(b) Company Warranty. You warrant that you own all right, title, and interest, including all intellectual property rights, in and to your Company Data and that both the Company Data and your use of the DCMS Services shall be in compliance with the AUP and all applicable laws, rules and regulations.

(c) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 9(a), THE DCMS SERVICES ARE PROVIDED ON AN "AS IS," "AS AVAILBLE," AND WITH "ALL FAULTS" BASIS, AND WE

SPECIFICALLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. WE DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WE MAKE NO WARRANTY OF ANY KIND THAT THE DCMS SERVICES, OR THE RESULTS FROM THE USE THEREOF WILL MEET YOUR REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF YOUR OR ANY THIRD PARTY'S SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. WE DO NOT REPRESENT OR WARRANT THAT THE INFORMATION AVAILABLE ON OR THROUGH THE DCMS SERVICES WILL BE CORRECT, ACCURATE, TIMELY OR OTHERWISE RELIABLE. WE CAN MAKE CHANGES TO THE FEATURES, FUNCTIONALITY OR CONTENT OF THE SITE AT ANY TIME IN OUR DISCRETION. WE RESERVE THE RIGHT, IN OUR SOLE DISCRETION, TO EDIT OR DELETE ANY DOCUMENTS, INFORMATION OR OTHER CONTENT, OTHER THAN COMPANY DATA, APPEARING ON THE DCMS SERVICES (WHICH MAY BE DELETED IN ACCORDANCE WITH SECTION 13(c)).

9. Indemnification.

(a) Provider Indemnification.

(i) We shall indemnify, defend, and hold you harmless from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees ("**Losses**"), resulting from any third-party claim, suit, action, or proceeding against you ("**Third-Party Claim**") that the DCMS Services, or any use of the DCMS Services in accordance with these Terms of Service, infringes or misappropriates such third party's US intellectual property rights, provided that you promptly notify us in writing of the Third-Party Claim, cooperates with us, and allows us the sole authority to control the defense and settlement of such Third-Party Claim.

(ii) If such a Third-Party Claim is made or we reasonably anticipate such a Third-Party Claim will be made, you agree to permit us, at our sole discretion, to (A) modify or replace the DCMS Services, or component or part thereof, to make it non-infringing, or (B) obtain the right for you to continue to use the DCMS Services on a non-infringing basis. If we determine that neither alternative is reasonably available, we shall have the right to terminate these Terms of Service and your access to the DCMS Services, in its entirety or with respect to the affected component or part, effective immediately on written notice to you and the issuance of a refund for prepaid Subscription Fees related to periods after termination. This Section 10(a)(ii) sets forth your sole remedies and our sole liability and obligation for any actual, threatened, or alleged Third-Party Claims that the DCMS Services infringe, misappropriate, or otherwise violate any intellectual property rights of any third party.

(iii) This Section 10(a) will not apply to the extent that any such Third-Party Claim arises from your Company Data or from any Third-Party Products.

(b) Company Indemnification. In addition to indemnification as provided under paragraph 7, You shall indemnify, hold harmless, and, at our option, defend us and our officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all Losses arising from or relating to any Third-Party Claim (i) that the Company Data, or our use of the Company Data in accordance with these Terms of Service, infringes or misappropriates such third

party's intellectual property rights; or (ii) based on your or any Authorized User's negligence or willful misconduct, or use of the DCMS Services in a manner not authorized by these Terms of Service; provided that you may not settle any Third-Party Claim against us unless we consent to such settlement, and further provided that we will have the right, at our option, to defend ourselves against any such Third-Party Claim and/or to participate in the defense thereof through counsel of our own selection.

10. Limitations of Liability.

(a) IN NO EVENT WILL WE BE LIABLE UNDER OR IN CONNECTION WITH THESE TERMS OF SERVICE OR THE DCMS SERVICES, OR ANY CONTENT OR MATERIAL AVAILABLE THEREIN, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR ANY: (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (ii) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (iii) LOSS OF GOODWILL OR REPUTATION; (iv) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER WE WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.

(b) EXCEPT WITH REGARD TO THE PARTY'S OBLIGATIONS UNDER SECTION 10, IN NO EVENT WILL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE DCMS SERVICES OR THESE TERMS OF SERVICE UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO PROVIDER UNDER THIS AGREEMENT IN THE ONE (1) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM, OR \$1,000, WHICHEVER IS LESS.

11. Term and Termination.

(a) Term. Access to the DCMS Services begins on the Effective Date and continues for the term set forth in the Order Form. Thereafter, your subscription to the DCMS Services shall continue until terminated by a party as provided herein. Subscription Fees during any renewal term shall be subject to increase as set forth in the renewal invoice.

(b) Termination. In addition to any other express termination right set forth herein, either party may terminate these Terms of Service as set forth below. **Termination or expiration of these Terms of Service shall terminate Company's access to the DCMS Services:**

(i) Either party may terminate these Terms of Service at the end of any calendar month by providing at least thirty (30) days prior written notice to the other party of the requested termination date. If we terminate these Terms of Service for our convenience, you shall be entitled to a refund of any prepaid Subscription Fees for periods after the date of termination. If you terminate Terms of Service for your convenience, you shall not be entitled to a refund of prepaid Subscription Fees and will be responsible for all Subscription Fees incurred up to and including the date of termination.

