

BACKGROUND

- (A) Distributor is an indirect Cloud Solution Provider, authorised through the Partner Programme at Microsoft.
- (B) The Reseller wishes to partner with the Distributor for the purposes of reselling the Subscription for the benefit of its business purposes and its Customers.
- (C) This CSP Agreement contains essential terms which the parties are required to have in place in order for the Distributor to maintain its relationship to Microsoft as an authorised Partner. These terms are strictly non-negotiable and required in order for the Reseller to purchase its Microsoft licensing requirements from the Distributor. This CSP Agreement is effective on the date that the Distributor provisions your Subscriptions and the terms contained herein only apply to the provision of such licences and not to any other Services provided by the Distributor outside of these licences.
- (D) It is an essential requirement that the Reseller ensures that it procures the acceptance and agreement of each of its Customers the terms of the CSP Customer Agreement at <https://www.microsoft.com/licensing/docs/customeragreement> which terms may be updated from time to time by Microsoft along with any other applicable Product Terms applicable to the Subscriptions purchased.
- (E) As part of the Indirect Partner Program, Microsoft have made it obligatory that all Resellers accept the terms of the Indirect Reseller Agreement between the Reseller and Microsoft. As such, the Reseller hereby agrees and acknowledges the terms of the Indirect Reseller Agreement by accepting such terms on the Partner Center Portal (found at <https://partnercenter.microsoft.com/en-us/pcv/dashboard/overview>). These terms are non-negotiable.
- (F) The terms of the CSP Customer Agreement and the Indirect Reseller Agreement are inclusive and supplemental to the terms of this CSP Agreement as more fully detailed in Section 6.1 below. It is the Reseller's sole obligation and duty to ensure that it regularly checks the URL link for any changes or updates which may affect the Reseller's and Microsoft's duties, obligations and responsibilities. Failure to do so will not in any way diminish the effects of such updates and changes. By ordering through Distributor, the Reseller has fully accepted the terms of this CSP Agreement and the Indirect Reseller Agreement in addition to the CSP Customer Agreement and any related Product Terms.

AGREED TERMS

1. INTERPRETATION

- 1.1 The following definitions and rules of interpretation in this clause apply in this CSP Agreement.

"Administrative Access Credentials" means any administrative log-in credentials Microsoft provides for accessing or managing a Product.

"Affiliate" means an entity that owns, is owned by, or is under common ownership with an entity. Ownership means control of more than 50% of the equity interests of, or the right to direct the management of, an entity for so long as such control exists

"Applicable Data Protection Laws": means i) to the extent the UK Data Protection Legislation applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data and ii) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Distributor is subject, which relates to the protection of personal data.

"Applicable Laws" means i) to the extent the UK Data Protection Legislation applies, the law of the United Kingdom or of a part of the United Kingdom and ii) to the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Distributor is subject.

"Claim" means an action, cause of action, suit, or judicial claim brought by any third party (excluding Company Affiliates).

"Commissioner" means the Information Commissioner (see section 114, DPA 2018).

"Consumption Subscriptions" refers to one-month OLS Subscriptions that are billed based on actual usage in the preceding month without upfront commitment.

“**CSP Customer Agreement**” means an agreement between a Customer and Microsoft, or a Microsoft Affiliate, that is used to grant rights to Products to such Customer and the associated Microsoft license terms that govern the Customer’s use of a Product which may be updated from time to time and as set out at <https://www.microsoft.com/licensing/docs/customeragreement>.

“**Customer**” means the Reseller’s end users.

“**Customer Data**” has the meaning assigned to it in the CSP Customer Agreement.

“**Devices**” means Microsoft hardware products, and related accessories and/or peripherals as identified on the then-current Price List.

“**EU GDPR**” means the General Data Protection Regulation ((EU) 2016/679).

“**Laws**” means any and all applicable international, national, and local laws (including regulations and binding judicial law) as amended, extended, repealed and replaced, or reenacted

“**Offset**” means the withholding or deduction from the payment of any invoice amount or amount due by offset, counterclaim, or otherwise.

“**Non-Microsoft Product**” means any third-party (or third-party branded) software, data, service, website or other product available through the Microsoft Azure Marketplace, Virtual Machine Gallery, or other storefront or feature of Microsoft online services.

“**OLS Subscription**” means a right to use certain Online Services for a defined term.

