
1. Operation of this agreement

1.1 General

- (a) These terms and conditions (the **General Terms and Conditions**), together with Catapult's Privacy Policy, the Data Protection Addendum described in clause 15(c), any Separate Terms, any further terms and conditions which are incorporated into, appended to, or linked by a hyperlink in, the General Terms and Conditions, an Order or any of the foregoing (together, the **Additional Terms and Conditions**) and Orders govern the supply and use of the Products, Software and Services.
- (b) These terms and conditions are version v.160721.

1.2 Orders for Products, Software and Services

- (a) You and Catapult may enter into Orders for Products, Software and Services from time to time.
- (b) When an Order is executed by you, a separate agreement is formed between the parties for the Products, Software and Services to be supplied. That Order incorporates the version of these General Terms and Conditions specified in the relevant Order, and the Additional Terms and Conditions.
- (c) A reference in these General Terms and Conditions to **'this agreement'** includes the Order and the terms and conditions incorporated into an applicable Order in clauses 1.1 and 1.2.

1.3 Pre-Paid Purchases and Subscriptions

- (a) Catapult offers two different commercial models for you to procure the supply of Equipment (and the associated Software and Services):
- (i) **Pre-Paid Purchase**, where you pre-pay in full for the purchase of the Equipment and access to the Software and Services; or
 - (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.
- (b) The Order will specify whether Equipment is acquired and supplied as a Pre-Paid Purchase or a Subscription.
- (c) Some of the provisions in this agreement apply differently depending on whether you and Catapult have agreed a Pre-Paid Purchase or a Subscription under the Order, and this agreement indicates which provisions are applicable in each instance.
- (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.

2. Term

This agreement starts on the Commencement Date and continues for the period specified in the Order (the **Term**) unless terminated earlier under clause 20.

3. Catapult's obligations

3.1 General

Catapult will use commercially reasonable efforts to 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.

3.2 Performance of the Services

Catapult will endeavor to perform the Services with due care and skill.

4. Supply of Equipment and Accessories

4.1 General

- (a) You must use, and procure that your Personnel use, the Equipment only in accordance with the Documentation.
- (b) Subject to Catapult receiving payment of the amounts due and payable specified in the Order, 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.
- (c) Risk in the Equipment and Accessories will pass to you when each is shipped from the Catapult premises.

4.2 Supply of Equipment - Subscription

This clause 4.2 applies to Subscriptions only

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

- (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);
- (b) you must:
 - (i) keep the Equipment in good order and repair (reasonable wear and tear excepted);
 - (ii) keep the Equipment in safe custody and in your possession or control at all times;
 - (iii) notify Catapult within 24 hours of becoming aware that any Equipment has been lost, stolen, damaged or destroyed, or has become inoperable;
 - (iv) not, without Catapult's written consent and whether during or after the Term, 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);
 - (v) must, after the Term and on demand from Catapult, deal with the Equipment in the manner specified in the Order (at your cost) or in such other manner as reasonably directed by Catapult (provided that Catapult agrees to pay any reasonable out-of-pocket expenses incurred by you in complying with that direction);
 - (vi) not alter or remove any markings (or similar) on the Equipment (including proprietary or identifying markings, trade marks, registration numbers and certification numbers); and
 - (vii) 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).

4.3 Supply of Equipment - Pre-Paid Purchase

This clause 4.3 applies to Pre-Paid Purchases only

Where and to the extent the Equipment is procured as a Pre-Paid Purchase:

- (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 and Catapult has completed its obligations under this agreement;
- (b) until title in any Equipment passes to you under clause 4.3(a) (the **Relevant Goods**), Catapult retains the right to modify any of the Relevant Goods and you hold the Relevant Goods as the fiduciary agent and bailee of Catapult and must ensure that the Relevant Goods are clearly identifiable as the property of Catapult and are properly stored and protected and remain fully insured. You must not, without Catapult's written consent and whether



during or after the Term, sell or otherwise dispose of or deal in the Relevant Goods. After the Term you must, on demand from Catapult, do one or more of return, destroy, recycle or otherwise deal with the Relevant Goods as directed by Catapult. Clause 18.1(g) shall apply (with necessary changes) to the Equipment procured as a Pre-Paid Purchase until title passes to you; and

- (c) without limiting any other rights, Catapult is entitled to dispose of any repossessed Relevant Goods and apply the proceeds of sale to your indebtedness to Catapult.

