

www.catchaprobe.com

MASTER SUBSCRIPTION AGREEMENT



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CATCH-PROBE™

CATCHPROBE MASTER SUBSCRIPTION AGREEMENT

This Catchprobe Master Subscription Agreement ("MSA") is between Catchprobe, Inc. ("Catchprobe") and the customer ("Customer") who accepts this MSA, or someone acting under the authority (as defined below). This MSA governs Customer's subscription to the Solutions and constitutes a binding contract in accordance with any paid or Evaluation use of the Solutions.

This is a legal, enforceable contract between Customer and Catchprobe, and by executing this MSA, and where it is not possible to execute the "Log in" button below the Solutions, or otherwise indicating Customer's consent to the MSA electronically or through means or use other Solutions (and such other electronic use), Customer expressly agrees to becoming a User(s) if Customer is entering this MSA on behalf of another entity or person; Customer hereby represents to Catchprobe that Customer has the authority to bind Customer and its affiliates or affiliates through such consent or use other Solutions; if Customer does not have such authority, or if Customer does not agree to this MSA, Customer may not subscribe to or use the Solutions; Catchprobe may amend this MSA from time to time in its sole discretion, in which case the new MSA will supersede prior versions. Customer's continued use of the Solutions following the posting of updated terms of the MSA means that Customer accepts and agrees to the changes.

Catchprobe hereby warrants that the information provided in the terms when obtained through the MSA, that it is accurate as Customer is sometimes described in this MSA as a "Party" and together, "Parties" which the Parties agree as follows:

1. Definitions

1.1. "Affiliate(s)" means any entity that directly, or indirectly through intermediaries,

controls, is controlled by, or is under common control with a Party, the foregoing shall be Customer's liability to pay the fee for the Solutions as stated in the applicable Solutions Addendum for Customer's Affiliates, provided that Customer agrees to remain fully responsible and indemnify the MSSA for Customer's Affiliate's use of the Solutions.

1.2 "Confidential Information" means all information disclosed (whether orally, written, or otherwise) in tangible form by one Party (the "Disclosing Party") to the other Party (the "Receiving Party") concerning or related to the MSSA or the Disclosing Party that is marked as confidential or proprietary, or that the Disclosing Party knows or reasonably should know is confidential information of the Disclosing Party given the facts and circumstances surrounding the disclosure of the information by the Disclosing Party. Confidential information includes, but is not limited to, this MSSA, proprietary and/or non-public technical, business, commercial, financial and/or legal information, such as, without limitation, any and all business information (generally shared with customers and/or specifically related to customers), customer information gained by Customer through use of the Solutions, business plans, product information, pricing, financial plans, know-how, Customer information, strategies, and other similar information.

1.3 "Current Release" means the most recent release of the Solutions.

1.4 "Customer Data" means all data and information associated with Customer, which is proprietary, collected, processed, generated, and/or stored within the Solutions by Customer or through Customer's use of the Solutions or provided in support tickets, but not including System Data.

1.5 "Documentation" means Cambridge's non-confidential documentation such as technical user guides, installation instructions, articles or similar documentation specifying the functionalities of the Solutions and/or made available by Cambridge to Customer as specified in the applicable Solutions Addendum.

1.6 "Encumbrances" means any updates, patches, bug fixes and versions to the

Options made by Catalyst and granted to Customer.

1.7. "Evaluation" means for the limited purpose of assessing and testing the Solution for internal evaluation by Customer who is considering purchase of Solution, but without any obligation to enter into any further agreement.

1.8. "Intellectual Property Rights" means all patents, copyrights, moral rights, trademarks, trade secrets and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing.

1.9. "Purchase Order" means a document specifying and concluded among Customer and Catalyst that references a Quote covering Customer's subscription to the specified Solution or an Evaluation offering.

1.10. "Partner" means an authorized Catalyst partner such as a reseller.

1.11. "Personal Data" means any Customer Data that relates to an identified or identifiable natural person or (household).

1.12. "Service" means a suite from Catalyst and/or third parties, Catalyst services, and/or other Catalyst services.

1.13. "Restrictions" means the restrictions in Customer's license use Solution as stated in the License Restrictions section in the applicable Solution Addendum.

1.14. "Catalyst" means Catalyst Intelligence Technologies Corporation.

1.15. "Site" means Catalyst's website at www.catalystiq.com if included in the relevant Solution subscription.

