
1 OPERATION OF THIS AGREEMENT

本协议的实施

1.1 General

一般规定

- (a) These terms and conditions, together with Orders, and Catapult's China Privacy Policy govern the supply and use of the Equipment, Software and Services.

设备、软件和服务的供应与使用受本条款和条件及订单、开特普中国隐私政策的共同管辖。

- (b) These terms and conditions are version **v.070920**.

本条款和条件的版本号为 **v.070920**。

1.2 Orders for Equipment, Accessories, Software and Services

设备、配件、软件和服务订单

- (a) You and Catapult may enter into Orders for Equipment, Accessories, Software and Services from time to time.

贵方和开特普可不时就设备、配件、软件和服务签订订单。

- (b) Catapult shall submit draft orders to you. You may accept or reject any draft order you receive from Catapult. A draft order becomes an Order when you notify Catapult that you accept the draft order. If you make any amendments to the draft order, your proposed amended order is a counter-offer that Catapult may accept or reject in its discretion.

开特普应向贵方提供订单拟稿。贵方有权接受或拒绝贵方从开特普处收到的任何订单拟稿。一旦贵方通知开特普贵方接受订单拟稿，则该订单拟稿将成为订单。如果贵方对订单拟稿进行了任何修改，则贵方提出的修改后的订单将构成反要约，开特普可以自行决定接受或拒绝该反要约。

- (c) When a draft order is accepted and executed by you, a separate agreement is formed between the parties for the Equipment, Accessories, Software and Services to be supplied. The terms and conditions of that separate agreement comprise the terms and conditions of the relevant Order; the version of these terms and conditions which are either specified as being expressly incorporated into, are appended to, or are linked to by a hyperlink in, that Order; and any other terms and conditions specified as being expressly incorporated into that Order (such other terms and conditions, being the **Ancillary Terms and Conditions**).

当贵方接受并签署订单拟定稿时，双方就拟提供的设备、配件、软件和服务即达成了一份单独协议。该单独协议的条款和条件包括：相关订单的条款和条件；本版本号的条款和条件，且这些条款和条件被明确纳入该订单中，或被附加到该订单中，或通过超链接链接到该订单中；以及任何其他被明确纳入该订单中的条款和条件（该等其他条款和条件即**附属条款和条件**）。

- (d) A reference in these terms and conditions to **'this agreement'** includes the Order (and any Ancillary Terms and Conditions) for the purposes of the incorporation of these terms and conditions into that Order.

为将该等条款和条件纳入该订单之目的，本条款和条件中提及的“**本协议**”包括该订单（及任何附属条款和条件）。

1.3 Outright Purchases and Subscriptions

直接购买和租赁

- (a) Catapult offers two different commercial models for you to procure the supply of Equipment (and the associated Software and Services):

开特普为贵方采购设备（及相关软件和服务）提供两种不同的商业模式：

- (i) **Outright Purchase**, where you purchase the Equipment and receive title to the Equipment on payment of the Fees; or

直接购买，即贵方购买设备并在支付费用后获得设备的所有权；或

- (ii) **Subscription**, where Catapult retains the title to the Equipment and makes the Equipment available to you for use by you and your Personnel subject to the ongoing payment of the Fees.

租赁，即开特普保留设备的所有权，并在持续支付费用的前提下将设备提供给贵方和贵方人员使用。

- (b) The Order will specify whether Equipment is acquired and supplied as an Outright Purchase or a Subscription.

订单将载明设备是通过直接购买还是租赁方式获得和提供的。

- (c) Some of the provisions in this agreement apply differently depending on whether you and Catapult have agreed an Outright Purchase or a Subscription under the Order, and this agreement indicates which provisions are applicable in each instance.

本协议部分条款的适用将根据贵方和开特普在订单项下约定的是直接购买还是租赁方式而有所不同，且本协议将注明每一种情形下适用的条款。

- (d) For clarity, Accessories are only available to be purchased outright (so that you acquire title in the Accessories), and cannot be supplied on a subscription basis.

为明确起见，配件仅可直接购买（以便贵方获得配件的所有权），无法以租赁方式提供。

2 TERM

有效期

This agreement starts on the Commencement Date and continues for the period specified in the Order (the **Term**) unless terminated earlier under clause 19.

本协议自生效日期开始生效，并在订单中规定的期限（**有效期**）内持续有效，但根据第 19 条提前终止的除外。

3 CATAPULT'S OBLIGATIONS

开特普的义务

3.1 General

一般规定

Catapult must provide and make available to you: (a) the Equipment and Accessories; (b) the Software; and (c) the Services, during the Term, subject to the terms of this agreement.

开特普必须根据本协议的条款在有效期内向贵方提供：(a) 设备和配件；(b) 软件；和 (c) 服务。

3.2 Performance of the Services

服务的履行

Catapult must perform the Services with due care and skill.

开特普必须以应有的谨慎和技能履行服务。

4 SUPPLY OF EQUIPMENT AND ACCESSORIES

设备和配件的供应

4.1 General

一般规定

(a) You must use, and procure that your Personnel use, the Equipment only in accordance with the **Documentation**.

贵方必须（且促使贵方人员）仅按照文档使用设备。

(b) Subject to Catapult receiving payment of the amount specified in the Order and invoiced to you in advance of delivery, Catapult shall deliver the Equipment and Accessories to you at the delivery address specified in the Order. Any delivery dates specified in an Order are estimates only and Catapult is not obligated to deliver the Equipment and Accessories on that delivery date.

在开特普收到订单中规定的付款金额并在交货前向贵方开具发票的前提下，开特普应按照订单中规定的交货地址向贵方交付设备和配件。订单中规定的任何交付日期均仅为预估日期，开特普无义务在该交付日期当天交付设备和配件。

(c) Risk in the Equipment and Accessories will pass to you when each is shipped from the Catapult premises.

设备及配件的风险将在每一设备和每一配件从开特普场所发出时转移至贵方。

4.2 Supply of Equipment - Subscription

设备供应-租赁方式

This clause 4.2 applies to Subscriptions only / 本第 4.2 条仅适用于租赁方式

Where and to the extent the Equipment is procured on a Subscription basis:

在设备以租赁方式采购的情况下和范围内：

(a) Catapult shall make available to you, and grants you a right to use, the Equipment during the Term. Title in, and ownership of, Equipment will remain with Catapult at all times (and will not pass to you);

开特普应在有效期内向贵方提供设备并授予贵方设备的使用权。设备的所有权将始终归开特普所有（且不会转移至贵方）；

(b) you must:

贵方：

(i) keep the Equipment in good order and repair (reasonable wear and tear excepted);

必须将设备保持在良好工作状态和修缮状态（合理磨损除外）；

(ii) keep the Equipment in safe custody and in your possession or control at all times;

始终妥善地保管设备，并使其始终处于贵方的占有或控制之下；

(iii) notify Catapult within 24 hours of becoming aware that any Equipment has been lost, stolen, damaged or destroyed, or has become inoperable;

必须在知晓任何设备丢失、失窃、损坏、损毁或不可修复之后 24 小时内通知开特普；

(iv) not sell, dispose of, lend, sub-license, encumber, or permit any person other than your Personnel to use, the Equipment in any way (or attempt to do the same);

不得以任何方式对设备进行出售、处置、出借、分许可、设置权利负担或允许除贵方人员以外的任何人使用（也不得试图对设备进行出售、处置、出借、分许可、设置权利负担或允许除贵方人员以外的任何人使用）；

(v) not alter or remove any markings (or similar) on the Equipment (including proprietary or identifying markings, trade marks, registration numbers and certification numbers); and

不得变更或移除设备上的任何标记（或类似信息），包括专有性标记、识别性的标记、商标、注册号和认证号；并且

(vi) not make any alteration, modification or repairs (or similar) to the Equipment without the prior written consent of Catapult (which may be withheld at its discretion); and

未经开特普事先书面同意（开特普可自行决定不予同意），不得对设备进行任何变更、修改或修复（或采取类似行为）；及

- (c) to the maximum extent permitted by law, you must pay to Catapult on demand an amount equal to all Indemnified Loss suffered or incurred by each Catapult Group Company and their respective Personnel (together, the **Catapult Indemnified Persons**) arising as a result of, or in connection with:

在法律允许的最大范围内，贵方应按开特普的要求向其支付一笔款项，金额等于每一开特普集团公司及其各自的人员（统称**开特普受偿人士**）因下列事项引起或与之相关的原因而遭受或发生的所有受偿损失：

- (i) any loss of or damage to the Equipment; and
设备的任何损失或损坏；及
- (ii) any breach of clause 4.2(b).
对第 4.2(b)条的任何违反。

Your liability under this paragraph (c) is not subject to any limit or exclusion of liability under clause 17.2.

