



OneTrack's General Terms

Last Updated: 7 May 2024

THE AGREEMENT

The Agreement:

1. is entered into between CATOPCo and the Customer;
2. sets out the terms which the Customer agrees to comply with for the purpose of accessing and using OneTrack;
3. sets out the process by which a Deployment Agreement comes into existence; and
4. may be amended by CATOPCo at any time, and such amended terms will be effective upon the amended terms being posted to the OneTrack Website.

OTHER DOCUMENTS

5. By accessing and using OneTrack the Customer:
 - a. agrees to comply with the OneTrack Documents;
 - b. must ensure that each OneTrack User complies with OneTrack's Access Rules; and
 - c. remains liable for each OneTrack User who accesses and uses OneTrack.
6. To the extent of any inconsistency with OneTrack's Documents between CATOPCo and the Customer, these General Terms will prevail and then the following order of priority will apply to the remaining documents:
 - a. Dictionary;
 - b. Deployment Agreement; and
 - c. OneTrack's Access Rules.

TERM

7. The Agreement commences on the Commencement Date and will continue until terminated in accordance with these General Terms.

USE OF ONETRACK

8. CATOPCo will, subject to the Customer complying with OneTrack's Documents (as applicable):
 - a. provide the Services subject to clauses 24 and 25; and
 - b. grant the OneTrack User Licence to the Customer in accordance with these General Terms.

DEPLOYMENT AGREEMENT

9. The Customer may request that OneTrack is made available in respect of a Project Contract. This request is made by the Customer submitting a completed Onboarding Request.
10. Upon receipt of an Onboarding Request, CATOPCo will:
 - a. review the request and the relevant Project Contract;
 - b. advise the Customer whether the Project Contract is suitable for OneTrack (in CATOPCo's sole discretion); and
 - c. subject to CATOPCo determining that the Project Contract is suitable for OneTrack, advise the Customer as to the Fee payable in respect of the Project Contract and the Customer's access and use of OneTrack, as determined by CATOPCo.
11. Upon confirmation from the Customer that it accepts the Fee:
 - a. a Deployment Agreement comes into existence in relation to the relevant Project Contract; and
 - b. CATOPCo will provide the Customer with a Tax Invoice in the amount of the Initial Fee payable by the Customer.
12. Upon payment of the Initial Fee by the Customer, and payment of any subsequent Fees due under the OneTrack Documents, CATOPCo will:
 - a. provide the Services to the Customer;
 - b. provide the Additional Services to the Customer (as applicable);
 - c. provide the Customer with its applicable usernames and passwords for access and use of OneTrack; and
 - d. grant the OneTrack User Licence to the Customer in accordance with the OneTrack Documents.
13. A Deployment Agreement terminates upon the earlier of the following:
 - a. when terminated by the Customer for any reason by giving 30 days written notice (which may be done at any time);
 - b. when terminated by CATOPCo or the Customer pursuant to these General Terms;
 - c. at the expiry of the final Access Period; or

- d. upon the issue of the final certificate (or similar) under the relevant Project Contract.
14. For the avoidance of doubt, and subject to clause 43, if a Deployment Agreement is terminated pursuant to clause 13, these General Terms will remain in force and will remain binding upon the Customer.

