



Cascade Enterprise Services Agreement

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This Cascade Enterprise Services Agreement is a legally binding contract between [Customer who signs-up for Cascade Enterprise product or Customer who executed an Order Form] (Customer, you and your) and Responsis Pty Ltd (ABN: 26160406100) (Cascade, we, us and our).

Please read this Agreement carefully. By signing up for Cascade Enterprise or executing an Order Form you agree to be bound by this Agreement. If you do not agree with any of the terms of this Agreement, you may not use the Services offered by Cascade.

If you are entering into this Agreement on behalf of an entity or organisation, you represent and warrant that you have the full authority as at the time of entering into this Agreement to bind that entity or organisation to this Agreement.

1. Contract structure

- 1.1. The terms applicable to the provision and use of the Services to and by Customer will be set out in an order form which shall be executed by both Cascade and Customer (Order Form). Upon execution by both parties, the Order Form will be incorporated into the terms of this Enterprise Services Agreement and together such documents take effect as the binding agreement regarding the Services (Agreement).
- 1.2. Any new features, tools or updates which are made available by Cascade to Customer during the Term as Services will also be subject to the Agreement.
- 1.3. In the event of any inconsistency between the terms contained within this Enterprise Services Agreement, the Terms of Use incorporated in the Enterprise Services Agreement, and the Order Form, the provisions will prevail in the following decreasing order:
 - 1.3.1. the Special Conditions (if any);
 - 1.3.2. the remaining provisions of the Order Form;
 - 1.3.3. the Enterprise Services Agreement; and
 - 1.3.4. our Terms of Use.

2. Term

- 2.1. The Agreement commences on the Commencement Date and continues for the Initial Term, unless terminated earlier in accordance with section 14.
- 2.2. At the end of the Initial Term, the Agreement will be automatically extended for successive Renewal Terms unless:

- 2.2.1. the Order Form expressly states that this Agreement will not renew; or
- 2.2.2. the Customer provides no less than 30 days' written notice prior to the commencement of the relevant Renewal Term of its intention to cancel such automatic renewal; or
- 2.2.3. this Agreement is terminated earlier in accordance with section 14.

3. Licence

3.1. Subject to the terms and conditions of the Agreement:

- 3.1.1. Cascade grants to Customer and its Users a non-exclusive, limited, non-sublicensable, non-transferable licence to access and use the Services during the Term in accordance with this Agreement.
- 3.1.2. Cascade will use commercially reasonable efforts to make the Services available to the Customer, including Strategy Services as specified in the applicable Order Form.

4. Use of Services

- 4.1. Subject to the limitations (including, for example, the quantities of Users) set forth in the applicable Order Form, Customer and its Users will have the right to access and use the Services. Customer shall designate one User for each seat it purchases (and may reassign such seat to a new individual replacing one who no longer uses the Services).
- 4.2. Customer shall not, directly or indirectly:
 - 4.2.1. make the Services available to, or use the Services for the benefit of anyone other than Customer or the Users;
 - 4.2.2. copy or replicate, or directly or indirectly allow or cause a third party to copy or replicate, the whole or any part of the Services;
 - 4.2.3. use the Services to assist in the conduct of the business of any third party;
 - 4.2.4. vary, alter, modify, interfere with, reverse disassemble, decompile, or reverse engineer, or otherwise seek to obtain or derive the source code from any part of the Services (or cause or permit any other person to do so);
 - 4.2.5. breach any fair use policy in respect of Cascade, including with respect to storage on the platform;
 - 4.2.6. disclose to third parties information regarding the performance of the Services; or
 - 4.2.7. sub-licence, rent, sell, lease, distribute or otherwise make available the Services or any part of them except as permitted under this Agreement.
- 4.3. Customer is responsible for maintaining control over and access to the Services, including the level of access to the Services provided to Users and shall revoke or alter the level of access of Users at any time to ensure compliance with this Agreement by Customer Users.
- 4.4. Customer shall maintain the confidentiality of all login information and shall not allow or authorise any person other than Users to use the login information. Customer

shall immediately notify Cascade of any suspected or actual unauthorised access to or use of the login information or the Services.