1.16. "Solution(s)" means the products and services offered by Catalyst.

1.17. "Solution Addendum" means the addendum specific to the Solution that Customer subscribes to under a Purchase Order.

1.18. "Special Information" means sensitive Personal Data or other information requiring additional protection under applicable laws.

1.19. "Subscription Term" means the license term of the Solution as specified in a Purchase Order.

1.20. "System Data" means data derived from the Solution including

without creating aggregate statistics, use performance and bug reports, any threat or potential threat indicators collected by the Solutions, and/or system related information (including without limitation sensitive and/or confidential data) and other information about Customer's use of Solutions as generated by the Solutions.

1.11. "Third Party Product" means third party products, operations, services, software, networks or other systems or information sources that link to the Solutions through Catalyst's open APIs.

1.12. "Third Party Service" means a third party that manages the installation, monitoring and/or operation of the Solutions on Customer's behalf.

2. License of the Solutions

2.1 License. Customer's rights use Solutions is limited to the specific Solutions it subscribes to under a Purchase Order and subject to the applicable license and/or of the applicable Solutions Addendum. Subject to the terms of this EULA, Customer hereby grants to Catalyst (sole, exclusive, non-transferable, worldwide, royalty-free right during an initial subscription term (as determined in Section 3.1) to use, copy, store, transmit, modify, create derivative works of) and display the Customer Data solely for the extent necessary to provide the applicable Solutions to Customer.

2.2 Documentation. All use of the Solutions shall be in accordance with the then-current Documentation.

2.3 Third Party Products. If Customer desires to create, store or use other Services (including Third Party Products) that integrate directly to Customer's instance of the Solutions, Catalyst and Catalyst's downstream, affiliate and/or reseller does not create such Third Party Products and Catalyst's downstream or designated third party partner, approved, recommended or otherwise provided by third party that is a member of a Catalyst partner program (Customer's review and accept such Third Party Products governing the terms of such Third Party Products, and Catalyst's downstream is not responsible or liable for, and makes no representations or warranties about Third Party Products, including, without limitation their content or

transmission or shuttling funds data in any transaction between Customer and the provider of such Third Party Products, or any damage or loss caused or alleged to be caused by or in connection with Customer's endorsement, access or use of any such Third Party Products. Customer retains exclusive rights to or rights in such Third Party Products on their respective websites. By creating any Third Party Products, Customer expressly permits Hyperion to store Customer's login as well as Customer Data in such Third Party Products as necessary to facilitate Customer's endorsement and use of such Third Party Products.

3.4 Third Party Service. If Customer entered into agreement with a Third Party Service for a Third Party Service that Customer may allow such Third Party Service to use the Solutions provided that (i) as between the Parties, Customer remains responsible for compliance with this EULA; (ii) such Third Party Service only uses the Solutions for Customer's internal purposes and not for the benefit of any individuals or the Third Party Service; and agreed to the EULA in providing services to Customer; and (iii) Customer retains sole and complete control over Third Party Service's use of the Solutions on Customer's behalf.

4. Evaluations, Early Adoption and Beta Use

4.1 Early Adoption or Beta Use. If Customer is invited to and agrees to participate in Hyperion's Early Adoption Program or Beta Program, Customer acknowledges that Early Adoption or Beta versions of the Solutions are pre-release versions of the Solutions and as such may contain errors, bugs, or other defects. Accordingly, Customer's use, evaluation of the Early Adoption and/or Beta versions of the Solutions is subject to the disclaimer stated in Section 5.4 (DISCLAIMER OF WARRANTIES AND LIABILITY). Additionally, Customer's use of Early Adoption and/or Beta versions of the Solutions is subject to Hyperion's sole discretion as to length and scope of use, updates and support of such Early Adoption or Beta versions of the Solutions.