4.4 Supply of Accessories

Title in, and ownership of, Accessories will remain with Catapult (and will not pass to you) until you have paid Catapult in full for those Accessories. Clause 18.1(g) shall apply (with necessary changes) to the Accessories until title passes to you.

5. Supply of software

5.1 Grant of license and usage rights

Catapult hereby grants to you:

- (a) a non-exclusive, non-transferable, non-sublicensable, license to use the Local Software; and
- (b) a non-exclusive, non-transferable, non-sublicensable, right to access the Cloud Services during the Term,

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

- (c) you must only use the Software and Data for the purposes of monitoring the performance of Equipment Users solely for your internal purposes. You must not, directly or indirectly, Commercialize, give or allow third parties access or rights to, or provide services in relation to, any of the Software or Data;
- (d) 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
- (e) 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 license 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).

5.2 Delivery of Local Software; access to Cloud Services

- (a) Catapult shall deliver the Local Software to you at the delivery address specified in the Order on or around the specified delivery date.
- (b) Catapult shall provide you with access to and use of the Cloud Services via the methods specified by Catapult from time to time.

5.3 Changes to Local Software

- (a) During the Term, Catapult shall provide to you all Enhancements at no additional cost.
- (b) You acknowledge and agree that each Enhancement will be automatically downloaded and installed by the Local Software at a time determined by Catapult, with or without notice from Catapult.
- (c) You must always use the latest versions and updates of the Local Software as provided by Catapult.

5.4 Changes to Cloud Services

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

5.5 Third Party Software and Content

- (a) Catapult may provide you with access to, or require you to use, either or both of Third Party Content and Third Party Technology (each a **Separately Licensed Offering**).
- (b) You must comply with any Separate Terms that govern any Separately Licensed Offerings. Your rights to use any Separately Licensed Offerings are subject to, and governed by, such Separate Terms. The third party owner, author or provider of each Separately Licensed Offering retains all ownership and intellectual property rights in, and to, that Separately Licensed Offering.
- (c) Catapult may put you on notice of any such Separate Terms, and provide notices in relation to such Separate Terms, by providing the same in your Order, the Documentation, specifications, readme or notice files, and any other methods of electronic or written communication.
- (d) Catapult may, by providing written notice to you, change or vary the Separate Terms from time to time:
 - (i) to comply with a reasonable request from a third-party owner, author or provider of a Separately Licensed Offering;
 - (ii) as a consequence of any amendments to agreements between Catapult and a third-party owner, author or provider of a Separately Licensed Offering;
 - (iii) as required by law; or
 - (iv) otherwise to reasonably protect the legitimate interests of Catapult or the third-party owner, author or provider of a Separately Licensed Offering.
- (e) You may terminate the portion of this agreement relevant to the Separately Licensed Offering within 30 days of receiving written notice from Catapult under clause (d) above by providing Catapult with written notice of such termination if any changes to the Separately Licensed Offering would do any one or more of the following:
 - (i) materially degrade the Products, Software or Services ordered by you on the applicable Order;
 - (ii) require you to purchase or procure additional Products, Software or Services from Catapult;
 - (iii) add additional material obligations for you; and
 - (iv) limit or diminish your rights or remedies under this Agreement.

5.6 Beta Services

- (a) Catapult may at its election offer Beta Services to you at no additional charge or an additional Fee agreed by the parties. Use of Beta Services is for evaluation purposes only. Beta Services are not considered "Services" and do not come with product support. Beta Services may be subject to additional terms. Catapult may terminate Beta Services at any time, and they will automatically terminate at such time as Catapult makes them generally available. Beta Services may be unpredictable and lead to erroneous results. You acknowledge and agree that:
 - (i) if you accept Catapult's offer of Beta Services then, subject to any additional terms:
 - A. you are hereby granted a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to use the Beta Services for the sole purpose of evaluating, testing, and providing feedback to Catapult on Beta Services and not for general commercial use;
 - B. you shall not use the Beta Services for the processing of any live data unless otherwise specified by Catapult; and



- C. you must inform your relevant Personnel of the terms and conditions which apply to the Beta Services.
 - (ii) Beta Services are experimental, have not been fully tested and may never be finalized or commercially released. They may not meet your requirements, may contain errors, design flaws and other problems, and may not be fully functional. Their use or operation may cause loss of data. You must backup, and shall be responsible for any loss or corruption of, all data used or to be used by Beta Services;
 - (iii) you shall promptly report any errors, defects, or other deficiencies in any Beta Service to Catapult and inform your relevant Personnel of the nature of the Beta Services; and
 - (iv) all information relating to Beta Services, including its existence, and any performance measurements and other data relating to Beta Services are "Confidential Information" and clause 13(d) applies (with necessary changes) to that Confidential Information on termination of the provision of Beta Services.
- (b) **Notwithstanding any other provision of this agreement, all Beta Services are provided "as-is" and "as-available" without warranties of any kind.** You hereby waive any and all claims, now known or later discovered, that you may have against Catapult and its suppliers and licensors arising out of your use of Beta Services (including for loss of any Data).