贵方在本(c)款项下的责任不受第 17.2 条款下任何责任限制或排除规定的限制。

4.3 Supply of Equipment - Outright Purchase

设备供应-直接购买方式

This clause 4.3 applies to Outright Purchases only / 本第 4.3 条仅适用于直接购买方式

Where and to the extent the Equipment is procured as an Outright Purchase:

在设备以直接购买方式采购的情况下和范围内：

- (a) title in, and ownership of, Equipment will remain with Catapult (and will not pass to you) until you have paid Catapult in full for that Equipment;
在贵方向开特普全额付清设备价款之前，该设备的所有权将始终归开特普所有（且不会转移至贵方）；
- (b) until such time as title in any Equipment passes to you under paragraph 4.3(a), you hold that Equipment (the **Unpaid Goods**) as the fiduciary agent and bailee of Catapult and must ensure that the Unpaid Goods are clearly identifiable as the property of Catapult and are properly stored and protected and remain fully insured. You must not sell or otherwise dispose of or deal in the Unpaid Goods. Clause 4.2(c) shall apply (with necessary changes) to the Equipment procured as an Outright Purchase until title passes to you; and
在任何设备的所有权根据第 4.3(a)条的规定转移至贵方之前，您将作为开特普的受托代理人 and 代保管人持有该设备（**未付款货物**），且必须确保未付款货物可被明确识别为开特普的财产且得到适当的存储和保护，并就其维持足额保险。贵方不得出售或以其他方式处置或交易未付款货物。第 4.2(c)条应（在进行必要调整后）适用于以“直接购买方式”采购的设备，直至所有权转移给贵方；及
- (c) without limiting any other rights, Catapult is entitled to dispose of any Unpaid Goods which are duly repossessed and apply the proceeds of sale to your indebtedness to Catapult.
在不限制任何其他权利的前提下，开特普有权处置任何被适当取回的未付款货物，并将出售所得款项用于抵付贵方欠开特普的债务。

4.4 Supply of Accessories

配件供应

Title in, and ownership of, Accessories will remain with Catapult (and will not pass to the Company) until you has paid Catapult in full for those Accessories. Clause 4.2(c) shall apply (with necessary changes) to the Accessories until title passes to you.

在贵方向开特普全额付清配件价款之前，该等配件的所有权将始终归开特普所有（且不会转移至贵方）。第4.2(c)条应（在进行必要调整后）适用于配件，直至所有权转移给贵方。

5 SUPPLY OF SOFTWARE

软件供应

5.1 Grant of licence and usage rights

授予许可和使用权

- (a) Catapult hereby grants to you:

就贵方对设备和配件的使用，开特普在此授予贵方：

- (i) a non-exclusive, non-transferable, perpetual licence to use the Local Software; and
一项非排他的、不可转让的、永久性的许可，以使用本地软件；及
- (ii) a non-exclusive, non-transferable, right to access the Cloud Services during the Term,
一项非排他的、不可转让的权利，以在有效期内访问云服务，

in connection with your use of the Equipment and Accessories and subject to the following:

且上述许可和权利应受限于以下规定：

- (iii) you must only use the Local Software and Cloud Services for the purposes of monitoring the performance of Equipment Users solely for your internal purposes. You must not use either or both of the Local Software and Cloud Services to provide services, including performance monitoring services or the supply of performance data, to third parties;

贵方仅可将本地软件和云服务用于监测设备用户的成绩（且该等监测仅为贵方内部目的而进行）。贵方不得单独或共同使用本地软件和云服务向第三方提供服务，包括成绩监测服务或提供成绩数据；

- (iv) you may only install the Local Software on the number and type of computers specified in the Order. You may make and install one copy of the Local Software for backup and archival purposes provided that such backup copy may only be used as if it were a primary copy if the primary copy has failed or is destroyed; and
贵方可按照订单中规定的计算机数量和型号安装本地软件。贵方可出于备份存档之目的制作并安装一份本地软件副本，但前提是该等备份副本仅可在原始版本出现故障或被毁坏的情况下，将其视同为原始版本而进行使用。
- (v) you must comply with, and procure that users of the Software accept and comply with, the terms of the then-current EULA. The **EULA** is the end user licence agreement presented to users at the time of registering for the Cloud Services, using the Cloud Services or using Local Software (as applicable depending on the specific item of Software).

贵方必须遵守（并促使软件用户接受并遵守）届时有效的终端用户许可协议的条款。**终端用户许可协议**指在用户注册云服务、使用云服务或使用本地软件（视情况而定，具体取决于软件的特定项目）时，向用户展示的终端用户许可协议。

- (b) The licence and right of access granted under paragraph (a) do not include the right to sub-license, grant access to or otherwise provide the Software to any third party.

第(a)款项下授予的许可和访问权不包括就软件向任何第三方进行分许可、授予访问权或以其他方式向任何第三方提供软件的权利。

5.2 Delivery of Local Software; access to Cloud Services

本地软件的交付；云服务的访问权限

- (a) Catapult shall deliver the Local Software to you at the delivery address specified in the Order on or around the specified delivery date.

开特普应在规定的交付日期当天或前后，按照订单中规定的交货地址向贵方交付本地软件。

- (b) Catapult shall provide you with access to and use of the Cloud Services via the methods specified by Catapult from time to time.

开特普应通过开特普不时规定的方式为贵方提供云服务的访问和使用权限。

5.3 Changes to Local Software

本地软件的变更

- (a) During the Term, Catapult shall provide to you all patches and updates of the Local Software made generally available by Catapult to Subscribers of the Software at no additional cost.

在有效期内，开特普应将向贵方提供开特普向软件订购人普遍提供的本地软件的所有补丁和更新版本，而不收取任何额外费用。

- (b) You acknowledge and agree that each patch and update will be automatically downloaded and installed by the Software at a time determined by Catapult, with or without notice from Catapult.

贵方确认并同意，无论开特普是否发出通知，软件均将在开特普确定的时间自动下载并安装每个补丁和更新版本。

- (c) You must always use the latest versions and updates of the Local Software as provided by Catapult.

贵方必须始终使用开特普所提供的本地软件的最新版本及更新版本。

5.4 Changes to Cloud Services

云服务的变更

Catapult may correct errors, change, add or delete the functions, features, performance, or other characteristics of the Cloud Services from time to time.

开特普可不时变更、添加或删除云服务的功能、特性、性能或其他特点或纠正其中的错误。

6 SUPPLY OF SERVICES

服务提供

6.1 Training

培训

Catapult must provide the training (if any) specified in the Order in the manner and for the Fee specified in that Order.

开特普必须按照订单中规定的方式提供订单中规定的培训（如有），并按照订单规定收取费用。

6.2 Software Maintenance Services

软件维护服务

Catapult must provide the Software Maintenance Services.

开特普必须提供软件维护服务。

7 REPAIR AND REPLACEMENT

维修和更换

- (a) Catapult shall, at its election, either repair or replace Warranted Equipment during the Term. **Warranted Equipment** means:

在有效期内，开特普应自行选择维修或更换质保设备。**质保设备**指：

- (i) Equipment that is defective or does not otherwise function in accordance with the Documentation due to any design or manufacturing faults; and

因任何设计或制造缺陷而存在缺陷或未按照文档运行的设备；及

- (ii) in the case of Subscriptions only, Equipment that otherwise ceases to function in accordance with the Documentation as a result of fair wear and tear arising from normal use of the Equipment in accordance with this agreement and the Documentation.