(ii) Either party may terminate Terms of Service, effective on written notice to the other party, if the other party materially breaches any term set forth herein and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach. If we terminate these Terms of Service for cause under this Section, you shall not be entitled to a refund of any prepaid Subscription Fees for periods after the date of termination. If

you terminate these Terms of Service for out cause under this Section, you shall be entitled to a refund of any prepaid Subscription Fees for periods after the date of termination.

(iii) Either party may terminate access these Terms of Service, effective immediately upon written notice to the other party, if the other party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business. If we terminate these Terms of Service for cause under this Section, you shall not be entitled to a refund of any prepaid Subscription Fees for periods after the date of termination. If you terminate these Terms of Service for out cause under this Section, you shall be entitled to a refund of any prepaid Subscription Fees for periods after the date of termination.

(iv) You may terminate these Terms of Service upon written notice to us served within thirty (30) days of the effective date of any change to these Terms of Service that we post to the Site if any such changes are unacceptable to you. If you terminate these Terms of Service pursuant to this Section 12(b)(iv), you shall be entitled to a refund of any prepaid Subscription Fees for periods after the date of termination.

(c) Effect of Termination. Upon termination of these Terms of Service, you shall immediately discontinue all use of the DCMS Services, and all rights and licenses granted hereunder shall immediately terminate. The expiration or termination of these Terms of Service will not affect your obligation to pay Subscription Fees that became due before such expiration or termination, nor shall it entitle you to a refund except as otherwise set forth above in this Section 12. Upon your written request received by us at any time within thirty (30) days after the effective date of the termination, we will provide you a then-current copy of your Company Data residing in the DCMS Services. The format and medium used to provide the data shall be at our sole discretion. We will destroy any and all copies of the Company Data once a copy thereof has been provided to you, or after the time period set forth above if no copy is requested by you. We will have no liability for deleting Company Data in accordance with the terms of this Section 12(c).

(d) Survival. This Section 12 and any right, obligation, or required performance of the parties in these Terms of Service which, by its express terms or nature and context is intended to survive termination or expiration hereof, will survive any such termination or expiration of these Terms of Service.

12. Additional Services. Provider may offer additional features of the DCMS Services, as well as those provided by third party service providers, or integrations with third party service providers, including but not limited to those that You request. You acknowledge and agree that such additional services are subject to these Terms of Service as well as any Supplemental Terms applicable. You further agree to pay for the applicable rate for the additional services pursuant to any written agreement or order form.

13. Modifications. You acknowledge and agree that we have the right, in our sole discretion, to modify these Terms of Service from time to time, and that modified terms become effective on posting. You will be notified of modifications through posts on the Site or from direct email communication from us. You are responsible for reviewing and becoming familiar with any such modifications. Your continued use of the

DCMS Services after the effective date of the modifications will be deemed acceptance of the modified terms.

14. Export Regulation. The DCMS Services utilize software and technology that may be subject to US export control laws, including the US Export Administration Act and its associated regulations. You acknowledge and agree to comply with all U.S. export control laws and regulations in use of the DCMS Services, and shall not export, re-export or provide access to such items in violation of such export control laws and regulations.

15. US Government Rights. Each of the software components that constitute the DCMS Services and the Documentation is a "commercial product" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if you are an agency of the US Government or any contractor therefor, you receive only those rights with respect to the DCMS Services and Documentation as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government customers and their contractors.

16. Governing Law and Jurisdiction. This Agreement and each quote and/or order form is governed by and construed in accordance with the internal laws of the State of Indiana without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Indiana. Except as otherwise set forth herein, any legal suit, action, or proceeding arising out of or related to these Terms of Service or the rights granted hereunder will be instituted exclusively in the federal or state courts located in the State of Indiana, in each case located in the county of Ripley, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

17. Miscellaneous. These Terms of Service together with the your quote and/or order form, Data Processing Addendum, any Supplemental Terms, and the Exhibits, Schedules or documents incorporated herein by reference (collectively, the "**Agreement**") constitute the complete and entire agreement and understanding between us with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. Any notices to us must be sent to our corporate headquarters address as: Batesville Casket Company, LLC, c/o General Counsel, One Batesville Boulevard, Batesville, Indiana 47006 and must be delivered either in person, by certified or registered mail, return receipt requested and postage prepaid, or by recognized overnight courier service, and are deemed given upon receipt by us. Notwithstanding the foregoing, you hereby consent to receiving electronic communications from us. These electronic communications may include notices about applicable fees and charges, transactional information, and other information concerning or related to the DCMS Services. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. Any failure to act by us with respect to a breach of this Agreement by you or others does not constitute a waiver and will not limit our rights with respect to such breach or any subsequent breaches. This Agreement is personal to you and may not be assigned or transferred for any reason whatsoever without our prior written consent and any action or conduct in violation of the foregoing will be void and without effect. We expressly reserve the right to assign this Agreement and to delegate any of its obligations hereunder. All rights and remedies under this Agreement are cumulative.