

## CASCADE Trusted Advisor Terms And Conditions ("CONDITIONS")

These Conditions are between intY (as defined below) and Trusted Advisor (as defined below) and set out the terms and conditions upon which Trusted Advisor is appointed to introduce prospective customers to intY for the purchase of Services (as defined below) via CASCADE (as defined below). By clicking to accept these Conditions as part of the sign-up process to become a trusted advisor of intY, the Trusted Advisor agrees to be bound by these Conditions. intY reserves the right to change and/or modify these Conditions from time to time and any changes or modifications will be effective from the date that they are made available on CASCADE. Trusted Advisor should frequently review these Conditions as, by continuing to access and/or use CASCADE after any changes and/or modifications become effective, Trusted Advisor confirms its acceptance of any such changes and/or modifications.

These Conditions apply to the Agreement (as defined below) to the exclusion of any other terms that Trusted Advisor seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

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### 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following words have the following meanings:

"Agreement"	means the agreement between intY and Trusted Advisor which incorporates and is subject to these Conditions as from the Effective Date;
"Applicable Laws"	means all applicable statutory and other acts, regulations, rules, instruments, provisions and codes of conduct in force from time to time;
"Business Day"	means any day which is not a Saturday, Sunday or public holiday in the United States of America;
"CASCADE"	means the cloud marketplace known as CASCADE and owned by intY which enables End Customers to purchase Services;
"Commission"	has the meaning given to it in clause 5.2;
"Confidential Information"	means any information or data relating to intY that is proprietary or confidential including (but not limited to) information relating to software, services or designs; commercial or technical know-how, research or technology; business operations and strategies; accounts, financial or contractual arrangements; customers, clients or suppliers past, present or future or their dealings, transactions or affairs; and pricing and marketing, provided directly or indirectly by intY to Trusted Advisor or otherwise acquired

	by Trusted Advisor, orally or in writing or in any other tangible or intangible form or by demonstrations whether before on or after the date of the Agreement and whether or not marked as confidential;
"Contract"	means a contract for the supply of Services entered into between intY and a Prospective End Customer pursuant to an Introduction;
"Control"	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company and <b>controls, controlled</b> and the expression <b>change of control</b> shall be construed accordingly;
"End Customer"	means a Prospective End Customer Introduced to intY by Trusted Advisor who enters into a Contract;
"Effective Date"	means the date on which intY sends confirmation that Trusted Advisor is accepted as an introducer of intY;
"EULA"	means the End User Licence Agreement comprising intY's standard terms of use for access to and the use of CASCADE from time to time in force and which is incorporated into and forms part of the Agreement;
"Flow Down Terms"	means the licence terms and acceptable use policy of a Vendor for use of a Service. Flow Down Terms are notified to End Customers for acceptance on CASCADE and may be updated from time to time;
"Intellectual Property Rights"	means any and all intellectual property rights of any kind existing anywhere in the world whether or not registered and all applications, renewals and extensions of the same and whenever arising, registered or applied to be registered including copyright, database rights, design rights, patents, trademarks, service marks, trade names and other rights in goodwill, the right to sue for passing off, business names and domain names, rights in know-how, trade secrets and other confidential information;
"Introduction"	means the introduction made by Trusted Advisor to intY of a Prospective End Customer for the purchase of Services. <b>Introduce, Introduces</b> and <b>Introduced</b> shall be interpreted accordingly;
"Introduction Date"	means for each End Customer, the date on which Trusted Advisor first Introduces the Prospective End Customer to intY;
"intY"	means intY USA, Inc., a Florida Corporation whose principal

place of business is at 6 Logue Court, Greenville, SC 29615;