- 4.5. Customer is responsible for all activities that occur on Customer's account for the Services, whether or not authorised by Customer.
- 4.6. Customer shall not, and shall ensure its Users do not, use the Services (including through the upload of any Customer Material) in any way that:
 - 4.6.1. involves anything which is defamatory, harassing or obscene;
 - 4.6.2. involves unsolicited electronic messages;
 - 4.6.3. would involve the contravention of any person's rights (including rights of privacy and other Intellectual Property Rights);
 - 4.6.4. may violate any Laws;
 - 4.6.5. could damage, disable or impair any part of the Services;
 - 4.6.6. may otherwise be regarded by Cascade, on reasonable grounds, to be unacceptable;
 - 4.6.7. involves any fraudulent activity; or
 - 4.6.8. involves the sale or promotion of any illegal business activities or prohibited products or services.
- 4.7. Customer and Users shall at all times comply with our Terms of Use.
- 4.8. Affiliates of the Customer may receive Services under this Agreement if Affiliate directly enters into an Order Form. By entering into an Order Form, such Affiliate agrees to be bound by the terms of this Agreement as if it were an original party to this Agreement. Customer shall be responsible for its Affiliates' compliance with the terms of this Agreement.

5. Fees, payment

- 5.1. Fees and payment
 - 5.1.1. Customer shall pay the Fees set out in each invoice, without set-off, abatement or deduction, in accordance with this section 5 and in accordance with any specific invoicing arrangements specified in the Order Form.
 - 5.1.2. No later than 30 days prior to any Renewal Term, Cascade may notify Customer in writing of revisions to the Fees to take effect from the start of the next Renewal Term.
 - 5.1.3. Unless expressly stated otherwise in the Order Form:
 - 5.1.3.1. invoices for up-front Fees set out in the Order Form will be invoiced on the Commencement Date and Customer shall pay all such invoices within 30 days of receipt;
 - 5.1.3.2. invoices for monthly Fees set out in the Order Form will be submitted monthly in advance and Customer shall pay all such invoices within 30 days of receipt; and

- 5.1.3.3. invoices for any volume-based or other Fees set out in the Order Form will be submitted monthly in arrears and Customer shall pay all such invoices within 30 days of receipt.
- 5.1.4. Fees will not be refunded or pro-rated for any reason, including if Customer's actual usage of the Services is below the number of seats purchased in the applicable Order Form. If Customer's actual usage exceeds the number of seats purchased in the applicable Order Form, Customer shall pay the difference within 30 days from the receipt of the revised Order Form or an invoice for the excess usage.
- 5.1.5. Any portion of the payments not paid by Customer on or before the date that it is due shall accrue interest at a rate equal to the lesser of 10% per annum or the highest rate permitted by law from the date such amount is due until payment is received in full by Cascade. If the Customer is legally domiciled in the country of Saudi Arabia, this clause shall not apply.

5.2. Tax

- 5.2.1. Unless otherwise stated on an Order Form, all amounts referred to in this Agreement, including the Fees, do not include the amount of any Tax. If any tax, including any services, use, value-added or similar tax or assessment is payable under or in connection with the supply, provision, receipt or payment for Services in connection with this Agreement, Customer will be responsible for and pay the amount of such tax.
- 5.2.2. If an adjustment event occurs in relation to a supply made or other provision of Services under or in connection with this Agreement, the tax payable on that supply will be recalculated to reflect that adjustment and Customer will make an appropriate payment to reflect such adjustment.
- 5.2.3. In providing an invoice, Cascade shall provide proper tax invoices if tax is applicable to the Fees.

6. Strategy Services

- 6.1. Cascade shall provide any Strategy Services as specified in the Order Form.
- 6.2. Where the Order Form includes Strategy Services, but does not state specific limitations on those Strategy Services, a fair-usage policy will apply as follows:
 - 6.2.1. The total number of hours of Strategy Services provided to Customer within any Term will be limited by the formula:
 - 6.2.1.1.
$$\text{Maximum Total Hours in a Term} = \text{Fees in a Term (in US\$)} \div 1,000$$

For example, should the Fees of an annual Term be US\$50,000. The fair-usage limit of Strategy Services provided within that Term would be 50 hours.
 - 6.2.2. Should the total Fees within a Term increase or decrease for any reason, the fair-usage of Strategy Services will be recalculated on a pro-rata basis.
 - 6.2.3. The Customer can request a summary of the hours of Strategy Services which have been consumed at any point.

- 6.2.4. For avoidance of doubt, the fair-usage policy only applies to hours spent by your named Strategy Services professional and does not apply to time spent by other members of the Cascade team such as (but not limited to) Implementation or Customer Success.

