


**CLOUD SERVICES RESELLER ADDENDUM**

This Cloud Services Reseller Addendum ("Addendum") is made by and between the company specified on the applicable Westcon Group reseller/ credit application (hereafter referred to "Cloud Services Reseller" or "CSR" for the purposes of this Addendum) and Westcon International Limited including any of its affiliates and subsidiaries, with a registered place of business at Chandler's House, Wilkinson Road, Love Lane Industrial Estate, Cirencester, Gloucestershire, GL7 1YT, United Kingdom ("Distributor"), each a Party and together the Parties. This Addendum shall be deemed effective as of the date CSR clicks the "I HAVE READ AND ACCEPT THE TERMS OF ADDENDUM" checkbox displayed below, ("Effective Date").

**WHEREAS:** (i) CSR has executed Distributor's standard Terms and Conditions of sale, Westcon Group reseller/ credit application or has entered into an agreement with Distributor for the purchase of Products and Services; and (ii) the Parties wish to supplement the terms of the Agreement (as defined below) for CSR's purchase of Cloud Services from Distributor;

**NOW THEREFORE** CSR and Distributor hereby agree the following terms and conditions for CSR's purchase of Cloud Services from Distributor;

**1. Definitions**

Capitalized terms used but not otherwise defined herein shall have the meaning given to them in the Agreement:

- i. "Cloud Service" or "Cloud Services" means any resource that is provided over the internet by CSP and offered for sale by Distributor to CSR from time to time including but not limited to: Equipment as a Service ("EaaS"); Software as a Service ("SaaS"); Platform as a Service ("PaaS"); Infrastructure as a Service ("IaaS"); and any additional Support Services. Information regarding each Cloud Service may be found in the applicable Documentation.
- ii. "Cloud Services Provider" or "CSP" means a third-party provider of Cloud Services to End Users through a network of authorized cloud services resellers.
- iii. "CSP Agreement" means an agreement between Distributor and a CSP enabling Distributor to grant the rights and authority granted to CSR under this Addendum.
- iv. "Contract" means any agreement entered into by Distributor and CSR under the Agreement including, but not limited to, Purchase Orders issued by CSR and accepted by Distributor for CSR's purchase of Cloud Services from Distributor.
- v. "Documentation" means any and all additional documents, policies, procedures, programs, requirements, criteria and/or information relating to the sale and usage of the Cloud Services, including but not limited to the Authorized Use Policy, Statements of Work, any system requirement documentation, data privacy policy, CSP Specific Addendums and/or Service Level Agreements ("SLAs"). Distributor may update or modify the Documentation from time to time; provided that changes to the Documentation will not result in a material reduction in the level of performance or availability of the applicable Cloud Services provided to CSR for the duration of Term hereof. CSR must accept and comply with and shall notify its End Users to accept and comply with, the terms of any applicable Documentation. Such Documentation may be provided to CSR in the form of a CSP Specific Addendum.
- vi. "End User" means a user of a Cloud Service.
- vii. "End User Form" means the End User Form in respect of purchases related to EaaS
- viii. "Agreement" means any terms and conditions of sale, contracts, agreements or arrangements between CSR and Distributor for the purchase by CSR of any products and services other than Cloud Services for End Users, whether executed before or after the Effective Date.
- ix. "CSP Specific Addendum" means any service-specific addendum required by a CSP which is applicable to the Cloud Services to be resold by CSR to End Users in the Territory. Such CSP Specific Addendum may contain Documentation. It is at the sole discretion of the CSP as to whether or not CSR is required to enter into a CSP Specific Addendum.
- x. "Support Services" means any additional support services available from Distributor and/or the CSP for the applicable Cloud Services as further detailed in any Documentation.
- xi. "Territory" means the geographic regions or markets in which Distributor is authorized to distribute and shall include all media and channels of distribution.
- xii. "Usage Report" means a periodic report generated by CSP and/or Distributor for a specific End User. The Usage Report may be sent or made accessible to the CSR for forwarding to the End User, indicating the actual level of Cloud Services usage during a given time period and may serve as a basis for the invoicing and payment of any Overage Fees or usage-based Fees in accordance with any applicable, additional requirements or Documentation.