"Net Income"		means the payments made to intY by an End Customer for Services under a Contract less any value added tax or other sales tax on them and any discounts, credits or rebates granted by intY;
"Month"		means a calendar month;
"Privacy Legislation"		means any and all applicable data protection and privacy laws, regulations and/or codes of conduct in any relevant jurisdiction relating to the processing and/or security of personal data and to direct marketing in each case, to the extent in force from time to time and which apply to a party, and as such are updated, amended or replaced from time to time, and any laws or regulations ratifying, implementing, adopting, supplementing or replacing such laws;
"Prospective Customer"	End	means a person or entity to whom intY has not at any time previously sold any Services or licensed to use CASCADE and with whom intY has not been in bona fide negotiations to provide Services or licence CASCADE in the six (6) months before the Introduction Date;
"Service"		means any cloud application, product or service available via CASCADE or any other services provided by intY to End Customers;
"TradeMarks"		means the trademark registrations, logos and names belonging and/ or registered to intY or any of its subsidiaries or affiliates, its licensors or a Vendor;
"Trusted Advisor"		means the person entering into the Agreement with intY, being the person who clicks to accept these Conditions as part of the sign-up process to become a trusted advisor of intY;
"Vendor"		means a third-party vendor of a Service.

- 1.2 A "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Clause headings shall not affect the interpretation of these Conditions and references to clauses are to the clauses in these Conditions.
- 1.4 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.

- 1.6 A reference to "writing" or "written" includes email.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

## **2. APPOINTMENT**

- 2.1 intY appoints Trusted Advisor on a non-exclusive basis to identify Prospective End Customers for the Services and to make Introductions of such persons on the terms of these Conditions and in accordance with any territorial restrictions contained in the Flow Down Terms.
- 2.2 Trusted Advisor shall:
  - 2.2.1 serve intY faithfully and diligently and not allow its interests to conflict with its duties under the Agreement;
  - 2.2.2 use its best endeavours to make Introductions of Prospective End Customers;
  - 2.2.3 comply with all reasonable and lawful instructions of intY.
- 2.3 Trusted Advisor shall have no authority, and shall not hold itself out, or permit any person to hold itself out, as being authorised to bind intY in any way, and shall not do any act which might reasonably create the impression that Trusted Advisor is so authorised. Trusted Advisor shall not make or enter into any contracts or commitments or incur any liability for or on behalf of intY, including for the use of CASCADE and/or provision of Services or the price for them, and shall not negotiate any terms for the use of CASCADE and/or provision of Services, including but not limited to any aspect of the EULA and/or Flow Down Terms, with Prospective End Customers.
- 2.4 Trusted Advisor must disclose to each Prospective End Customer that:
  - 2.4.1 it represents intY and that it has no authority or ability to negotiate or vary the Contract, the EULA, the Flow Down Terms or the Services, or to enter into any contract on behalf of intY;
  - 2.4.2 the Contract for the purchase or licence to use the Services and/or CASCADE shall be between intY and the End Customer and not between Trusted Advisor and the End Customer;
  - 2.4.3 the use of CASCADE is subject to the End Customer's acceptance of the EULA; and
  - 2.4.4 the use of Services is subject to the End Customer's acceptance of the applicable Flow Down Terms.

2.5 Trusted Advisor shall not, without intY's prior written consent, make or give any representations, warranties or other promises concerning the Services and/or CASCADE which are not contained in intY's marketing material.

2.6 Where an End Customer is Introduced by Trusted Advisor and the End Customer then introduces intY to a third party who purchases Services from intY, Trusted Advisor shall not, by virtue of such initial Introduction, be deemed to have Introduced the third party to intY.

### **3. INTRODUCTIONS**

3.1 Subject to Trusted Advisor complying with these Conditions and the terms of the EULA published on CASCADE from time to time, intY shall provide Trusted Advisor with online access to CASCADE for the purpose of making Introductions.

3.2 Trusted Advisor shall be solely responsible for the security of any logins and/or passwords provided or made available to it by intY in order for Trusted Advisor to access CASCADE. Trusted Advisor shall ensure that such logins and/or passwords are kept secure and confidential at all times and are only used by its personnel for the purposes of making Introductions and not by any third party or for any other purpose. Trusted Advisor will promptly notify intY if it suspects or becomes aware of any unauthorised use of such logins and/or passwords.

3.3 intY is entitled at any time to make changes to the Services available via CASCADE.

3.4 Trusted Advisor shall Introduce Prospective End Customers via the invitation functionality within CASCADE available at [admin.cascadeportal.com](http://admin.cascadeportal.com) or such other website address as may be notified by intY to Trusted Advisor from time to time.