“**Online Services**” means Microsoft-hosted services identified on the then-current Price List. Online Services do not include Software or Professional Services provided under separate license terms.

“**Price List**” means the then current list of Products.

“**Products**” as used herein, means the Microsoft online services, tools, software, hardware, or professional support or consulting services.

“**Product Fee**” means the royalty, commission, fee, or price to be paid for a Product.

“**Product Specific Terms**” means the additional terms, conditions, or restrictions that apply to specific Products.

“**Product Terms**” means the document that provides information about Products available through volume licensing. The Product Terms document is published at <http://www.microsoft.com/licensing/contracts> and is updated from time to time.

“**Purpose**” the purposes for which the Relevant Personal Data is processed, as set out in Schedule 2.

“**SLA**” means the service level agreement commitments Microsoft makes to the Distributor regarding delivery and/or performance of the applicable Product.

“**Software**” means licensed copies of Microsoft software identified by the Distributor. Software does not include Online Services, but Software may be part of an Online Service.

“**Software Perpetual License**” means a right to use Software identified the Distributor as being available and licensable for a perpetual term.

“**Software Subscription**” means a right to use the Software identified the Distributor as being available and licensable for a defined term.

“**Subscription**” means a right to use a Product for a defined term.

“**Taxes**” means any national, federal, state, provincial or local taxes, fees, charges, surcharges, or other similar fees or charges arising as a result of or in connection with the transactions contemplated under the Agreement and include, sales and use taxes, value added, gross receipts taxes, utility user’s fees, municipal occupation and license taxes, excise taxes, business and occupations taxes, 911 taxes, franchise fees, universal service fund fees or taxes, regulatory cost recovery and other surcharges, taxes imposed or based on or with respect to or measured by any net or gross income or receipts (other than taxes based upon Microsoft’s net income and any gross receipts taxes imposed in lieu of taxes on the income or profits of Microsoft), franchise taxes, stamp taxes, taxes on doing business, duties, tariffs, levies, withholding taxes and any taxes that arise on the distribution or provision of products or services by Company.

“**Tenant**” means an Azure Active Directory tenant.

“**Territory**” means Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Greece, Greenland, Hungary, Iceland, Ireland, Isle of Man, Jersey, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom, Vatican City.

“**UK Data Protection Legislation**” means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

“**UK GDPR**” means the EU GDPR as it applies in the UK after the end of the transition period (as set out in Article 126 of the EU-UK Withdrawal Agreement) by virtue of section 3 of the European Union (Withdrawal) Act 2018.

“**Unauthorized Disposition**” means theft, loss, transfer, sale, or distribution of a Product other than as expressly permitted by the CSP Agreement, including transfer, sale, or distribution of a Product outside of the Territory or to an unauthorized party.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this CSP Agreement.
- 1.3 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.5 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 A reference to **writing** or **written** includes e-mail.
- 1.9 A reference to **this CSP Agreement** or to any other Agreement or document referred to in this CSP Agreement is a reference to this CSP Agreement or such other Agreement or document as varied or novated (in each case, other than in breach of the provisions of this CSP Agreement) from time to time.
- 1.10 The use of the term "including" will always be interpreted to mean "including, but not limited to" unless expressly indicated otherwise

2. PRODUCT FEES AND ORDERING, GENERAL

- 2.1 By submitting an order through Distributor, Reseller (i) represents that any subscription commitments and requirements disclosed are complete and accurate in all respects and (ii) agrees to pay the Distributor for all orders it submits for Products.

