

# CASTLEPOINT SYSTEMS

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## Customer Master Terms

### CASTLEPOINT SYSTEMS

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# Customer Master Terms

## Introduction

STLP Consulting Pty Ltd ACN 128 389 408 trading as **Castlepoint Systems** is in the business of developing, commercialising and supporting a compliance, security and discovery management software solution for customers' electronic data and related consulting, technical and support services.

This document (and the other documents referred to below) set out the terms on which Castlepoint will provide its software solutions and related services to its Customers.

Version: 2

Date: December 2025

## Agreement

### 1 Agreement Structure

- 1.1 These Customer Master Terms (**Master Terms**) are issued by STLP Consulting Pty Ltd ACN 128 389 408 trading as Castlepoint Systems of Unit 15, 28-34 Thynne Street, Bruce, ACT, 2617, Australia 2602 (**Castlepoint**).
- 1.2 Details of the Castlepoint products and services, fees, subscription duration, and specific license or subscription terms will be set out in Order Forms issued to the customer organisation identified on the Order Form (**Customer**).
- 1.3 Each time the Customer signs or otherwise accepts an Order Form, it creates a separate binding agreement (**Agreement**) comprising: (a) that Order Form; (b) Schedule/s attached to or referred to in the Order Form; (c) any attachments to the Order Form or Schedule/s (or other Schedules for Castlepoint Professional Services, if provided by Castlepoint); and (d) these Master Terms (as in force at the Order Start Date). If there is a conflict between these documents, the one higher in the list prevails.

### 2 Definitions

**Terms** defined in clause 1 have the meanings set out there. In addition:

**Account** means a unique account established by each Authorised User to access and use the Castlepoint Software subject to the Customer Usage Restrictions.

**Affiliate** in relation to a party, means any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.

**Agreement Term** means the term of each Agreement, as defined in clause 13.1.

**Agreement Year** means each year beginning from the Order Start Date.

**Authorised User** means one individual natural person who is authorised by Customer to set up an Account and use the Castlepoint Software.

**Castlepoint Hosting** means the Castlepoint Software is to be installed and hosted on computing equipment of a third-party outsourcer retained by Castlepoint.

**Castlepoint Indemnified Party** is defined in clause 10.3.

**Castlepoint Professional Services** means services which may be provided by Castlepoint in addition to the Castlepoint Support, such as extra support and maintenance services, integration, consulting, architecture, training, transition, configuration, administration, and similar services, as further described in an Order Form.

**Castlepoint Software** means the Castlepoint software for compliance, security, audit, and discovery management as further described in a Schedule and Order Form.

**Castlepoint Support** means maintenance for the Castlepoint Software, including error corrections, patches and upgrades, as generally released by Castlepoint, and technical and user support as further described in a Schedule and/or Order Form.

**Castlepoint Services** means, collectively, Castlepoint Software, Castlepoint Hosting, Castlepoint Support, and Castlepoint Professional Services.

**Confidential Information** means any information provided by a party or any of its employees, agents, related parties or representatives to the other party or any of its employees, agents, related parties or representatives, or otherwise obtained by that party (whether oral, written or viewed by inspection) which is marked as "proprietary" or "confidential" or similar language or which the recipient knows or reasonably should know is proprietary or confidential. Confidential Information of Castlepoint includes the Castlepoint Software and Documentation, the results of any performance tests of the Castlepoint Software, material developed by Castlepoint as part of Castlepoint Support or Castlepoint Professional Services, and the terms of this Agreement. Confidential Information of the Customer includes Customer Data.

**Customer Data** means any content, materials, data and information (including Customer PI) that Customer or its Authorised Users provide or make accessible to Castlepoint in connection with the provision of the Castlepoint Services or enter into the Castlepoint Software. Customer Data does not include any component of the Castlepoint Software or material provided by or on behalf of Castlepoint.

**Customer Hosting** means the Castlepoint Software is to be installed and hosted on computing equipment of Customer or a third-party outsourcer retained by Customer.

**Customer Indemnified Party** is defined in clause 10.1.

**Customer PI** means Personal Information provided by the Customer or its Authorised Users that Castlepoint has collected, held, used or disclosed in connection with this Agreement.

**Customer Usage Restrictions** means the usage restrictions applicable to the Castlepoint Services (for example, number of Customer networks, sites and/or Authorised Users) as set out in the Order Form.

**Data Breach** means an 'eligible data breach' (as that term is defined in the Privacy Act) that has, or is reasonably expected to have, occurred in respect of any Customer PI.

**Documentation** means documents about the Castlepoint Software as made generally available by Castlepoint from time to time, and may include installation guidelines, specification documents and user guides and other resources provided on a web portal.

**Fees** means the fees payable by the Customer, as described in a Schedule and Order Form.

**Infringement Claim** means a claim by a third party (not being an Affiliate of the Customer) against a Customer Indemnified Party alleging that any part of the Castlepoint Services or the Customer Indemnified Party's use of them as authorised under this Agreement infringes any third party's Intellectual Property Rights.

**Intellectual Property Rights** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs (including in relating semiconductor topography), database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Minimum Term** means the minimum term as set out in the applicable Order Form.

**Order Form** means an order form provided by Castlepoint describing the pricing and options of the Castlepoint Services selected by Customer.

**Order Start Date** means the start date set out in the applicable Order Form.

**Personal Information** means information or an opinion about an identified individual, or an individual who is reasonably identifiable: (a) whether the information is true or not; and (b) whether the information or opinion is recorded in material form or not.

**Privacy Act** means the Privacy Act 1988 (Cth) and the Australian Privacy Principles.

**Schedule** means a schedule describing the service-specific terms and conditions applicable to the Castlepoint Software and Castlepoint Support, Customer Hosting and/or Castlepoint Hosting as referred to in, or attached to, an Order Form.

**Standard Business Hours** means the hours during which Castlepoint provides Castlepoint Support, as set out in an Order Form.

**Taxes** means all taxes, customs duties, levies, imposts, fines or similar governmental assessments, including goods and services taxes (GST), imposed by any jurisdiction and the interest and penalties on them.

### **3 Rights to use the Castlepoint Services**

**3.1 Castlepoint Services.** Castlepoint will provide to Customer the Castlepoint Services as described in the Schedules and Order Forms. The Castlepoint Software will either be: (a) provided with Castlepoint Hosting; or (b) installed on Customer Hosting. In all cases the Customer will receive Castlepoint Support. Castlepoint Professional Services will be provided as and when both parties execute an Order Form.

**3.2 Right to Use.** Subject to the terms of the Agreement, Castlepoint grants to Customer a non-exclusive, non-transferrable right during the Agreement Term to: (a) use the Castlepoint Services; (b) implement, configure, and permit its Authorised Users to access and use the Castlepoint Software; and (c) access and use the Documentation.

**3.3 Use of the Services.** When using the Castlepoint Services, the Customer and its Authorised Users must: (a) use the Castlepoint Services solely for Customer's and its Affiliates' internal business purposes and in accordance with the Customer Usage Restrictions ; (b) use the Castlepoint Services in accordance with the Documentation; and (c) (where Castlepoint Hosting applies) not interfere with or disrupt the integrity, operation, or performance of the Castlepoint Software or the use or enjoyment of it by others.

#### **3.4 Customer systems**

**3.4.1** Customer is responsible for: (a) complying with the minimum hardware and system requirements as set out in a Schedule or the Documentation or notified by Castlepoint from time to time (by giving the Customer reasonable advance notice of any material changes); (b) granting Castlepoint access to the Customer systems; and (c) configuration of Castlepoint logging into Customer's centralised logging systems.

**3.4.2** Customer must give Castlepoint all necessary administrator access, including remote access, to the Customer hosting environment and Castlepoint Software to enable Castlepoint to provide the Castlepoint Support. For this purpose, Castlepoint will comply with the Customer's reasonable IT security policies as notified by the Customer to Castlepoint from time to time, provided that: (a) such policies are consistent with this Agreement; and (b) compliance with such policies does not result in any material increased cost or risk to Castlepoint.

- 3.5 **Restrictions.** Customer shall not, and shall not permit its Authorised Users or others under its control to do the following:
- 3.5.1 license, sub-license, sell, re-sell, rent, lease, transfer, distribute, time share or otherwise make any portion of the Castlepoint Software available for access by third parties (unless expressly authorised by this Agreement);
  - 3.5.2 use the Castlepoint Services to develop or operate products or services which perform the same or similar functions, in competition with the Castlepoint Software;
  - 3.5.3 modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of the Castlepoint Software;
  - 3.5.4 reverse engineer, decompile, disassemble, copy, or otherwise attempt to derive source code or other trade secrets from or about the Castlepoint Software without consent, unless and then only to the extent expressly permitted by applicable law;
  - 3.5.5 use the Castlepoint Services in a way that infringes the rights of a third party, including relating to contract, intellectual property or privacy;
  - 3.5.6 bypass or breach any security device or protection used for or contained in the Castlepoint Software or Documentation;
  - 3.5.7 use the Castlepoint Services to create, use, send, store, or run viruses or other harmful computer code, files, scripts, agents, or other programs, or circumvent or disclose the user authentication or security of the Castlepoint Hosting; or
  - 3.5.8 grant, or purport to grant, any security interest to any third party over the Castlepoint Software.
- 3.6 **Do no harm.** The Customer acknowledges that the Castlepoint Software is a tool designed to help the Customer make better decisions; and that the Customer is responsible for how it uses the Castlepoint Software and the decisions it makes. Accordingly the Customer shall not, and shall not permit its Authorised Users or others under its control, to use the Castlepoint Software in a way which:
- 3.6.1 could lead to personal injury or severe physical or property damage;
  - 3.6.2 could harm human, societal or environmental wellbeing; or
  - 3.6.3 is contrary to:
    - (a) Guidelines or codes for the ethical use of decision-support or artificial intelligence tools as published by an Australian Government body from time to time (including, as at the date of these Master Terms, Australia's Artificial Intelligence Ethics Framework established by the Department of Industry<sup>1</sup>); or
    - (b) Castlepoint's Corporate Social Responsibility Policy, as published by Castlepoint from time to time<sup>2</sup>.
- 3.7 **Authorised Users**
- 3.7.1 An Authorised User must be identified by a unique credential, and two or more persons may not use the Castlepoint Software as the same Authorised User.
  - 3.7.2 If an Authorised User is not an employee of Customer (or an Affiliate), the Customer must ensure the user: (a) is subject to written confidentiality obligations at least as restrictive as

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<sup>1</sup><https://www.industry.gov.au/data-and-publications/australias-artificial-intelligence-ethics-framework/australias-ai-ethics-principles>

<sup>2</sup><https://www.castlepoint.systems/wp-content/uploads/2020/04/Castlepoint-Systems-Corporate-Social-Responsibility-Policy.pdf>

those in this Agreement; and (b) is accessing or using the Castlepoint Software solely to support the internal business purposes of the Customer or its Affiliates.

3.7.3 Customer will ensure that its Affiliates and all Authorised Users comply with all of Customer's obligations under this Agreement, and Customer is responsible for their acts and omissions as though they were those of Customer.

3.7.4 Authorised Users do not have administration rights to the Castlepoint Software, which is administered by Castlepoint.

3.8 **Open-Source Materials.** Castlepoint may incorporate free or open-source material in the Castlepoint Software. Castlepoint is responsible for ensuring that the licence terms of any such free or open-source material do not conflict with the licence for the Castlepoint Software, or otherwise prevent Customer from using the Castlepoint Services in accordance with this Agreement.

## 4 Changes

4.1 **Changes to the Castlepoint Software.** Castlepoint may upgrade, maintain, tune, backup, amend, add or remove features, redesign, improve or otherwise modify the Castlepoint Software from time to time. Castlepoint will not do this in a way that would intentionally cause Authorised Users to lose access to Customer Data or materially decrease the usefulness of the Castlepoint Software. Castlepoint will also modify the Castlepoint Software from time to time by installing error corrections or upgrades as part of Castlepoint Support (including where Customer Hosting applies).

4.2 **Changes to Scope.** Other than changes covered by clause 4.1 (or other change processes described in a Schedule) if either party wishes to change the nature or scope of the Castlepoint Services (such as changing the scope of Castlepoint Professional Services, or changing the Customer Usage Restrictions):

4.2.1 the party requesting the change shall submit to the other party written details of the requested change;

4.2.2 Castlepoint shall, within a reasonable time, give to the Customer a written estimate of: the likely time required to implement the change; any variations to the Fees arising from the change; and any other impact of the change on the terms of this Agreement; and

4.2.3 if the parties agree to proceed with the change, they will sign a written variation (or agree an Order Form) to implement the change (and, if they don't, neither party is bound by the change).

## 5 Ownership

5.1 **Customer Data.** Customer Data processed using the Castlepoint Services is and will remain, as between Customer and Castlepoint, owned by Customer. The Customer also retains Intellectual Property Rights in any written specification or requirements document it gives to Castlepoint.

5.2 **Castlepoint Services.** Castlepoint, its Affiliates, or its licensors own all right, title, and interest in and to any and all Intellectual Property Rights in and to the Castlepoint Software, Documentation, any deliverables, reports or materials created in the course of performing Castlepoint Services and any improvements, modifications, design contributions, or derivative works, and any knowledge or processes related to them and/or provided under this Agreement.

5.3 **Feedback.** Castlepoint encourages Customer to provide suggestions, proposals, ideas, recommendations, or other feedback regarding improvements to Castlepoint Services (**Feedback**). To the extent Customer provides Feedback, Customer grants to Castlepoint a royalty-free, fully paid, sub-licensable, transferable, non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import, and otherwise exploit Feedback (including by incorporation of such feedback into the Castlepoint Services) subject to Castlepoint's obligations under clause 12 to not disclose Customer Data and other Confidential Information.

## 6 Customer Data, Security and Privacy

### 6.1 Customer Data

- 6.1.1 Customer is responsible for the accuracy, quality and legality of the Customer Data (including Personal Information) as registered and indexed by the Castlepoint Software, or otherwise supplied or used by Customer and its Authorised Users, including the means by which the Customer or its Authorised Users acquired any Personal Information.
- 6.1.2 Customer is solely responsible for determining the suitability of the Castlepoint Services for Customer's business and complying with any data privacy and protection regulations, laws or conventions applicable to Customer Data and Customer's use of the Castlepoint Services.
- 6.1.3 Subject to Castlepoint complying with its obligations under clauses 6.2 (Data Security) and 6.3 (Privacy), Customer grants to Castlepoint the non-exclusive right to access, process, transmit, store or disclose the Customer Data (including Personal Information) for the purposes of: (a) Castlepoint providing the Castlepoint Services and complying with its obligations under this Agreement; and (b) collecting, using, and disclosing quantitative data derived from the Customer's and Authorised Users' use of the Castlepoint Services for industry analysis, benchmarking, analytics, and product development (including algorithm training and machine learning applications), **provided** that any such data: (i) must not include any classified material; and (ii) must be in aggregate and deidentified form only and must not identify Customer or any Authorised User or include any Personal Information.

### 6.2 Data Security

- 6.2.1 For the **Castlepoint Software**: In developing the Castlepoint Software, Castlepoint warrants that it uses industry standard security technologies. If the Customer requires certification against a specific industry standard, this can be provided for as a Professional Service for an agreed fee.
- 6.2.2 For the **Castlepoint Hosting**: Castlepoint will only outsource the hosting of the Castlepoint Software and Customer Data to globally recognised tier-one hosting providers, who agree to implement and maintain appropriate technical and organizational measures, including information security policies and safeguards, designed to preserve the security, integrity, and confidentiality of Customer Data and Customer PI and to protect against unauthorised or unlawful disclosure or corruption of or access to the Customer PI. On Customer's request Castlepoint will give the Customer details of its then-current hosting provider and links to their security procedures. Castlepoint will not be liable to the Customer for a breach of security by the outsourced hosting provider (unless another breach of this Agreement by Castlepoint has caused the security breach).

### 6.3 Privacy

- 6.3.1 During the Agreement Term, each party will, and will ensure that its personnel, comply with the Privacy Act in respect of Personal Information collected, held, used or disclosed by it in connection with this Agreement.
- 6.3.2 Without limiting clause 6.3.1, Castlepoint will: (a) hold and use Customer PI only for the purpose of performing this Agreement; (b) not disclose, or provide third party access to, any Customer PI other than in accordance with this Agreement or with the written consent of the Customer; and (c) co-operate with any reasonable requests or inquiries made by Customer in relation to the management of Customer PI by or on behalf of Castlepoint under or in connection with this Agreement.

## 6.4 Data Breaches

- 6.4.1 Castlepoint will maintain a response and crisis communication program that is reasonably designed to detect, contain, respond and recover from a Data Breach.
- 6.4.2 If Castlepoint becomes aware of a Data Breach, Castlepoint will: (a) take steps to minimise the Data Breach; (b) take appropriate measures to secure the Customer PI and prevent a recurrence of the Data Breach; (c) provide reasonable information to the Customer about its remediation efforts and make any applicable notifications to a regulator; (d) to the extent available to Castlepoint, provide Customer with reasonable details of the Data Breach, including, description of the Customer PI subject to the Data Breach and date and time of the Data Breach; and (e) take appropriate steps to remediate the root cause(s) of a Data Breach and give Customer a summary of the results of the investigation and any remediation efforts taken by Castlepoint.

- 6.5 **At Termination.** Once the Customer ceases using the Castlepoint Software an offboarding process will begin, involving the following steps: (a) offboarding plan agreed between the parties; (b) deactivation of Castlepoint Software and removal of access; (c) supply of full data export as at deactivation date; and (d) customer satisfaction survey. There is no charge for data export format/s then commonly used by Castlepoint; if Customer requests different formats, Castlepoint may charge a fee. Castlepoint will delete the Customer Data in its possession, within six months of the termination date.

## 7 Fees & Payment

- 7.1 **Fees.** Except as expressly set out in the applicable Order Form, Customer will pay all Fees as follows:
  - 7.1.1 Licence and subscription Fees for Castlepoint Software, Castlepoint Support and Castlepoint Hosting, are payable annually in advance, from the Order Start Date;
  - 7.1.2 Fees for Castlepoint Professional Services are payable monthly in arrears, or at the completion of deliverables or other intervals as set out in an Order Form; and
  - 7.1.3 Payment is due within 30 days from the date of a correctly rendered invoice.
- 7.2 **Commitment for Term.** The Castlepoint Software, Castlepoint Support, and Castlepoint Hosting are provided for the full Agreement Term and are non-cancellable and non-refundable during the Minimum Term except as provided in these terms or an Order Form.
- 7.3 **Professional Service Expenses.** Unless specified otherwise in an Order Form, Customer will reimburse Castlepoint for all third-party expenses incurred by Castlepoint in providing Castlepoint Professional Services, including travel and accommodation expenses, provided Castlepoint has obtained Customer's consent before incurring any expense, and provides reasonable supporting details of all such expenses on its invoices.
- 7.4 **Disputed invoices.** Customer may withhold from payment any charge or amount disputed by Customer in good faith pending resolution of such dispute, provided that Customer: (a) notifies Castlepoint of the dispute within 14 days of the invoice date, specifying: the amount in dispute and the reason for the dispute; (b) pays all undisputed Fees and amounts by the due date; and (c) works diligently with Castlepoint to resolve the dispute promptly.
- 7.5 **Overdue.** If a payment is overdue (other than amounts disputed in accordance with clause 7.4) then Castlepoint may, after giving Customer at least two weeks' notice, charge interest at the rate of the interest charged by National Australia Bank Ltd on overdrafts exceeding \$100,000.00 plus 4.0%, calculated daily from the due date. In addition, if a payment is overdue by more than 90 days, then Castlepoint may, after giving Customer at least two weeks' notice, suspend the Castlepoint Services until payment is made.

## 8 Taxes

### 8.1 Tax Responsibility.

- 8.1.1 All payments required by this Agreement are stated exclusive of all Taxes.
- 8.1.2 Customer shall be responsible for and bear Taxes associated with its purchase of, payment for, access to or use of the Castlepoint Services. Taxes shall not be deducted from the payments to Castlepoint, except as required by law, in which case Customer shall increase the amount payable as necessary so that after making all required deductions and withholdings, Castlepoint receives and retains (free from any Tax liability) an amount equal to the amount it would have received had no such deductions or withholdings been made.
- 8.1.3 If Customer claims tax exempt status for amounts due under this Agreement, it shall provide Castlepoint with a valid tax exemption certificate (authorised by the applicable governmental authority) to avoid application of Taxes to Customer's invoice.
- 8.1.4 Each party is responsible for and shall bear Taxes imposed on its net income.

8.2 **Invoicing Taxes.** If Castlepoint is required to invoice or collect Taxes associated with Customer's purchase of, payment for, access to or use of the Castlepoint Services, Castlepoint will issue an invoice to Customer including the amount of those Taxes, itemized where required by law. If applicable, Customer shall provide to Castlepoint its tax identification number on the Order Form. Customer shall use the ordered Castlepoint Services for Customer's business use in the foregoing location(s) in accordance with the provided tax identification number.

## 9 Warranties

9.1 **Castlepoint Services.** Castlepoint warrants that:

- 9.1.1 for so long as Customer pays the Fees to receive Castlepoint Support, then the Castlepoint Software, when used as authorised under this Agreement, will perform substantially in conformance with its Documentation; and
- 9.1.2 the Castlepoint Professional Services will be provided: (a) promptly, carefully, exercising all due care, skill and judgement, in an efficient and professional manner and in accordance with generally accepted professional and business practices; and (b) using appropriately trained and skilled personnel.

9.2 **Defects.** If the Castlepoint Software or Castlepoint Professional Services fail to comply with these warranties, Customer shall promptly notify Castlepoint in writing including reasonable details of any alleged defects (which, in the case of Castlepoint Professional Services, must be within one month of when the service was provided). Upon such notice, Castlepoint shall, as Customer's sole and exclusive remedy, within a reasonable period (depending on the severity of the defect) correct the defect or re-perform the Castlepoint Professional Services; or, at Castlepoint's election, refund the pro-rata Fees paid for the defective Castlepoint Software or Castlepoint Professional Services.

9.3 **Disclaimer.** Except for the warranties stated in clause 9.1, or in a Schedule or Order Form, Castlepoint: (a) makes no additional representation or warranty of any kind, whether express, implied in fact or by operation of law; (b) disclaims all implied warranties, including fitness for a particular purpose, to the fullest extent allowed by law; and (c) does not warrant that the Castlepoint Services are or will be error-free or meet Customer's requirements. The Customer assumes sole responsibility for decisions made and results obtained from its use of the Castlepoint Services.

## 10 Indemnities for Third Party Claims

10.1 **By Castlepoint.** Castlepoint will indemnify Customer, its Affiliates and their Authorised Users, employees, directors, agents, and representatives (**Customer Indemnified Parties**) from, and defend them against, any Infringement Claim, except that Castlepoint will not be responsible for alleged infringement that is due to the combination of Castlepoint Services with goods or services provided by third parties, or use of the Castlepoint Services contrary to the terms of this Agreement, or any Open Source or other third-party materials.

- 10.2 **Infringement Remedy.** If Customer is prohibited from using any of the Castlepoint Services because of an Infringement Claim covered by Castlepoint's indemnification obligations under clause 10.1, then Castlepoint will, at its sole expense and option, either: (a) obtain for Customer the right to use the allegedly infringing portions of the Castlepoint Services; (b) modify the allegedly infringing portions of the Castlepoint Services so as to render them non-infringing without substantially diminishing or impairing their functionality; or (c) replace the allegedly infringing portions of the Castlepoint Services with non-infringing items of substantially similar functionality. If Castlepoint determines that none of these remedies is commercially reasonable, then either party may terminate this Agreement, and in such case, Castlepoint will provide a prorated refund to Customer for any prepaid Fees. The remedy set out in this clause 10.2 is Customer's sole and exclusive remedy for any Infringement Claim.
- 10.3 **By Customer.** Customer will indemnify Castlepoint, its Affiliates and their employees, directors, agents, and representatives (**Castlepoint Indemnified Parties**) from, and defend them against, any claim by a third party (not being an Affiliate of Castlepoint) to the extent arising from or related to: (a) use of the Castlepoint Services by Customer or its Authorised Users in violation of this Agreement, the Documentation, or applicable law; or (b) the nature or content of Customer Data, or the use by a Castlepoint Indemnified Person of Customer Data as authorised by the Customer under this Agreement. In respect of any claim for which Castlepoint is entitled to be indemnified under this clause, the Customer will indemnify the Castlepoint Indemnified Parties against: (a) all damages, costs, and legal fees finally awarded against any of them with respect to any claim; (b) all out-of-pocket costs (including reasonable legal fees) reasonably incurred by any of them in connection with the defence of the claim (other than legal fees and costs incurred without the Customer's consent after it has accepted defence of such claim); and (c) all amounts that the Customer agrees to pay to any third party in settlement of any claims arising under this clause 10 and settled by the Customer or with its approval.
- 10.4 **Procedures.** The Parties' respective indemnification obligations above are conditioned on: (a) the indemnified party giving the indemnifying party prompt written notice of the claim, except that the failure to provide prompt notice will only limit the indemnification obligations to the extent the indemnifying party is prejudiced by the delay or failure; (b) the indemnifying party being given full and complete control over the defence and settlement of the claim (as long as the settlement does not include any payment of any amounts by or any admissions of liability, whether civil or criminal, on the part of any of the indemnified parties); (c) the relevant indemnified parties providing assistance in connection with the defence and settlement of the claim, as the indemnifying party may reasonably request; and (d) the indemnified parties' compliance with any settlement or court order made in connection with the claim.
- 11** Limitations of Liability
- 11.1 **Indirect Losses.** Subject to clause 11.4, to the fullest extent allowed by law, each party excludes all liability for any loss of product, loss of revenue, loss of profit, loss of or damage to reputation, loss of anticipated savings or benefits, or any indirect, special or punitive loss, damage, cost or expense or other claims for consequential compensation, however arising under or in connection with this Agreement or the performance or non-performance of this Agreement and whether arising under any indemnity, statute, in tort (for negligence or otherwise), or on any other basis in law or equity.
- 11.2 **Ordinary cap.** Subject to clauses 11.3 and 11.4, Customer agrees that, Castlepoint's aggregate liability for any and all claims, losses or damages arising out of or in connection with the performance or non-performance of each Agreement, whether based on contract, warranty, tort (including negligence), statute or otherwise, is capped at the amounts paid by Customer to Castlepoint under the Agreement during the Agreement Year in which the events giving rise to the claim occurred. This cap applies in the aggregate to all claims made in the same Agreement Year. Customer may only make claims relating to the same event in one Agreement Year.
- 11.3 **Super cap.** Subject to clause 11.4 and to the maximum extent permitted by law, Castlepoint's aggregate liability for any and all claims, losses or damages arising out of or in connection with the performance or non-performance of each Agreement, whether based on contract, warranty, tort (including negligence),

statute or otherwise, which relate to any wrongful use or disclosure of Customer Data or Personal Information, including breaches of clause 6 (Customer Data, Security and Privacy) or clause 12 (Confidentiality) or the Privacy Act, is capped at the lower of: (i) 200% of all Fees paid by the Customer to Castlepoint under the Agreement; or (ii) \$1 million.

- 11.4 **Exceptions.** No provision of this Agreement limits the liability of a party for: (a) interest due on late payments; (b) personal injury or tangible property damage caused by negligence; (c) losses caused by fraud or fraudulent misrepresentation or (d) any breach of clause 12 (Confidentiality) except to the extent that such breach is also a breach of clause 6 (Customer Data, Security and Privacy), in which case the limitation in clause 11.3 will apply.
- 11.5 **Contribution.** Each party's liability shall be reduced proportionately to the extent that the other party's acts or omissions causes or contributes to, directly or indirectly, the loss or damage for which the first party is liable.
- 11.6 **External factors.** Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement (except an obligation to pay money) if such delay or failure results from events, circumstances or causes beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of Castlepoint or any other party), failure of a utility service or transport or telecommunications network or the internet, act of God, pandemic or public health crisis, fire, flood, storm, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, accident, or breakdown of plant or machinery. In such circumstances the affected party is entitled to a reasonable extension of time for performing its obligations, provided that if the delay or non-performance continues for three months, the party not affected may terminate this Agreement by giving one month's notice to the other party. If the Customer terminates under this clause at any time after the Minimum Term it will receive a pro-rata refund of pre-paid Fees.

## 12 Confidentiality

- 12.1 **Obligations.** Where one party (**Recipient**) has access to Confidential Information of the other party (**Discloser**), Recipient must (during and after the Agreement Term):
  - 12.1.1 hold the Discloser's Confidential Information in strict confidence, and apply at least the standard of care used by the Recipient in protecting its own Confidential Information, but not less than a reasonable standard of care;
  - 12.1.2 not disclose such Confidential Information to any third party, except as permitted under this Agreement;
  - 12.1.3 not use any Confidential Information of the Discloser except as reasonably required to exercise its rights or perform its obligations under this Agreement;
  - 12.1.4 immediately notify Discloser of any potential, suspected or actual unauthorised use, copying or disclosure of its Confidential Information; and
  - 12.1.5 cause its employees, subcontractors, agents and Affiliates to comply with these obligations.
- 12.2 **Permitted use.** Notwithstanding clause 12.1, Recipient may use or disclose the Confidential Information to the extent necessary to comply with any law or the requirements of a regulatory body (including a stock exchange), or to obtain professional legal or accounting advice, or for use in legal proceedings regarding this Agreement.
- 12.3 **Exceptions.** Clause 12.1 does not apply to Confidential Information which Recipient can prove by written evidence: (a) is in or becomes part of the public domain other than through breach of an obligation of confidence; (b) was known to Recipient at the time of disclosure, unless such knowledge arose through breach of an obligation of confidence; (c) was independently developed by Recipient; or (d) is acquired from a third party who was entitled to disclose it.

- 12.4 **Publicity.** Neither party shall refer to the identity of the other party in promotional material, publications, or press releases or other forms of publicity relating to the Castlepoint Services unless the prior written consent of the other party has been obtained, provided, however, that Castlepoint may use Customer's name and logo for the limited purpose of identifying Customer as a customer of the Castlepoint Services.

### 13 Term and Termination

- 13.1 **Agreement Term.** The term of each Agreement begins on the Order Start Date and, unless terminated sooner as provided in these terms, continues as follows: (a) Agreements for Castlepoint Professional Services continue until the Order End Date as specified on the Order Form; (b) Agreements for Castlepoint Software, Castlepoint Software and Castlepoint Hosting are for the Minimum Term and then continue until they are not renewed under clause 13.2 (or terminated under another clause).
- 13.2 **Month to Month Renewal.** Unless the Order Form provides otherwise, after the Minimum Term, the Agreement Term will automatically renew as follows:
- 13.2.1 at least 90 days before the end of the Minimum Term, Castlepoint will notify the Customer of the Order End Date, and any change in the Fees for the next Agreement Year;
  - 13.2.2 the Customer may choose not to renew, by notifying Castlepoint (via email or Freshdesk or any other help desk / customer support tool used by Castlepoint and accessible by the Customer) at least 30 days before the Order End Date;
  - 13.2.3 if the Customer does not give notice in this time, the term renews on a month-to-month basis at the Fees notified by Castlepoint;
  - 13.2.4 the process repeats each year until the Agreement terminates.
- 13.3 **Termination for convenience after Minimum Term.** At any time after the Minimum Term, either party may terminate the Agreement by giving the other party at least 30 days' notice (via email or Freshdesk or any other help desk / customer support tool used by Castlepoint and accessible by the Customer).
- 13.4 **Castlepoint Professional Services.** Before the Order Start Date, Castlepoint may, upon mutual agreement, start providing Castlepoint Professional Services and/or provide Customer access to the Castlepoint Software, which will be governed by these terms. In the case of an Order Form for Castlepoint Professional Services, if no end date is specified in the Order Form, then the Agreement Term shall expire upon completion of the Castlepoint Professional Services or early termination as permitted by these terms.
- 13.5 **Breach or Insolvency.** Either party may terminate an Agreement if the other party: (a) commits a material breach of the Agreement and does not remedy the breach within one month of written notice; (b) breaches any term of the Agreement which cannot be remedied; or (c) becomes subject to an event of insolvency (including having an administrator, receiver or liquidator appointed or making an assignment for the benefit of creditors, or being unable to pay its debts as they fall due).
- 13.6 **Post-Termination Obligations.** If the Agreement expires or is terminated for any reason: (a) Customer will pay to Castlepoint any amounts in that Order Form that have accrued before, and remain unpaid as of, the expiry or termination date; (b) any liabilities of either party that have accrued before the termination date will survive; (c) Customer's right to use the Castlepoint Services in that Order Form terminates; (d) Castlepoint's obligation to provide any further services to Customer in that Order Form will terminate, except any services that are expressly agreed to be provided following termination; and (e) the Parties' rights and obligations under clauses 5, 8.1, 10, 11, 12, 13.6, and 17 will survive.

### 14 Anti-Bribery Laws

In entering into and performing its obligations under this Agreement, Castlepoint will and will procure that its personnel: (a) comply with all anti-bribery and anti-corruption laws from time to time in force in Australia, including the Criminal Code Act 1995 (Cth), state and territory legislation including the Crimes Act 1900 (NSW), Crimes Act 1958 (Vic), Criminal Law Consolidation Act 1935 (SA), Criminal Code Act

1899 (Qld), Criminal Code (WA), Criminal Code Act 1924 (Tas), Criminal Code 2002 (ACT) and Criminal Code Act 1983 (NT); and (b) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by Castlepoint in connection with the performance of this Agreement.

## 15 Modern Slavery Laws

In performing its obligations under this Agreement, Castlepoint will: (a) comply with all modern slavery laws from time to time in force in Australia including the Modern Slavery Act 2018 (NSW) and the Modern Slavery Act 2018 (Cth); and (b) have and maintain throughout the Agreement Term its own policies and procedures designed to ensure compliance with this clause 15.

## 16 Export Laws

16.1 **Export Laws.** Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations including Australian Federal Government export laws and regulations or sanctions (**Export Control Laws**).

16.2 **Implementation.** Each party undertakes: (a) contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out in clause 16.1; and (b) if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

## 17 General

17.1 **Independent Contractors.** The parties are independent contractors, not employees, agents, partners or representatives of each other. Each party may not create or assume any obligation or liability on behalf of the other party. Each party assumes full responsibility for the actions of its personnel while performing any services and such party shall be solely responsible for the supervision, daily direction, control of its personnel, and for the payment of all of their compensation.

17.2 **Assignment.** Each party may only assign its rights or obligations under this Agreement with the other party's prior written consent.

17.3 **Entire Agreement.** This Agreement (comprising these Master Terms, the Schedule/s and Order Form) constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party represents and warrants that in entering into this Agreement it is not relying on any statement, representation, assurance or warranty given or made by the other party, except as expressly set out in this Agreement. **This Agreement will prevail over terms and conditions of any Customer-issued purchase order or other ordering documents, which will have no force and effect, even if Castlepoint accepts or does not otherwise reject the document.**

17.4 **Construction.** In interpreting this Agreement, no presumption shall be made against the party that drafted the term. The singular includes the plural and vice versa. Words like *including*, *for example*, *such as* or similar expressions are to be interpreted as meaning including, without limitation. Headings are for convenience only and do not affect the interpretation of this contract.

17.5 **Severability.** If a clause or part of a clause of this document can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this document, but the rest of this document is not affected.

17.6 **Variation & Waiver.** No variation of this document will be of any force or effect unless it is in writing and signed by the parties to this document. The fact that a party fails to do, or delays in doing, something

the party is entitled to do under this document, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing.

- 17.7 **Governing law.** This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of the Australian Capital Territory. Each party irrevocably agrees that the courts of the Australian Capital Territory shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims); provided that each party shall have the right to enforce a judgment of those courts in a jurisdiction in which the other party is incorporated or in which any assets of the other party may be situated.
- 17.8 **Notices.** Any notice, request, consent, claim, demand, waiver, or other communication under this Agreement shall have legal effect only if in writing and addressed to a party as specified in the Order Form (or to such other address or such other person that such addressee party may designate from time to time in accordance with this clause). Notices sent in accordance with this clause will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognised overnight courier, signature required; (c) when sent, if by email, (in each case, with confirmation of transmission), if sent during the addressee's normal business hours, and on the next Business Day, if sent after the addressee's normal business hours; and (d) on the fifth day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.