4.2 (DISCLAIMER OF WARRANTIES AND LIABILITY) DURING EVALUATION OR EARLY ADOPTION OR BETA USE OF THE SOLUTIONS, THE SOLUTIONS ARE

(OFFERED) ON A "AS IS" BASIS, WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, OR THOSE ARISING BY LAW. STATEFUL BENCH OF TRADE OR COURSE-OF-DEALING. CUSTOMER ASSUMES ALL RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOLUTIONS AND ACKNOWLEDGES THAT THE USE OF THE SOLUTIONS, TO THE EXTENT APPLICABLE, MUST BE MADE IN STRICT CONFORMANCE WITH Catchpore's INSTRUCTIONS. WITHOUT DEROGATING FROM THE FOREGOING, IT IS UNDERSTOOD AND AGREED THAT CATCHPORE WILL NOT BE LIABLE FOR ANY NETWORK DOWNTIME, SOLUTIONS DOWNTIME, LARGER SYSTEMS ISSUES, OR VULNERABILITIES IN THE SOLUTIONS. FOR ALL EVALUATIONS, OR EARLY ADOPTION OR BETA USE OF THE SOLUTIONS, CATCHPORE SHALL HAVE NO LIABILITY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY FOR ANY DIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (WHATEVER), INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFIT, LOSS OF CREDIT-CARD, LOSS OF PROGRAMS OR INFORMATION OR OTHER MATERIAL LOSS ARISING OUT OF THE USE OF OR THE INABILITY TO USE THE SOLUTIONS, OR INFORMATION, OR ANY PERMANENT OR TEMPORARY DESTRUCTION OF THE SOLUTIONS OR ACCESS TO INFORMATION, OR THE DELETION OR CORRUPTION OF ANY CONTENT OR INFORMATION, OR THE FAILURE TO STORE ANY CONTENT OR INFORMATION OR OTHER COMMERCIAL OR ECONOMIC LOSS, HOWEVER CAUSED AND WHATEVER OF THE THEORY OF LIABILITY CONTRACT, TORT OR OTHERWISE, EVEN IF CATCHPORE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR THAT THEY ARE FORESEEABLE. CATCHPORE IS ALSO NOT RESPONSIBLE FOR CLAIMS BY ANY THIRD PARTY. SINCE THE SOLUTIONS ARE PROVIDED FREE OF CHARGE FOR EVALUATION, EARLY ADOPTION OR

being provided shall (a) neither disavow nor waive liability to Customer shall not exceed as this, in jurisdictions where the exclusion or limitation of liability for consequential, or incidental, damages is not allowed the liability of Catchphrase shall be limited to the greatest extent permitted by law. The foregoing limitation of liability shall not apply to the matters described under Section T (Confidentiality) herein.

4. Ownership and Reservation of Rights.

4.1. Customer, its successors and assigns, shall reserve all right, title and interest in and to Customer Data and all intellectual property rights embodied in Customer Data.

4.2. Catchphrase, its successors and assigns, shall reserve all right, title and interest in and to the Solutions (and any and all modifications from derivative works of the Solutions, Documentation, System Data and any and all intellectual property rights embodied in each), and its Reservation of Rights. Each Party reserves all rights not expressly granted in this MSA, and no license are granted by one Party to the other Party under this MSA, whether by implication, estoppel or otherwise, except as expressly set forth in this MSA.

5. Billing, Fees, Installations and Payments.

5.1. Agree, That for the Solutions whether authorized or not, there shall Purchase Order ("POs"). All fees are due payable to the applicable Parties according to the applicable valid Purchase Order. If Customer's payment of Fees is not due or delivered to the Parties and Customer fails to cure the POs after receipt of correspondence relative to status of such delinquency, then such nonpayment will be considered a material breach by Customer of this MSA and in addition to Catchphrase's other remedies, Catchphrase may suspend Customer's access to the Solutions. No refunds or credits for past fees authorized to Customer shall be made if no such

10. **Termination.** 10.1 **Effects of Termination.** 10.2 **Effects of Termination.**

10.1 **Subscriptions/Usage.** Subject to availability, Customer's usage of the Solution exceeds the usage purchased under an Existing Purchase Order (a "True-Up"). Customer has the right to receive the additional Product for the incremental time associated with each True-Up on an as-available basis at the price then in effect at the Existing Purchase Order for the remaining portion of such Subscription Term under (a) the charges for usage for the relevant period at the prices then unspecified in the Existing Purchase Order. (An refund or credit for paid fees will be issued to Customer, except as noted otherwise in Section 10.2 -Effects of Termination. "Existing Purchase Order" means the purchase order for the current Subscription Term.

10.2 **Term.** The Parties agree that neither shall have any obligations towards the other and all its matters are handled between each Party and the Parties. The foregoing shall apply with respect to charges to purchase Order placed by Customer and a Partner specifying different terms for the payments, the liability, or indemnification obligations relating such liability.