(仅针对采用租赁方式的情形) 因根据本协议和文档正常使用设备过程中产生的正常磨损而不再按照文档运行的设备。

- (b) If you believe any item of Equipment requires repair or replacement, you must deliver that Equipment to Catapult's nominated services centre, at your risk and cost, for analysis by Catapult.

如果贵方认为设备的任何项目需维修或更换，贵方必须自担风险并自费将该设备交付至开特普指定的服务中心，以便开特普进行分析。

- (c) Catapult will examine the Equipment delivered to it and if Catapult determines (acting reasonably) that the Equipment: 开特普将对交付给其的设备进行检查，如果开特普（经合理行事）确定该设备：

- (i) is Warranted Equipment, then Catapult shall repair or replace (at its election) such Warranted Equipment, and deliver the repaired or replacement Equipment to you at Catapult's cost and reimburse you for the costs of delivering the Equipment to the nominated services centre; or

是质保设备，则开特普应维修或更换（根据其自行选择）该等质保设备，并将维修或更换后的设备交付给贵方，费用由开特普自行承担，并且向贵方偿付将该设备交付至指定服务中心所产生的费用；或

- (ii) is not Warranted Equipment, then Catapult shall notify you of that determination and shall, at your cost, repair or replace (at Catapult's election) the Equipment and deliver repaired or replacement Equipment to you. Catapult shall determine the costs in accordance with its then-current standard rates, and shall include its then-current minimum inspection fee for Equipment returned to Catapult, plus parts, labour and return delivery costs. Catapult shall invoice you for these costs at or around the time of sending the repaired or replacement Equipment to you.

不是质保设备，则开特普应告知贵方该等结论，并且在贵方承担费用的情况下，应维修或更换（根据开特普自行选择）该设备，并将维修或更换后的设备交付给贵方。开特普应根据其届时生效的标准费率确定费用，并且，就返还给开特普的设备而言，该等费用应包含其届时生效的最低检查费，以及零件、人工和返还交付的费用。开特普应在向贵方寄出修理或更换后的设备时或前后，就该等费用向贵方开具发票。

8 YOUR OBLIGATIONS

贵方的义务

- (a) You acknowledge and agree that despite the Equipment having been designed to minimise the risk of personal injury to users of the Equipment, there is a remaining inherent risk of injury. Subject to paragraph 17.2(e), you are responsible for all risks arising out of or in connection with the possession, operation and use of the Equipment and Software by you and your Affiliates, and their respective Personnel.

贵方承认并同意，尽管设备已被设计为最大限度地降低对设备用户的人身伤害风险，但该风险依然存在。受限于第 17.2(e)款的规定，贵方应就贵方、贵方关联方及其各自的人员占有、操作和使用设备和软件引起的或与之相关的所有风险承担责任。

- (b) You must procure that your Personnel comply with the terms of this agreement, and you are liable for their acts and omissions as if they were your acts and omissions.

贵方必须促使贵方人员遵守本协议的条款，且贵方应就贵方人员的作为和不作为承担责任，如同该等作为和不作为系贵方自身作出的。

- (c) You must obtain, and you warrant that you have obtained, all necessary rights, permissions and consents from each Equipment User to permit Catapult to do the things, and exercise the rights, set out or referenced in clauses 13(b) and 14.

贵方必须（且保证）已从每一设备用户处取得所有必要的权利、许可和同意，以允许开特普实施第 13(b)条和第 14 条中规定或提及的行为，并行使该等条款中规定或提及的权利。

- (d) You must procure that each user of the Software keeps their individual login details for the Software secure and confidential and does not permit any other person to use that user's individual login details.

贵方必须促使每一软件用户保持其软件个人登录信息的安全性和保密性而不得允许任何其他人士使用该用户的个人登录信息。

- (e) You are responsible for and must provide all computers, hardware, software, networks and other equipment and services necessary to access and make use of the Software.

贵方应负责（且必须提供）对于访问和使用软件而言所必要的全部计算机、硬件、软件、网络及其他设备和服务。

- (f) You are responsible for implementing and maintaining, and must implement and maintain, adequate back-up and recovery procedures to protect and preserve the Data.

贵方应负责（且必须）实施和维持充分的备份和恢复流程，以保护和保存数据。

- (g) You must not, and must procure that your Personnel do not, do any of the following:

贵方不得（也必须促使贵方人员不得）实施下列任何行为：

- (i) reverse engineer, reverse compile, decompile or disassemble the object code of any part of the Software or otherwise attempt to derive the source code of the Software;

对软件任何部分的目标代码进行反向工程、反编译、反汇编或拆解，或以其他方式试图获得软件的源代码；

- (ii) use the Cloud Services unlawfully, fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the Cloud Services or systems;

非法、欺诈性或恶意使用云服务，例如侵入云服务或系统，或者将恶意代码（包括病毒）或有害数据植入云服务或系统；

- (iii) transmit or process via the Cloud Services any material that is defamatory, offensive or otherwise objectionable; 通过云服务传输或处理任何诽谤性的、攻击性的或其他令人反感的材料；
- (iv) use the Cloud Services in a way that could damage, disable, overburden, impair or compromise Catapult's systems or security or interfere with other users; and 以可能会使开特普的系统或安全性受损、瘫痪、过载、受到损害或被削弱的方式或可能会干扰其他用户的方式使用云服务；及
- (v) collect or harvest any information or data, or attempt to decipher any transmissions to or from the systems used by Catapult. 收集或获取向开特普使用的系统发送的或由该等系统发出的任何信息和数据，或者试图破解向该等系统发送或由该等系统发出的内容。

9 FEES AND PAYMENT

费用及支付

- (a) You must pay Catapult the fees payable in accordance with this agreement within 30 days of your receipt of a valid tax invoice.

贵方必须在收到有效税务发票后的 30 天内，根据本协议约定向开特普支付应付费用。

- (b) Except as required by law, you must pay to each Catapult Group Company all payments due to it under this agreement without any deduction, encumbrance or set-off and free and clear of, and without deduction for or on account of, any taxes, levies, imports, duties, charges, fees and withholdings of any kind and whether imposed by any governmental or any other authority (**Taxes**).

除法律要求外，贵方必须向每一开特普集团公司支付本协议项下应付给其的所有款项，不得有任何扣减、权利负担或抵销，并且不得存在也不得扣减（且不得因为后述而作任何扣减）任何政府部门或任何其他部门征收的任何类型的任何税费、征税、进口税、关税、收费、费用和预提款项（**税费**）。

- (c) If any Taxes are required by law to be deducted or withheld from any payments due to a Catapult Group Company under this agreement (including under clause 4.2(c) and 4.3(b)), you must gross up such payment such that the balance payable to that Catapult Group Company after deduction of the applicable Taxes shall be equivalent to the original amount due to that Catapult Group Company.

如果法律要求从本协议项下（包括第 4.2(c)条和第 4.3(b)条项下）应付给一家开特普集团公司的任何款项中扣减或预提任何税费，则贵方必须对该等款项进行补足，以使扣除相关税费后向该等开特普集团公司支付的余额等于应付给该等开特普集团公司的原始金额。

- (d) You must notify Catapult promptly on or before signing this agreement of any requirements (or potential requirements) imposed by law which will or may result in a deduction or withholding of any amounts due to a Catapult Group Company under this agreement (including local withholding Taxes) and must take all actions reasonably required to avoid or mitigate the effect of such requirements (including, taking advantage of any applicable double taxation treaties). Catapult must cooperate with any reasonable requests from you in relation to taking advantage of such double taxation treaties.

贵方必须在签署本协议时或之前，立即向开特普告知将会或可能导致从本协议项下应付给一家开特普集团公司的任何款项中进行扣减或预提（包括当地的预提税费）的法律规定的任何要求（或潜在要求），并且必须采取一切合理要求的措施，以避免或减轻该等要求的影响（包括利用任何适用的双重税收协定）。开特普必须配合贵方提出的任何与利用该等双重税收协定相关的合理要求。

- (e) If you do not pay any amount owing to Catapult by the due date for such payment, Catapult may do either or both of:

如果贵方在应付给开特普的任何款项到期之日仍未支付该等款项，则开特普可采取以下任一或全部行动：

- (i) on not less than 5 Business Days' notice to you, do any one or more of suspend, limit or restrict your access to the Software and suspend the performance of any of Catapult's other obligations to you until such amount is paid in full; and

经提前至少 5 个工作日通知贵方后，采取后述任一或全部行动：暂停、限制或约束贵方对软件的访问，以及暂停履行开特普对贵方负有的任何其他义务，直至该等款项全额付讫；和

- (ii) charge interest on the amount outstanding at the rate of 10% per annum (or the maximum rate permitted by law, if lower), calculated from and including the date on which the payment became due until the date on which the payment is made. You must pay the interest on Catapult's written demand.