7. Intellectual Property Rights

7.1. Cascade IP

- 7.1.1. Customer acknowledges and agrees that Cascade owns or licences all rights, title and interests (including Intellectual Property Rights) in the Services.
- 7.1.2. Customer shall notify Cascade immediately if it becomes aware of any:
 - 7.1.2.1. unauthorised access to or use of the Services; or
 - 7.1.2.2. any claim by any third party relating to Intellectual Property Rights in the Services.
- 7.1.3. Cascade will defend Customer against any claim by a third party alleging that the Cascade Services as provided to Customer in accordance with this Agreement infringe the Intellectual Property Rights of any third person (Claim) and will pay any damages or other amounts resulting from such Claim that are finally awarded by a court or agreed to by Cascade in a settlement, except to the extent any such infringement is caused by an act or omission of the Customer, and only if:
 - 7.1.3.1. the Customer notifies Cascade immediately after it becomes aware of the Claim;
 - 7.1.3.2. Cascade has sole control over defence of the Claim (even in the Customer's name) and any negotiations to settle the Claim; and
 - 7.1.3.3. the Customer provides Cascade all other assistance reasonably requested (and paid for) by Cascade to defend or settle the Claim.
- 7.1.4. If a Claim is made, Cascade may:
 - 7.1.4.1. procure for the Customer the right to continue using the Cascade Services free of the Claim;
 - 7.1.4.2. replace or modify the Cascade Services to remove any infringing (or allegedly infringing) component; or
 - 7.1.4.3. terminate this Agreement or Customer's right to use the potentially infringing portion thereof and the Customer shall immediately cease using the Cascade Services or such portion thereof.

7.2. Customer IP

- 7.2.1. Cascade acknowledges and agrees that Customer owns or licences all rights, title and interests (including Intellectual Property Rights) in Customer Material, and nothing in this Agreement is intended to transfer ownership of or interest in Customer Material (including any Intellectual Property Rights) of Customer or any third party. Customer grants Cascade the limited right to host, process, display and transmit the Customer Material solely for the purpose of and to the extent necessary for providing Services to Customer during the Term in accordance with this Agreement.

- 7.2.2. During the Term, Cascade shall be permitted to use and publicly display Customer's logo, trademark and trade name solely for the purpose of identifying Customer as Cascade's customer in its website, any marketing or promotional materials and in other communication internally or with existing Cascade customers or investors.

8. **Customer Material**

- 8.1. Customer agrees and acknowledges that it is solely responsible for any Customer Material.
- 8.2. Customer shall ensure that Customer Material, and its collection, use, processing, disclosure and dissemination via the Services:
 - 8.2.1. will not infringe any Intellectual Property Rights of any person; and
 - 8.2.2. complies with all applicable Laws (including Privacy Laws, where applicable).

9. **Confidentiality and publicity**

- 9.1. Confidentiality
 - 9.1.1. Each party shall not disclose, or use for a purpose other than to perform its obligation or exercise its rights under this Agreement, any Confidential Information of the other party.
 - 9.1.2. A party may only disclose Confidential Information of the other party:
 - 9.1.2.1. to its Affiliates and the employees, legal advisors, potential investors or consultants of such persons, in each case under corresponding obligations of confidence as imposed by this section and only where such persons, employees, legal advisors or consultants of such persons have a need to know such information in connection with this Agreement;
 - 9.1.2.2. in enforcing this Agreement or in a proceeding arising out of or in connection with this Agreement; or
 - 9.1.2.3. to the extent required by Law or pursuant to a binding order of a government agency or court.

10. **Privacy and security**

- 10.1. Each party shall comply with the Privacy Laws applicable to such party in respect of any Personal Information that:
 - 10.1.1. one party discloses to the other party; or
 - 10.1.2. comes into the possession or control of that party by any means, including through use of the Services.
- 10.2. Cascade shall handle any Personal Information disclosed by Customer and its Users to Cascade in accordance with its privacy policy available at <https://www.cascade.app/privacy-policy/>.
- 10.3. Customer acknowledges and agrees that Cascade may provide all or part(s) of the Services from any location worldwide.