3. REPORTING, AUDIT, INVOICING AND PAYMENT, GENERAL

- 3.1 Late Payment. If (i) the Reseller fails to cause the full invoice payment to be received by the Distributor by the payment due date, (ii) an audit reveals an underpayment, or (iii) the Reseller Offsets, the Distributor may take any (or any combination) of the following actions to the maximum extent permitted by Law, and without waiving any other right or remedy it may possess:
- (i) charge interest and late fees on the past due amount;
 - (ii) suspend all pending orders, further shipments, or Reseller's access to Products;
 - (iii) require the prepayment of Product Fees on future orders, place Reseller's account on hold, reduce Reseller's credit limit (if applicable), or require that Reseller provide a bank guarantee or other form of security; or
 - (iv) withhold the past-due amount from any other amounts payable by Distributor to Reseller under the Agreement.
- 3.2 **Taxes.** The Reseller is responsible for Taxes and will pay to the Distributor any applicable Taxes that the Reseller owes solely from entering into the CSP Agreement and which are permitted to be collected by the Distributor under Law. The Distributor will not collect any Taxes covered by a valid exemption certificate that the Reseller provides. If any Taxes are required to be withheld on payments made by the Reseller to the Distributor, the Reseller may deduct such Taxes from the amount owed to the Distributor and pay them to the appropriate taxing authority, but only if the Reseller promptly secures and delivers an official receipt for those withholdings and other documents reasonably requested by the Distributor to claim a foreign tax credit or refund. The Reseller must deliver the receipt within sixty (60) days of payment of the Tax, or maximum time allowed for delivery of the receipt under Law. The Reseller will use reasonable efforts to ensure that any Taxes withheld are minimized to the extent possible under Law. For clarity, the Reseller will be responsible for Taxes withheld on payments to or between the Reseller and any Reseller Affiliates. If the Reseller does business in a jurisdiction that collects VAT, GST, or other similar Tax, it must provide a tax ID or business number, as applicable, upon request.
- 3.3 **Audit.** The Distributor may audit the Reseller's premises, operations, processes, and records (including complete financial statements and all documents related to acquisition, reproduction, installation, distribution, and other disposition of each unit of Product or Software) for the purposes of verifying performance under this CSP Agreement. The Reseller is responsible to pay for all Products used and is only entitled to use and distribute the licences paid for. If an audit reveals there is a discrepancy, the Reseller must promptly pay the Distributor for any unlicensed distribution and use.

4. WARRANTIES AND DISCLAIMERS

- 4.1 **NO IMPLIED WARRANTIES OR REPRESENTATIONS.** EXCEPT AS EXPRESSLY PROVIDED IN THIS CSP AGREEMENT, ALL PRODUCTS ARE PROVIDED TO THE RESELLER "AS IS." THE FOREGOING "AS IS" WARRANTY, AND ANY WARRANTIES EXPRESSLY SET FORTH IN THIS CSP AGREEMENT, ARE THE ONLY WARRANTIES MADE BY EITHER PARTY TO THE OTHER. NEITHER PARTY MAKES ANY OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS OR GUARANTEES TO THE OTHER RELATED TO THE AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY DISCLAIMS ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.
- 4.2 **HIGH RISK USE WARNING.** UNLESS OTHERWISE EXPLICITLY STATED IN THIS CSP AGREEMENT, THE PRODUCTS ARE NOT DESIGNED OR INTENDED FOR HIGH RISK USE SCENARIOS WHERE FAILURE OR FAULT OF ANY KIND OF THE PRODUCT COULD

REASONABLY BE SEEN TO LEAD TO DEATH OR SERIOUS BODILY INJURY, OR TO SEVERE DAMAGE TO TANGIBLE OR INTANGIBLE PROPERTY OR THE ENVIRONMENT.

- 4.3 **NO WARRANTIES FOR THIRD-PARTY PRODUCTS OR SERVICES.** EXCEPT AS EXPRESSLY PROVIDED IN THIS CSP AGREEMENT, THE DISTRIBUTOR ON BEHALF OF MICROSOFT AND ITSELF MAKES NO WARRANTIES, REPRESENTATIONS, OR CONDITIONS, AND ASSUMES NO LIABILITY AS TO ITEMS DISTRIBUTED UNDER A THIRD-PARTY NAME, COPYRIGHT, TRADEMARK OR TRADE NAME THAT MAY BE OFFERED OR COMBINED WITH OR INCORPORATED INTO THE PRODUCTS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, DISTRIBUTOR ON BEHALF OF MICROSOFT AND ITSELF WILL HAVE NO LIABILITY IN CONNECTION WITH THE THIRD-PARTY ITEMS (SUCH AS IN CONNECTION WITH ANY SUPPLY OR FAILURE TO SUPPLY THEM).