11. Privacy and Security

11.1 **Processing Activities and Security Controls.** In providing Customer the Solution, Calixton will (a) store, process and access Customer Data only to the extent reasonably necessary to provide Customer the Solution and to create/operate Data to improve the Solution; and (b) implement and maintain commercially reasonable technical, physical and organizational measures to protect the security, confidentiality and integrity of Customer Data hosted by Calixton or Calixton's authorized third party service providers that encompass access, use, retention or disclosure.

11.2 **Data Privacy.** To the extent Customer Data includes Personal Data, Calixton will process Personal Data in accordance with the DPA in compliance with applicable laws. The Parties agree further terms of the Data Protection Addendum ("DPA") form

(d) www.fticonsent.com shall apply to computers processing of such Personal Information. Any use of Special Information shall be governed by the terms of the Data Protection Addendum. It is agreed that Customer intends to upload or store any Special Information. Customer shall evaluate whether the technical and organizational measures described in the DPA are sufficient to protect special information and/or whether and not upload any Special Information to the Systems if Customer determines that technical and organizational measures are insufficient to protect such Special Information in accordance with applicable laws.

F. Confidentiality

F.1. **Duration.** The Receiving Party will maintain in confidence, during the term of this Agreement for three (3) years following the effective date of termination of this Office, the Confidential Information, and will not use such Confidential Information except as expressly provided in this MOU (provided that Confidential Information defined as a trade secret under any applicable law shall be maintained in confidence during as it relates to confidentially status under such laws). The Receiving Party will use the same degree of care in protecting the Confidential Information as the Receiving Party uses to protect its own confidential and proprietary information from unauthorized use or disclosure, but in no event less than reasonable care. Confidential Information will be used by the Receiving Party solely for the purpose of carrying out the Receiving Party's obligations under this Office, and the Receiving Party will only disclose Confidential Information to its directors, officers, employees and/or contractors who have a need to know such Confidential Information in order to perform their duties under this MOU, and if such directors, officers, employees and/or contractors have executed a non-disclosure agreement with the Receiving Party with terms at least as restrictive as the non-disclosure obligations contained in this Section. F.2. **Provided, however,** that each Party may disclose the terms and conditions of this MOU: (i) to legal counsel or outside counsel; (ii) to such Party's accountants, banks, financing sources and their advisors; (iii) in connection with the enforcement of this MOU or right under

the *Order*, or (c) in connection with an actual proposed merger, acquisition, or similar transaction.

12. Exclusions. Confidential Information will not include information that (i) is or enters the public domain without breach of the *Order* through no fault of the Disclosing Party, or the Receiving Party, or someone who lawfully obtained such information prior to first disclosure to the Disclosing Party, (ii) the Receiving Party can demonstrate was developed by the Receiving Party independently, and without access or reference to the Confidential Information, or (iii) the Receiving Party receives from a third party without restriction on disclosure and without breach of such third party's confidential obligations in writing, the Receiving Party may disclose Confidential Information that is required to be disclosed by a judicial judgment or order issued by a court of competent jurisdiction (such as a Court Order), and where such Court Order is relevant the Receiving Party shall: (a) give the Disclosing Party written notice of the Order within 30 days after receiving it, and (b) cooperate fully with the Disclosing Party before disclosure to provide the Disclosing Party with the opportunity to propose any objections to any such disclosure of the information required by the Court Order and seek injunctive relief or other appropriate relief in court in any dispute between the Parties as to whether specific information is within and/or outside the exclusionary provisions of Section 2.1. Receiving Party warrants the further stated, in-text and covering materials, that such information is within the stated exception.

13. Remedies. The Receiving Party acknowledges that any unauthorized disclosure of Confidential Information will result in irreparable injury to the Disclosing Party, which injury could not be adequately compensated by the payment of money damages. In addition to any other legal remedies available to the Disclosing Party, the Disclosing Party will be entitled to seek and obtain injunctive relief against any breach or threatened breach by the Receiving Party of its confidentiality obligations hereunder, from any court of competent jurisdiction, without being required to show any actual

damage or irreparable harm, preservation of integrity of its legal remedies, or pecuniary loss or other injury.