6. Supply of services

6.1 Training

- (a) Subject to Catapult receiving payment of the relevant amount specified in the Order, Catapult must provide the training (if any) specified in the Order in the manner specified in that Order. You agree to facilitate all training and gather Equipment Users and End Users into groups sized to facilitate optimized training efficiency (in Catapult's discretion).

6.2 Software Maintenance Services

- (a) Subject to Catapult receiving payment of the relevant amount specified in the Order, Catapult must provide the Software Maintenance Services.
- (b) You agree that Catapult has the right to charge in accordance with its then-current policies (except where such charges are fixed in the Order) for any support Service resulting from problems, errors or inquiries relating to your systems or any other network, equipment, service or software which is not within the sole control of Catapult.

7. Repair and replacement

- (a) Catapult shall, at its election, either repair or replace Warranted Equipment during the Term. **Warranted Equipment** means:
 - (i) Equipment that is defective or does not otherwise function in accordance with the Documentation due to any design or manufacturing faults; and
 - (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.
- (b) If you believe any item of Equipment requires repair or replacement, you must deliver that Equipment to Catapult's nominated services center, at your risk and cost, for analysis by Catapult.
- (c) Catapult will examine the Equipment delivered to it and if Catapult determines (acting reasonably) that the Equipment:
 - (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 center; or

- (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, labor 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.

8. Your obligations

- (a) You acknowledge and agree that despite the Equipment having been designed to minimize the risk of personal injury to users of the Equipment, there is a remaining inherent risk of injury. Subject to clause 18.2(i), 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.
- (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.
- (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 14(b) and 15.
- (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.
- (e) You must strictly restrict access to the Software and Documentation to Personnel who need such access for the purposes of monitoring the performance of Equipment Users. You must prevent disclosure of images, or copies, of any portion of the Software or Documentation to any Personnel or third parties;
- (f) 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.
- (g) You are responsible for implementing and maintaining, and must implement and maintain, adequate backup and recovery procedures to protect and preserve the Data.
- (h) You must not, and must procure that your Personnel do not, do any of the following:
 - (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;
 - (ii) access or use the Software in order to build, support, or assist a third party in building or supporting any products, programs, or services which are competitive or perform the same functions as the Equipment or Software;
 - (iii) 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;
 - (iv) transmit or process via the Cloud Services any material that is defamatory, offensive or otherwise objectionable;

- (v) 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;
 - (vi) collect or harvest any information or data, or attempt to decipher any transmissions to or from the systems used by Catapult;
 - (vii) use the portions of the Software that are development tools for general software development purposes;
 - (viii) disclose in writing the results of any performance, functional or other evaluation or benchmarking of the Catapult Products, Services or Software to any third party without the prior written permission of Catapult, other than consultants and Catapult working on your behalf; and
 - (ix) remove or modify any program markings or any notice of Catapult's proprietary rights in the Software.
- (i) You acknowledge that any export of the Software shall be subject to U.S. Export Control laws.

9. Loan equipment, software and services

- (a) Catapult may, at its election, do one or more of the following via an Order:
- (i) loan you specified equipment;
 - (ii) provide you with access to specified software; or
 - (iii) provide you with specified services,
- each a **Loaned Offering**.
- (b) Except as agreed by the parties in writing, the terms and conditions of this agreement shall apply in relation to a Loaned Offering on the following basis:
- (i) 'Equipment' means the equipment comprising the Loaned Offering;
 - (ii) 'Software' means the software comprising the Loaned Offering;
 - (iii) 'Services' means the services comprising the Loaned Offering;
 - (iv) 'Term' means the period of the loan, or the period of use, in respect of the Loaned Offering under the relevant Order;
 - (v) the loaned equipment is treated as being procured on a Subscription basis under clause 4.2;
 - (vi) clause 4.3 and those aspects of clauses 20(d) relating to the destruction or recycling of the Equipment will not apply; and
 - (vii) all other terms and conditions of this agreement will apply during the Term of the Loan Offering.