**2. Appointment**

- a. **Non-Exclusive Appointment.** Subject to compliance with the terms of this Addendum, Distributor hereby grants CSR the non-exclusive right to purchase, market and sell Cloud Services to End Users in the Territory.
- b. **Cloud Services Responsibility Matrix.** CSR and Distributor agree that in order to meet their respective obligations effectively with regard to the delivery of the Cloud Services to End Users hereunder, prior or subsequent to execution of this Addendum, the Parties may work together to develop a Cloud Services responsibility matrix or similar technical document, which shall allocate the respective roles and responsibilities of each Party with regard to the provision of Cloud Services to End Users ("Cloud Services Responsibility Matrix"). Notwithstanding the foregoing, Cloud Services Responsibility Matrix shall, always remain subject to the terms of this Addendum.
- c. **No License of Trademarks.** Nothing contained herein shall be construed as granting any right or license to use any trade names, service marks, trademarks, logos or other marks to CSR.
- d. **Certification Program.** Prior to placing a Purchase Order, CSR may be required to (i) demonstrate proof of certification with any formal certification program prior to placing; and/or (ii) satisfy any additional criteria set forth in any Documentation prior to placing Purchase Orders with Distributor.
- e. **End User Agreements.** CSR may not distribute any Cloud Services to any End User unless an End User enters into an agreement with CSR (the "End User Agreement") that at a minimum: (a) to the extent permissible by law, completely disclaims Distributor's and CSP's liability for all matters arising out of or related to this Addendum or the Cloud Services provided hereunder and requires the End User to look solely to CSR with respect to such matters, unless otherwise agreed by writing by Distributor and CSP; (b) requires the End User to agree that all End User use of the Cloud Services shall be lawful and to ensure that each End User complies fully with the applicable terms of this Addendum or any Documentation, the acceptable use policy for the Cloud Services (if any), and all applicable laws and regulations in any of its dealings with respect to the Cloud Services; (c) prohibits the End User from reselling or distributing the Cloud Services; (d) indemnifies, defends and holds CSP and Distributor, and their respective affiliates, officers, directors, employees and suppliers harmless from and against any third-party claims arising out of or relating to the End User's (or its authorized users') use of the Cloud Services; (e) protects CSP's proprietary rights in the Cloud Services to the same degree as the terms and conditions of this Addendum or any Documentation; (f) makes no representations or warranties on behalf of Distributor or CSP, except to the extent permitted in any Documentation; (g) specifies CSP and Distributor as express intended third party beneficiaries of the provisions in the End User Agreement relating to this Section 2(e), to the extent permitted by applicable law; and (h) does not grant any rights to the End User beyond the scope of this Addendum.

**3. Subscription Term and Termination**

- a. **Termination.** CSR's right and authority to purchase, market and sell a particular CSP's Cloud Services to End Users in the Territory will immediately terminate in the event that the applicable CSP Agreement is terminated or expires. Distributor will use reasonable efforts to notify CSR in advance of any such termination or expiration.
- b. **Subscription Term.** The Cloud Services shall be sold by Distributor to CSR for use by End Users in accordance with either: (i) the fixed term; or (ii) the monthly usage terms (in respect of consumption-based services) each as set out on the Purchase Order between CSR and Distributor ("Subscription Term"). Each Subscription Term shall begin on the effective date set forth on the Purchase Order and shall run for the duration of term unless otherwise terminated in accordance with the Agreement and any

applicable Documentation. The applicable CSP Specific Addendum or Documentation may specify a minimum Subscription Term and may provide for auto-renewal of such Subscription Terms. Except as specified herein, CSR shall not have the right to terminate any Purchase Order or its obligations to provide Cloud Services to a particular End User during a Subscription Term.

c. **Transition Period.** Following expiration or termination of the Addendum, unless otherwise set forth in the applicable CSP Specific Addendum or Documentation there shall begin a transition period to allow End Users to transition of the Cloud Services ("Transition Period"). During the Transition Period, the terms of this Addendum shall govern (i) any Purchase Order submitted prior to the effective date of expiration or notice of termination and (ii) the duration of any active Subscription Terms ("Surviving Subscription Terms"). CSR shall not enter into any new Purchase Orders, nor shall CSR renew or extend the Subscription Term for any Surviving Subscription Terms during the Transition Period.