3.5 Upon receipt of an Introduction, intY shall determine, at its sole discretion, if it wishes to accept the Introduction. In the event that intY accepts the Introduction then intY will send an invitation to the Prospective End Customer and upon acceptance of such invitation by the Prospective End Customer, will enter into a Contract with the End Customer.

**4. The prices of Services offered to End Customers Introduced by Trusted Advisor shall be as stipulated in the current price lists made available by intY to Trusted Advisor from time to time. intY reserves the right to change the prices from time to time and shall give Trusted Advisor notice of any such changes by publishing the new prices on CASCADE TRUSTED ADVISOR MANAGED ACCOUNTS AND LICENCE QUANTITY CHANGES**

4.1 In the event that Trusted Advisor is appointed by an End Customer as its agent to manage End Customer's account with intY on CASCADE ("**Agent Managed**"), Trusted Advisor shall notify intY in writing and Trusted Advisor will be responsible for administering the End Customer's account in its entirety, including the submitting of licence quantity changes (both increases and decreases) for Services when required. Trusted Advisor shall do so as the agent of the End Customer and not within its role as Trusted Advisor for intY.

4.2 Where an End Customer's account is Agent Managed and CASCADE audit data shows

changes have been made to an End Customer's Services by Trusted Advisor, intY may refer that End Customer's billing queries to Trusted Advisor for resolution. Trusted Advisor shall use its best endeavours to promptly resolve any queries directed to it by intY.

- 4.3 Where an End Customer's account is Agent Managed by Trusted Advisor and an End Customer fails to pay for any Service by the due date for payment, Trusted Advisor shall be liable to intY for all outstanding amounts.

## 5. COMMISSION AND PAYMENT

- 5.1 Trusted Advisor shall be entitled to Commission if a Prospective End Customer Introduced by Trusted Advisor enters into a Contract.

- 5.2 The amount of commission payable shall be calculated at the percentage rate specified on CASCADE from time to time for the particular Service applied to the Net Income received (less any credits or bad debts) under each Contract (as it may be renewed, extended or amended) ("**Commission**").

- 5.3 intY shall within 30 days of the end of the month in which intY received the corresponding payment for Services display within CASCADE a Commission statement setting out, in respect of such month, and in respect of each Contract:

5.3.1 the Commission payable to Trusted Advisor;

5.3.2 the payments for Services received and details of any sums due which have not been received; and

5.3.3 how the Commission has been calculated, including details of all deductions made in determining Net Income.

- 5.4 Notwithstanding clause 5.3 of this Agreement, in the event that Commission has been over calculated based on the value of an invoice which remains unpaid, intY reserves the right to deduct any over payment of Commission from the next Commission payment due.

- 5.5 Trusted Advisor shall send intY a monthly consolidated invoice for the Commission payable as per intY's statement submitted pursuant to clause 5.3, together with any applicable VAT. The due date for payment by intY of such Commission shall be 30 days from the date of receipt of the invoice. Payment shall be made in the currency(s) in which the relevant Services were sold to each End Customer.

- 5.6 intY may accrue payment of Commission until the cumulative Commission amount due to Trusted Advisor reaches a minimum of \$50 or its currency equivalent.

- 5.7 Trusted Advisor must send its invoice for Commission within 6 months of earning the Commission otherwise the right to Commission is waived.

- 5.8 If any dispute arises as to the amount of Commission payable by intY to Trusted Advisor, the parties shall refer the matter to a Director of each party for settlement and the same shall use all reasonable efforts to resolve the dispute in good faith within

14 days of the date of escalation.

## **6. ADVERTISING AND PROMOTION**

6.1 Trusted Advisor shall:

6.1.1 observe all reasonable directions and instructions given to it by intY in relation to the promotion of CASCADE and the Services available via CASCADE, and shall not make any written statement as to the quality of CASCADE and/or Services without the prior written approval of intY.

6.1.2 conduct its business in a manner that reflects favourably at all times on intY and the good name, goodwill and reputation of intY and not enter into any contract or engage in any practice detrimental to intY's interests;

6.1.3 avoid deceptive, misleading or unethical practices that are, or might be, detrimental to intY, CASCADE and/or the Services and shall not publish or employ, or co-operate in the publication or employment of, any false, misleading or deceptive advertising material or other representations with regard to intY, CASCADE and/or Services; and

6.1.4 not use any of the Trademarks without express written consent from intY.