10. Fees and payment

- (a) You must pay Catapult the fees payable in accordance with this agreement within 30 days of your receipt of a valid invoice.
- (b) If you request additional services or deliverables not covered by this agreement, and not set out in a separate Order, the parties may execute a variation to this agreement or an addendum to the applicable Order relating to the specific services or deliverables to be added. In the absence of such an addendum, Catapult will invoice you for such additional services or deliverables at its then-current rates for such additional services. You must pay Catapult the fees payable in relation to such additional services or deliverables in accordance with the payment terms under the relevant Order in respect of which the services or deliverables are deemed, by Catapult, to be additional.
- (c) 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**).

- (d) 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 4.3(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.
- (e) 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.
- (f) If you do not pay any amount owing to Catapult by the due date for such payment, Catapult may do any or all of:
 - (i) on not less than five 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;
 - (ii) retain all materials and data until all such payments are paid in full in accordance with the Order and this agreement; and
 - (iii) 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.
- (g) You agree to reimburse Catapult, upon Catapult's written demand, for any reasonable legal fees or other costs associated with the collection of late payments.

11. Taxes

11.1 Sales taxes

All fees payable by you under this Agreement are net amounts and are payable in full, without deduction for taxes of any kind. An Order may set out provisions relating to the collection and payment of sales and similar taxes applicable to that Order. Unless expressly stated otherwise, you shall be responsible for, and shall promptly pay, all sales taxes and use taxes associated with this agreement or your receipt or use of one or more of Catapult's Products, Software or Services.

11.2 VAT

- (a) Unless expressly stated otherwise, all amounts set out in this agreement are exclusive of any VAT.
- (b) If VAT is properly payable by a party making a supply under or in connection with this agreement (the **supplier**), then the party liable to pay for that supply (the **recipient**) shall, in addition to any other amounts payable for that supply, pay to the supplier the amount of that VAT (the **VAT amount**).
- (c) The VAT amount is payable at the same time and in the same manner as the other amounts payable for that supply or, if later, on demand following the recipient receiving a valid VAT invoice.
- (d) Any reference in the calculation of any amount payable under this agreement to a cost, expense or other liability incurred by a party must exclude the amount of any credit for VAT in relation to that cost, expense or other liability.

12. Intellectual property

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

13. Confidentiality

- (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.
- (b) A recipient must:
 - (i) not disclose the Confidential Information of the other to any person except to the extent this agreement permits;
 - (ii) not assist or permit any person to make any unauthorized use of the discloser's Confidential Information; and
 - (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.
- (c) A recipient may disclose Confidential Information to:
 - (i) its Representatives on a "need to know basis"; or
 - (ii) any other person only with the discloser's prior written consent.

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.

- (d) On expiry or termination of the agreement, you must, at Catapult's election, either return or destroy and either certify the return or 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 13.

14. Data

- (a) The Data is and remains your property at all times.
- (b) You agree that Catapult may, and hereby grant Catapult a license to:
 - (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; and
 - (ii) during and after the Term, create Derivative Materials from the Data (but only to the extent that such Derivative Materials do not incorporate your Confidential Information in a form that could reasonably identify any individual) and use, or permit third parties to use, such Derivative Materials.
- (c) The license in paragraph (b) is non-exclusive, perpetual, irrevocable, worldwide, royalty-free, sub-licensable, assignable and transferable. Any IPR in any Derivative Materials vests in Catapult absolutely immediately on creation.

15. Privacy

- (a) Each party must:
 - (i) collect, process, store and use personal data in accordance with applicable privacy law and consistent with the consent provided by each data subject;
 - (ii) comply with its own privacy policy;
 - (iii) maintain and enforce appropriate technical and organizational measures to protect its information technology systems for the protection of personal data; and
 - (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.
- (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.
- (c) Each party agrees to comply with their respective obligations as set out in the DPA at www.catapultsports.com which is incorporated in, and forms part, of this agreement.

16. Audit

- (a) Catapult may:
 - (i) monitor your usage of the Software; and
 - (ii) on reasonable notice audit your systems and records relating to the use of the Software and Equipment, for the purposes of verifying your compliance with the terms of this agreement.
- (b) You agree to pay within 30 days of written notification any fees applicable to your use of the Products or Software in excess of your rights under this agreement or any Order hereunder. If you do not pay, Catapult may suspend your access to the Software and/or terminate the Order, and you will be required to pay to Catapult the full amount listed in the Order within 30 days of termination. You agree that Catapult is not responsible for any costs incurred by you in co-operating with the audit.