FEES AND PAYMENT

15. CATOPCo will issue a Tax Invoice to the Customer each month. The Tax Invoice will set out the Fee payable by the Customer for the Services and Additional Services (as applicable).
16. If the final amount payable by the Customer pursuant to a relevant Project Contract exceeds the amount nominated in the Onboarding Request:
- a. the Customer must, as soon as reasonably practicable, advise CATOPCo of that amount; and
 - b. CATOPCo may recalculate the Setup Fee and the total amount payable in respect of the Access Fee and render a Tax Invoice for the difference from the amounts based on the original calculation.
17. The Customer must pay each Tax Invoice within 14 days following the issuing of the Tax Invoice to the Customer by CATOPCo.
18. The Customer is not entitled to set off any amount against any Tax Invoice or otherwise withhold payment of any amount in a Tax Invoice.
19. If the Customer fails to pay a Tax Invoice in accordance with clause 17, CATOPCo will provide notice of breach to the Customer. If the Customer fails to pay the Tax Invoice within seven days following notice of breach from CATOPCo pursuant to this clause 19, then CATOPCo may exercise its rights under clause 21.
20. If any amount payable by the Customer pursuant to a Tax Invoice is not paid in accordance with these General Terms, interest shall accrue at the greater of the rate of 1.5% of the outstanding balance per month or the maximum rate permitted by law from the due date until payment is made.
21. Notwithstanding clause 20, if any amount payable by the Customer is not paid in accordance with clause 19 of these General Terms, CATOPCo may, in its sole discretion:
- a. suspend or terminate access to OneTrack for some or all Deployment Agreements until all outstanding amounts have been paid. If access to OneTrack is suspended due to non-payment, the Customer must pay the Re-establishing Fee to lift the suspension; or
 - b. terminate the Agreement immediately by written notice.

CATOPCO'S OBLIGATIONS

22. CATOPCo will, in providing the Services:
- a. act in compliance with the care and skill the Customer could reasonably expect CATOPCo to provide;
 - b. comply with all applicable laws including the Privacy Laws; and
 - c. not directly or indirectly employ or make use of any children, forced labour or engage in Modern Slavery.

CUSTOMER'S OBLIGATIONS

23. The Customer:
- a. must not:
 - i. allow anyone other than a OneTrack User who has accepted OneTrack's Access Rules to access OneTrack;
 - ii. assign or transfer any of OneTrack's Documents or the rights under any of those documents to any other party without the consent of CATOPCo (which will not be unreasonably withheld); or
 - iii. copy, modify or create derivative works of OneTrack in whole or in part;
 - b. must comply with each of OneTrack's Documents;
 - c. is solely responsible for:
 - i. all acts and omissions of each OneTrack User in relation to its access and use of OneTrack;
 - ii. ensuring that each OneTrack User accepts OneTrack's Access Rules before accessing and using OneTrack;
 - iii. the accuracy and integrity of its Customer Data;
 - iv. determining the suitability of OneTrack for its business purposes; and
 - v. complying with all applicable laws;
 - d. warrants that:
 - i. it has the right, including all consents required by applicable laws, to provide or make available the Customer Data in connection with its use of OneTrack;
 - ii. it will use OneTrack for the Permitted Purpose only;
 - iii. the information it has provided in the OneTrack Access Request Form is complete, accurate and not misleading;

- iv. the information that it or an Invitee or User provides in an Onboarding Request is complete, accurate and not misleading; and
- v. the Project Contract which it has provided to CATOPCo as part of the Onboarding Request is the complete and accurate contract between the Customer and the counterparty to the relevant contract;
- e. acknowledges that the ability of OneTrack to provide reliable guidance as to the administration of a contract depends on the OneTrack User:
 - i. providing to CATOPCo the complete and accurate contract between the Customer and the counterparty to the relevant contract; and
 - ii. the OneTrack User accurately configuring OneTrack so that it is a complete and accurate reflection of the contract between the Customer and the counterparty to the relevant contract; and
- f. acknowledges that OneTrack does not constitute, and is not a substitute for, legal advice.

NO GUARANTEED ACCESS

- 24. The Customer acknowledges and agrees that while CATOPCo will make reasonable efforts to:
 - a. provide the Services in accordance with the terms set out in OneTrack's Documents; and
 - b. ensure OneTrack's availability, continuity, reliability, accuracy, currency and security, CATOPCo makes no representations, warranties or guarantees in relation to these matters.
- 25. CATOPCo is not liable to any OneTrack User if OneTrack, telecommunication services or ISP Services related to OneTrack are unavailable for any reason, including directly or indirectly as a result of:
 - a. telecommunications unavailability, interruption, delay, bottleneck, failure or fault;
 - b. negligent, malicious or wilful acts or omissions of third parties (including CATOPCo's third party service providers);
 - c. maintenance or repairs carried out by CATOPCo or any third-party service provider in respect of any of the systems used in connection with the provision of OneTrack or the ISP Services;
 - d. any events beyond CATOPCo's control; or
 - e. services provided by third parties ceasing or becoming unavailable.