5. LIMITATIONS ON LIABILITY, GENERAL

- 5.1 THE TOTAL CUMULATIVE LIABILITY (IF ANY) OF EITHER PARTY TO THE OTHER IS LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED 100% OF THE PRODUCT FEES PAID, DUE OR OWING BY THE RESELLER TO THE DISTRIBUTOR DURING THE 12-MONTH PERIOD PRIOR TO THE DATE ON WHICH THE RIGHT TO ASSERT A CLAIM FIRST AROSE, MINUS ANY AMOUNTS PAID BY THE LIABLE PARTY DURING THE SAME PERIOD FOR ANY PRIOR LIABILITY. UNLESS OTHERWISE PROVIDED, IF THE CSP AGREEMENT HAS BEEN IN EFFECT FOR LESS THAN 12 MONTHS, DIRECT DAMAGES WILL NOT EXCEED THE AVERAGE MONTHLY PRODUCT FEES PAID, DUE OR OWING MULTIPLIED BY 12. IF A PRODUCT DOES NOT REQUIRE PAYMENT OF PRODUCT FEES, THE AMOUNT USED FOR CALCULATING THE CAP WILL BE \$10.00 PER UNIT OF PRODUCT USED OR DISTRIBUTED BY THE DISTRIBUTOR DURING THAT PERIOD.
- 5.2 TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY DAMAGES FOR LOSS OF PROFITS OR REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION OR DATA, OR FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, OR PUNITIVE DAMAGES.
- 5.3 THE LIMITATIONS ON LIABILITY AND ALLOWABLE DAMAGES DESCRIBED ABOVE WILL NOT APPLY TO EITHER PARTY'S (I) LIABILITIES FOR UNAUTHORIZED USE OR UNAUTHORIZED DISPOSITION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; OR (II) VIOLATION OF ANY LICENSE GRANTS AND LIMITATIONS; (III) OBLIGATIONS TO DEFEND AND PAY CLAIMS (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING FROM PERSONAL INJURY OR DEATH); OR (IV) FRAUD OR GROSS NEGLIGENCE. THE DISTRIBUTOR AND THE RESELLER AGREE THAT ALL LIMITATIONS ON LIABILITY AND EXCLUSIONS ON ALLOWABLE DAMAGES SHALL APPLY EVEN IF ANY REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.
- 5.4 THE DISTRIBUTOR AND THE RESELLER AGREE THAT A PARTY'S LIABILITY FOR ANY DAMAGES OR INDEMNITY SHALL BE REDUCED TO THE EXTENT THAT THE OTHER PARTY OR ITS AGENTS CAUSED OR CONTRIBUTED TO THE HARM GIVING RISE TO THE DAMAGES OR INDEMNITY OBLIGATION.

6. CSP CUSTOMER AGREEMENT ACCEPTANCE.

- 6.1 The Reseller must procure that its Customers accept the CSP Customer Agreement prior to ordering Products from the Distributor. The Reseller may not revise the CSP Customer Agreement in any way. The Reseller agrees and acknowledges that if Microsoft updates the CSP Customer Agreement, then the Reseller must ensure that its end users accept the new CSP Customer Agreement prior to or at the submission of a subsequent order (which is not a subsequent adjustment to an existing

Subscription) or the renewal of their Subscription. Notwithstanding the foregoing, Microsoft may independently obtain the Customer's acceptance of the CSP Customer Agreement.

- 6.2 By placing an order with the Distributor, the Reseller represents and warrants that the Customer has accepted the CSP Customer Agreement. The Reseller agrees and acknowledges that the Distributor may, at its discretion, accept or reject any proposed Reseller. If Reseller does not ensure that its end users accept the terms of the CSP Customer Agreement, the Reseller shall be liable to the Distributor for any costs and damages incurred by the Distributor due to such failure. Failure to provide such confirmation may result in disablement of Reseller's account.

7. GENERAL PRODUCT RELATED OBLIGATIONS

- 7.1 **Product and Subscription Management.** The Distributor will perform certain functions associated with the purchase, activation, support and management of the Reseller's purchased Products. The Reseller acknowledges and agrees that from time to time Microsoft may update, as Microsoft in its sole reasonable discretion deems appropriate, the processes and tools needed to perform such functions and the Distributor may be required to implement such updates or changes to continue to perform the functions.

- 7.2 Disablement and Cancellation of Subscription Offers.