8. Representations, Warranties and Remedies.

8.1 Substantive Representations and Warranties. Each Party represents and warrants the following: (i) its entity existing under and operating under the laws of its place of its establishment or incorporation; (ii) it has full corporate power and authority to execute, deliver and perform its obligations under this RMA; (iii) its person signing this RMA on its behalf has been duly authorized and empowered to enter into this RMA; (iv) the RMA is not a fraudulent, tortious or otherwise illegal transaction or otherwise voidable; (v) it shall deliver (as to its subsidiary) and operate (as to Customer) the Solutions in material conformity with the Documentation and the terms herein; and (vi) it will perform its obligations under this RMA in accordance with applicable federal or state laws or regulations. To the extent Customer Data is provided by Customer to the Solutions (if provided there), which includes but is not limited to where Customer has entered an integration to send Customer Data to the Solutions (as approved in data collection by Catalyst under provision of Solutions), the Customer warrants that it has sufficient rights for use of the Solutions Data and that the the Solutions Data does not include on the intellectual property, privacy or other right and third party claims or exposures for or against identity, information or content or violation of consumer and data protection laws.

8.2 Conformity with Documentation. Catalyst warrants that at any point in time during Customer's Subscription Term, the Current Release will substantially conform in all material respects with the Documentation. Catalyst's sole obligation for material non-conformity with this warranty shall be, in Catalyst's sole discretion, to use commercially reasonable efforts: (i) to provide Customer with an error correction or replacement to the reported non-conformity; (ii) to replace the non-conforming portion of the Solutions with conforming items; or (iii) if Catalyst reasonably determined cannot provide such remedy within a reasonable period of time, to terminate the

0000 and reformatting Fees pursuant to Section 11.3 (Effects of Terminating).
The above warranty/obligations apply (a) if the Solutions are not used in compliance with
the Documentation, (b) if any unauthorized modifications are made to the Solutions by
Customer or any third party, (c) if one of the terms of the Solutions that are not the
current version of the Solutions is used without any agreement to the current version,
(d) in default due to accident, abuse or improper usage by Customer, or (e) in violation
of the Terms, Conditions, and/or the Solutions.

4.3 DISCLAIMER, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 4, EACH PARTY DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES (WHETHER OR NOT WRITTEN OR ORAL) IN WRITING WITH RESPECT TO THE ISSU AND THE SOLUTIONS, WHETHER ALLEGED TO ARISE BY OPERATION OF LAW, STATUTE, CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING OR OTHERWISE, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT SUCH PARTY KNOWS, HAS REASON TO KNOW HAS BEEN ADVISED, OR IS OTHERWISE AWARE OF ANY SUCH PURPOSES, WORKPACT, NON-INFRINGEMENT, CONDITION OF TITLE. THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF ANY EXPRESS WARRANTY FORMS PLACE OF INCIDENTAL PURPOSE (ANY PERSON DOES NOT GUARANTEE OR WARRANT THAT IT WILL FIND, ACQUIRE, DETECT OR IDENTIFY ALL THREATS, VULNERABILITIES, MISTAKES, AND MALICIOUS SOFTWARE, RUSTORS, CONTROL, OF SYSTEMS WHERE UNAUTHORIZED ACCESS OR CONTROL HAS OCCURRED, AND DISTURBANCES OR VIOLATIONS WILL NOT HOLD SUCH PERSON RESPONSIBLE FOR SUCH OR ANY CONSEQUENCES THEREOF.

8.1. Relationship-Integrity. Customers will identify Customer and Customer's
 specific roles, responsibilities, and/or authority in the relationship.

(Customer Indemnities) from and against any and all third parties, suits, claims or proceedings (each a "Claim") relating to the Customer's use of the Solutions offered or made available to the Customer's end Intellectual Property Right. Catalystone will indemnification obligations under the period it is that the third party claimant will, it is required, defend any suit (claim or reason it Customer's use of the Solutions as permitted hereunder, and pay damages, payments, settlements, fines, judgments, settlements, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorney's fees, costs, penalties, interest and disbursements) that are awarded to a third party pursuant to a judgment or settlement approved by Catalystone in the event the Claim pursuant to the Section 5. Catalystone may, at Catalystone's option and at Catalystone's expense (i) obtain for Customer, the right to continue to exercise the license granted to Customer under this WSA, (ii) substitute the allegedly infringing component for an equivalent non-infringing component, or (iii) modify the Solutions to eliminate the infringing (i) to (ii) on commercially reasonable or commercially reasonable terms. Catalystone may terminate this WSA, after providing Customer a reasonable time (no less than 30 days) to transition to an alternative solution, unless Catalystone determines in its reasonable discretion that such use of the Solutions will not require such termination and such case may terminate this WSA effective immediately with no further notice to Customer. In the event of a termination of this WSA pursuant to this Section 5, all rights and licenses with respect to the Solutions will immediately cease and Catalystone will refund to Customer all unpaid Fees for the Solutions attributable to the Subscription Term (as outlined in the applicable invoice(s) prior) following the termination of this WSA. Catalystone's indemnification obligations do not extend to claims arising from a violation of (i) any applicable or official intellectual of any Customer Indemnities, (ii) any combination of the Solutions (or any portion thereof) or any Customer Indemnities or any third party with any equipment, software, data or any other materials where the infringement would not have occurred but for such combination, unless such combination is the