d. **Termination Assistance.** Except as otherwise set forth in a CSP Specific Addendum or any Documentation, CSR will, at least thirty (30) days prior to the effective date of termination or expiration of each End User's Subscription Term during the Transition Period, or as promptly as possible if less time is available, notify the End Users of the termination. The Parties will cooperate in good faith to provide such End Users with instructions regarding how such End Users may continue to receive the applicable or comparable Cloud Services and to timely transition those End Users seeking to maintain continuity of any Cloud Services, including, but not limited to, assignment or transfer of End User Cloud Services subscriptions. The Addendum shall fully and finally terminate upon expiration of the final Transition Period for the final Surviving Subscription Term.

**4. Purchase Ordering**

a. **Purchase Orders.** CSR may submit a purchase order to Distributor for Cloud Services hereunder ("Purchase Order") which must contain the following information: (i) CSR's corporate name; (ii) End User's corporate name; (iii) the specific Cloud Services ordered; (iv) the initial Cloud Services quantity ordered; (v) the committed Subscription Term length for each of the Cloud Services ordered; (vi) any additional information required or set forth in any Documentation; and (vii) a signed and completed End User Form ("Purchase Order Requirements"). Distributor's quotes shall not constitute an offer. Only a Purchase Order submitted by CSR shall constitute an offer to contract subject to this Agreement, however a Purchase Order shall not be deemed a Contract unless and until the earlier date upon which: (a) written acceptance is provided by Distributor or (b) Distributor proceeds with the fulfillment of the Purchase Order. No additional or alternative terms or agreement or any alteration to this Agreement proposed by the CSR contained or referred to in a Purchase Order or other form submitted to Distributor shall be deemed to apply unless they are expressly accepted in writing by an Authorized Representative of Distributor with respect to that Purchase Order. CSR shall be solely responsible for the accuracy of any Purchase Order, including, but not limited to, the specification, configuration or other details of Cloud Services and their functionality, compatibility and interoperability with other products or services, as well as their fitness for particular use.

5. **Acceptance of Documentation.** CSR's submission of any Purchase Order or Direct CSP Order for Cloud Services hereunder shall constitute CSR's acknowledgment and acceptance of any applicable Documentation and End User Form for such Cloud Services. CSR agrees that it shall forward on any applicable Documentation to the End User.

6. **Acceptance of CSP Specific Addendum.** Where CSP requires CSR to enter into a CSP Specific Addendum, CSR agrees to execute the relevant CSP Specific Addendum prior to submission of any Purchase Order for such CSP Cloud Services. CSR agrees that it shall forward on any applicable Documentation or terms set forth in a CSP Specific Addendum to the End User.

7. **Usage Reports.** Periodically, a report may be generated by CSP or Distributor, which may be sent or made accessible to the CSR for forwarding to the End User, indicating the actual level of Cloud Services usage by End Users during a given time period and which may serve as a basis for the invoicing and payment of any Overage Fees or usage based Fees in accordance with any additional requirements or Documentation.

**8. Prices and Payment Terms**

a. **Payment Terms.** Payment terms for the initial Cloud Services order, and any subsequent Cloud Services orders, are set forth in Section 8(a)(i) ("Fees"). If applicable, payment terms for any additional fees generated by Overage (as defined below and as may be further described in any applicable Documentation) incurred during the Subscription Term shall be set forth in Section 8(a)(ii) below ("Overage Fees")

i. **Fees.** Upon acceptance of a Purchase Order from CSR, Distributor shall invoice CSR the Fees for the initial Cloud Services quantity set forth on the Purchase Order. All undisputed portions of Distributor's invoices for Fees will be paid by CSR within thirty (30) days of date of invoice. CSR shall notify Distributor of a billing anomaly within 10 days of date of invoice and the parties agree to enter into good faith discussions to resolve any billing anomaly. Distributor makes no guarantee of any credit or return in respect of any billing discrepancies made known to it after 10 days of date of an invoice, unless otherwise agreed to in writing by the Parties: (i) the Fees shall be as set forth in Distributor's published price list; (ii) all Fees shall either be paid annually in advance or monthly in arrears, as stipulated in Distributor's published price list; (iii) Fees are based on the quantity of Cloud Services purchased and not actual usage by the End User. The committed quantity of purchased Cloud Services cannot be decreased during the Subscription Term, unless otherwise agreed by the Parties in writing.