- (a) As manager of Reseller purchased Products, the Distributor may (at its discretion) cancel a Subscription for a Reseller. The Distributor (i) will not provide a refund in connection with such cancellation of a Subscription if such cancellation occurs outside of the stated return period, and (ii) reserves the right to invoice the Reseller for any future scheduled billings for any Subscription cancelled in such a manner; cancellation terms may vary depending on the Product. Upon cancellation, Reseller will have ninety (90) days to migrate any Customer Data to either a new Subscription with the Distributor, with Microsoft directly, or to some other service. Upon request, the Distributor may assist the Reseller with migration of its Customer's Data at an additional charge agreed to between the Distributor and the Reseller.
- (b) As manager of Reseller purchased Products, the Distributor may temporarily disable a Reseller's Subscription. Depending on the Product, Reseller may continue to have limited or no access to the Product. The Distributor will not be liable to the Reseller, in any manner whatsoever, in connection with the Distributor's disablement of the Reseller's Subscriptions.
- (c) Microsoft and the Distributor may temporarily disable a Reseller's Subscription for legal or regulatory reasons or as otherwise permitted under this CSP Agreement or the CSP Customer Agreement. The Distributor will notify the Reseller of such a disablement as soon as commercially reasonable. In the event of disablement of a Reseller's Subscription, the Distributor may also suspend billing to Reseller for that Reseller's Subscription until the Subscription is re-enabled. Except for in connection with the Reseller's breach of its obligations under the CSP Agreement, Reseller will not be liable to the Distributor in connection with the disablement of a Reseller's Subscription.
- (d) If a Subscription is cancelled by the Distributor before its term expires and during the Reseller's billing cycle, (i) the Distributor will provide a prorated credit for the un-used pre-paid portion of the cancelled Subscription in the Reseller's subsequent invoice, provided that such cancellation is not due to any violation of the terms of this CSP Agreement or the CSP Customer Agreement with Microsoft and (ii) the Distributor will not invoice the Reseller for any future scheduled billings for that Subscription.

8. OLS SUBSCRIPTION OFFER TERMS AND OBLIGATIONS

- 8.1 Fixed Term OLS Subscriptions.
- (a) Products sold under fixed term OLS Subscriptions are sold for a term as specified by the Distributor. The Distributor shall specify if such Subscriptions are to be billed on a monthly or annual basis.
 - (b) Any subsequent adjustments to OLS Subscriptions (e.g., adding seats) made mid-billing cycle will be calculated and post-billed at the subsequent invoice.
- 8.2 Consumption Subscriptions (“Pay-As-You-Go”)
- (a) Consumption Subscriptions do not expire unless cancelled. Consumption Subscriptions can be cancelled at any time and any usage before cancellation will be billed in the next scheduled invoice date.
 - (b) Consumption Subscriptions will be billed at the next billing cycle and will include all usage from the prior month. Pricing will be based on the pricing effective during the current billing cycle except when prices decrease or increase. The unit price for an Online Service sold on a consumption basis may change during the subscription period.
- 8.3 Service Level Agreement Credits.
- (a) The Distributor and Microsoft makes certain service level commitments to the Resellers in the SLA (as set out in the CSP Customer Agreement). If a Reseller wishes to make a claim on the SLA, the Reseller must promptly escalate the claim to the Distributor for review. The Distributor will review the claim according to the standard SLA review process. The Distributor will then apply any credit due on Reseller’s next billing reconciliation report. The Reseller is eligible for credits not to exceed the total monthly Subscription estimated retail price. The Distributor reserves the right to audit outages on a per Subscription or per service basis at any time.

9. SOFTWARE OFFER TERMS AND OBLIGATIONS

- 9.1 **Software Subscription Renewal.** Certain Software Subscriptions such as Windows Server and SQL Server Subscriptions may not automatically renew at the end of their term. Company will be responsible for informing Resellers about whether a purchased Software Subscription will require manual renewal or repurchase at the end of its term. Pricing for a renewal term will be Distributor’s price in the price list in effect as of the commencement of the renewal term.
- 9.2 **Installation of Software.** Reseller’s installation of certain Software may require the Reseller to have a qualifying base license on the Reseller’s hardware unit. The applicable requirements are set forth in the Product specific terms incorporated into the CSP Customer Agreement.
- 9.3 **Reserved Instance Subscriptions.** Reseller agrees and acknowledges that:
- (a) A 12% early termination fee will apply for cancelled reservations
 - (b) The refund you receive for a cancellation is the remaining pro-rated balance minus the 12% early termination fee
 - (c) The total refund amount cannot exceed \$50,000 USD in a 12-month rolling window

- (d) Refunds are calculated based on the lowest price of either your purchase price or the current price of the reservation
- (e) Only reservation owners can process a refund
- (f) Grey Matter reserves the right to charge a 12% penalty for any returns
- (g) Reserved Instance subscriptions will automatically renew