17. Warranties

17.1 Catapult warranties

Catapult represent and warrants to you that:

- (a) no Service, Software or item of Equipment, or the use of any of the foregoing, will result in any unauthorized use of the rights (including IPR) of any person; and
- (b) the Equipment is free from defects in workmanship and manufacture.

17.2 Disclaimer

- (a) **Subject to clause 17.1 and clauses 17.2(b) and 18.2(i), 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 including, without limitation, merchantability and fitness for a particular purpose.**
- (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.
- (c) You agree that:
 - (i) you have not executed or authorized the execution of this agreement in reliance upon any advice, information, or representations, whether oral or written, obtained from Catapult or elsewhere; and



- (ii) no warranty or warranties exists beyond those expressly stated in clause 17.1.
- (d) Catapult does not guarantee that the Products, Software or Services will:
 - (i) be error-free or uninterrupted;
 - (ii) operate with your content or your applications, or with any other hardware, software, systems or data not provided by Catapult; or
 - (iii) meet your requirements, specifications or expectations.
- (e) You acknowledge that Catapult does not control the transfer of data over communications facilities, including the internet and cloud-based services, and that the Software may be subject to limitations, delays, and other problems inherent in the use of such communications facilities. Catapult is not responsible for any delays, delivery failures, or other damage resulting from such problems. Catapult is not responsible for any issues related to the performance, operation or security of the Software that arise from your content, your applications or third party content. Catapult does not make any representation or warranty regarding the reliability, accuracy, completeness, correctness, or usefulness of third party content, and disclaims all liabilities arising from or related to third party content.

18. Indemnities and liability

18.1 Indemnities

- (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**).
- (b) Catapult is not liable to indemnify any persons under clause 18.1(a):
 - (i) unless:
 - A. you notify Catapult as soon as reasonably practicable of a Third Party IP Claim; and
 - B. Catapult has (at its expense) the sole control of the defense of the Third Party IP Claim and all related settlement negotiations; and
 - C. you provide Catapult (at Catapult's expense) with all assistance reasonably requested in connection with conducting the defense or settlement of any Third Party IP Claim; and
 - (ii) to the extent that the Third Party IP Claim was caused by, or contributed to by:
 - A. a modification of the Service, Software or Product the subject of the Third Party IP Claim by a person other than Catapult or its Personnel;
 - B. your use of any Service, Software or Product contrary to the terms of this agreement (including, without limitation, any use after the expiry of, or during a suspension of, this agreement; any use contrary to any Documentation; and any failure to use an Enhancement provided to you);
 - C. your use of any information, design, specification, instruction, software, service, data, hardware, or material not furnished by Catapult; or any such material which is accessible to you within or from the Software but which is furnished by a third party;
 - D. your use of Catapult's trade marks without express written consent to do so; or your use of any Product or Software after Catapult notifies you to discontinue that use due to a Third Party IP Claim;
- (c) Catapult shall not indemnify you for any Third Party IP Claim known to you at the time you enter into an Order or agreement. You must reimburse Catapult for any costs or damages that result from any of the actions listed in this clause 18.1(b)(ii);
- (d) Catapult's liability under this clause 18.1 is not subject to any limit or exclusion of liability under clause 18.2.
- (e) If your use of any of the Software or Products in relation to this agreement is, or in Catapult's opinion is likely to be, enjoined or prohibited due to a Third Party IP Claim (**Injunction**) Catapult may, at its sole option and expense, either:
 - (i) procure for you the right to continue using such Software or Products or under the terms of this agreement; or
 - (ii) replace or modify such Software or Products so that they are non-infringing and substantially equivalent in function to the enjoined Software or Products.
- (f) If options 18.1(e)(i) and 18.1(e)(ii) cannot be accomplished despite Catapult's commercially reasonable efforts, then Catapult may terminate your rights (in part in relation to the affected Software or Products, or in whole), in which case Catapult's obligations regarding the terminated Software and Products will cease and no new fees or charges will be invoiced to you regarding the terminated Software or Products. Catapult agrees to refund you any pre-paid fees for the terminated Software or Products less a pro rata portion for services rendered prior to the date of termination.
- (g) 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 one or more of:
 - (i) where and to the extent that Equipment is procured on a Subscription basis, any loss of or damage to that Equipment;
 - (ii) any breach of clause 4.2(b); and
 - (iii) any action or claim, brought against a Catapult Indemnified Person, arising out of, or in relation to, Catapult's use of the Data, provided that Catapult:
 - A. promptly notifies you in writing of the claim;
 - B. grants you sole control of the defense and settlement of the claim; and
 - C. provides you, at your expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.Your liability under this clause (g) is not subject to any limit or exclusion of liability under clause 18.2.