customer, ordinary, and immediate of the Solution); (e) any modification to the Solution by any Customer (Indemnitor or any Third Party) where the Indemnitor would not have incurred the said modification (all the use of the Solution by the Customer (Indemnitor or any Third Party) is made subject to the terms and conditions that govern the intellectual property rights associated to the Solution); or (f) the continued use of the Solution after Castigalia has provided a substantially equivalent non-infringing solution or service.

8.1 **Customer/Indemnitor.** Customer, or its sole owners, will indemnify Castigalia against directors, officers, employees and agents or other authorized representatives ("Castigalia/Indemnitor"), their and agencies' claims, and liabilities for any related damages, payments, deficiencies, fines, judgments, settlements, liabilities, losses, costs and expenses (including, but not limited to reasonable attorney's fees, costs, penalties, interest and pre-judgmental award) (a) if Customer's use of the Solution infringes the IP; (b) Customer's use of any third party IP; (c) breach or alleged breach of Customer's obligations under Section 1(a) ("Third Party Products"); (d) ("Third Party Service") or the Restrictions; or (e) the failure of Customer's administrators of Customer's account to maintain the confidentiality of their login information (b) or (c) will not.

8.2 **Castigalia.** The indemnifying Party's indemnification obligations under this Section 8 are conditional upon the Indemnified Party (i) giving prompt written notice of the Claim to the indemnifying Party upon the Indemnified Party becoming aware of the Claim (provided that failure to provide prompt written notice to the indemnifying Party will constitute no indemnifying Party's obligations under this Section 8 if the indemnifying associated Party does not materially prejudice or impair the defense of the related Claim); (ii) granting the indemnifying Party the right to take sole control of the defense (including granting the indemnifying Party the right to select and use counsel of its own choosing) and settlement of the Claim (except that the Indemnified Party's prior written approval will be required for any settlement that reasonably can

be required to require an affirmative obligation of the Indemnified Party; and (ii) providing reasonable cooperation to the Indemnifying Party and, at the Indemnifying Party's request and expense, assistance in its defense as reflected in the Data

TO: USER	OF	LIBRARY
13.1. SUBJECT TO ANY (SUCH) LIMITATION ON LIABILITY STATED IN THIS SECTION 13, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE FEE PAID OR PAYABLE BY CUSTOMER TO CATCHPROBE FOR THE APPLICABLE PARTNER FOR A MONTHLY SUBSCRIPTION RATE AT THE TIME OF THE EVENT OR EVENTS LEADING TO THE ALLEGED CAUSE(S).		
13.2. IN THE EVENT OF A BREACH OF SECTION 8 (PRIVACY AND SECURITY) BY CATCHPROBE, OR CATCHPROBE'S LIABILITY RELATIVE TO CUSTOMER DATA, CATCHPROBE'S TOTAL LIABILITY SHALL NOT EXCEED THE FEE PAID OR PAYABLE BY CUSTOMER TO CATCHPROBE FOR THE APPLICABLE PARTNER FOR A MONTHLY SUBSCRIPTION RATE EFFECTIVE AT THE TIME OF THE EVENT OR EVENTS LEADING TO THE ALLEGED CAUSE(S). 13.3. THE LIMITATION ON LIABILITY IN SECTIONS 13.1 AND 13.2 SHALL NOT APPLY TO BREACHES OF THE RESTRICTIONS SECTION 1 (COMPROMISES) (Breach(s) of Catchprobe's liability relative to customer data) OR TO SUCH PARTY'S REPRESENTATION OR ADOPTION UNDER SECTIONS 8.1 AND		
13.4. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF DATA, ANY INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF, OR IN CONNECTION WITH THIS AEA, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF IS		

OTHERWISE JUDGE OF THE PERSISTENCE OF SUCH DAMAGES. MULTIPLE CLAIMS WILL NOT CONSTITUTE A VIOLATION. THIS SECTION SHALL BE GIVEN FULL EFFECT EVEN IF ANY TERM(S) SPECIFIED IN THIS RISA IS DEEMED TO HAVE LOST OR BECOME UNLAWFUL, IRRELEVANT.