## **7. INTELLECTUAL PROPERTY RIGHTS**

7.1 Trusted Advisor acknowledges and agrees that all Intellectual Property Rights in and to the Services belongs to the Vendors and that use of the Services is subject to the Flow Down Terms.

7.2 Trusted Advisor acknowledges and agrees that all Intellectual Property Rights in and to CASCADE belongs to intY and that use of CASCADE is subject to the EULA.

7.3 Without prejudice to the right of Trusted Advisor or any third party to challenge the validity of any Intellectual Property Rights of intY, Trusted Advisor shall not do or authorise any third party to do any act which would or might invalidate or be inconsistent with any Intellectual Property Rights of intY and/or a Vendor and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect or character.

7.4 Trusted Advisor shall have no rights in respect of any trade names or trademarks used by a Vendor in relation to a Service or its associated goodwill, and Trusted Advisor acknowledges that all such rights and goodwill shall inure for the benefit of and are (and shall remain) vested in the Vendor and/or its licensors.

7.5 Trusted Advisor shall promptly give notice in writing to intY in the event that it becomes aware of:

7.5.1 any infringement or suspected infringement of Flow Down Terms or the EULA by it and/or by an End Customer;

7.5.2 any infringement or suspected infringement of the Trade Marks or any Intellectual Property Rights in or relating to the Services and/or CASCADE; and

7.5.3 any claim that any Service or the use, sale or other disposal of any Service infringes the rights (including the Intellectual Property Rights) of any third party.

7.6 In respect of any matter that falls within Clause 7.5.1 or 7.5.2

**(a)** intY shall in its absolute discretion, decide what action to take in respect of the matter (if any);

**(b)** intY shall in its absolute discretion conduct and have sole control over any consequent action that it deems necessary and Trusted Advisor shall on being so requested by intY and at intY's cost assist in taking all steps to defend the rights of intY including the institution intY's cost of any actions which it may deem necessary to commence for the protection of any of its rights; and

**(c)** intY shall pay all costs in relation to any action where it has taken sole control and shall be entitled to all damages and other sums that may be paid or awarded as a result of that action.

7.7 In respect of any matter that falls within Clause 7.5.3 and on request from intY

**(a)** intY and Trusted Advisor shall, together with the relevant Vendor if deemed appropriate by intY agree:

**(i)** what steps to take to prevent or terminate the infringement; and

**(ii)** the proportions in which they shall share the cost of those steps and any damages and other sums that may be awarded to or against them.

## **8. INTY'S OBLIGATIONS**

8.1 intY shall provide Trusted Advisor at all material times with the information Trusted Advisor reasonably requires to carry out its duties under this Agreement, including marketing information for and details of the Services, and information about intY.

8.2 intY shall not be responsible for any costs incurred by Trusted Advisor in performing its obligations under this Agreement unless such costs have been agreed by intY in writing, in advance.

8.3 intY shall be under no obligation to:

8.3.1 follow up any Introduction made by Trusted Advisor; or

8.3.2 enter into a Contract.

## **9. CONFIDENTIALITY**

9.1 Trusted Advisor may have access to Confidential Information pursuant to the Agreement. Confidential Information shall not include information that:

9.1.1 is or becomes publicly known through no act or omission of Trusted Advisor; or



- 9.1.2 is lawfully disclosed to Trusted Advisor by a third party without restriction on disclosure; or
  - 9.1.3 is independently developed by Trusted Advisor, which independent development can be shown by written evidence.
- 9.2 Trusted Advisor shall hold Confidential Information secure and in confidence and not make the Confidential Information available to any third party or use the Confidential Information for any purpose other than the implementation of the Agreement. Trusted Advisor may disclose Confidential Information:
- 9.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out Trusted Advisor's obligations under the Agreement. Trusted Advisor shall procure that all such persons comply with the terms of this clause 9; and
  - 9.2.2 as may be required by law, a competent jurisdiction or any governmental or regulatory authority except that, to the extent permitted by law, Trusted Advisor shall give intY as much prior notice of such disclosure as possible and shall take into account the reasonable requests of intY in relation to the content of such disclosure.
- 9.3 This clause 9 shall survive termination of the Agreement for any reason.