- 10.4. Cascade shall make available at <https://www.cascade.app/security> to Customer information about Cascade security practices

11. **Third Party Content, Hosting & API Access**

- 11.1. Customer acknowledges that the Services may incorporate Third Party Content (including open source software).
- 11.2. Customer acknowledges that the Services may also utilise and rely on third party cloud service providers.
- 11.3. If Cascade elects to give the Customer access to a Cascade API, Cascade grants the Customer a worldwide, non-exclusive, royalty-free, non-transferable, non-sublicensable, revocable and limited licence to use and make calls to the Cascade API solely in connection with developing and implementing integrations with approved third-party services, and solely in the manner described in the API documentation and subject to the restrictions in this Agreement. The Cascade API is provided as a courtesy and may be modified or suspended at Cascade's discretion, in which case Cascade will use reasonable efforts to give the Customer prior notice.
- 11.4. Unless otherwise agreed on the Order Form or in writing between Cascade and the Customer then Customer access to the Cascade API will be limited to a maximum of 5,000 API writes per day and 10,000 API reads per day.

12. **Force Majeure**

- 12.1. Neither party will be liable for delays or any failure to perform the Services or this Agreement due to causes beyond its reasonable control. Such delays include, but are not limited to, fire, explosion, flood or other natural catastrophe, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed party. Any such excuse for delay will last only as long as the event remains beyond the reasonable control of the delayed party. However, the delayed party shall use commercially reasonable efforts to minimize the delays caused by any such event beyond its reasonable control. This provision will not excuse the payment of fees due under this Agreement, provided that Cascade continues to provide the Services as set forth herein.

13. **Right to suspend or revoke access**

- 13.1. Cascade may immediately suspend Customer's or Users' access to the Services if:
 - 13.1.1. Customer is, or Cascade reasonably suspect that Customer is, in breach of any:
 - 13.1.1.1. obligation to pay Fees;
 - 13.1.1.2. provision of this Agreement; or
 - 13.1.1.3. any applicable Law (including Privacy Laws); or
 - 13.1.1.4. Cascade reasonably considers that Customer's access or use of the Services is causing a detrimental technical or operational system issue, or poses a security risk to Cascade's systems.
- 13.2. Cascade may also suspend Customer's access to the Products or Services, if Cascade is required to undertake repair or maintenance of any part of the Products or Services.

- 13.3. Cascade will use reasonable endeavours to suspend the Customer or Customer Users access to the limited extent that Cascade determines is reasonably practical to address the relevant issue giving rise to the suspension.
- 13.4. Subject to Section 17, if Cascade is satisfied that the cause of the suspension has been sufficiently remediated, Cascade will reinstate Customer's or Users' access to the Product or Services by written notice.

14. Termination

14.1. Termination

14.1.1. Either party may terminate this Agreement by giving written notice to the other party at any time if the other party breaches any material provision of this Agreement which is incapable of being remedied, or where the breach is not remedied within 30 days after receiving written notice from the terminating party requiring it to do so.

14.1.2. Cascade may terminate this Agreement immediately by written notice to Customer in the event of:

14.1.2.1. a suspension under section 13.1 continuing for more than 10 days.

14.2. Consequences of termination

14.2.1. On expiration or termination of this Agreement for any reason, Customer shall:

14.2.1.1. immediately stop using the Services, and ensure that all of Users stop using the Services; and

14.2.1.2. return to Cascade (or, at Cascade's direction, destroy) any of Cascade's Confidential Information in Customer's possession or control.

14.2.2. On expiration or termination of the Agreement, Cascade reserves the right to:

14.2.2.1. permanently deactivate or disable any accounts of the Customer on the Services; and

14.2.2.2. delete any Customer Material.

14.2.3. Customer will be provided with a reasonable period of time to extract Customer Material from the Services, to be no more than 30 business days following the termination or expiry date of the Agreement. Cascade will have no obligation to otherwise retain, export or return any Customer Materials.

14.2.4. Cascade will make mechanisms available to extract all Customer Material via a combination of self-service extraction tools and Cascade managed extraction tools.

14.2.5. Customer may request formal written confirmation that Customer Materials have been deleted at any time during or on expiration or termination of the Agreement.

14.3. In the event that Cascade terminates this Agreement under section 14.1.2, Cascade shall refund the Customer of any prepaid Fees.

14.4. Termination of this Agreement shall not relieve the parties of any accrued liability (including with respect to outstanding or accrued Fees).

15. Warranties

15.1. Each party warrants that it:

- 15.1.1. has the authority to enter into and perform its obligations under this Agreement and that this Agreement has been duly executed and is a legal, valid and binding Agreement;
- 15.1.2. will comply at all times with applicable Laws; and
- 15.1.3. will not do anything or make any statement that could be reasonably expected to harm the reputation of the other party, and, in the case of Customer, the Services.

