

**The Cascade Cash Management Portal (Portal)**  
**Terms and Conditions of Use**

**IMPORTANT NOTICE: PLEASE READ THIS CAREFULLY BEFORE ACCESSING THE PORTAL**

These Terms, describe how you may use the Portal and create a legal agreement between you (**you, your** or **Partner**) and us, Cascade Cash Management Limited (CRN: 09212233) whose registered office is at Keel House, Garth Heads, Newcastle upon Tyne, NE1 2JE (**we** or **Cascade**), (the **Agreement**).

Your relationship with us is governed by the Cascade Partner Agreement or Cascade Client Agreement already in place between us. However, we licence use of the Portal to you on the basis of this Agreement. We do not sell the Portal to you. We remain the owners of the Portal at all times. In the case of conflict between this Agreement and the Cascade Partner Agreement and/or the Cascade Client Agreement, the terms of this Agreement shall prevail solely in relation to the Portal.

**BY ACCESSING THE PORTAL YOU AGREE TO THE TERMS OF THIS AGREEMENT WHICH WILL BIND YOU, YOUR EMPLOYEES AND YOUR CLIENTS. THE TERMS OF THIS AGREEMENT INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CLAUSE 13. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, WE WILL NOT LICENSE THE PORTAL TO YOU AND YOU MUST NOT ACCESS IT.**

We may change the terms and conditions of this Agreement and our Privacy Policy at any time. We will make reasonable efforts to communicate any changes to you but it is up to you to ensure that you regularly check, read, understand and agree to the most recent version of this Agreement and our Privacy Policy as you will be deemed to accept all changes if you continue to access and use the Portal.

**I. Interpretation**

I.1 The definitions and rules of interpretation in this clause apply in this Agreement.

**Authorised Users** those employees, agents, clients and independent contractors of the Partner who are authorised by the Partner to use the Portal and the Documentation, as further described in clause

	2.2.4;
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>Change of Control</b>	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, <b>controls</b> and <b>controlled</b> shall be construed accordingly;
<b>Confidential Information</b>	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5;
<b>Customer Data</b>	the data inputted by the Customer, Authorised Users, or Cascade on the Customer's behalf for the purpose of using the Portal or facilitating the Customer's use of the Portal.
<b>Documentation</b>	the documents made available to the Customer by Cascade online via the Portal or such other web address notified by Cascade to the Customer from time to time which sets out a description of the Portal and the user instructions for the Portal including without limitation user guides;
<b>Effective Date</b>	the date you first access the Portal;
<b>Initial Subscription Term</b>	12 calendar months;
<b>Normal Business Hours</b>	9.00 am to 5.00 pm local UK time, each Business Day;
<b>Renewal Period</b>	the period described in clause 14.1;
<b>Portal Support Policy</b>	Cascade's policy for providing support in relation to the Portal set out within the Partner Agreement and as may be notified to the Customer from time to time;
<b>Software</b>	the online software applications provided by Cascade as part of the Portal;
<b>Subscription Fees</b>	the subscription fees payable by the Customer to Cascade for the User Subscriptions, notified to you from time to time in accordance with clause 9;

**Subscription Term** has the meaning given in clause 14.1 (being the Initial Subscription Term together with any subsequent Renewal Periods);

**User Subscriptions** the user subscriptions purchased by the Customer pursuant to clause 9.1 which entitle Authorised Users to access and use the Portal and the Documentation in accordance with this Agreement;

**Virus** any thing or device (including any software, code, file or program) 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 program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program 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.

1.2 References to clauses are to the clauses of this Agreement and clause headings shall not affect the interpretation of this Agreement.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement and includes all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.

1.7 A reference to writing or written includes e-mail.

## 2. **User Subscriptions**

2.1 Subject to the Customer purchasing the User Subscriptions in accordance with clause 3.3 and clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of this Agreement, Cascade hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Portal and the Documentation during the Subscription Term solely for the Customer's internal business operations.