## 10. DATA PROTECTION

- 10.1 The terms "Data Controller", "Data Processor", "Data Subject", "processing", "Personal Data", "Personal Data Breach" and "appropriate technical and organisational measures" shall have the meanings set out in the applicable Privacy Legislation (as may be amended from time to time). "DP Regulator" means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Privacy Legislation.
- 10.2 The parties agree it is their intention that in relation to any Personal Data processed by them under this Agreement:
- 10.2.1 each of Trusted Advisor and intY shall be a Data Controller in respect of Personal Data that is collected by Trusted Advisor and shared with intY in connection with performing its obligations under the Agreement to make Introductions ("**Shared Personal Data**"); and
  - 10.2.2 where Trusted Advisor processes Personal Data in the course of providing Agent Managed services to an End Customer (which may include, without limitation, accessing and using the End Customer's account and related services and placing orders on their behalf, viewing correspondence and archived data) Trusted Advisor shall be the Data Processor for and on behalf of the End Customer and intY shall be the Data Controller.
- 10.3 The parties shall comply with the provisions and obligations imposed on them by the Privacy Legislation and/or any obligation or requirements of the DP Regulator at all

times when processing Personal Data in connection with this Agreement.

10.4 In respect of any Shared Personal Data collected and/or processed under this Agreement:

10.4.1 Trusted Advisor shall ensure it has all necessary consents and notices in place and has legitimate grounds under the Privacy Legislation to enable lawful processing and transfer of the Shared Personal Data to intY;

10.4.2 Trusted Advisor shall ensure that it provides clear and sufficient information to any Data Subjects whose Personal Data may be processed under this Agreement, in accordance with the applicable Privacy Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required applicable Privacy Legislation, including, without limitation, that such information will be shared with intY;

10.4.3 Trusted Advisor shall only transfer Shared Personal Data to intY for the purposes of performing its obligations under this Agreement;

10.4.4 before transferring Shared Personal Data to intY, Trusted Advisor shall ensure such Shared Personal Data are accurate and complete and it will promptly inform intY of any updates to any Shared Personal Data at any time after transfer; and

10.4.5 each party shall assist the other in complying with all applicable requirements of the Privacy Legislation.

10.5 If Trusted Advisor receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data or to either party's compliance with the Privacy Legislation set out therein, it shall immediately notify intY and it shall provide intY with full co-operation and assistance in relation to any such complaint, notice or communication.

10.6 As between intY and Trusted Advisor, intY owns all End Customer data (including Personal Data) notified to or shared with Trusted Advisor or by any End Customer via CASCADE.

## **11. ANTI-BRIBERY**

11.1 Trusted Advisor shall:

11.1.1 comply with all Applicable Laws against bribery, corruption, inaccurate books & records, inadequate internal controls and money-laundering, including but not limited to the U.S. Foreign Corrupt Practices Act and the Bribery Act 2010 ("Anti-Corruption Laws"), and Trusted Advisor agrees that it has established and shall maintain throughout the term of this Agreement its own policies and procedures to ensure continued compliance with all such legislation and guidance;

- 11.1.2 not engage in any activity, practice or conduct which would constitute an offence under Anti-Corruption Laws;
  - 11.1.3 promptly report to intY any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of the Agreement and/or the sale of Services; And
  - 11.1.4 immediately notify intY in writing if a foreign public official becomes and officer or employee of Trusted Advisor and/or acquires a direct or indirect interest in Trusted Advisor (and Trusted Advisor warrants that it has no foreign public officials as officers or employees and/or direct or indirect owners at the date of this Agreement).
- 11.2 Trusted Advisor shall ensure that any person associated with Trusted Advisor who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on Trusted Advisor in this clause 11 (“**Relevant Terms**”). Trusted Advisor shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms, and shall in all circumstances be directly liable to intY for any breach by such persons of any of the Relevant Terms howsoever arising.
- 11.3 Breach of this clause 11 shall be deemed a material breach, which is irremediable, under clause 14.3.1.
- 11.4 For the purposes of this clause 11, a person associated with Trusted Advisor includes but is not limited to any subcontractor or agent of Trusted Advisor.