18.2 Liability

- (a) Except for Catapult's liability under clause 18.1(a), or a breach of clause 13, and to the extent permitted by law and except as otherwise expressly set out in this agreement:
 - (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 by you under that Order; and
 - (ii) a party is not liable to the other party for:
 - A. any special, indirect, incidental or consequential loss or punitive loss or damage;



- B. loss of data, profits, revenue, business, goodwill, bargain, anticipated savings or management time; or
 - C. the cost of procuring substitute products or services arising out of, or in connection with, this agreement or the use or performance of Products, Services or Software.
- (b) whether or not the first party was aware of should have been aware of the possibility of such loss or damage. Catapult's liability under this clause, and the calculation of damages hereunder is limited solely to the Product, Services, or Software from which liability arises and such calculation does not involve the amount paid or payable on any other Products, Services, or Software delivered to you under this agreement.
- (c) Catapult will not be liable for, nor responsible for, any failure in the Catapult Software in any way resulting from or attributable to
- (i) your systems;
 - (ii) unusually high usage volumes;
 - (iii) failures outside of Catapult's facilities, other than vendors used by Catapult to provide the Software;
 - (iv) your, or any third party's, products, services, or software;
 - (v) scheduled maintenance; or
 - (vi) unauthorized access, breach of firewalls or other hacking efforts by third parties.
- (d) As a condition precedent to recovery, claims for loss or damage caused by Catapult must be made in writing by you within 30 days after the loss or damage the subject of the claim.
- (e) You acknowledge that:
- (i) any breach of this agreement, by you, of the kind stated in 20(e)(i) may result in Catapult suffering loss (which includes any damage, liability, action, loss, charge, cost and expense) for which damages would not be an adequate remedy; and if there is a suspected or actual breach of this agreement, Catapult may seek injunctive relief or an order for specific performance;
 - (ii) the parties intend that if such a breach occurs then, for the purposes of determining whether to grant an equitable remedy and/or injunctive relief, any court will assume that such a breach would cause Catapult irreparable harm; and
 - (iii) you agree that upon such breach or threatened breach of any obligation under this agreement, Catapult shall be entitled to seek a temporary restraining order, preliminary injunction, permanent injunction or other injunctive relief, without posting any bond or other security, compelling you to comply with any or all such provisions. This shall not be construed as an election of any remedy or as a waiver of any right available to Catapult under this agreement or the law, including the right to seek damages from you for a breach of any provision of this agreement, nor shall this clause be construed to limit the rights or remedies available under applicable law for any violation of any other provision of this agreement.
- (f) 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:
- (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
 - (ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.
- (g) 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.
- (h) The limitations and exclusions of the liability set out in this clause 18 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.
- (i) 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 subcontractor's) negligence, or for fraud or fraudulent misrepresentation or for any other liability that cannot, as a matter of law, be limited or excluded.
-
- 19. Force majeure**
- (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:
- (i) was not caused or contributed to by that party;
 - (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, and such relief will continue for the duration of that event.
- (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.
-
- 20. Termination**
- (a) Once signed by you, an Order is non-cancellable and the sums paid non-refundable, except as provided under this agreement.
- (b) The Term ends on expiration of the Order or earlier termination of this agreement. After the term which is stated on an Order expires (the **Initial Term**) or any Renewal Term (as defined in this clause) expires, the term of such Order shall automatically renew for a one year period (each a **Renewal Term**) unless one party delivers notice that such party does not wish to extend the applicable Order (**Non-Renewal Notice**). A Non-Renewal Notice must be received by the receiving party no less than 90 calendar days before the beginning of the Renewal Term.
- (c) All Renewal Terms are subject to a five percent increase in fees and charges (**Annual Increase**) for the Products contained in the Order. If a material change is made to the number of Equipment Users, or the scope or nature of the Products, Services, or Software is expanded beyond the relevant Order (each, a **Material Change**), you will pay the amounts due in an invoice, delivered by Catapult, which accounts for the new fees and costs associated with such Material Change.
- (d) Upon termination of this agreement, all licenses provided to you in this agreement immediately terminate, and you shall promptly destroy or recycle the Products, remove the Software from all computers and systems operated by you, and remove and delete all other copies of the Software. You shall also discontinue the use of any other Services or Software provided in relation to this agreement. If requested by Catapult, you shall certify (via an officer of your organization) as to your compliance with this clause 20(d).