按 10% 的年利率（或法律允许的最高利率，以较低者为准）就到期未付的款项收取利息，计息期自款项到期之日（含该日）起至付款之日止。贵方必须一经开特普书面要求即支付利息。

10 TAXES

税费

10.1 Sales taxes

销售税

An Order may set out provisions relating to the collection and payment of sales, valued added and similar taxes applicable to that Order.

订单可就适用于该订单的销售税、增值税或类似税费的收取和支付作出规定。

10.2 VAT

增值税

Unless expressly stated otherwise, all amounts set out in this agreement are exclusive of any VAT.

除非另有明确规定，否则本协议规定的所有金额均不含增值税。

11 INTELLECTUAL PROPERTY

知识产权

- (a) Each party will retain its **Pre-existing IPR** and nothing in this agreement assigns or transfers the Pre-existing IPR of one party to the other.

每一方均将保留其**先前存在的知识产权**，并且本协议中的任何规定均未将一方先前存在的知识产权让与或转让给另一方。

- (b) Catapult grants to you a worldwide, royalty-free, perpetual, non-exclusive licence to use the **IPR** in the Documentation for the purposes of making use of the Equipment and Software.

开特普授予贵方一项全球性的、免许可费的、永久性的且非排他的许可，以便贵方为使用设备和软件之目的而使用文档中的**知识产权**。

12 CONFIDENTIALITY

保密

- (a) A recipient of Confidential Information may only use the Confidential Information of the discloser for the purposes of performing the recipient's obligations or exercising the recipient's rights under this agreement.

保密信息的接收方仅可将披露方的保密信息用于履行接收方在本协议项下的义务或行使其在本协议项下的权利。

- (b) A recipient must:

接收方：

- (i) not disclose the Confidential Information of the other to any person except to the extent this agreement permits; 不得向任何人士披露另一方的保密信息，但本协议允许的范围内除外；

- (ii) not assist or permit any person to make any unauthorised use of the discloser's Confidential Information; and 不得协助或允许任何人士未经授权而使用披露方的保密信息；及

- (iii) take reasonable steps to safeguard the Confidential Information, including co-operating with the discloser as reasonably required to protect the confidentiality of its Confidential Information.

必须采取合理措施对保密信息加以保护，包括按照披露方的合理要求配合披露方保护其保密信息的保密性。

- (c) A recipient may disclose Confidential Information to:

接收方可在以下情况下向以下人士披露保密信息：

- (i) its Representatives on a "need to know basis"; or

在“需要知晓”的基础上，向其代表披露；或

- (ii) any other person only with the discloser's prior written consent.

经披露方事先书面同意后，方可向任何其他人士披露。

Before doing so, the recipient must ensure that those persons are aware of the confidential nature of the Confidential Information and are bound by confidentiality obligations consistent with this agreement.

在进行上述披露之前，接收方必须确保相关人士均已知晓保密信息的保密性质，并且受到与本协议规定一致的保密义务的约束。

- (d) On expiry or termination of the agreement, you must, at Catapult's election, either return or destroy and either certify the return and destruction of, or permit a Catapult representative to witness the destruction of, all documents and other materials in any medium in your possession or control which contain or refer to Catapult's Confidential Information. However, you may retain a single copy of any document or other material containing or referring to the Confidential Information to the extent you are required to do so by law. The return or destruction of Catapult's Confidential Information does not relieve you from your obligations under this clause 12.

在本协议到期或终止之时，贵方必须根据开特普的选择，归还或销毁贵方所拥有或控制的任何媒介中包含或提及开特普保密信息的所有文件和其他材料，并且提供相关归还和销毁的证明或允许一位开特普的代表见证销毁情况。但是，贵方可在法律要求的范围内，保留包含或提及保密信息的任何文件或其他材料的一份副本。归还或销毁开特普的保密信息并不免除贵方在第 12 条下的义务。

13 DATA

数据

- (a) The Data is and remains your property at all times.

数据现在和将来始终归贵方所有。

- (b) You agree that Catapult may, and hereby grant Catapult the rights to:

贵方同意开特普可以采取以下行动，并在此授权开特普采取以下行动：

- (i) access, use, adapt, modify, reproduce, reformat, transform, and process the Data during the Term to the extent necessary to provide the Equipment, Software and Services and to otherwise perform Catapult's obligations under this agreement;

在有效期内，在提供设备、软件和服务及履行开特普在本协议项下的其他义务所必需的范围内，访问、使用、改编、调整、复制、转换和处理数据及更改数据的格式；

- (ii) during or after the Term create Derivative Materials from the Data, only to extent that the Derivative Materials do not incorporate your Confidential Information in a form that could reasonably identify any individual; and
在有效期内或之后，制作数据的衍生材料，前提是这些衍生材料未以能够合理识别任何个人身份的形式包含贵方的保密信息；
- (iii) during or after the Term use information about you, users of the Equipment and Software, or your use of the Equipment, Software and Services, for the purpose of improving the Equipment, Software and Services, detecting and addressing threats to the functionality, security, integrity and availability of the Software, detecting and addressing breaches of this agreement or any of Catapult's other policies and to help Catapult to resolve service requests.

在有效期内或之后，为了以下目的而使用涉及贵方、设备用户、软件用户或贵方对设备、软件及服务的使用的信息：改进设备、软件和服务，发现并解决对软件的正常运行、安全性、完整性和可获得性造成威胁的问题，发现并解决违反本协议或开特普任何其他政策的情况，以及帮助开特普解决服务请求。

- (c) Subject to paragraph (a), any IPR in any Derivative Materials vest in Catapult absolutely immediately on creation.
在满足第(a)款约定的前提下，任何衍生材料中的任何知识产权一经创设便立即归属于开特普。

14 PRIVACY

隐私

- (a) Each party must:

每一方均必须：

- (i) collect, process, store and use personal data in accordance with applicable privacy law and consistent with the consent provided by each data subject;
根据适用的隐私法以及各数据主体的同意，收集、处理、存储和使用个人数据；
- (ii) comply with its own privacy policy;
遵守其自身的隐私政策；
- (iii) maintain and enforce appropriate technical and organisational measures to protect its information technology systems for the protection of personal data; and
维持并实施适当的技术措施和组织措施，以保护其用于保护个人数据的信息技术系统；以及
- (iv) inform the other party of any request from a data subject regarding their personal data and the action being taken to comply with such request.

将数据主体就其个人数据提出的任何要求及为遵守该要求而采取的行动告知另一方。

- (b) You confirm that you have obtained written consent, in accordance with any applicable privacy law, from all data subjects whose personal data is collected, stored or processed in accordance with this agreement.

贵方确认，贵方已根据任何适用的隐私法，从所有数据主体处取得了书面同意，以便按照本协议的规定收集、处理、存储和使用其个人数据。

- (c) For the purposes of Catapult's obligations under this clause 14, **personal data** means Data which is personal data.
就开特普在第 14 条下的义务而言，**个人数据**指数据中的个人数据。

15 AUDIT

审计

Catapult may:

为验证贵方是否遵守本协议之目的，开特普可：

- (a) monitor your usage of the Software; and
监测贵方对软件的使用情况；并
- (b) on reasonable notice audit your systems and records relating to the use of the Software and Equipment,
经合理通知后对贵方涉及软件和设备的使用的系统 and 记录进行审计。
for the purposes of verifying your compliance with the terms of this agreement.