2.2 In relation to the Authorised Users, the Customer undertakes that:

2.2.1 the maximum number of Authorised Users that it authorises to access and use the Portal and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

2.2.2 it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Portal and/or Documentation;

2.2.3 each Authorised User shall keep a secure password for his use of the Portal and Documentation, that such password shall be changed no less frequently than 90 days and that each Authorised User shall keep his password strictly confidential;

2.2.4 it shall maintain a written, up to date list of current Authorised Users and provide such list to Cascade within 5 Business Days of Cascade's written request at any time or times;

2.2.5 it shall permit Cascade to audit the Portal in order to establish the name and password of each Authorised User. Such audit may be conducted no more than once per quarter, at Cascade's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

2.2.6 if any of the audits referred to in clause 2.2.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Cascade's other rights, the Customer shall promptly disable such passwords and Cascade shall not issue any new passwords to any such individual; and

2.2.7 if any of the audits referred to in clause 2.2.5 reveal that the Customer has underpaid Subscription Fees to Cascade, then without prejudice to Cascade's other rights, the Customer

shall pay to Cascade an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.

2.3 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Portal that:

2.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

2.3.2 facilitates illegal activity;

2.3.3 depicts sexually explicit images;

2.3.4 promotes unlawful violence;

2.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

2.3.6 in a manner that is otherwise illegal or causes damage or injury to any person or property;

and Cascade reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

2.4 The Customer shall not:

2.4.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

2.4.1.1 and except to the extent expressly permitted under this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or

2.4.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;

2.4.2 access all or any part of the Portal and Documentation in order to build a product or service which competes with the Portal and/or the Documentation;

2.4.3 use the Portal and/or Documentation to provide Portal to unauthorised third parties;

2.4.4 subject to clause 21.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Portal and/or Documentation available to any third party except the Authorised Users; or

2.4.5 attempt to obtain, or assist third parties in obtaining, access to the Portal and/or Documentation, other than as provided under this clause 2.

2.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Portal and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Cascade.

2.6 The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

### 3. **Additional User Subscriptions**

3.1 Subject to clause 3.2 and clause 3.3, the Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in Schedule A and Cascade shall grant access to the Portal and the Documentation to such additional Authorised Users in accordance with the provisions of this Agreement.

3.2 If the Customer wishes to purchase additional User Subscriptions, the Customer shall notify Cascade in writing. Cascade shall evaluate such request for additional User Subscriptions and respond to the Customer with approval or rejection of the request (such approval not to be unreasonably withheld).

3.3 If Cascade approves the Customer's request to purchase additional User Subscriptions, the Customer shall, within 30 days of the date of Cascade's invoice, pay to Cascade the relevant fees for such additional User Subscriptions and, if such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be adjusted pro-rata for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

### 4. **Portal**

4.1 Cascade shall, during the Subscription Term, provide the Portal and make available the Documentation to the Customer at its discretion on and subject to the terms of this Agreement.

4.2 Cascade shall use commercially reasonable endeavours to make the Portal available 24 hours a day, seven days a week, except for:

4.2.1 planned maintenance carried out during the maintenance window of 9.00 pm to 1.00 am UK time; and

- 4.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that Cascade has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.
- 4.3 Cascade will, as part of the Portal and at no additional cost to the Customer, provide the Customer with Cascade's standard customer support during Normal Business Hours in accordance with Cascade's Portal Support Policy in effect at the time that the Portal is provided. Cascade may amend the Portal Support Policy in its sole and absolute discretion from time to time.

## 5. **Customer Data**

- 5.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 5.2 In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for Cascade to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Cascade. Cascade shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Cascade to perform Portal related to Customer Data maintenance and back-up).
- 5.3 Cascade shall, in providing the Portal, comply with its Privacy Policy, as such document may be amended from time to time by Cascade in its sole discretion.
- 5.4 If Cascade processes any personal data on the Customer's behalf when performing its obligations under this Agreement, the parties record their intention that the Customer shall be the data controller and Cascade shall be a data processor and in any such case:
  - 5.4.1 in order to provide services to you we may be required to pass your personal information to parties located outside of the European Economic Area (EEA) in countries that do not have data protection laws equivalent to those in the UK. Where this is the case we will take reasonable steps to ensure the privacy of your information and will seek your permission under current legislation before knowingly doing so;
  - 5.4.2 the Customer where applicable shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;

5.4.3 Cascade shall process the personal data only in accordance with the terms of this Agreement and any lawful instructions reasonably given by the Customer from time to time; and

5.4.4 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

## 6. **Third Party Providers**

The Customer acknowledges that the Portal may enable or assist it to access the website content of, correspond with, and purchase products and Portal from, third parties via third-party websites and that it does so solely at its own risk. Cascade makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Cascade. Cascade recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Cascade does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Portal.