ii. **Overage Fees.** CSR will be billed for actual usage of Cloud Services ordered on the Purchase Order ("Overage"), on a monthly basis in accordance with any applicable CSP terms or Documentation ("Overage Fees"). All undisputed portions of Distributor's invoices for Overage Fees will be paid by CSR within thirty (30) days of date of invoice.

iii. **Direct CSP Orders.** Except as otherwise set forth in the applicable CSP Specific Addendum, CSR shall not place any order for Cloud Services directly with the CSP. If an End User places any order for Cloud Services directly with the CSP ("Direct CSP Orders") and the CSP accepts such order, then Distributor shall be entitled to invoice CSR the Fees for such additional Cloud Services in accordance with Section 5(d) above.

b. **Suspension of Access.** In the event that (i) any fees owed to Distributor by CSR, including but not limited to monthly Fees or Overage Fees, are thirty (30) days or more overdue and CSR has not notified Distributor of a billing error within ten days of receipt of an invoice, or (ii) CSR is in material breach of the Agreement, including any terms of any CSP Specific Addendum, then Distributor may either:

- i. Suspend or may request CSP to suspend End User's access to the Cloud Service(s) associated with such delinquent payment; or
- ii. Choose not submit Purchase Orders to CSP for orders from CSR without penalty to Distributor; or
- iii. Terminate or suspend the Agreement with CSR (collectively "Suspension of Access").

In the event of Suspension of Access, End User and/or CSR may be liable to pay such early termination fees ("Early Termination Fees") which may be set forth in any applicable Documentation or the CSP terms for the Cloud Services. Notwithstanding the foregoing, in the event Distributor elects or requests a Suspension of Access, CSR may be liable for any costs, including but not limited to monthly Fees or Overage Fees, associated with such delinquent payment through the end of the current Subscription Term. CSR acknowledges that a Suspension of Access may result in liability to Distributor and/or CSP and CSR agrees to fully indemnify, defend and hold harmless Distributor, Distributor's affiliates and CSP from and against all claims, losses, liabilities

damages, costs and expenses (including reasonable attorneys' fees), judgments or settlement amounts arising out of or in connection with any Suspension of Access.

Notwithstanding anything to the contrary in this Addendum and in addition thereto, in the event of Suspension of Access, Distributor may, in its sole discretion, and on written notice to CSR, elect to undertake invoicing of CSR's End-User as an interim arrangement until all Fees are paid and any billing and invoicing issues are resolved to Distributor's reasonable satisfaction. CSR agrees to provide such assistance and co-operation as requested by Distributor to directly invoice any End User.

In the event of termination under this clause 8(b), CSP or Distributor shall have the right to notify the End Users of such termination of the CSR and provide instructions on how any affected End Users may continue to receive the Cloud Services, including with respect to any Renewal Subscription Term.

**9. Electronic Delivery and Hosting and Data Center Facilities**

a. **Electronic Delivery.** CSP shall electronically deliver the Cloud Services (subject to a valid, accepted Purchase Order) directly to End Users, including any additionally required Documentation, for the purposes of this Addendum. Such Cloud Services shall be provided by CSP in accordance with any additional terms and conditions of use provided in any Documentation, CSP Specific Addendum or URL Link, including, without limitation, the applicable authorized use policy for the Cloud Services ("Authorized Use Policy"), incorporated herein by reference. CSR and/or End User's usage of the Cloud Services remains subject always, to the terms and conditions of the CSP's applicable Authorized Use Policy. Distributor shall not be liable for any losses, damages, claims or liabilities arising out of or in connection with an alleged or actual breach of the CSP's Authorized Use Policy by any CSR or End User. Distributor shall not be liable with respect to any breach or error in delivery, loss, damage or interruption to the Cloud Services during the Subscription Term.

b. **Hosting and Data Center Facilities.** The hosting and data center facilities supporting the Cloud Services delivered by CSP for usage by the End User shall be provided for and managed by a third party to this Agreement. Distributor shall not be liable in respect of any breach or error in delivery, loss, damage or interruption to the Cloud Services during the Subscription Term. CSR shall immediately notify the applicable CSP, in writing, of any such error, loss, breach, damage or interruption. Distributor shall not be liable for any loss, damage or expense whatsoever and howsoever arising from any breach or error, loss, damage, defect or interruption to the Cloud Services. Any error, loss, damage or interruption of Cloud Services discovered by CSR and/or End User after delivery shall not entitle CSR and/or End User to rescind the Purchase Order or the remainder of a Contract.