**12. WARRANTIES**

- 12.1 Each party represents, warrants and undertakes that:
- 12.1.1 it has full capacity and authority and all necessary consents to enter into and to perform the Agreement and to grant the rights and licences referred to in the Agreement; and
  - 12.1.2 it shall comply with all Applicable Laws in the performance of its obligations under the Agreement.
- 12.2 Except as expressly and specifically provided in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
- 12.3 Trusted Advisor shall indemnify and keep intY fully and effectively indemnified in respect of any and all claims made by an End Customer against intY relating to CASCADE and/or the Services, except where such claim arises as a direct result of the default and/or negligence of intY.

**13. LIMITATION OF LIABILITY**

- 13.1 Subject to clause 13.3, intY shall not be liable to Trusted Advisor in contract, tort (including for negligence or breach of statutory duty), misrepresentation (whether

innocent or negligent), by way of indemnity or otherwise for any special, incidental, consequential, indirect, exemplary and/or punitive damages or liabilities; loss of profit; loss of revenue; loss of use; loss of goodwill; loss of reputation; loss of or damage to data; costs of recreating lost data; the cost of any substitute equipment, program, or data; in all cases regardless of whether the possibility of such damages or liabilities have been communicated to intY and regardless of whether intY has or gains knowledge of the existence of such damages or liabilities.

13.2 Subject to clause 13.3, the cumulative, aggregate liability of intY (including without limitation costs awarded under the Agreement) to Trusted Advisor for all claims, liabilities and damages arising out of or in relation to the Agreement, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), by way of indemnity, or otherwise, shall not exceed the lower of:

13.2.1 monies actually paid by intY to Trusted Advisor under the Agreement in the 12 months preceding the date on which the claim arose; or

13.2.2 twenty thousand dollars (USD\$ 20,000).

13.3 Nothing in these Conditions shall exclude or limit intY's liability for:

13.3.1 fraud or fraudulent misrepresentation;

13.3.2 personal injury or death caused by the negligence of its employees in connection with the performance of their duties hereunder; or

13.3.3 any other liability that cannot be excluded by law.

13.4 Trusted Advisor shall indemnify and keep intY fully and effectively in respect of any and all claims, liability, costs, damages and/or losses suffered or incurred by intY as a result of the Trusted Advisor misrepresenting the Services or purporting to execute or accept any agreement, terms or conditions on behalf of an End Customer or intY.

#### **14. TERM AND TERMINATION**

14.1 The Agreement shall commence on the Effective Date and shall continue until terminated as provided in these Conditions.

14.2 Either party may by written notice to the other terminate the Agreement on not less than 30 days' written notice at any time.

14.3 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Agreement with immediate effect on written notice and without liability to the other if the other party:

14.3.1 commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;

14.3.2 is unable to pay its debts as they fall due; becomes insolvent; enters into

liquidation (whether voluntary or compulsory); an administration order is made or a receiver and/or administrative receiver is appointed in respect of all or any of the other party's assets; the other party makes or proposes a voluntary arrangement with its creditors; if any procedural step is taken in relation to or with a view to any of the above; or if any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the foregoing events; and/or

14.3.3 suspends or ceases or threatens to suspend or cease to exist or to carry on trading or a substantial part of its business.

14.4 Without prejudice to any other rights or remedies to which intY may be entitled, intY may terminate the Agreement with immediate effect on written notice and without liability to Trusted Advisor if Trusted Advisor:

14.4.1 does or omits to do anything that has the intention or effect of damaging intY's business or reputation or of reducing the brand value of CASCADE and/or Services; or

14.4.2 undergoes a change of Control. Trusted Advisor shall inform intY immediately of any changes in ownership or Control of Trusted Advisor or of any change in its organisation.

## **15. EFFECTS OF TERMINATION**

15.1 Upon termination of the Agreement for any reason:

15.1.1 Trusted Advisor shall cease to Introduce Prospective End Customers to intY;

15.1.2 Trusted Advisor shall not do and/or omit to do anything which may detrimentally affect the relationship between intY and an End Customer and/or Prospective End Customer;

15.1.3 all rights and licences of Trusted Advisor under this Agreement shall terminate;

15.1.4 Trusted Advisor shall destroy all marketing materials and other documents used in the sale and marketing of CASCADE and/or Services.