16. Disclaimer

16.1. Customer acknowledges and agrees that, to the extent permitted by law, the Services are made available "as is" and Cascade makes no, and hereby disclaims any, representation, warranty or guarantee:

- 16.1.1. That the Services will operate in combination with any other hardware, software, platform, or Customer Material;
- 16.1.2. That the Services will meet Customer's requirements or expectations;
- 16.1.3. That the Services, and information extracted from them, will be accurate, free from defects, bugs, errors or omissions, or that any Customer Material input into the services will not be lost or corrupted; or
- 16.1.4. In relation to non-infringement, title, fitness for a particular purpose, functionality, availability or merchantability.

16.2. Cascade shall not be liable for delays, interruptions, service failures and other problems inherent in use of the internet and electronic communications or other platforms outside the reasonable control of Cascade.

17. Limitation of Liability

17.1. To the extent permitted by law, and subject to section 16.1, in no event will the aggregate liability of Cascade or the Customer for any loss, direct or otherwise, exceed an amount equivalent to the fees paid by the Customer to Cascade in the 12 - month period prior to the initial claim giving rise to liability hereunder, regardless of the cause or form of action.

17.2. To the extent permitted by law, under no circumstances will either party be liable for any consequential loss, except to the extent arising from a breach by Customer or Cascade of its obligations under sections 10.

17.3. Section 17.1 does not apply to, and shall not limit, any liability:

- 17.3.1. For death or personal injury caused by that party or its Users; or
- 17.3.2. For fraud (including fraudulent misrepresentation);

18. Assignment

18.1. Customer shall not assign or novate, directly or indirectly, any of its rights or obligations under this Agreement without the prior written consent of Cascade (such consent not to be unreasonably withheld or delayed). Cascade may assign or novate all or part of this Agreement on written notice to you.

19. **Survival**

19.1. Without limiting any other provision of this Agreement, sections 5 (Fees, payment and tax), 7 (Intellectual Property Rights), 9 (Confidentiality and publicity), 10 (Privacy and security) and any other sections which should by their nature survive termination of this Agreement, survive termination or expiry of this Agreement for any reason.

20. **Notices**

20.1. Any notice given pursuant to this Agreement must be in writing and delivered to the parties at their respective addresses stated on an applicable Order Form or at such other address designated by written notice hereunder. Notices will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if sent by email or facsimile; the day after being sent, if sent for next day delivery by recognized overnight delivery service; or upon receipt, if sent by certified or registered mail, return receipt requested.

21. **General**

21.1. This Agreement contains the entire agreement between the parties with respect to its subject matter. Neither of the parties has relied on or is relying on any other representation in entering into this Agreement.

21.2. Other than any change or update to this Agreement under section 1.3.4, this Agreement may be amended only by another written agreement executed by all the parties.

21.3. Each party will be fully responsible to the other party for the acts or omissions of its sub-contractors, contractors, assigns and all their employees as if they were the acts and omissions of the relevant party. Cascade may subcontract any of its obligations under this Agreement at its absolute discretion.

21.4. No failure to exercise or delay in exercising any right, power or remedy under this Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

21.5. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

21.6. This Agreement and, to the extent permitted by law, all related matters including non-contractual matters, are governed by the laws of New South Wales, Australia. In relation to such matters each party irrevocably accepts the nonexclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground. If the Customer is a public state educational institution in the U.S, this Agreement is governed by the laws of the state of the Customer's domicile except that body of law concerning conflicts of law and the parties agree to remain silent regarding the venue of action.

- 21.7. For any dispute arising out of or in connection with or relating to this Agreement or the breach or alleged breach thereof, the party alleging the existence of dispute shall give the other party written notice setting out the details of the dispute. The parties shall make good faith attempts to resolve the dispute amicably.
- 21.8. This Agreement may be executed in any number of counterparts. All counterparts will be taken to constitute one agreement.

22. Definitions and interpretation

22.1. Definitions

The following definitions apply unless the context requires otherwise.

Affiliate means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control" for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

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Agreement has the meaning specified in Section 1.1.

—

Commencement Date means the commencement date specified in the Order Form.

—

Confidential Information means all information of a confidential or proprietary nature, in any form whether tangible or not, disclosed or communicated by a party to the other, or learnt or accessed by, or to which the other party is exposed as a result of entering into this Agreement. Specifically, Cascade's Confidential Information includes the design, specification and content of the Services, including its source code, Cascade's Users information, operational and other policies, project documentation, proposals, or other development documentation including any specifications, or business strategies, and the terms of this Agreement, including the Fees and information relating to Cascade's pricing. Confidential Information does not include information which is already known to the other party or received by the other party from a third party not under a duty of confidence; or independently developed by the other party.