## 7. **Cascade's Obligations**

7.1 Cascade undertakes that the Portal will be performed substantially in accordance with the Documentation and with reasonable skill and care.

7.2 The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Portal contrary to Cascade's instructions, or modification or alteration of the Portal by any party other than Cascade or Cascade's duly authorised contractors or agents. If the Portal does not conform with the foregoing undertaking, Cascade will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1. Notwithstanding the foregoing, Cascade:

7.2.1 does not warrant that the Customer's use of the Portal will be uninterrupted or error-free or that the Portal and/or the information obtained by the Customer through the Portal will meet the Customer's requirements; and



- 7.2.2 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 the Customer acknowledges that the Portal may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.3 This Agreement shall not prevent Cascade from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or systems which are similar to those provided under this Agreement.
- 7.4 Cascade warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

## 8. **Customer's Obligations**

- 8.1 The Customer shall:
- 8.1.1 provide Cascade with:
    - 8.1.1.1 all necessary co-operation in relation to this Agreement; and
    - 8.1.1.2 all necessary access to such information as may be required by Cascade; in order to provide the Portal, including but not limited to Customer Data, security access information and configuration Portal;
  - 8.1.2 comply with all applicable laws and regulations with respect to its activities under this Agreement;
  - 8.1.3 carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Cascade may adjust any agreed timetable or delivery schedule as reasonably necessary;
  - 8.1.4 ensure that the Authorised Users use the Portal and the Documentation in accordance with the terms and conditions of this Agreement in an appropriate and reasonable manner and shall be responsible for any Authorised User's breach of this Agreement;
  - 8.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for Cascade, its contractors and agents to perform their obligations under this Agreement, including without limitation the Portal;

8.1.6 ensure that its network and systems comply with the relevant technical specifications provided by Cascade from time to time; and

8.1.7 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Cascade's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

## 9. Charges and Payment

9.1 The Customer shall pay the Subscription Fees to Cascade for the User Subscriptions in accordance with this clause 9.

9.2 The Customer shall on the Effective Date provide to Cascade valid, up-to-date and approved standing order information acceptable to Cascade and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:

9.2.1 its approved standing order information to Cascade, Cascade shall invoice the Customer:

9.2.1.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and

9.2.1.2 subject to clause 14.1, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period, and the Customer shall pay each invoice within 14 days after the date of such invoice.

9.3 If Cascade has not received payment within 14 days after the due date, and without prejudice to any other rights and remedies of Cascade:

9.3.1 Cascade may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Portal and Cascade shall be under no obligation to provide any or all of the Portal while the invoice(s) concerned remain unpaid; and

9.3.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

9.4 All amounts and fees stated or referred to in this Agreement:

9.4.1 shall be payable in pounds sterling;

9.4.2 are, subject to clause 13.4.2, non-cancellable and non-refundable;

9.4.3 are exclusive of value added tax, which shall be added to Cascade's invoice(s) at the appropriate rate.

9.5 Cascade shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to clause 3.3 at the start of each Renewal Period upon 90 days' prior notice to the Customer.

## 10. **Proprietary Rights**

10.1 The Customer acknowledges and agrees that Cascade and/or its licensors own all intellectual property rights in the Portal and the Documentation. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Portal or the Documentation.

10.2 Cascade confirms that it has all the rights in relation to the Portal and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

## 11. **Confidentiality**

11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

11.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

11.1.2 was in the other party's lawful possession before the disclosure;

11.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

11.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or

11.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

11.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

- 11.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 11.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 11.5 The Customer acknowledges that details of the Portal, and the results of any performance tests of the Portal, constitute Cascade's Confidential Information.
- 11.6 Cascade acknowledges that the Customer Data is the Confidential Information of the Customer.
- 11.7 No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.8 The above provisions of this clause 11 shall survive termination of this Agreement, however arising.