**10. Support and Service Level Agreements**

a. **Support.** If applicable, CSP and/or Distributor will provide a reasonable level of technical and customer support for the Cloud Services in accordance with the CSP's and/or Distributor's then-current support policy for the Cloud Services ("Support Terms"), as set forth in the Documentation or CSP Specific Addendum. Support Terms include but are not limited to the levels of support available to CSRs and/or End-Users; a description of support offerings; applicable hours of operation; number of available skilled resources; languages supported; and scheduled maintenance windows.

b. **Service Level Agreements.** To the extent that CSP provides quality and performance standards (as set forth in the applicable Documentation or CSP Specific Addendum) in connection with its provision of any Cloud Services purchased hereunder, CSP shall be fully responsible for delivery of the Cloud Services in accordance with the terms of such SLAs, including payment of any penalties or return credits in the event of disruption or outages. Unless otherwise agreed by the Parties in writing, Distributor offers no SLAs in connection with the provision of Cloud Services hereunder.

**11. Indemnification**

a. **General Indemnity.** CSR will indemnify, defend and hold harmless Distributor and Distributor's affiliates, directors, officers, employees, agents, contractors, CSPs and End Users from and against all claims, lawsuits, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees), judgments or settlement amounts arising out of or in connection with (i) any breach of Section 2(c) or where an End User Agreement otherwise fails to protect Distributor in the manner described in Section 2(c); (ii)

b. **Distributor's Obligations.** In connection with the indemnities provided hereunder, Distributor shall: (i) promptly notify CSR of any claim that is subject to CSR's indemnification obligations hereunder, but Distributor's failure to promptly notify CSR shall not discharge CSR of its obligation to indemnify Distributor unless and only to the extent that such failure is held to prejudice CSR's defense of such claim; (ii) reasonably cooperate with CSR in the performance of its obligations hereunder, provided any related costs or expenses incurred by Distributor shall be covered by CSR; and (iii) grant CSR the right to control the defense and settlement of any claim which is subject to indemnification, provided CSR pays in full any monetary component of such settlement and further provided that such settlement contains a full and unconditional release of Distributor and no admission of liability on behalf of Distributor. Notwithstanding the foregoing, (a) Distributor shall have the right to employ separate counsel and participate in the defense of such action, at Distributor's expense, and (b) if (1) CSR does not promptly assume the defense of any such claim following notice of its election to do so, or (2) Distributor reasonably concludes that there may be defenses available to it which are different from or additional to those available to CSR and which could reasonably be expected to result in a conflict of interest or

prejudice to Distributor if both Parties were represented by the same counsel, then Distributor shall have the right to undertake the defense of such claim with counsel of its own choosing, with the reasonable costs thereof to be borne by CSR.

**12. Warranty and Limitation of Liability**

a. Any warranty and Limitation of liability for Cloud Services under this Addendum shall be in accordance with the terms of the Agreement.