10. PAYMENT, ORDERING

- 10.1 **Payment Terms.** The Distributor will charge the Reseller via the agreed payment method on or after 19th of each month unless otherwise notified by the Distributor. The Reseller will be provided with an invoice for each charge. If the agreed payment method fails for any reason the Reseller must pay the invoice within 5 days of notification of payment failure which be sent to the Reseller's email address or phone number provided.
- 10.2 The Distributor may reject any purchase order for a Software offer, in whole or part, within ten (10) days from the receipt of the Reseller's order. The Distributor will notify the Reseller if the Distributor rejects any order. Once an order for a Software offer is submitted, the Reseller will have sixty (60) days from the order date to submit any revisions to such order. All revision requests must be accompanied by supporting documentation as required by the Distributor and will be subject to the Distributor's review and approval. An approved order revision will result in the full cancellation of the underlying order and a refund. The Distributor may, in its sole discretion, decide to charge a handling fee of 5% of the value of any purchase order revision submitted and approved after sixty (60) days.

11. OPERATIONAL AND TECHNICAL SUPPORT

- 11.1 Administrative Access.
 - (a) Administrative Access Credentials are the property of the Reseller; The Distributor shall provide Reseller with any Administrative Access Credentials Microsoft provides with respect to a Product purchased by Reseller. The Distributor shall cooperate with and facilitate the transference of any Administrative Access Credentials to Reseller or any other Microsoft reseller at the Reseller's direction.
 - (b) If the Distributor (i) retains or obtains any Administrative Access Credentials of a Reseller for any purpose, including the fulfilment of its Technical Support Obligations, or (ii) otherwise has access to or processes Customer Data, then the parties shall comply with the UK Data Protection Legislation governing the use of Administrative Access Credentials shall apply.

12. WARRANTY AND DEFENCE OBLIGATIONS

- 12.1 **Warranty.** Microsoft warrants its Products to Resellers as described in the CSP Customer Agreement.
- 12.2 **Defence of Third-Party Claims.**
 - (a) **Distributor Obligations.** The Distributor will defend the Reseller (including by paying external attorneys' fees and costs and expenses of defence), and pay any resulting adverse final judgment or settlement to which the Reseller consents, from a Claim to the extent that such:
 - (i) arises from Microsoft's gross negligence, or from intentional acts or omissions hereunder;

- (ii) alleges that the Product alone, without combination or modification, either (1) directly infringes an asserted patent claim; or (2) embodies all the essential inventive elements of an asserted patent claim;
 - (iii) alleges that the Product, or use of Microsoft Marks in connection with promotion of Products, infringes a third party's trademark;
 - (iv) alleges that the Product infringes a third party's copyright; or
 - (v) alleges that the Product misappropriates a trade secret (as "misappropriates" and "trade secret" are defined in the Uniform Trade Secrets Act). If the Agreement is governed by the laws of a jurisdiction outside the United States, "misappropriates" will mean "intentionally unlawful use" and "trade secret" will mean "undisclosed information" as specified in Article 39.2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods (TRIPS Agreement), or the terms "misappropriation" and "trade secret" will have the meanings defined in the Unfair Competition Prevention Law.
- (b) **Limitations on Distributor's Defence Obligation.** The Distributor will not be liable for any Claim to the extent that the Claim or adverse final judgment is based on Reseller's: (a) distribution or use of any Product or Mark after the Distributor notifies the Reseller to stop distribution or use of the Product or Mark due to such a Claim; (b) combination of a Product with any Non-Microsoft Product, data or business process; (c) damages attributable to the value of the use of a Non-Microsoft Product, data or business process; (d) alteration of any Product; (e) use of Microsoft's Mark(s) without Microsoft's written consent to do so; or (f) for any trade secret Claim, the Reseller's acquiring a trade secret (1) through improper means, (2) under circumstances giving rise to a duty to maintain its secrecy or limit its use, or (3) from a person who had a duty to maintain its secrecy or limit its use. The Reseller will reimburse the Distributor for any costs or damages that result from these actions.
 - (c) **Distributor's and Microsoft's Options.** If, in connection with an infringement Claim, Microsoft replaces a Product or Mark with, or modifies a Product or Mark such that it is, a non-infringing functional equivalent, then the Reseller must immediately stop distribution of the allegedly infringing Product or use of the allegedly infringing Mark. The Reseller will work with the Distributor and Microsoft to recall all Products that are the subject of a Claim and replace them with the non-infringing alternative. If any other type of Claim is brought against the Reseller regarding Microsoft's intellectual property, it must notify the Distributor and Microsoft promptly in writing. The Distributor may, at the Distributor's option, choose to treat these Claims as being covered by this Section. This Section provides the Reseller's only remedy for third party infringement and trade secret misappropriation Claims.
 - (d) **Company's Defence Obligations.** The Reseller will defend the Distributor (including by paying external attorneys' fees and costs and expenses of defence) from, and will pay any resulting adverse final judgment or settlement (to which the Distributor consents) associated with, a Claim that arises out of or is connected with any default or breach or alleged default or breach of the CSP Agreement by the Reseller, the Reseller's distribution of any Product, or any other act or omission by the Reseller. Notwithstanding anything otherwise provided in this CSP Agreement, the Distributor will not amend the Reseller's indemnification obligations in this CSP Agreement through the introduction of new Product Specific Terms, except that Microsoft may introduce new Product Specific Terms that supersede or modify such terms solely as applicable to new Products. The Distributor will not amend Reseller's indemnification obligations in this CSP Agreement with retroactive effect, or with prospective effect across all Products.