16 WARRANTIES

保证

16.1 Catapult warranties

开特普保证

Catapult represent and warrants to you that:

开特普向贵方陈述并保证如下：

- (a) no Service, Software or item of Equipment, or the use of any of the foregoing, will result in any unauthorised use of the rights (including IPR) of any person; and
任何服务、软件和设备项目及前述任何一项的使用均不会导致未经授权地使用任何人士的权利（包括知识产权）；并且
- (b) the Equipment is free from defects in workmanship and manufacture.

设备不存在任何工艺或制造缺陷。

16.2 Disclaimer

免责声明

- (a) Subject to clause 16.1 and paragraphs 16.2(b) and 17.2(e), Catapult excludes and disclaims to the maximum extent permitted by law all guarantees, conditions, warranties or terms of any kind, whether express or implied or imposed by any applicable law.

在满足第 16.1 条和第 16.2(b)款及第 17.2(e)款约定的前提下，开特普在法律允许的最大范围内排除且免于于任何类型的所有担保、条件、保证或条款（无论是明示的、默示的还是由任何适用法律施加的）。

- (b) Some jurisdictions do not allow the exclusion of guarantees, conditions, warranties or terms implied or imposed by any applicable law. Nothing in this agreement excludes, restricts or modifies any guarantee, warranty, term or condition, right or remedy implied or imposed by any applicable law which cannot lawfully be excluded, restricted or modified.

部分司法辖区不允许排除任何适用法律默示的或施加的担保、条件、保证或条款。本协议中的任何规定均不排除、限制或修改任何适用法律默示的或施加的、依法不能被排除、限制或修改的任何担保、保证、条款或条件、权利或救济。

17 INDEMNITIES AND LIABILITY

赔偿与责任

17.1 Indemnities

赔偿

- (a) Catapult indemnifies you and your employees, officers, agents and contractors from and against all losses, damages, liability, costs and expenses sustained or incurred by those indemnified and which arise out of or in connection with any demand, allegation, claim or action that the Equipment, Software or Services, or their use, infringe the rights (including any IPR) of any person (**Third Party IP Claim**).

开特普应就以下事项对贵方及贵方的雇员、管理人员、代理人和承包商进行赔偿：前述受偿人士所承担或产生的、就设备、软件或服务本身或其使用侵犯了任何人士的权利（包括任何知识产权）之事所提起的任何要求、指控、权利主张或法律行动（**第三方知识产权索赔**）引起的或与之相关的所有损失、损害、责任、费用和支出。

- (b) Catapult is not liable to indemnify any persons under clause 17.1(a):

就第 17.1(a)条而言，开特普没有义务向任何人作出赔偿：

- (i) unless:

除非：

- (A) you notify Catapult as soon as reasonably practicable of a Third Party IP Claim; and

在合理可行的情况下，贵方尽快向开特普告知第三方知识产权索赔；

- (B) Catapult has (at its expense) the sole control of the defence of the Third Party IP Claim and all related settlement negotiations; and

开特普单独控制第三方知识产权索赔的辩护和所有相关的和解谈判，相关费用由开特普自行承担；以及

- (C) you provide Catapult (at Catapult's expense) with all assistance reasonably requested in connection with conducting the defence or settlement of any Third Party IP Claim; and

贵方向开特普提供与任何第三方知识产权索赔进行抗辩或和解有关的所有合理要求的协助，相关费用由开特普自行承担；以及

- (ii) to the extent that the Third Party IP Claim was caused by, or contributed to by:

在第三方知识产权索赔由以下情况导致或引起的范围内：

- (A) a modification of the Service, Software or item of Equipment of the subject of the Third Party IP Claim by a person other than Catapult or its Personnel; or

除开特普或其人员以外的任何人对第三方知识产权索赔标的的服务、软件或设备项目进行的修改；或

- (B) you or any of your Personnel dealing with the Service, Software or item of Equipment in a manner not authorised by this agreement.

贵方或任何贵方人员以本协议未授权的方式处理服务、软件或设备项目。

- (c) Catapult's liability under this clause 17.1 is not subject to any limit or exclusion of liability under clause 17.2.

开特普在本 17.1 条项下的责任不受第 17.2 条项下任何责任限制或排除规定的限制。

17.2 Liability

责任

- (a) To the extent permitted by law and except as otherwise expressly set out in this agreement:

在法律允许的范围内，除非本协议中另有明确规定，否则：

- (i) the liability of a party under or in respect of an Order is limited in the aggregate to an amount equal to the amounts paid and payable by you under that Order; and

一方在任何订单项下或与之相关的责任总额，以贵方在该订单项下已经支付和应当支付的款项总额为限；并且

- (ii) a party is not liable to the other party for:

一方无须就以下事项对另一方承担任何责任：

- (A) any special, indirect, incidental or consequential loss or punitive loss or damage; or

任何特殊的、间接的、附带的或后果性的损失或惩罚性的损失或损害；或
(B) loss of profits, revenue, business, goodwill, bargain, anticipated savings or management time, 利润、收入、业务、商誉、谈判、筹码、预期节省费用或管理时间的损失, whether or not the first party was aware of should have been aware of the possibility of such loss or damage. 无论该方是否知晓该等损失或损害发生的可能性。

- (b) If any guarantee, condition, warranty or term is implied or imposed by any applicable law and cannot be excluded (a **Non-Excludable Provision**), and Catapult is able to limit your remedy for a breach of the Non-Excludable Provision, then Catapult's liability for breach of the Non-Excludable Provision is limited exclusively (so far as applicable laws do not prohibit) to one or more of the following at Catapult's option:

如果任何适用法律默示或施加了任何担保、条件、保证或条款且该等担保、条件、保证或条款不能被排除（**不可排除规定**），并且开特普能够限制贵方就违反不可排除规定的行为所享有的救济，则按照开特普的选择，其就不可排除规定的违约责任仅限于（在适用法律不禁止的范围内）以下一项或多项：

- (i) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or

就货物而言，更换货物或供应同等货物、维修货物、支付更换货物或采购同等货物的费用或支付货物维修费用；或

- (ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

就服务而言，重新提供服务，或支付重新提供该等服务的费用。

- (c) To the extent permitted by law, a party's liability to the other party under or in connection with the agreement is reduced to the extent, if any, to which the other party's acts or omissions cause or contribute to its own loss or damage.

在法律允许的范围内，如果一方的作为或不作为导致或造成其自身的损失或损害（如有），则另一方在本协议项下或就本协议对该方承担的责任应在该等范围内予以减轻。

- (d) The limitations and exclusions of the liability set out in this clause 17 apply regardless of the basis on which such liability arises, whether in contract, breach of statutory duty, tort (including negligence), in equity or under statute.

不论引起责任的依据为何（无论是根据合同、对法定义务的违反、侵权（包括过失侵权），还是根据衡平法或成文法），本第 17 项下的责任限制和排除规定均适用。

- (e) Nothing in this agreement shall exclude or limit either party's liability for death or personal injury caused by its (or its agent's or sub-contractor's) negligence or for fraud or fraudulent misrepresentation or for any other liability that cannot, as a matter of law, be limited or excluded.

本协议中的任何规定均不得排除或限制任何一方就因该方的（或其代理人或分包商的）过失导致的人身伤亡所承担的责任、就欺诈或欺诈性不实陈述承担的责任或根据法律不得被排除或限制的任何其他责任。

18 FORCE MAJEURE

不可抗力

- (a) A party will be relieved of its obligations (other than an obligation to pay money) to the extent those obligations are prevented by an event outside the reasonable control of the party and that event:

如果一方因以下超出其合理控制范围的事件而无法履行其义务（付款义务除外），则该方将免于履行该等义务：

- (i) was not caused or contributed to by that party;

非由该方导致或造成的事件；

- (ii) could not have been prevented by reasonable precautions or remedied by reasonable expenditure by the party which is seeking to rely on the event as the basis for relief,

希望将以该事件作为免于履行义务的依据的一方，无法通过合理预防措施加以防范的或无法以合理支出予以补救的事件，

and such relief will continue for the duration of that event.

在该事件持续期间，该等免于履行将一直有效。

- (b) The party affected by the event must take all reasonable steps to resume the performance of its affected obligations as soon as reasonably possible.