10. Term, Termination and Effect of Termination.

10.1. Term. The term of this RISA will begin on the Effective Date and will continue until either Subscription Term(s) completed or until either terminated pursuant to the terms of this MPA. Customer's subscription(s) and Solutions selected as indicated on the first purchase order to each Solution (the "first Subscription Term") and thereafter the Solution subscription shall consist of additional purchases/purchases deemed to begin on the initial Subscription Term ("Renewed Subscription Term" and collectively, "Subscription Term"). Unless either Party notifies the other (writing or text message) 30 days prior to the start of the then-current term of Renewed Subscription Term of its intention not to renew, this RISA and all applicable subscription(s) or a specific Solution subscription and its corresponding Subscription Term may also (i) be terminated in accordance with Section 11.2 below, or (ii) be terminated/Cancelled in accordance with Section 11.1 (independent indemnity).

10.2. Termination. In addition to Customer's right to terminate this RISA and all Solution subscription(s) or the applicable Solution subscription and its corresponding Subscription Term pursuant to Section 11.1 (independent indemnity), either Party may terminate this RISA, and all Solution subscription(s) or the applicable Solution subscription and its corresponding Subscription Term, for cause, when either Party (i) materially breaches this RISA (including an applicable Solution Agreement) and does not cure such breach within either Party (b)(i) days after its receipt of written notice of such breach, or (ii) becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to direct or indirect insolvency, receivership or similar authority. Additionally, Customer may terminate this MPA and all Solution subscription(s) or a specific Solution subscription and its corresponding Subscription Term immediately for cause

by providing consent notice to Customer. Customer believes that Customer is using the Solutions in any unauthorized manner likely to cause harm to CatalystBio.

the Solutions or the First Party.

11.5. **Termination or expiration of the WPA and license termination.** (a) all rights and licenses granted to Customer under the WPA and any applicable Solutions, including, but not limited to, (i) all of CatalystBio's obligations under the WPA and any applicable Solutions (including, but not limited to, the obligation to provide support) will immediately cease; (ii) there will be no refund for any pre-paid and unused fees as of the termination date (except where Customer terminates this WPA under Section 11.2 (Termination due to CatalystBio's material breach) where CatalystBio terminates the WPA under Section 11.2 (Continued with Documentation) or 11.3 (Indemnified Parties), in which case any refunds that be due a pro-rata term for any remaining unexpired term of subscription will then such termination; and Customer will immediately pay CatalystBio any Fees due and payable under the WPA as of the termination date; (c) upon receipt of notice required from the Disclosing Party, the Receiving Party will comply with the Disclosing Party all Confidential Information and the Receiving Party shall immediately delete all copies of such Confidential Information, as the Disclosing Party may instruct and destroy; (d) Customer will immediately cease all use of the Solutions and destroy and/or permanently delete all copies of any components of the Solutions in Customer's possession; and (e) Customer will delete the Solutions collectively, including after termination of the WPA or any applicable Solutions, and, upon Customer's request, provide written confirmation of such deletion. CatalystBio reserves the right to investigate suspected violations of Customer's obligations under Sections 11.3(c) and 11.3(e) herein. Customer will immediately confirm in writing that it has complied with these Sections 11.3(c) and 11.3(e) of CatalystBio's request. Notwithstanding any term to the contrary in the WPA, the Restatement and Section 11.3(c) and 11.3(e)

affiliates, Software and Services, 7 (Confidentiality), 8 (Indemnification/Obligations), 10 (Limitation of Liability), 11 (Method of Termination) and 12 (General Provisions) will survive any termination of this MSA.

10. General

Proprietary.

10.1. Entire Agreement. This letter, together with all notices attached thereto (all of which are incorporated herein by reference), sets forth the entire agreement and understanding of the Parties relating to Customer's subscription to the Solution, and the Parties hereby expressly agree that this MSA constitutes all prior or contemporaneous promises or actualy or contingently in agreements, proposals, negotiations, conversations, discussions and/or understandings, whether written or oral, with respect to such subject matter and all past dealing or industry customs (including without limitation any memorandum agreement among the Parties relating to the prior use of the Solution, any Order or Purchase Order or any similar agreement among the parties in connection with Customer's consideration and/or execution of the Solution), including only any written agreement executed by California, expressly referencing this MSA, and only to the extent expressly superseding specific terms in this MSA. In the event of conflict, the terms in the applicable Solution Addendum shall supersede and take precedence over the terms:

to

the

offer.