CUSTOMER DATA - CATOPCO

26. CATOPCo:

- a. will:
 - i. store or arrange for the storage of Customer Data during the Default Storage Period, at no charge to the Customer;
 - ii. store or arrange for the storage of Customer Data beyond the Default Storage Period, subject to payment of the Data Storage Fee by the Customer;
 - iii. take reasonable measures to ensure the security, integrity, availability and retrieval of Customer Data (and for the avoidance of doubt, the engagement of a reputable third party under terms commonly available for such services will be deemed as fulfilling this obligation); and
 - iv. assist the Customer with the retrieval of Customer Data from OneTrack (subject to payment by the Customer of the Data Retrieval Fee);
- b. may in its sole discretion:
 - v. manipulate Customer Data in order to make Aggregated Data and Sanitised Data;
 - vi. maintain copies of Aggregated Data and Sanitised Data;
 - vii. utilise Aggregated Data and Sanitised Data for its own commercial purposes (including providing that data to any of CATOPCo's Associates for commercial use by CATOPCo's Associates); and
 - viii. delete or erase Customer Data upon the expiration of the Data Storage Period or if the Customer fails to pay a Tax Invoice within the time for payment.

CUSTOMER DATA – ONETRACK USER

27. The OneTrack User:

- a. is responsible for the retrieval of Customer Data from OneTrack;
- b. acknowledges that:
 - i. Customer Data may be stored on facilities provided by a third party;
 - ii. the security, integrity and availability of Customer Data (including the ability to retrieve Customer Data) may rely on these third-party facilities and their performance; and
- c. waives any claims against CATOPCo and CATOPCo's Associates regarding the security, integrity, availability, retrievability or loss of Customer Data.



INTELLECTUAL PROPERTY RIGHTS

28. All rights, title and interest (including all Intellectual Property Rights) in OneTrack remain vested in CATOPCo or CATOPCo's Associates (as applicable), and nothing in this Agreement grants the Customer any ownership rights in OneTrack.
29. Any suggestions, ideas, recommendations or enhancement requests or other feedback provided by the Customer may be used by CATOPCo and the CATOPCo Associates for any reason and without restriction, attribution or compensation.
30. The Customer will retain all rights, title and interest (including all Intellectual Property Rights) in the Customer Data.
31. The Customer grants CATOPCo and CATOPCo's Associates (as applicable) a non-exclusive, royalty free, worldwide licence to use the Customer Data for the purpose of providing the Services and Additional Services (as applicable) and for such other uses as set out in OneTrack's Documents.

CONFIDENTIAL MATERIAL

32. The Confidential Material of a Party remains the property of that Party.
33. Each Party must comply with the Confidentiality Obligations.

LIABILITY AND INDEMNITY

34. Neither Party has any liability to the other Party in relation to an Excluded Liability.
35. Each Party indemnifies the other Party in relation to any Indemnified Loss.
36. The indemnity provided by the Customer extends to each CATOPCo Associate and benefits each CATOPCo Associate.

TERMINATION

37. The Agreement may be terminated by CATOPCo immediately by written notice:
 - a. if, following notice from CATOPCo as set out in clause 19, any Tax Invoice is not paid by the Customer in accordance with the Agreement;
 - b. if the Customer is in material breach of any of OneTrack's Documents;
 - c. if the Customer is in material breach of any of its obligations under the Agreement; or
 - d. if a User is in breach of any of OneTrack's Documents (including any provision relating to Intellectual Property Rights).

38. The Agreement may be terminated by either Party immediately:
- a. if the other Party breaches a provision of this Agreement relating to Intellectual Property Rights;
 - or
 - b. if the other Party becomes insolvent.
39. The Agreement may be terminated by either party for any reason by giving 30 days written notice to the other party.