在合理可行的情况下，受相关事件影响的一方必须采取一切合理措施尽快恢复履行其受影响的义务。

19 TERMINATION

终止

- (a) Without limiting any other rights which a party may have at law, a party may immediately terminate this agreement by written notice to the other party if the other party:

如果一方发生以下情形，则另一方可经书面通知该方后立即终止本协议，且另一方可依法享有的任何其他权利不受限制：

- (i) breaches a material term or condition of this agreement (including any of clauses 4, 5, 8, 9, 11, 12, 13, 14, and 20); or

违反本协议的任何实质性条款或条件（包括第 4 条、第 5 条、第 8 条、第 9 条、第 11 条、第 12 条、第 13 条、第 14 条和第 20 条）；或

- (ii) breaches a non-material term of this agreement and fails to remedy such breach within 30 days of receipt of a written notice from the other party requiring it to do so; or

违反本协议的非实质性条款，且未能在收到另一方要求其对该违约行为进行补救的书面通知后 30 天内对该违约行为进行补救；或

- (iii) the party becomes insolvent, bankrupt, or becomes subject to a presumption of insolvency under any laws, suffers a meeting of its creditors, has any sort of administrator or receiver appointed in respect of any of its assets, executes a deed of company arrangement, has a petition presented to appoint any such administrator or receiver, is unable to pay its debts or threatens or ceases to carry on its business or suffers any execution which remains unsatisfied for 10 days or anything similar or equivalent to any of these things.

在任何法律项下变得资不抵债、破产或成为资不抵债推定的对象，召集债权人会议，就其任何资产被指定了任何类型的管理人或接管人，签署了公司安排契据，提交了指定任何该类管理人或接管人的申请，无法偿付其债务，或可能无法开展或停止开展其业务，或接到任何执行令且在 10 天内未能履行该执行令，或出现与上述任何一项类似或同等的任何事项。

- (b) The rights and obligations under clauses 12, 13, 17 and 20 and any other clause which by its nature is intended to survive the termination or expiry of this agreement will continue in full force and effect after this agreement ends.

第 12 条、第 13 条、第 17 条和第 20 条以及根据自身性质应在本协议终止或到期后继续有效的任何其他条款项下的权利和义务均应在本协议结束后继续完全有效。

- (c) All rights that a party has accrued before the agreement ends continue after expiry or termination.

一方在本协议结束前已经产生的所有权利在本协议到期或终止后应继续有效。

20 PUBLICITY

宣传

- (a) Subject to paragraph (b), a party must not make any public statement about this agreement, the subject matter of this agreement or its relationship with the other party without the other party's prior written approval.

受限于第(b)款，未经一方事先书面批准，另一方不得就本协议、本协议标的事项或其与该方的关系发表任何公开声明。

- (b) You agree that Catapult may use your name and logo in Catapult's customer lists and marketing materials in an informative manner and in a manner no more materially prominent than any other Catapult Group customer in those lists and materials, during and after the Term.

贵方同意，开特普在有效期内及之后可在其客户名单及营销材料中使用贵方的名称和标识，但该等使用应以提供信息为目的，且不得比该等名单和材料上的任何其他开特普集团客户更为显著突出。

21 NOTICES

通知

Any notice or other communication that is required or permitted to be given under this agreement must be given in writing and may be delivered by hand or sent by mail or email to the applicable address specified in the Order or as otherwise advised from time to time.

本协议项下要求或允许作出的任何通知或其他通讯均必须以书面形式作出，并可通过专人递送、邮件或电子邮件的方式送达订单中指定的或不时另行告知的相关地址。

22 GENERAL

一般规定

- (a) This agreement forms the entire agreement between Catapult and you in relation to its subject matter and replaces all previous agreements, arrangements, understandings, representations or other communications between the parties in relation to that subject matter.

本协议构成开特普和贵方就本协议标的事项达成的完整协议，并取代双方先前就该事项作出的所有协议、安排、谅解、陈述或其他通讯。

- (b) Any changes to this agreement must be agreed in writing by Catapult and you.

对本协议作出的任何变更均必须经过开特普和贵方书面同意。

- (c) This agreement is governed by the laws of People's Republic of China and United Nations Convention on Contracts for the International Sale of Goods shall not apply to this agreement.

本协议受中华人民共和国法律管辖，并且《联合国国际货物销售合同公约》不适用于本协议。

- (d) A person who is not a party to this agreement has no right under this agreement to enforce any term of this agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to applicable laws.

非本协议一方的任何人士在本协议项下均无权强制执行本协议的任何条款，但这不影响任何人士非因适用法律规定而存在或可获得任何权利或救济。

- (e) No waiver of a right or remedy under this agreement is effective unless it is in writing and signed by the party granting it. It is only effective in the specific instance and for the specific purpose for which it is granted. A single or partial exercise of a right or remedy under this agreement does not prevent a further exercise of that or of any other right or remedy.

对本协议项下任何权利或救济的放弃均必须以书面形式作出并由作出该等放弃的一方签字。该等放弃仅在特定情形下以及为了作出该等放弃的特定目的时方为有效。单独行使或部分行使本协议项下的任何权利或救济不会妨碍对该权利或救济或者任何其他权利或救济的进一步行使。

- (f) Any provision of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The remainder of this agreement will remain in full force and effect.

如本协议中的任何规定全部或部分无效或不可强制执行，则应在该等无效或不可强制执行的范围内被分割出去。本协议其余规定将保持完全有效。

- (g) Unless context requires otherwise, an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally.

除上下文另有所指外，由 2 人或多人承担的义务或责任或赋予 2 人或多人的权利，均对这些人士具有共同且连带的约束力或利益。

- (h) This agreement must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

本协议不得仅因一方制备或促使制备了本协议而作出不利于该方的解释。

- (i) Catapult holds the benefit of this agreement on trust for, and may enforce this agreement directly against you on behalf of, each Catapult Group Company, even though those Catapult Group Companies are not parties to this agreement.

开特普以信托形式为每一开特普集团公司持有本协议项下的利益，并可代表每一开特普集团公司直接向贵方强制执行本协议，即便该等开特普集团公司并非本协议的一方当事人。

- (j) Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

除本协议另有约定外，每一方必须自行支付其与本协议的谈判、制备、签署和履行相关的成本和费用。

- (k) A consent required under this agreement from Catapult may be given or withheld, or may be given subject to any conditions, as Catapult (in its absolute discretion) thinks fit, unless this agreement expressly provides otherwise.

除本协议另有约定外，针对本协议项下要求开特普作出的同意，可由开特普（完全自行判断）认为适当而给予或拒绝同意，也可受限于开特普（完全自行判断）认为适当的任何条件而给予同意。

- (l) You must not sell, transfer, delegate, assign, licence or create any security interest over any right or obligation under this agreement without Catapult's prior written consent. You authorize Catapult to, and agree that Catapult may, at any time and without obtaining any further consent from you: (A) assign all or any of its rights, subcontract all or any of its obligations, or novate all or any of its rights or obligations, under this agreement and, for the purposes of such novation, you consent to the assumption of the applicable liabilities by the relevant transferees and release of such obligations of the relevant transferors; and (B) mortgage, charge or otherwise create a security interest over this agreement.

未经开特普事先书面同意，贵方不得出售、转让、委托、转让、许可或创建本协议项下任何权利或义务的任何担保权益。贵方授权开特普（并同意开特普）可在任何时候采取以下行动，且无需取得您的任何另行同意：(A) 转让其在本协议项下的所有或任何权利，或分包其在本协议项下的全部或任何义务，或更新其在本协议项下的所有或任何权利或义务，并且就该等更新而言，您同意承担相关受让人所适用的责任并同意解除相关转让人的该等义务；以及(B) 抵押、质押或以其他方式对本协议设立担保权益。

- (m) The parties acknowledge and agree that Catapult and you are acting in the capacity of an independent contractor and that this agreement does not create any relationship of employment, agency or partnership between the parties either at common law or for the purposes of tax legislation, the superannuation guarantee legislation, workers compensation legislation or any other law.

双方承认并同意，开特普和贵方是以独立合同方的身份行事，本协议不在双方之间建立任何雇佣关系、代理关系或合伙关系，无论前述是基于普通法，还是就税收法律、退休金保障法律、工人赔偿法律或任何其他法律而言。

- (n) Unless context requires otherwise, a reference to:

除非上下文另有要求，否则：

- (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;

提及某一人士时包括自然人、合伙企业、合资企业、政府机关、协会、公司或其他法人；

- (ii) a party includes its successors and permitted assigns;

提及一方时包括其承继人和经许可的受让人；

- (iii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;

提及某一事物（包括但不限于权利动产或其他权利）时包括该事物的一部分；

- (iv) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

表示单数的词语包括复数含义（反之亦然），表示性别的词语包括所有其他性别；

- (v) a defined word or phrase means that any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

被定义的词语或短语意味着该词语或短语的任何其他词性或语法形式具有相应的含义；

- (vi) words 'such as', 'including', 'particularly' and similar expressions are not used as nor are intended to be interpreted as words of limitation;

“例如”、“包括”、“尤其是”以及类似的表达方式不得用作或意图解释为限制性词语；

- (vii) a document includes all amendments or supplements to, or replacements of, that document;

提及某一文件时包括该文件的所有修订、补充或替代版本；

(viii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced.

提及法律时包括宪法规定、条约、法令、公约、成文法、法规、条例、规章、判决、普通法或衡平法规则，并且涵盖该法律经修订、合并或替代的版本。

(o) This agreement may be executed in any number of counterparts, each of which, when executed, is an original. Those counterparts together make one instrument.

本协议可签署任何数量的副本，每份副本经签署即为一份正本。这些副本共同构成一份文书。

23 DEFINITIONS

定义

Accessories means garments, pouches and vests (and similar) and any other items specified in an Order to be '**Accessories**'.

配件指服装、包袋和背心（及类似物品）以及订单中指定为“配件”的任何其他物品。

Affiliate means, in respect of an entity or other person, an entity or other person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, that entity or other person.

关联方，就某一实体或其他人士而言，指直接或通过一个或多个中间实体间接地控制该实体或其他人士、受该实体或其他人士控制或与该实体或其他人士受共同控制的实体或其他人士。

Catapult means the relevant Catapult entity specified in the Order.

开特普指订单中规定的相关开特普实体。

Catapult Group means Catapult and its Affiliates.

开特普集团指开特普及其关联方。

Catapult Group Company means a member of the Catapult Group.

开特普集团公司指开特普集团的任一成员。

Cloud Services means the services specified in the Order as Cloud Services, which are 'software as a service' services hosted by Catapult and made available to you via the internet.

云服务指订单中载明为云服务的、由开特普托管并通过互联网向贵方提供的“软件即服务”的服务。

Commencement Date means the date so specified in the Order.

生效日期指订单中规定的日期。

Confidential Information means, in relation to a party, information that is by its nature confidential, is designated by that party as confidential, or the other party knows or ought reasonably to know is confidential, and includes any information relating to the financial affairs, assets or liability of a party, or any information relating to the internal management of a party, its personnel, policies, plans, strategies, customers, suppliers, products or services. Confidential Information does not include information or material which is or becomes generally known to the public other than through a breach of this agreement or can be proven by the recipient to be:

保密信息，就任何一方而言，指具有保密性质的、被该方指定为保密信息的或另一方知晓或理应知晓其为保密信息的信息，包括与该方的财务、资产或责任有关的任何信息，或与该方的内部管理、人员、政策、计划、战略、客户、供应商或服务有关的任何信息。保密信息不包括非因违反本协议而已经或成为被公众知晓的信息或材料，或者接收方能够证明属于以下情形的信息或材料：

(a) at the time it was first disclosed to a party, already in the recipient's lawful possession;

在首次向一方披露之时，接收方已合法拥有的信息；

(b) developed independently by the recipient; or

由接收方独立研发的信息；或

(c) was disclosed to the recipient by a third party entitled to disclose it.

有权披露该信息的第三方向接收方披露的信息。

Data means all data and information about or relating to you and Equipment Users that is entered into, stored in, generated by or processed by the Software, and includes biometric and athlete performance-related and capability-related data.

数据指输入软件的、存储于软件中的、由软件生成或处理的关于或涉及贵方及设备用户的所有数据和信息，包括生物识别数据和运动员成绩相关数据及运动能力相关数据。

Derivative Materials means materials, data and insights created by or on behalf of Catapult and which are based on, or created or derived from, the Data.

衍生材料指由开特普或代表开特普创设的材料、数据和见解，且该等材料、数据和见解是基于数据或利用数据得出的或从数据中衍生出来的。

Documentation means the user manuals and on-line documentation which are provided by or on behalf of Catapult to you.

文档指由开特普或代表开特普提供给贵方的用户手册和在线文档。

Equipment means the athlete monitoring equipment described in the Order and any other items specified as '**Equipment**' in the Order.

设备指订单中描述的运动员监测设备以及任何其他在订单中被称为“设备”的项目。

Equipment User means those athletes and individuals that are monitored and measured using the Equipment and Software.

设备用户指利用设备和软件接受监测和测量的运动员和个人。

EULA has the meaning given in clause 5.1(a)(v).

终端用户许可协议具有第 5.1(a)(v)条赋予的含义。

Fee means an amount payable in accordance with clause 9.

费用指应根据第 9 条支付的费用。

IPR means all industrial and intellectual property rights of any kind including copyright, patents, trade marks, design, moral rights and other proprietary rights.

知识产权指任何类型的所有工业产权和知识产权，包括版权、专利权、商标权、设计权、精神权利和其他专有权利。

Indemnified Loss means (i) the Loss; plus (ii) any amounts payable under clause 9(c); plus (iii) an amount equal to any additional Taxes assessable on the Catapult Group arising out of, or in connection with, the receipt by the Catapult Group of amounts under either or both of (i) and (ii).

受偿损失指(i) 损失；和(ii) 第 9(c)条项下应支付的任何金额；和(iii) 相当于任何额外税费的金额，且该等税费的征收系因开特普集团收到(i) 和(ii) 中任一或共同的金额而产生或与之相关。

Loss means all and any liabilities, costs, expenses, damages and losses and, in each case, whether or not in the contemplation of the parties at the date of this agreement, however it arises (including any act or omission of the Catapult Group) and whether it is present or future, fixed or unascertained, actual or contingent. Loss shall include the amount of any deductible amount on, or an increase in the premium of, an insurance policy maintained by Catapult (or a Catapult Group Company) in respect of the Equipment.

损失指所有和任何责任、成本、费用、损害和损失，并且在每种情况下，无论双方在本协议签订之日是否考虑到前述，无论前述是如何产生的（包括开特普集团的任何作为或不作为），也不论前述是当前的或将来的、固定的或未确定的、实际的或或有的。损失应包括开特普（或开特普集团公司）就设备而维持的保险单中的任何免赔额或保险费的增加额。**Local Software** means the items of software specified in the Order as Local Software Services, which are made available to you for installation and use on computers and systems operated by you.

本地软件指订单中载明为本地软件服务的、供贵方在贵方运行的计算机和系统上安装与使用的各个软件。

Non-Excludable Provision has the meaning in clause 17.2(b).

不可排除规定具有第 17.2(b)条赋予的含义。

Order means an order form for one or more of Equipment, Software, Accessories and Services in the format specified by Catapult from time to time and which is accepted and executed by Catapult as contemplated in clause 1.2.

订单指采用开特普不时规定的格式、并由开特普按照第 1.2 条的规定接受并签署的关于设备、软件、配件和服务中一项或多项的订单。

Outright Purchase has the meaning given in clause 1.3(a)(i).

直接购买具有第 1.3(a)(i)条赋予的含义。

Personnel of a party means officers, employees, contractors, agents, subcontractors and professional advisors of that party, and includes officers, employees, contractors, agents and subcontractors of any subcontractor but excludes the other party.

人员，就任何一方而言，指该方的管理人员、雇员、承包商、代理人、分包商和专业顾问，包括任何分包商的管理人员、雇员、承包商、代理人和分包商，但不包括另一方。

Pre-existing IPR means a person's IPR existing prior to the Commencement Date or subsequently brought into existence other than in the course of performing this agreement (including any improvements, modifications or developments of such IPR).