10.2. Independent Contractors. Neither Party will, for any purpose, be deemed to be an agent, franchisee, franchise, employee, representative, owner or partner with the other Party, and the relationship between the Parties will only be that of independent contractors. Neither Party will have any right or authority to recruit or create the appearance or make any representation or statement on behalf of any other Party, whether express or implied, or to bind the other Party in any respect whatsoever.

10.3. Governing Law and Venue. This MSA will be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law principles. The state shall constitute permanently established to the jurisdiction

in which any individual is Sanctioned under this Act. Prior to the filing of litigation arising under or proceeding relating to this RMA, the Parties participate in good faith mediation in Santa Clara County, California (except on issues or proceedings required to protect or enforce either's intellectual property rights). The Parties release and waive any and all claims, demands, damages, losses, costs, expenses, attorney's fees, and costs for claims arising out of this Act.

12.4 Publicity Customer agrees that Catalyst may reference and use Customer's name and trademarks in Catalyst-related and promotional materials, including, but not limited to, the Site, solely for purposes of identifying customer participation customer. Customer neither Party may use the trade names, trademarks, service marks, or logo of the other Party without the express written consent of the other Party.

12.5 Assignment Neither this RMA nor any part or parts under this RMA may be transferred, assigned, subleased, or otherwise, by operation of law or otherwise, without the prior written consent of the other Party and such consent shall be unconditionally obligated to the other Party. Any attempted transfer, assignment or delegation without such consent will be voided without effect. Notwithstanding the foregoing, each Party may assign this RMA to a successor or successors of all or part of its assets, whether by merger, sale of assets, sale of stock, sale of assets, reorganization or otherwise, with written notice to the other Party provided that such successor in interest agrees to assume all of the assigning Party's obligations under this RMA. Subject to the foregoing, this RMA and all underlying agreements will survive the termination of the Parties and their respective representatives, heirs, administrators, successors, permitted assigns.

12.6 Export Controls The Software and Catalyst Software or other components of the Software which Catalyst may provide or make available to Customer used by Customer are and are subject to U.S. export control and economic sanctions laws including the Export Administration Regulations and Trade and

economic sanctions imposed by Office of Foreign Asset Control (OFAC). Customer agrees not to violate such laws and regulations as they relate to Customer's business and use of the Solution. Customer shall not disclose or use the Solution if Customer is knowingly located in a jurisdiction where operation is prohibited under U.S. or other applicable laws or regulations, currently laws, past restrictions, future, and the Solution is of the Solution is "Prohibited Jurisdiction", and Customer agrees not to permit access to the Solution to any government, entity or individual located in any Prohibited Jurisdiction, for the period or with territory included in the Specially Designated Nationals and Blocked Persons List or the Consolidated Sanctions administered by OFAC ("Prohibited Person") or otherwise violation of any U.S. or other applicable export embargoes, prohibitions or restrictions. Customer agrees to comply with all applicable laws regarding the transmission of technology exported from the U.S. and the country in which Customer and users are located. Customer represents that, to the best of Customer's knowledge, neither Customer nor any of Customer's affiliates is an entity that joins, or is directly or indirectly owned or controlled by, any person or entity currently included on the Specially Designated Nationals and Blocked Persons List, or the Consolidated Sanctions List maintained by OFAC, or is a U.S. or is directly or indirectly owned or controlled by, any Prohibited Jurisdiction.

14.7. Grant of License Notwithstanding the modification, addition or deletion, or waiver of any rights under this EULA with respect to any Party unless made in a written agreement executed by a duly authorized representative of each Party, provided that the foregoing shall not preclude the binding effect of any modifications to the EULA by Customer when solely when newly added (other than updates, features and services, or modifications which augment Customer's rights under this EULA. Notwithstanding (a) whole or (b) part) or in part of a Party to exercise any right or remedy hereunder will operate as creation thereof or affect any other right or remedy, and no waiver of one breach or defect in this EULA concerning any rights will not constitute a waiver of

random, ordered, computer-generated sets of test items constructed using methods as reliable and strong as possible.