- (e) 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:
 - (i) breaches a material term or condition of this agreement (including any of clauses 4, 5, 8, 9, 12, 13, 14, 15, and 21); or
 - (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
 - (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.
- (f) Termination of this agreement, by Catapult, under this clause 20(e) requires you to pay to Catapult the full amount listed in the Order within 30 days of this agreement's termination, and allows Catapult to pursue actions stated in this document and any relevant agreement for such breach.
- (g) The rights and obligations under clauses 13, 14, 18 and 21 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.
- (h) All rights that a party has accrued before the agreement ends continue after expiry or termination.

21. Publicity

- (a) Subject to clause (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.
- (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.

22. Notices

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.

23. General

- (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.
- (b) Any changes to this agreement must be agreed in writing by Catapult and you.
- (c) This agreement is governed by the laws of Victoria, Australia and the parties submit to the jurisdiction of the courts of Victoria and the Commonwealth of Australia except that:
 - (i) the laws of the Commonwealth of Massachusetts apply, and the parties submit to the jurisdiction of the courts of the Commonwealth of Massachusetts, where the Catapult Group Company under the Order is Catapult Sports LLC;

- (ii) the laws of England and Wales apply, and the parties submit to the jurisdiction of the courts of England, where you are incorporated in the United Kingdom or any member state of the European Union; and
- (iii) the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- (d) The parties waive a trial by jury of any or all issues arising in any action or proceeding between the parties (or their successors), under or connected with this agreement, or any of its provisions. In any action or proceeding to enforce or interpret this agreement, the prevailing party will be entitled to recover from the other party the prevailing party's costs and expenses (including reasonable legal fees) incurred in connection with such action or proceeding and enforcing any judgment, order, or result thereby obtained.
- (e) Each party irrevocably waives any right they may have to serve as a representative or as a private attorney general, or to participate as a member of a class of claimants, in any lawsuit, arbitration or other proceeding against any party arising from, related to, or connected with this agreement.
- (f) 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 under applicable laws.
- (g) 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.
- (h) 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.
- (i) Unless context requires otherwise, an obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.
- (j) This agreement must not be construed adversely to a party just because that party prepared it or caused it to be prepared. Each party acknowledges and agrees that they have read and understand the terms of this agreement, or that they have had the opportunity to discuss the terms of this agreement with their legal representative.
- (k) 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.
- (l) 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.
- (m) A consent required under this agreement from Catapult may be given or withheld, or may be given subject to any conditions, in Catapult's discretion).
- (n) You shall obtain at your sole expense any rights and consents from third parties necessary for the Data, your applications, and Third Party Content, as well as other vendor's products provided by you that you use with the Software, including such rights and consents as necessary for Catapult to provide the Software under this agreement.
- (o) You must not sell, transfer, delegate, assign, license 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.

- (p) 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.
- (q) Unless context requires otherwise, a reference to:
- (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a party includes its successors and permitted assigns;
 - (iii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iv) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
 - (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;
 - (vi) words 'such as', 'including', 'particularly' and similar expressions are not used as nor are intended to be interpreted as words of limitation;
 - (vii) a document includes all amendments or supplements to, or replacements of, that document;
 - (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.
- (r) Clause headings are for convenience only and do not modify or affect the meaning of any provision in, nor serve as the basis for interpretation or construction of, this agreement. A reference to a clause in this agreement is interpreted to include any subsections thereunder.
- (s) This agreement may be executed in any number of counterparts, each of which, when executed, is an original. Those counterparts together make one instrument.

24. Definitions

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

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.

Beta Services means Catapult services or functionality, that may be made available to you to try at your election, which is designated as beta, pilot, limited release, developer preview, non-production, evaluation, or by a similar description.

Catapult means the relevant Catapult entity specified in the Order.

Catapult Group means Catapult and its Affiliates.

Catapult Group Company means a member of the Catapult Group.

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.

Commencement Date means the date so specified in the Order.