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Customer Material means any and all data or other material input, entered into or added or uploaded to the Services, or otherwise provided or made available to Cascade, by, on behalf of, or at the request of, Customer or its Users.

—

Fees means the fees and expenses set out in the Order Form.

—

Initial Term means the initial term set out in the Order Form, such period commencing on and from the Commencement Date.

—

Intellectual Property Rights means all industrial and intellectual property rights of any kind including but not limited to copyrights (including rights in computer software), trademarks, service marks, designs, patents, trade secrets, trade, business, domain or company names, rights in Confidential Information, know how and other proprietary rights (whether or not any of these are registered and including any application, or right to apply, for registration) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these, which may subsist anywhere in the world.

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Law means all applicable laws including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by laws, rules, regulatory principles, requirements and determinations, mandatory codes of conduct and standards, writs, orders, injunctions and judgments.

Loss means any claim, loss, damage, liability, cost, charge or expense (including legal expenses on a full indemnity basis), however arising, and whether present or future, fixed or unascertained, actual or contingent.

Order Form has the meaning given to that term in section 1.1.

Personal Information has the meaning given to that term in the applicable Privacy Act 1988 (Cth).

Privacy Laws means all legislation, principles, industry codes and policies, as amended or replaced from time to time, which relate to the collection, use, disclosure, storage or granting of access rights to Personal Information.

Renewal Term means the periods for which the Term shall successively renew and are equal in length to the Initial Term unless specified in the Order Form.

Services means Cascade Enterprise or Services specified in the Order Form, including any Software and Support Service and content.

Special Conditions means any terms identified as “Special Conditions” on an Order Form.

Strategy Services means the strategic advisory services provided by Cascade as specified in the Order Form (if applicable).

Term means the period from the Commencement Date until the end of the Initial Term or any applicable Renewal Term in accordance with section 2.

Terms of Use means Cascade’s Terms of Use available at <https://www.cascade.app/terms/>

Third Party Content means any applications, services information, data or other content from any third party that Cascade sources and/or supplies in connection with, that are incorporated in or integrated with the Services.

User means an individual who is authorized by Customer to use the Services. Users may include, for example, Customer’s employees, consultants, contractors and agents, and third parties with which Customer transacts business.

22.2. Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- 22.2.1. the singular includes the plural and conversely;
- 22.2.2. where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- 22.2.3. a reference to a person includes any body corporate, unincorporated body or other entity and conversely;

- 22.2.4. a reference to a section is to a section of these Terms and Conditions;
- 22.2.5. a reference to any party to this Agreement or any other agreement or document includes the party's successors and permitted assigns;
- 22.2.6. a reference to any agreement or document (including a reference to this Agreement) is to that agreement or document as amended, notated, supplemented, varied or replaced from time to time, where applicable, in accordance with this Agreement or that other agreement or document;
- 22.2.7. a reference to any legislation or to any provision of any legislation includes any modification or reenactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it;
- 22.2.8. a reference to conduct includes any omissions, statement or undertaking, whether or not in writing;
- 22.2.9. a reference to includes, means includes without limitation; and
- 22.2.10. all references to \$ are to United States dollars, unless otherwise specified.

Appendix A – Service Level Commitment

Downtime

Downtime is an error rate of more than 10% as measured by our server side error rate or external probing tools

Downtime excludes the following:

- Latency or performance issues with individual features
- Issues related to third party applications, services or integrations
- Any features provided or identified as a pilot, alpha, beta or similar
- Any downtime due to a Force Majeure Event

Scheduled Uptime is defined as all time, minus any time that both Cascade and the Customer have mutually agreed that the service will not be available (for example should the Customer request migration of their data from one geographical server location to another).

Uptime commitment

Uptime is the percentage of total possible minutes Cascade was available during a rolling 30 day period. Our commitment is to maintain at least 99.5% Uptime as defined by:

$((\text{Actual Uptime}) / \text{Scheduled Uptime} * 100) > 99.5\%$

Service credits

Should we fall short of our commitment, affected customers can request service credits which will be applied to their account. Cascade will provide service credits for up to 50% of the monthly cost of any affected subscription service a customer has with Cascade.

Monthly uptime percentage: Service credit as a percentage of monthly subscription service cost

- less than 99.5% – greater or equal 95.0%: 10%
- less than 95.0% – greater or equal 90.0%: 25%
- less than 90%: 50%