SUSPENSION

40. If CATOPCo is entitled to terminate the Agreement under clause 37, then CATOPCo may in its sole discretion:
- a. suspend all or part of the Services; and
 - b. implement the suspension in respect of all or some of the Deployment Agreements.

CONSEQUENCE OF TERMINATION

41. Upon termination of the Agreement:
- a. CATOPCo will stop providing the Services and the Additional Services (as applicable);
 - b. access to OneTrack for each OneTrack User will be terminated;
 - c. all usernames and passwords will be cancelled and made ineffective;
 - d. the Customer will not be entitled to a refund of any moneys paid to CATOPCo;
 - e. each Party must, at its own cost and as soon as practicable, upon the request of the other Party:
 - i. return the Confidential Material which is the property of the other Party to that other Party; or
 - ii. destroy the Confidential Material of the other Party (and upon the reasonable request of the other Party, provide evidence of that destruction);
 - f. the amounts due to CATOPCo prior to the date of termination remain due and payable in accordance with these General Terms; and
 - g. interest on outstanding amounts payable by the Customer under these General Terms will continue to accrue.
42. The termination of the Agreement:
- a. subject to clause 43, does not result in the termination of any Deployment Agreement; and
 - b. does not affect the accrued rights of the Parties.

43. If the Agreement is terminated by reason of non-payment of any Tax Invoice or pursuant to clauses 37 or 38, then:
- a. all Deployment Agreements with the Customer are terminated without any further action being required;
 - b. CATOPCo has no further obligation to the Customer or User under any of OneTrack's Documents; and
 - c. CATOPCo may delete all Customer Data.

CONTINUING PROVISIONS

44. The following obligations and provisions of these General Terms continue to operate and bind the Parties notwithstanding the termination or expiration of the Agreement:
- a. the obligations of the Customer under clause 23 of these General Terms;
 - b. the clauses in relation to:
 - i. the Confidentiality Obligations set out in the Agreement;
 - ii. Intellectual Property Rights set out in the Agreement;
 - iii. liability and indemnity under clauses 34 to 36 of these General Terms; and
 - iv. the consequences of termination under clauses 41 to 43 of these General Terms.

GOODS AND SERVICES TAX

45. For the purposes of clauses 46 and 47, words or expressions used which are defined in the GST Act have the same meaning as they have in the GST Act.
46. Any consideration or amount to be paid or provided for a supply made under or in connection with any of OneTrack's Documents, unless specifically described as GST inclusive, does not include GST payable on that supply.
47. If a Party (Supplier) makes a supply under or in connection with any of OneTrack's Documents on which GST is imposed (not being a supply the consideration for which is specified as GST inclusive):
- a. the consideration payable or to be provided for that supply but for this clause (GST exclusive consideration) is increased by, and the recipient of the supply (Recipient) must also pay to the Supplier, an amount equal to the GST payable by the supplier on that supply; and
 - b. the amount by which the GST exclusive consideration is increased must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

DISPUTES

48. Any dispute or difference whatsoever arising out of or in connection with this Agreement or any one or more of OneTrack's Documents or the performance or non-performance of the obligations of the parties under with this Agreement or any one or more of OneTrack's Documents shall be submitted to arbitration in accordance with, and subject to, the Resolution Institute Arbitration Rules.

GOVERNING LAW

49. Each of OneTrack's Documents are governed by the laws of the State of Victoria, Australia and CATOPCo and the Customer each submit to the exclusive jurisdiction of the courts of the State of Victoria, Australia.

GENERAL

50. The Agreement is the entire agreement and understanding between the Parties on everything connected with the subject matter of the Agreement and supersedes any prior agreement or understanding or anything connected with that subject matter.

51. A single or partial exercise or waiver by a Party of a right relating to the Agreement does not prevent any other exercise of that right or the exercise of any other right.

52. Any provision of the Agreement which is invalid or unenforceable is to be read down, if possible, to be valid and enforceable and if that is not possible, the provision will, to the extent possible, be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions.