

CASCADE EXPERT PARTNER TERMS AND CONDITIONS ("CONDITIONS")

These Conditions are between intY (as defined below) and Partner (as defined below) and set out the terms and conditions upon which Partner is appointed to resell Services (as defined below) to its customers via CASCADE (as defined below). By clicking to accept these Conditions as part of the sign-up process to become a partner of intY, Partner 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. Partner should frequently review these Conditions as, by continuing to access and/or use CASCADE after any changes and/or modifications become effective, Partner 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 Partner seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

1. DEFINITIONS AND INTERPRETATION

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

"Agreement"	means the agreement between intY and Partner 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 England;
"CASCADE"	means the cloud marketplace known as CASCADE and owned by intY which enables customers to purchase Services;
"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 Partner or otherwise acquired by Partner, 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;

"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 controls, controlled and the expression change of control shall be construed accordingly;
"Effective Date"	means the date on which intY sends confirmation that Partner has been accepted as a reseller of intY;
"End User"	means any third party who purchases Services from Partner;
"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 any acceptable use policy of a Vendor for use of a Service as made available on CASCADE and as may be updated from time to time;
"Group Company"	means in relation to a company, each and any subsidiary or holding company from time to time of that company, and each and any subsidiary from time to time of a holding company of that company;
"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, trade marks, 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;
"intY"	means intY Limited, a company registered in England and Wales (Company No. 3438922) whose registered office is at 170 Aztec West, Bristol, BS32 4TN;
"Licence"	means a licence granted by a Vendor to an End User to use a Service through acceptance of the relevant Flow Down Terms;
"Partner"	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 partner of intY;

"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, including the Data Protection Act 2018, and the Privacy and Electronic Communications (EC Directive) Regulations 2003, EU Regulation 2016/679 ("GDPR"), and any laws or regulations ratifying, implementing, adopting, supplementing or replacing such laws;
"Service"	means any cloud application, product or service available via CASCADE or any other services provided by intY to Partner whether delivered to the Partner, an End User or any third party;
"Service Cancellation Date"	means the date on which cancellation of a Service takes effect, as detailed in clause 7.1.1;
"Trade Marks"	means the trade mark registrations, logos and names belonging and/ or registered to intY or any of its Group Companies, its licensors or a Vendor;
"Vendor"	means a third party vendor of a Service;
"Virus"	means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; and
"Vulnerability"	means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

- 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.
- 1.9 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.

2. **APPOINTMENT**

- 2.1 intY appoints Partner as its non-exclusive partner to market and sell the Services exclusively to End Users on the terms of these Conditions.
- 2.2 The Partner will adhere to any territorial restrictions that may apply to the scope of its appointment as stipulated on CASCADE or by the Vendor in the Flow Down Terms.
- 2.3 Nothing in these Conditions shall prevent intY from appointing other partners, resellers, and/or agents and/or from selling Services itself direct to end users or any other third parties.
- 2.4 Partner shall be entitled to describe itself as an "Authorised Partner" of intY but shall not:
 - 2.4.1 represent itself as an agent of intY for any purpose;
 - 2.4.2 pledge intY's credit or give any condition or warranty or make any representation on intY's behalf or commit intY to any contracts;
 - 2.4.3 make any representations, warranties, guarantees or other commitments with respect to the specifications, features or capabilities of CASCADE and/or Services which are inconsistent with those contained in the promotional material or documentation supplied to Partner by intY (including, without limitation, the EULA) or a Vendor (as applicable); and/or
 - 2.4.4 incur any liability on behalf of intY howsoever arising.

2.5 Partner's appointment under this clause 2 only grants to Partner a non-exclusive, non-transferable licence to sell Services to End Users and does not transfer any right, title or interest in or to any such Services and/or in CASCADE to Partner and/or its End Users. Use of the terms "sell", "sold", "license", "purchase", "licence fees" and "price" will be interpreted in accordance with this clause.

2.6 Partner shall inform intY immediately of any changes in ownership or Control of Partner and/or of any change in its organisation.

3. **SUPPLY OF SERVICES**

3.1 Subject to Partner complying with the licence restrictions placed upon Partner under Clause 2 above and the terms of the EULA published on CASCADE from time to time, intY shall provide Partner with online access to CASCADE during the term of the Agreement solely for the purpose of managing the provision of Services to End Users via CASCADE.

3.2 intY shall provide End Users with limited second and third line support subject to Partner having first supplied the End User with comprehensive first line support using adequately trained and competent support staff and Partner having fulfilled all of its obligations under clause 4.1.6 of this Agreement. In the event that intY persistently receives support requests from End User(s) that it reasonably considers should have been resolved as first line support issues by Partner, then intY reserves the right to withhold support from such End Users (without any liability to Partner and/or End Users) and refer them back to the Partner to comply with its first line support obligations to the End Users.

3.3 Partner shall be solely responsible for the security of any logins and/or passwords provided or made available to it by intY in order for Partner to access CASCADE. Partner 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 managing the provision of Services to End Users and not by any third party or for any other purpose. Partner will promptly notify intY if it suspects or becomes aware of any unauthorised use of such logins and/or passwords.

3.4 intY does not warrant or represent that:

3.4.1 Partner and/or the End User's use of the Services will be uninterrupted or error-free;

3.4.2 the Services, and/or the information obtained through the Services will meet Partner's and/or End User's requirements; or

3.4.3 the Services and/or CASCADE will be free from Viruses and/or Vulnerabilities.

3.5 intY is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Partner acknowledges that Services may be subject to limitations, delays and other problems inherent in the use of such communication facilities.

- 3.6 Without prejudice to any other rights or remedies to which intY may be entitled, intY may suspend Partner, its employees, agents, resellers and any End Users' access to the Services without notice if any payment due from Partner to intY is not made by the due date for payment. No compensation or credit will be issued in respect of any period for which the Services may have been suspended and/or terminated as a result of non-payment, and Partner will indemnify intY in respect of any claims against intY arising from it invoking its rights under this clause 3.6.
- 3.7 intY is entitled at any time to make changes to the Services available via CASCADE and shall give notice of such changes to Partner as soon as reasonably practicable.
- 3.8 Partner shall contract on its own account directly with each End User for the sale of the Services at such price as Partner shall determine at its sole discretion.
- 3.9 Partner shall manage the purchase of new Services via CASCADE.
- 3.10 Partner shall manage all End Customer requirements for licence quantity changes of existing Services via CASCADE.
- 3.11 Partner shall be liable for all costs accrued on a usage basis by End Users.
- 3.12 On request, Partner shall provide to intY such information about the End Users as reasonably required by intY for its purposes, including but not limited to, managing and enforcing the terms of the Flow Down Terms and the EULA with such End Users and as required in order for intY to provide second and third line support.

4. **PARTNER'S OBLIGATIONS**

- 4.1 Partner shall:
 - 4.1.1 use all reasonable endeavours to promote the sale of the Services to End Users;
 - 4.1.2 employ an appropriate number of suitably trained and qualified personnel to ensure the proper fulfilment of the Partner's obligations under this Agreement;
 - 4.1.3 use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or CASCADE. In addition, in the event of any such unauthorised access or use, Partner shall promptly notify intY in writing and provide all relevant information which intY may require or request;
 - 4.1.4 procure that all End Users are aware of and accept the applicable Flow Down Terms and the EULA prior to the use of the Services and/or access to CASCADE (as relevant). Partner shall notify all End Users of any changes to applicable Flow Down Terms and of any changes to the EULA and ensure that all End Users are bound by the most recent version of such terms;
 - 4.1.5 not make any amendments to the EULA and/or the Flow Down Terms and/or enter into a contract with an End User that conflicts with any of the provisions in the EULA and/or the Flow Down Terms; and

- 4.1.6 provide first line support to End Users of the Services including but not limited to provision of assistance and consultation on the installation and use of the Services and/or CASCADE, timely responses to End Users' general queries regarding the Services and/or CASCADE and assistance to End Users in the diagnosis and correction of problems encountered in using the Services and/or CASCADE.
- 4.2 Partner shall (and shall procure that End Users shall) not access, store, distribute or transmit any material during the course of Partner's and/or the End Users' use of the Services and/or CASCADE that:
 - 4.2.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 4.2.2 facilitates illegal activity;
 - 4.2.3 depicts sexually explicit images;
 - 4.2.4 promotes unlawful violence;
 - 4.2.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;
 - 4.2.6 is otherwise illegal or causes damage or injury to any person or property; or
 - 4.2.7 contains (whether knowingly, deliberately, reasonably suspected to or otherwise) any Viruses.
- 4.3 Partner acknowledges and agrees that intY reserves the right, without liability or prejudice to all its other rights and remedies, to disable Partner and/or End User's access to any material that breaches the provisions of this clause.

5. INTY'S OBLIGATIONS

intY shall provide such information and support as may be reasonably requested by Partner to enable it to properly and efficiently discharge its duties under these Conditions.

6. PRICES AND PAYMENT

- 6.1 The price payable by Partner to intY for Services shall be as determined by intY and notified to Partner from time to time.
- 6.2 intY shall give Partner notice via CASCADE of any changes to the prices by publishing the new prices on CASCADE.
- 6.3 Any and all expenses, costs and charges incurred by Partner in the performance of its obligations under the Agreement shall be paid by Partner.
- 6.4 intY will invoice Partner on a monthly basis for subscription based products and separately for consumption based products . The sums due from Partner to intY shall be solely determined by the records held by intY.

- 6.5 All prices are exclusive of any Value Added Tax or other applicable sales taxes for which Partner shall be additionally liable.
- 6.6 intY is an online supplier of continuous services and therefore cannot support the use of purchase orders on its invoices.
- 6.7 Partner shall pay the full amount invoiced to it by reference to the currency of the Service purchased in each instance. Partner shall set up an automated payment method in CASCADE and payment will be due and taken by intY 30 days after the date of invoice. Time for payment is of the essence. Failure to maintain a valid automated payment method in CASCADE may result in the suspension of Services without notice.
- 6.8 Partner is solely responsible for the payment of all Services ordered or updated by Partner or End Users using Partner's log in credentials and/or for use or consumption by Partner or End Users of any Vendor's Services which require additional payment.
- 6.9 Partner shall not be entitled by reason of any set-off, counter-claim, abatement, or other similar deduction to withhold payment of any amount due to intY, unless an error is discovered by either party, in which case the amount of set-off, counterclaim, abatement or other similar deduction shall be limited to the amount of the error. For the avoidance of doubt, Partner shall be liable to pay to intY all sums due whether or not it has been paid the corresponding sums by the End User.
- 6.10 If a payment due from Partner is subject to tax (whether by way of direct assessment or withholding at its source), intY shall be entitled to receive from Partner such amounts as shall ensure that the net receipt, after tax, is the same as it would have been were the payment not subject to tax.
- 6.11 intY shall not complete any forms or other documentation appertaining to a Partner's taxation status or to payments made to intY, whether in relation to directly assessed or withholding taxes.
- 6.12 Without prejudice to any other rights or remedies to which intY may be entitled, in the event that any invoice is not paid in full when due, Partner shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.
- 6.13 Without prejudice to any other rights or remedies to which intY may be entitled, in the event that any invoice is not paid in full when due, intY shall be entitled to immediately terminate this Agreement and/or suspend and/or terminate all of the Services or any part of them at its sole discretion. In the event of suspension or termination, Partner acknowledges (and shall procure such acknowledgement from End Users) that Partner and/or End Users will not be able to access the Services, the applications or data and such data may be irrecoverable.

7. **TERMINATING END USER SERVICES**

- 7.1 In the event that Partner wishes to cancel any Services purchased by an End User, Partner must:

- 7.1.1 provide the minimum notice required by the product of the cancellation of such End User's Services via CASCADE. For monthly billed Services, the cancellation will take effect on the date selected in CASCADE. For annually billed Services, the cancellation will take effect at the end of the 12 month billing period;
 - 7.1.2 ensure that it promptly informs the relevant End User that they must backup any data held within the Services that they wish to keep ahead of the Service Cancellation Date. Any data held within the Services after the Service Cancellation Date will NOT be recoverable;
 - 7.1.3 ensure that all users authorised by the End User to access and use the Services are unassigned from Licences to the Services being cancelled ahead of the Service Cancellation Date; and
 - 7.1.4 ensure all locally installed software relating to the Services is uninstalled prior to the Service Cancellation Date.
- 7.2 Upon termination of a Service purchased by an End User, the End User's right to access and/or use the Service, along with any relevant Licence, shall immediately terminate and Partner shall procure that the End User immediately ceases any use of the Service.
 - 7.3 Partner will continue to be liable to intY for all charges relating to active Services under its Partner account within CASCADE until the relevant Service Cancellation Date.
 - 7.4 Should Partner request reactivation of an End User's Service(s) after any Service suspension or cancellation, intY reserves the right to charge Partner professional services charges to reactivate and/or retrieve data relating to the suspended or cancelled Service(s) where intY deems recovery is possible.
 - 7.5 intY is under no obligation to reactivate Services which have been suspended or cancelled unless intY deems that the cancellation was in error.

8. **ADVERTISING AND PROMOTION**

- 8.1 Partner shall:
 - 8.1.1 be responsible for the promotion of Services at its own cost;
 - 8.1.2 observe all reasonable directions and instructions given to it by intY in relation to the promotion of the Services;
 - 8.1.3 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;
 - 8.1.4 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

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

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Partner acknowledges and agrees that all Intellectual Property Rights in and to the Services belong to the Vendors and that use of the Services is subject to the Flow Down Terms.

9.2 Partner acknowledges and agrees that all Intellectual Property Rights in and to CASCADE belong to intY and that use of CASCADE is subject to the EULA.

9.3 Without prejudice to the right of Partner or any third party to challenge the validity of any Intellectual Property Rights of intY, Partner 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.

9.4 Partner shall have no rights in respect of any trade names or trade marks used by a Vendor in relation to a Service or its associated goodwill, and Partner 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.

9.5 Partner shall promptly give notice in writing to intY in the event that it becomes aware of:

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

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

9.5.3 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.

9.6 In respect of any matter that falls within Clause 9.5.1 or 9.5.2:

(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 the Partner 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.

9.7 In respect of any matter that falls within Clause 9.5.3 and on request from intY

(a) intY and the Partner 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.

10. **CONFIDENTIALITY**

10.1 Partner may have access to Confidential Information pursuant to the Agreement. Confidential Information shall not include information that:

10.1.1 is or becomes publicly known through no act or omission of Partner; or

10.1.2 is lawfully disclosed to Partner by a third party without restriction on disclosure; or

10.1.3 is independently developed by Partner, which independent development can be shown by written evidence.

10.2 Partner shall hold the 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. Partner may disclose Confidential Information:

10.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the Partner's obligations under the Agreement. Partner shall procure that all such persons comply with the terms of this clause 10; and

10.2.2 as may be required by law, a competent jurisdiction or any governmental or regulatory authority except that, to the extent permitted by law, Partner 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.

10.3 This clause 10 shall survive termination of the Agreement for any reason.

11. **DATA PROTECTION**

11.1 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 Privacy Legislation (as may be amended from time to time).

11.2 The parties acknowledge that when processing Personal Data relating to a Partner or to an End Customer for the purposes of this Agreement, each party is acting as an independent Data Controller. The parties shall comply with the provisions and obligations imposed on them by the Privacy Legislation at all times when processing Personal Data in connection with this Agreement.

- 11.3 Each party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Privacy Legislation, and shall make such information available to any data protection supervisory authority on request.
- 11.4 Without prejudice to the generality of clause 11.2, Partner shall ensure that it has all necessary and appropriate consents and notices in place to enable lawful transfer of the Personal Data to intY for the duration and purposes of this Agreement so that intY may lawfully use, process and transfer the Personal Data in accordance with this Agreement.
- 11.5 Partner shall notify intY immediately if it becomes aware of:
- 11.5.1 any unauthorised or unlawful processing, loss of, damage to or destruction of Personal Data that either party processes in connection with this Agreement;
 - 11.5.2 any advance in technology and methods of working which is material to intY's security measures.
- 11.6 If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with Privacy Legislation, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.
12. **ANTI-BRIBERY**
- 12.1 Partner shall:
- 12.1.1 conduct its business in all respects in accordance with all Applicable Laws and regulations regarding anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and all regulations made and guidance issued under the Act and Partner 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;
 - 12.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 12.1.3 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
 - 12.1.4 immediately notify intY in writing if a foreign public official becomes and officer or employee of Partner and/or acquires a direct or indirect interest in Partner (and Partner warrants that it has no foreign public officials as officers or employees and/or direct or indirect owners at the date of this Agreement).
- 12.2 Partner shall ensure that any person associated with Partner 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 Partner in this clause 12 (“**Relevant Terms**”). Partner 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.

12.3 Breach of this clause 12 shall be deemed a material breach, which is irremediable, under clause 15.3.1.

12.4 For the purpose of this clause 12, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 12, a person associated with the Partner includes but is not limited to any subcontractor of the Partner.

13. **WARRANTIES**

13.1 Each party represents, warrants and undertakes that:

13.1.1 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

13.1.2 it shall comply with all Applicable Laws in the performance of its obligations under the Agreement.

13.2 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.

13.3 Partner shall indemnify and keep intY fully and effectively indemnified in respect of any and all claims made by an End User 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.

14. **LIMITATION OF LIABILITY**

14.1 Subject to clause 14.3, intY shall not be liable to Partner 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 profits; 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.

14.2 Subject to clause 14.3, the cumulative, aggregate liability of intY (including, without limitation, for costs awarded under the Agreement) to Partner 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:

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

14.2.2 one hundred thousand pounds (£100,000).

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

14.3.1 fraud or fraudulent misrepresentation;

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

14.3.3 any other liability that cannot be excluded by law.

15. **TERM AND TERMINATION**

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

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

15.3 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:

15.3.1 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 21 days of that party being notified in writing of the breach;

15.3.2 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

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

15.4 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 Partner:

15.4.1 in the circumstances set out in clause 6.13;

15.4.2 if Partner 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; or

15.4.3 if Partner undergoes a change of Control.

16. EFFECTS OF TERMINATION

16.1 Upon termination, Partner shall destroy all marketing materials and other documents used in the sale and marketing of CASCADE and/or Services.

16.2 Upon termination of this Agreement, all rights and licences of the Partner under this Agreement shall terminate.

16.3 The termination of the Agreement shall not of itself give rise to any liability on the part of intY to pay any compensation to Partner for loss of profits or goodwill, to reimburse Partner for any costs relating to or resulting from such termination, or for any other loss or damage including but not limited to any loss of data by Partner or End User. For the avoidance of doubt intY will not refund any subscription or other fees paid to it in respect of any subscription period after the date of termination.

16.4 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.

16.5 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.

17. NON-SOLICITATION

Partner 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 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.

18. FORCE MAJEURE

18.1 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.

19. GENERAL

19.1 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.

19.2 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.

19.3 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 the 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.

19.4 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.

19.5 Except as set out in these Conditions, no variation of the Agreement by Partner, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by intY.

19.6 Partner 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 Group Company or to any acquirer of all or substantially all of intY's assets or business relating to the subject matter of the Agreement.

19.7 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.

19.8 Save as expressly provided in these Conditions, no term of the Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

19.9 Any notice 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 where appropriate providing proof of delivery to the other party at such address as is notified by that party for such purposes from time to time and in the case of notices sent to intY, a copy shall also be provided by email to legal@inty.com.

19.10 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 airmail, five Business Days after the date of posting.

20. LAW AND JURISDICTION

20.1 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with English law.

20.2 Dispute Resolution:

(a) If at the date of the relevant transaction the Partner is not domiciled in the United Kingdom, all disputes arising out of or in connection with this Agreement including any question regarding the validity, existence or termination of this Agreement and/or this arbitration clause, shall be referred to and finally resolved by arbitration in London conducted in the English language by a sole arbitrator pursuant to the LCIA Arbitration Rules which are deemed to be incorporated by reference into this clause. Furthermore, intY shall not be prevented from making any application for or relying on any LCIA Emergency Procedures as defined by the LCIA Rules.

(b) Notwithstanding Clause 20.2 (a) above, intY shall not be prevented from seeking to obtain interim relief in respect of its claims or counterclaims in legal proceedings in any jurisdiction which shall include without limitation (i) applications made in any jurisdiction for, or ancillary to, the obtaining of security or (ii) applications made pursuant to the courts powers under the English Arbitration Act 1996 in support of arbitration proceedings.

(c) If at the date of the relevant transaction the Partner is domiciled in the United Kingdom, all disputes arising out of or in connection with this Agreement are subject to the non-exclusive jurisdiction of the courts of England & Wales, and the clauses 20.2 (a) and (b) above do not apply.