

# **Square Box Systems Maintenance Support Agreement**

Last updated 4<sup>th</sup> January 2016

## Maintenance Support Agreement

This maintenance support agreement is made up of these terms and conditions together with the applicable quotation referring to these terms and conditions ("Quotation") and is made between Square Box Systems Ltd (Square Box), a company incorporated and registered in England and Wales with registered address 29 Waterloo Place, Warwick Street, Leamington Spa, Warwickshire CV32 5LA and company number 3819556, and you (a customer who has purchased appropriate support).

This maintenance support agreement only applies to the CatDV family of products (including CatDV Standard, CatDV Pro, CatDV Enterprise, CatDV Pegasus, CatDV Workgroup Server, CatDV Enterprise Server, CatDV Web Clients, CatDV Worker Node and other products on the CatDV Any other products which are not listed here are excluded from this maintenance support agreement.

In consideration of payment by you of the support maintenance fees for a specific CatDV product (the "Charges"), Square Box agrees to provide Maintenance Support Services for the corresponding CatDV product(s). The relevant stock keeping unit (SKU) are: MS1, MS3, MS1R, and MS1RO) as defined below. In order to receive Maintenance Support Services, you must have registered your support contact details on the Square Box web site (which is currently: <http://www.squarebox.com>) and paid the Charges. This maintenance support agreement does not license any software to you, you must enter into a separate software license agreement in respect of each CatDV software product.

The Charges are payable by you to Square Box annually in advance, unless otherwise specified in Quotation, and within 30 days of receipt of Square Box's invoice. In the event that the Charges are not paid when due, Square Box reserves the right to immediately suspend performance of the Support Maintenance Services and to charge interest on the overdue amount at a rate of 2% above Bank of England base rate from time to time. All Charges are exclusive of VAT or any other applicable sales tax.

This maintenance support agreement shall come into effect from when Square Box receives a purchase order from its authorised third party (for example a CatDV distributor or reseller) confirming you have purchased support services ("Commencement Date") and shall continue in force for a period of one year from the Commencement Date, unless otherwise stated in Quotation (the "Initial Period"). This maintenance and support agreement will automatically renew for further periods of twelve months from the end of the Initial Period and each anniversary of the end of the Initial Period, unless either party gives at least 30 days' notice to the other party of its

intention not to renew. If you decide not to renew this maintenance support agreement, we shall no longer be obliged to perform the Maintenance Support Services and any subsequent renewal may be at an increased cost.

If the Services relate to CatDV products sold by Square Box, but produced by a third party manufacturer, responsibility for maintenance support remains with the manufacturer. Square Box may accept and investigate support cases but if unable to resolve the issue, will pass the details to the manufacturer for resolution.

Notwithstanding anything else in this maintenance support agreement this is the full extent of Square Box obligations in respect of such products.

### **Maintenance Support Services:**

Square Box shall provide the following Services within the availability hours referred to in the paragraphs below, for the duration of this maintenance support agreement. Any service which is not set out immediately below (1-6 inclusive) is excluded from this maintenance support service agreement. Whilst Square Box may agree to perform certain other services, please note that additional charges may apply as agreed in writing between Square Box and you from time to time. Square Box agrees that it shall:

1. Investigate reproducible issues with the specific CatDV software product;
2. Respond to questions about how to use the specific CatDV software product;
3. Assist with major software releases including upgrading to new versions (major releases are the first and second digits in the number scheme 1.2.3 (for instance from CatDV 10 to CatDV 11, or 11.1 to 11.2));
4. Assist with minor software releases including small enhancements and /or bug fixes (minor releases are the third digit in the number scheme 1.2.3 for instance CatDV 10.0.7 is a minor release available to all customers that have purchased CatDV 10 with maintenance support); and
5. Provide release notes including the changes made in each CatDV release.
6. Provide documentation to assist customers with troubleshooting.

In order for Square Box to provide the Services, you agree that you will:

1. Provide detailed explanation about specific CatDV software product issues.
2. Notify Square Box promptly on discovering a problem with the CatDV software product;
3. Allow Square Box, its employees and agents, to access your systems at all reasonable times;
4. Provide any information that is reasonably requested in the performance of the Services;

5. Comply at all times with applicable laws, regulations and the terms and conditions of your CatDV software license;
6. Make adequate and appropriate provision to avoid and to manage disasters (e.g. hardware failures, malicious damage) including, but not limited to, maintenance and testing of regular CatDV software product's backups and data security; and
7. Not allow any other person than Square Box to alter, modify, reverse-engineer, translate, integrate with third party products, modify and/or adjust the specific CatDV product.

Square Box may suggest work-arounds or at its discretion make alterations to the CatDV software to address issues raised by you (and/or other customers) .

Maintenance Support Services do not include the following (this list is not exhaustive):

- Workflow design or consulting (e.g. advice and guidance about how to use CatDV products to solve an end-to-end business problem including products from third party vendors (cameras, networking equipment, servers, storage, archive systems, play-out systems etc.) ;
- Storage design and policies (e.g. advice and guidance about where and in what format(s) to store media and for how long);
- Training for end users or system administrators;
- Installation, deployment and configuration (e.g. assisting with a CatDV software product's installation and/or configuration including project management, status reporting, deployment planning and deployment itself);
- Hardware design, selection or configuration for example servers, networks and storage;
- Integration with third party products (unless those integrations are also CatDV software products licensed to Square Box to you under a separate license agreement which Square Box have agreed in advance may be integrated);
- Writing or debugging scripts or other computer programs intended to work with a CatDV software product;
- Recovery following a disaster (for example hardware failure) if backups are not available;
- Software development advice for customers using the CatDV APIs to extend the capabilities of the CatDV software product(s);

The above, additional services which are excluded from this maintenance support agreement may be provided by Square Box , our distributors or resellers by request for which additional charges may apply. Such services shall be provided under a separate agreement. More details can be found on the Square Box Systems website: <http://www.squarebox.com/professional-services/>

## Customers without Maintenance

If you have not purchased any maintenance SKUs (MS1, MS3, MS1R, and MS1RO) Square Box shall not provide the Maintenance Support Services to you. Square Box may, at its sole discretion, provide you with minor version upgrades of a CatDV software product for no more than 6 months from the date that Square Box has licensed the applicable product to you and such upgrades may be withdrawn, amended and/or terminated at any time without notice.

## Fair Use

You agree that you shall use the Maintenance Support Services fairly and reasonably.

If, in Square Box's sole discretion it considers that you are raising an excessive number of, and/or excluded or complex support requests (e.g. training workflow, design or consulting requests) we reserve the right to reduce the level of support provided or recommend that you purchase training or consultancy services.

## Maintenance Support Services Availability

Maintenance Support Services shall be available during UK and US standard office hours. During UK national holidays, and after 22:00 UK time, support may be limited to Tier 1 activities (initial problem investigation and analysis, capturing reproduction steps, diagnostic information and ensuring the product is being used correctly).

Maintenance Support Services may be available outside of these hours at Square Box's sole discretion.

Maintenance Support Services are provided in English.

Maintenance Support Services are provided remotely, using email, telephone and screen sharing tools (where permitted) to resolve issues. Square Box, its resellers and distributors may be able to provide on-site support by separate agreement. On-site support is not provided as part of the Maintenance Support Services.

## Communication and Support Process

If you purchased a CatDV software product through a reseller and / or distributor, support issues should initially be raised via the reseller and / or distributor who will perform initial investigations and may resolve the issue directly.

The reseller or distributor may provide additional telephone or email contact information for raising support requests.

Otherwise support requests should be made via email to [support@squarebox.com](mailto:support@squarebox.com).

Support requests will be assigned a ticket number that should be used on all related correspondence.

Square Box, our distributors and resellers aim to respond to support requests within four (business) hours of an issue being raised.

If a fix or workaround or updated version has been provided, and you choose not to apply it, Square Box has no obligation to provide any further support for that issue.

If the root cause of your issue is deemed to not be due to a CatDV software product, but is due to a third party tool Square Box shall have no obligation to provide any further support for that issue. Square Box shall reasonably co-operate with the vendor of such third party tool to help them find a fix or workaround.

If a CatDV software product is not being operated in accordance with Square Box's recommendations (for example for minimum specifications etc.) Square Box shall determine the level of support provided at our discretion.

If a support ticket is not being addressed to your satisfaction it can be escalated by sending an email outlining your concerns to [escalation@squarebox.com](mailto:escalation@squarebox.com).

## Future Versions

Maintenance Support Services are only provided in respect of the current, major version of the relevant CatDV software product, and for a period of 12 months after their release. A reduced level of support, addressing critical issues (being those that completely stop the software from operating) is offered for no more than 3 years from the date of their release.

## Confidentiality and Intellectual Property Rights

Square Box and you agree that certain confidential information (including but not limited to know-how, documents, user guides, software, any support advice provided by Square Box in connection with the maintenance services in written or verbal form and anything else marked as confidential) may be exchanged throughout the performance of the Maintenance Support Services. Each party shall hold each other's confidential information in confidence and shall not use such confidential information for any purpose other than the implementation of this maintenance support agreement or disclose such confidential information to any third party. Nothing in this maintenance support agreement shall prevent disclosure of confidential information where required to so by law and/or a regulatory authority. Information which is already in the public domain without a breach of this Confidentiality provision, has

been independently created by the other party or was previously known by the other party such creation and/or knowledge being capable of independent substantiation, shall not be deemed to be confidential information. The provisions of this paragraph are intended to survive termination of this support maintenance agreement and shall remain in force for 3 years thereafter.

Nothing in this maintenance support agreement is intended to transfer any intellectual property rights from Square Box to you. Any intellectual property in and/or created as a result of suggestions for product enhancements in any communication related to Support Maintenance Services shall be owned by and vested in Square Box. You agree that you shall undertake all steps reasonably required by Square Box (at Square Box's cost) to give effect to this paragraph.

## Other

Square Box shall not under any circumstances whatever be liable to you, whether in contract, tort (including negligence), indemnity, breach of statutory duty or otherwise, arising under or in connection with this maintenance support agreement for: (i) loss of: profits, sales, business, revenue, anticipated savings, business opportunity, goodwill, reputation, data (ii) any special, indirect or consequential loss or damage and/or (iii) any business interruption. Square Box shall not be liable for any losses caused by your use a CatDV software product other than in accordance with the corresponding software license agreement, nor for any third party manufactured software products. Other than the losses set out immediately above, Square Box's maximum aggregate liability under or in connection with this maintenance support agreement shall be limited to an amount equivalent to the Charges paid in the previous 12 month period. Nothing in this maintenance support agreement shall exclude our liability for death, personal injury, fraud, fraudulent misrepresentation or any other liability which cannot be excluded at law. This clause will survive termination or expiry of this maintenance and support agreement.

Either party may terminate this maintenance support agreement immediately upon notice in writing to the other party in the event that the other party commits a breach of its obligations under this maintenance support agreement and such breach is material and cannot be remedied; or such breach is material and possible to remedy and that other party fails to remedy such breach within thirty (30) days of having been required in writing to remedy such breach.

Either party may terminate this maintenance support agreement immediately upon notice in writing to the other party in the event that the other party becomes insolvent, is wound up, enters into liquidation, has a receiver appointed, or undergoes any similar

procedure available in the country in which it is established.

This paragraph shall apply only to data originating in the European Union. The definitions and interpretations in the Data Protection Act 1998 (and any subsequent amendment or re-enactment that does not substantively change the original enactment) ("**the Act**") shall apply to this paragraph. Where necessary to enable Square Box to deliver the Services, for such purposes Square Box shall have your authority to process personal data on your behalf in accordance with this paragraph. When Square Box does so, it shall act on your instructions only and it shall take appropriate technical and organisational measures designed to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. Square Box shall not transfer any personal data outside of the EEA without your prior written consent

Neither Square Box nor you shall be in breach of this maintenance support agreement or liable for any delay in performing (or failure to perform) any of its obligations under this agreement where such delay or failure arises from events beyond its reasonable control. If the period of delay lasts for 3 months then the other party may elect to terminate this maintenance support agreement by providing written notice.

This maintenance support agreement contains the entire agreement between us and you with respect to the subject matter of this maintenance support agreement (the "**Subject Matter**") and supersedes and replaces all other written and oral communications between us and you relating to the Subject Matter. Except for the express provisions in this maintenance support agreement (and any express provisions contained in any documentation which is expressly incorporated), all other warranties, conditions, terms, representations, statements, undertakings and obligations whether express or implied by statute, common law, custom, usage or otherwise are hereby excluded to the maximum extent permitted by law. Square Box and you hereby confirm that neither Square Box nor you have relied upon any representations, communications or other matters which have not been expressly stated in this maintenance support agreement, whether as an inducement to enter into this maintenance support agreement or otherwise. Notwithstanding any provision to the contrary, nothing in this maintenance support agreement limits or excludes our or your liability for fraudulent misrepresentations.

You agree that any purchase order applicable to this Agreement will not contain any additional terms and conditions or vary the terms of this Agreement and to the extent that terms and conditions are attached to any applicable purchase order they will be deemed void.

Square Box may subcontract, assign, novate or otherwise transfer its rights and obligations under this maintenance support agreement to another organization, this



## Commercial in Confidence

will not affect your rights under this maintenance support agreement. Otherwise, this maintenance support agreement may not be assigned, novated or otherwise transferred.

No failure or delay by Square Box or by you to exercise any right or remedy provided under this agreement or by law shall constitute a waiver.

No variation of this maintenance support agreement shall be effective unless it is in writing and signed by both parties, save that Square Box Systems may at its discretion update this maintenance support agreement from time to time. Customers that have registered their maintenance support agreement (at <http://www.squarebox.com/register-support-contract/>) will be notified in advance using the contact details provided, otherwise you should periodically review the latest version of the maintenance support agreement online to see if any changes have been made to this maintenance support agreement.

No person other than a party to this maintenance support agreement shall have any rights to enforce any term of this maintenance support agreement.

If any part of this maintenance support agreement becomes invalid, illegal and/or unenforceable then it shall be deemed to be modified to the extent necessary to make it valid, legal and enforceable.

Nothing in this maintenance support agreement is intended to establish any partnership, agency or joint venture. Square Box and you agree that we are each acting on our own behalf and not for the benefit of anyone else.

The rights and remedies in this support maintenance agreement are in addition to, and not exclusive of, any rights or remedies at law.

This agreement (and any disputes or claims arising from it) is governed by English law and is subject to the exclusive jurisdiction of the English courts.