## 12. Indemnity

- 12.1 The Customer shall defend, indemnify and hold harmless Cascade against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Portal and/or Documentation, provided that:
- 12.1.1 the Customer is given prompt notice of any such claim;
- 12.1.2 Cascade provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
- 12.1.3 the Customer is given sole authority to defend or settle the claim.
- 12.2 Cascade shall defend the Customer, its officers, directors and employees against any claim that the Portal or Documentation infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
- 12.2.1 Cascade is given prompt notice of any such claim;

- 12.2.2 the Customer provides reasonable co-operation to Cascade in the defence and settlement of such claim, at Cascade's expense; and
- 12.2.3 Cascade is given sole authority to defend or settle the claim.
- 12.3 In the defence or settlement of any claim, Cascade may procure the right for the Customer to continue using the Portal, replace or modify the Portal so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.
- 12.4 In no event shall Cascade, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
  - 12.4.1 a modification of the Portal or Documentation by anyone other than Cascade; or
  - 12.4.2 the Customer's use of the Portal or Documentation in a manner contrary to the instructions given to the Customer by Cascade; or
  - 12.4.3 the Customer's use of the Portal or Documentation after notice of the alleged or actual infringement from Cascade or any appropriate authority.
- 12.5 The foregoing and clause 13.4.2 states the Customer's sole and exclusive rights and remedies, and Cascade's (including Cascade's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

### 13. **Limitation of Liability**

- 13.1 This clause 13 sets out the entire financial liability of Cascade (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
  - 13.1.1 arising under or in connection with this Agreement;
  - 13.1.2 in respect of any use made by the Customer of the Portal and Documentation or any part of them; and
  - 13.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 13.2 Except as expressly and specifically provided in this Agreement:
  - 13.2.1 the Customer assumes sole responsibility for:
    - 13.2.1.1 results obtained from the use of the Portal and the Documentation by the Customer; and

13.2.1.2 conclusions drawn from such use; and

13.2.1.3 inappropriate and/or unreasonable use of the Portal;

Cascade shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Cascade by the Customer in connection with the Portal, or any actions taken by Cascade at the Customer's direction;

13.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

13.2.3 the Portal and the Documentation are provided to the Customer on an "as is" basis.

13.3 Nothing in this Agreement excludes the liability of Cascade:

13.3.1 for death or personal injury caused by Cascade's negligence; or

13.3.2 for fraud or fraudulent misrepresentation.

13.4 Subject to clause 13.2 and clause 13.3:

13.4.1 Cascade shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

13.4.2 Cascade's total aggregate liability in contract (including in respect of the indemnity at clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to £1,000 in any contractual year.

#### 14. **Term and Termination**

14.1 This Agreement shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:

14.1.1 either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

14.1.2 otherwise terminated in accordance with the provisions of this Agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

14.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

14.2.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

14.2.2 the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

14.2.3 the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;

14.2.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ;

14.2.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.2.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

- 14.2.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
  - 14.2.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
  - 14.2.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
  - 14.2.11 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 events mentioned in clause 14.2.4 to clause 14.2.10 (inclusive);
  - 14.2.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
  - 14.2.13 there is a Change of Control of the Customer.
- 14.3 On termination of this Agreement for any reason:
- 14.3.1 all licences granted under this Agreement shall immediately terminate;
  - 14.3.2 each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
  - 14.3.3 Cascade may destroy or otherwise dispose of any of the Customer Data in its possession unless Cascade receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Cascade shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Cascade in returning or disposing of Customer Data; and
  - 14.3.4 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 shall not be affected or prejudiced.



15. **Force Majeure**

Cascade shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Cascade or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Cascades or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

16. **Variation**

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17. **Waiver**

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. **Rights and Remedies**

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

19. **Severance**

19.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

20. **Entire Agreement**

20.1 This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

20.2 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

21. **Assignment**

21.1 The Customer shall not, without the prior written consent of Cascade, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

21.2 Cascade may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

22. **No Partnership or Agency**

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

23. **Third Party Rights**

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

24. **Notices**

24.1 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 or recorded delivery post to the other party at its address set out in

this Agreement, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's valid email address as set out in this Agreement.

24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of delivery (as shown by the timed delivery receipt obtained by the sender).

25. **Governing Law**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

26. **Jurisdiction**

Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).