**13. Personal Data Protection.**

a. During the Term of this Addendum in connection with any processing of personal data which it receives under this Agreement, each Party shall (i) comply with all applicable laws, rules, regulations, regulatory requirements and codes of practice including, but not limited to, laws and regulations implementing the Computer Fraud and Abuse Act (18 USC 1030), Federal Information Security Management ("FISMA") of 2002, Freedom of Information Act as Amended in 2002, Privacy Act of 1974 as Amended, The General Data Protection Regulation (EU) 2016/679 (collectively, the "Data Protection Laws") and (ii) implement commercially reasonable technical and organizational security procedures and measures to preserve the security and confidentiality of the personal data received under this Agreement. Neither Party shall do any act that puts the other Party in breach of its obligations under the Data Protection Laws. Nothing in this Addendum shall be deemed to prevent any Party from taking the steps it reasonably deems necessary to comply with the Data Protection Laws including requiring signature of the each Party on additional terms and conditions related to the Data Protection Laws prior to providing any personal information, and neither Party shall take any action which a reasonable person knowledgeable in the Data Protection Laws should know may cause or otherwise result in a violation of the Data Protection Laws. Each Party agrees to obtain all necessary consents required under the Data Protection Laws and will not pass personal data to any third party without first notifying the data subject. Distributor may use, store or otherwise process and may transfer or disclose any personal data provided by CSR to any member of the Distributor Group of companies wherever located in the world for the purpose of fulfilling any of its obligations under this Agreement and relationship management on an ongoing basis, and CSR agrees to inform its employees of the same. CSR will have the obligation to take necessary steps to provide prior notice to the data subject that their information may be used, stored or otherwise processed by the Distributor wherever located in the world. CSR may use, store or otherwise process personal data provided by Distributor for relationship management purposes, but shall not pass any personal data to third parties without prior notification to the data subject.

b. **Security Policy and Information Security Management Program.** Without limiting the foregoing, and upon request by Distributor, CSR agrees to disclose in writing to Distributor a detailed description of CSR's information and data security controls and policies ("Information Security Management Program"). Distributor reserves the right on demand to examine CSR's ongoing compliance with its stated written information controls and security policies.

c. **Data Processing Indemnification.** Each Party shall defend, indemnify and hold harmless the other Party from and against any and all claims, actions, liabilities, losses, damages and expenses (including reasonable legal expenses) which arise from third party claims and/or government agency actions arising directly or indirectly out of or in connection with a Party's data processing activities under or in connection with this Addendum, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, willful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Laws. CSR will obtain adequate cyber insurance to cover the costs of potential data breaches and subsequent related litigation.

**14. No Conflicts and Entire Agreement.** This Addendum (together with all Contracts) constitutes the entire agreement between the Parties with respect to the purchase of Cloud Services and supersedes all written or oral agreements previously existing between the Parties and/or their affiliates with respect to the purchase of Cloud Services from Distributor. CSR acknowledges that it is not entering this Addendum on the basis of any representations not expressly contained herein. Every Contract between Distributor and the CSR or any of its subsidiaries shall be subject to the Addendum. CSR may not purchase Cloud Services from Distributor where there is no valid Agreement in place. CSR shall execute Distributor's credit application in the absence of a valid Agreement.

In the event of a conflict between the terms of the Agreement and terms in this Addendum, the terms of this Addendum shall take precedence for CSR's Purchase of Cloud Services.

In the event of any conflict between the terms and conditions of this Addendum and any applicable CSP Specific Addendum the terms and conditions of the applicable CSP Specific Addendum shall prevail.

The CSR Agreement, including this Addendum, may not be amended or modified unless mutually agreed to in writing executed by Authorized Representatives of the Parties. Unless expressly permitted under the terms of the Agreement and/or this Addendum, neither electronic mail nor instant messaging shall be considered a "writing" sufficient to change, modify, extend or otherwise affect the terms of the Agreement.

**15.** This Addendum may be executed contemporaneously in one or more counterparts, each of which shall be deemed an original, but which together shall constitute one instrument and the Parties may rely on a facsimile or scanned signature to bind the other Party.

BY CLICKING THE "I HAVE READ AND ACCEPT THE TERMS OF ADDENDUM" CHECKBOX DISPLAYED BELOW ON BEHALF OF YOUR COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE REQUISITE AUTHORITY TO BIND SUCH ENTITY TO THIS CLOUD SERVICES ADDENDUM IN WHICH CASE THE TERMS "CSR", "YOU" OR "YOUR" SHALL REFER TO SUCH COMPANY OR LEGAL ENTITY. IF YOU DO NOT HAVE AUTHORITY TO ENTER INTO THIS ADDENDUM, OR IF YOU DO NOT AGREE WITH THESE TERMS, DO NOT CLICK THE "I HAVE READ AND ACCEPT THE TERMS OF ADDENDUM" CHECKBOX AND DO NOT PURCHASE, SELL OR USE MANAGED SERVICES OR SERVICES UNDER ANY CIRCUMSTANCES.

I HAVE READ AND ACCEPT THE TERMS OF ADDENDUM Effective Date: \_\_\_\_\_