Commercialize includes to sell, transfer, assign, distribute, display, host, outsource, disclose, re-sell, use for the benefit of a third party, or commercialize in any other way.

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:

- (a) at the time it was first disclosed to a party, already in the recipient's lawful possession;
- (b) developed independently by the recipient; or
- (c) was disclosed to the recipient by a third party entitled to disclose it.

Data means all data and information about or relating to you, users of the Equipment and Software, or your use of the Equipment, Software and Services, including that which is entered into, stored in, generated by or processed by the Software as well as any biometric and athlete performance-related and capability-related data.

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.

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

Enhancements mean patches, fixes or updates of the Local Software made generally available by Catapult to paid-up subscribers of the Local Software at no additional cost.

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

End User means only your players, members of your coaching staff, scouting staff and team officials.

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

EULA has the meaning given in clause 5.1(e).

Fee means an amount payable in accordance with clause 10.

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

Indemnified Loss means (i) the Loss; plus (ii) any amounts payable under clause 10(d); 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).

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.

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.

Non-Excludable Provision has the meaning in clause 18.2(f)



Order means an order form for one or more of Products, Software, 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.

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.

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).

Pre-Paid Purchase has the meaning given in clause 1.3(a)(i).

Products means any means any items provided to you by Catapult which are not Software, including Equipment and Accessories.

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.

Separate Terms means, in relation to Separately Licensed Third Party Technology and Third Party Content, any terms and conditions not specified in this agreement which apply to those respective items.

Services means:

- (a) the training services (if any) set out in the Order; and
- (b) the Software Maintenance Services.

Software means the Local Software and the Cloud Services.

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

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

Taxes has the meaning in clause 10(c).

Term has the meaning given in clause 2.

Third Party Content means content provided by third parties that is used directly or indirectly by Catapult in providing, or required by Catapult to be used by you in using or accessing, the Products, Software or Services, under this agreement.

Third Party IP Claim has the meaning given in clause 18.1(a).

Third Party Technology means any third party technology that is used directly or indirectly by Catapult in providing, or required by Catapult to be used by you in using or accessing, the Products, Software or Services, under this agreement.

VAT means any tax levied by reference to added value or sales, including (a) within Australia, 'GST' as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth); (b) within the United Kingdom, 'VAT' as defined in the *Value Added Tax Act 1994*; and (c) within the European Union, such tax as may be levied in accordance with (but subject to derogations from) the *Directive 2006/112/EC*; and (d) any similar or equivalent tax in any other jurisdiction.

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

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

Appendix A - Software Maintenance Services

1. Catapult Support

- (a) Catapult will use its reasonable endeavors 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**).
- (b) For Customers who have the 'Platinum Support Package (Add on)' specified in the Order, Catapult will use its reasonable

endeavors to operate and maintain Catapult Support 24 hours, 7 days a week, 365 days a year.

- (c) You may contact Catapult Support:
 - (i) by phone on +44 0113 426 0128 (EMEA), +61 3 9095 8410 (APAC) or +1 312 762 5332 (Americas); or
 - (ii) by email on APAC_Support@catapultsports.com (APAC), EMEA_Support@catapultsports.com (EMEA) or US_Support@catapultsports.com (Americas).
- (d) 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 Support. If, for any reason, Catapult is unable to respond to a help desk notification during the Hours of Service, Catapult will use its reasonable endeavors to respond to such message following the recommencement of the Hours of Service.
- (e) Catapult will use its reasonable endeavors to respond to messages received by Catapult Support outside of the Hours of Service following the recommencement of the Hours of Service.

2. Support Requests

2.1 Troubleshooting

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

2.2 Qualified Employees

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.

2.3 Catapult Response

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:

- (a) an outline of the problem;
- (b) the proposed corrective action; and
- (c) to the extent possible, the proposed timeframe for performing such corrective action.

3. Excluded Services

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

- (a) any maintenance services in respect of superseded versions of the Software;
- (b) correction of errors caused by operation of the Software in a manner other than that expressly authorized by this agreement or the Documentation;
- (c) consulting and training services;
- (d) making changes to the Software designed to provide functionality not specified in the Documentation or this agreement;
- (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



(f) maintenance of any computers, hardware, software, networks and other equipment and services necessary to access and make use of the Software.

4. Definitions

Catapult Support means the support service described in clause 1(a) and 1(b) of Appendix A.

Excluded Services means those services described in clause 3 of Appendix A.

Hours of Service has the meaning given in clause 1(a) of Appendix A.