15.2 The termination of the Agreement shall not of itself give rise to any liability on the part of intY to pay any compensation to Trusted Advisor for loss of profits or goodwill, to reimburse Trusted Advisor for any costs relating to or resulting from such termination, or for any other loss or damage.

15.3 intY reserves the right to terminate all active Services provided to Trusted Advisor and purge all data associated with those Services with immediate effect and without prior notice.

15.4 intY will not be liable to provide a copy of any data comprised within the Services or which pertain to Trusted Advisor's use of CASCADE which have been purged as a result

of the termination of this Agreement. Notwithstanding the foregoing, should Trusted Advisor request such data, intY reserves the right to charge for professional services at its then current rates if any such work is undertaken.

- 15.5 Termination of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 15.6 Any clause of this Agreement that expressly or by implication is intended to survive termination or expiration of this Agreement shall remain in full force and effect.
- 15.7 For the avoidance of doubt, no entitlement to Commission will arise to Trusted Advisor post termination of this Agreement, even if End Customers Introduced by Trusted Advisor continue to purchase Services post-termination.

## **16. NON-SOLICITATION**

Trusted Advisor during the term of the Agreement or within a period of twelve (12) months after the termination of the Agreement, shall not (without the prior written consent of intY) approach directly or indirectly with a view to employing, engaging or sub-contracting on any basis whatsoever any person who has been involved under the employ of intY in the provision of the Services under the Agreement or is an End Customer of Services other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other party.

## **17. FORCE MAJEURE**

Neither party shall in any circumstances be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, power outage, internet backbone failure, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, epidemic or pandemic, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for three months, the party not affected may terminate the Agreement by giving 30 days' written notice to the other party.

## **18. GENERAL**

- 18.1 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.2 If any term of the Agreement is found to be illegal, invalid or unenforceable under any

Applicable Laws, such term shall, insofar as it is severable from the remaining terms (or capable of modification), be deemed omitted from the Agreement (or modified as appropriate) and shall in no way affect the legality, validity or unenforceability of the remaining terms which shall remain in full force and effect.

- 18.3 Each of the parties acknowledges and agrees that in entering into the Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.
- 18.4 These Conditions and any documents referred to in them (including the EULA) constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of the Agreement.
- 18.5 Except as set out in these Conditions, no variation of the Agreement by Trusted Advisor, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by intY.
- 18.6 Trusted Advisor shall not, without the prior written consent of intY, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement. intY may assign, transfer or subcontract any of its rights and/or obligations to any subsidiary, affiliate or to any acquirer of all or substantially all of intY's assets or business relating to the subject matter of the Agreement. This Agreement will be binding upon assignment and will inure to the benefit of the parties and their respective successors, permitted assigns.
- 18.7 Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.
- 18.8 The provisions of this Agreement are for the sole benefit of the parties hereto, their successors and permitted assigns, and they will not be construed as conferring any rights to third-parties (including any third-party beneficiary rights).
- 18.9 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post, recorded delivery post or pre-paid airmail providing proof of delivery to the other party at such address as is notified by that party for such purposes from time to time, to the address notified by the other party and in the case of notices sent to intY a copy shall be sent via email to [legal@inty.com](mailto:legal@inty.com). A notice delivered by hand will be deemed to have been received when delivered. A correctly addressed notice sent by pre-paid post will be deemed to have been received in the case of pre-paid recorded delivery two Business Days after the date of posting, or in the case of US Mail, three Business Days after the date of posting. A notice given by email will be deemed to be served when sent.

## **19. LAW AND JURISDICTION**

19.1 This Agreement shall be construed and enforced in accordance with the laws of South Carolina without regard to the conflicts of law provisions thereof. All claims, actions, disputes, controversies or suits shall be litigated exclusively in the courts of South Carolina. Each party specifically consents to service of process by and the jurisdiction of and venue in those courts and Partner, if not a resident of the United States, hereby appoints the Secretary of State of South Carolina as its agent for service of process in the United States.