先前存在的知识产权指任何人士在生效日期之前便已存在的知识产权或之后在履行本协议的过程之外产生的知识产权（包括对该知识产权的任何改进、修改或开发）。

Representatives means, in relation to each party, any person acting for or on behalf of that party and includes any director, officer, employee, agent, contractor, legal advisor or professional advisor.

代表，就每一方而言，指为或代表该方行事的任何人士，包括任何董事、管理人员、雇员、代理人、承包商、法律顾问或专业顾问。

Services means:

服务指：

- (a) the training services (if any) set out in the Order; and
订单中载明的培训服务（如有）；及
- (b) the Software Maintenance Services.
软件维护服务。

Software means the Local Software and the Cloud Services.

软件指本地软件和云服务。

Software Maintenance Services means the services described in Appendix A to these terms and conditions.

软件维护服务指本条款和条件的附件 A 中载明的服务。

Subscription has the meaning given in clause 1.3(a)(ii).

租赁具有第 1.3(a)(ii)条赋予的含义。

Taxes has the meaning in clause 9(b).

税费具有第 9(b)条赋予的含义。

Term has the meaning given in clause 2.

有效期具有第 2 条赋予的含义。

Third Party IP Claim has the meaning given in clause 17.1(a)

第三方知识产权索赔具有第 17.1(a)条中赋予的含义。

Unpaid Goods has the meaning in clause 4.3(b).

未付款货物具有第 4.3(b)条赋予的含义。

Value-added Tax (VAT) has the meaning given it under the Provisional Regulations of the People's Republic of China on Value-added Tax (Revision 2017).

增值税具有中华人民共和国增值税暂行条例（2017 修订）所赋予的含义。

Warranted Equipment has the meaning given in clause 7(a).

质保设备具有第 7(a)条赋予的含义。

you means the person specified as the 'Customer' in the Order.

贵方指订单中被列为“客户”的人士。

1 CATAPULT SUPPORT

开特普支持服务

- (a) Catapult will use its reasonable endeavours to operate and maintain Catapult Support between the hours of 9.00 a.m. and 5.00 p.m. Monday to Friday, excluding public holidays, in each of Victoria, Australia (being those times in Melbourne, for customers in Asia-Pacific), the UK (being those times in London, for customers in EMEA) and the United States (being those times in Boston, for customers in the Americas), as applicable (the **Hours of Service**).

开特普将作出合理努力，在澳大利亚维多利亚州（即墨尔本时间，针对亚太地区客户）、英国（即伦敦时间，针对欧洲、中东和非洲地区客户）或美国（即波士顿时间，针对美洲地区客户）（视情况而定）的周一至周五每天上午九点至下午五点期间（但公众节假日除外）（**服务时间**），运行和维护开特普支持服务。

- (b) You may contact Catapult Support:

贵方可通过以下方式联系开特普支持服务：

- (i) by phone on +44 0113 426 0128 (EMEA) or +61 3 9095 8410 (APAC); or

拨打电话号码+44 0113 426 0128（欧洲、中东和非洲地区）或+61 3 9095 8410（亚太地区）；或

- (ii) by email on APAC_Support@catapultsports.com (APAC), EMEA_Support@catapultsports.com (EMEA) or US_Support@catapultsports.com (Americas).

发送电子邮件至 APAC_Support@catapultsports.com（亚太地区）、EMEA_Support@catapultsports.com（欧洲、中东和非洲地区）或 US_Support@catapultsports.com（美洲地区）。

- (c) Catapult will acknowledge receipt of each notification to the help desk as soon as practicable. For notifications received by telephone, Catapult is only required to immediately acknowledge receipt during Hours of Service. If, for any reason, Catapult is unable to respond to a help desk notification during the Hours of Service, Catapult will use its reasonable endeavours to respond to such message following the recommencement of the Hours of Service.

开特普将在可行的情况下尽快确认已收到发送至服务台的各项通知。就通过电话收到的通知而言，开特普仅有义务在服务时间内立即确认已收到通知。如果开特普因任何原因无法在服务时间内回应服务台通知，则其将作出合理努力在下一段服务时间开始后回应该消息。

- (d) Catapult will use its reasonable endeavours to respond to messages received by Catapult Support outside of the Hours of Service following the recommencement of the Hours of Service.

开特普将作出合理努力，在下一段服务时间开始后回应开特普支持服务在服务时间以外收到的消息。

2 SUPPORT REQUESTS

支持请求

2.1 Troubleshooting

故障排除

- (a) You must first work through the applicable Support Troubleshooting Guides provided on Catapult's portal prior to submitting any Support Request to Catapult.

贵方在向开特普提交任何支持请求之前，必须先按照开特普门户网站上提供的适用《支持故障排除指南》完成操作。

- (b) If you are unable to resolve any actual or suspected issue having worked through the Support Troubleshooting Guide, you must submit a reasonably detailed Support Request to Catapult Support via the "Submit a Request" feature at support.catapultsports.com.

如果贵方无法通过按照《支持故障排除指南》操作来解决任何实际的或疑似的问题，则贵方必须通过 support.catapultsports.com 上的“提交请求”功能，向开特普支持服务提交一项合理详细的支持请求。

2.2 Qualified Employees

合格雇员

You must provide on Catapult's request suitably qualified and informed Personnel to provide assistance and information to Catapult, including with respect to knowledge or control of matters that may assist Catapult in performing its obligations under this agreement.

经开特普要求，贵方必须提供具备适当资质和知识的人员向开特普提供协助与信息，包括与可能有助于开特普履行其在本协议项下义务的事项的具体情况或控制权有关的协助与信息。

2.3 Catapult Response

开特普回应

Catapult will determine the nature, potential severity and impact of the issue giving rise to your Support Request and consistent with your product type, Catapult will during the Hours of Service investigate the problem and respond to you where reasonably practicable within one Business Day from the time of the first telephone consultation with you and will, as and when necessary, provide you with the following information by email response:

开特普将确定导致贵方提出支持请求的问题的性质、潜在严重性和影响，并且开特普将在服务时间内根据贵方产品型号对该问题开展调查，并在合理可行的情况下，在与贵方进行首次电话协商后一个工作日内对贵方作出回应，必要时，开特普还会通过电子邮件向贵方回复以下信息：

- (a) an outline of the problem;

问题概要；

- (b) the proposed corrective action; and
拟议纠正行动；及
- (c) to the extent possible, the proposed timeframe for performing such corrective action.
在可能的范围内，履行该纠正行动的拟议时间框架。

3 EXCLUDED SERVICES

除外服务

Each of the following matters are outside the scope of the Software Maintenance Services:

以下每一事项均不在软件维护服务范围内：

- (a) any maintenance services in respect of superseded versions of the Software;
就已被取代的软件版本提供任何维护服务；
- (b) correction of Errors caused by operation of the Software in a manner other than that expressly authorised by this agreement or the Documentation;
对以本协议和文档未明确授权的方式运行软件导致的错误进行纠正；
- (c) consulting and training services;
咨询与培训服务；
- (d) making changes to the Software designed to provide functionality not specified in the Documentation or this agreement;
对软件进行变更，以提供文档和本协议中未规定的功能；
- (e) reviewing or advising in relation to the method of use of the Software or its integration with any of your systems or processes; and
就软件的使用方法或软件与贵方任何系统或流程的整合进行审阅或提供建议；以及
- (f) maintenance of any computers, hardware, software, networks and other equipment and services necessary to access and make use of the Software.
维护对于访问和使用软件而言必要的任何计算机、硬件、软件、网络及其他设备和服务。

4 DEFINITIONS

定义

- (a) **Catapult Support** means the support service described in clause 1(a) of Appendix A.
开特普支持服务指附件 A 第 1(a)条中载明的支持服务。
- (b) **Excluded Services** has the meaning given in clause 3 of Appendix A.
除外服务具有附件 A 第 3 条中赋予的含义。
- (c) **Hours of Service** has the meaning given in clause 1(a) of Appendix A.
服务时间具有附件 A 第 1(a)条中赋予的含义。