13. CUSTOMER DATA AND PRIVACY OBLIGATIONS

- 13.1 **Privacy.** Before obtaining information from Data Subjects, the Reseller must obtain their legally valid permission or have another valid legal basis to permit the processing and transfer of the data by the Distributor and Distributor Affiliates, Microsoft and Microsoft Affiliates, and each parties' respective subsidiaries and service providers as contemplated under this CSP Agreement. The Reseller shall seek the requisite consent to allow the Distributor and Microsoft to collect, use, transfer, disclose, and otherwise process each Customer's Data, including personal data, as described in the CSP Customer Agreement. If obtaining Data Subject permission, such permission must comply with applicable law as valid consent.
- 13.2 **Customer Data.**
- (a) The security, privacy and data protection commitments made by Microsoft in any CSP Customer Agreement only apply to the Products purchased from Microsoft and not to any Services or other products provided by the Distributor. Except as the Distributor and Reseller may otherwise agree, the Distributor shall not delegate administrative privileges to a Product provided to Reseller or otherwise provide access to Customer Data to a third party (other than Reseller) without Reseller's prior consent or in violation of any Laws, including Applicable Data Protection Laws.
 - (b) Except as the Distributor and Reseller may otherwise agree, the Distributor shall use Customer Data only to provide Reseller with the Products and the support services specified under this CSP Agreement and to assist Reseller in the proper administration of the Products.
 - (c) Additionally, the Distributor shall not disclose Customer Data, including the content of communications, to law enforcement or other government authorities without the prior written consent of the Reseller, unless required to do so by Law.
 - (d) If the Distributor receives a request for Customer Data either directly from a law enforcement agency or as redirected to the Distributor by Microsoft, then the Distributor shall redirect the law enforcement agency to request that Customer Data directly from Reseller. If compelled to disclose Customer Data to law enforcement, then the Distributor shall immediately (i) notify Reseller; (ii) cooperate fully with Reseller in any reasonable efforts to intervene, quash or limit, or otherwise respond to, such requests; and (iii) after consultation with Reseller, only disclose the minimum amount of data necessary to comply with applicable Laws or judicial process.
 - (e) The Reseller shall (i) notify the individual users of the Products that their Personal Data may be processed for the purpose of disclosing it to law enforcement or other governmental authorities when required by applicable Law as determined by the Distributor; and (ii) obtain individual users' consent to the same.
- 13.3 **Other Security Obligations.** The Distributor will ensure (i) that only its Representatives that are authorized to use the Partner Portal are given access accounts, (ii) that its Representatives access and use the Partner Center Portal responsibly, and (iii) that all access credentials are responsibly managed and secured.
- 13.4 **Data Protection Obligations.** The parties agree to comply with the requirements as outlined in Schedule 2.

14. NOTICE OF CHANGES

14.1 **Changes to this Channel Authorization.** The Distributor reserves the right to unilaterally modify the terms of this CSP Agreement from time to time. The Distributor will provide the Reseller no less than one-hundred and eighty (180) days' prior notice before such changes become effective; after such time such changes to this CSP Agreement will become effective without further action by the parties. Any modification of this CSP Agreement per this provision will have prospective effect only.

14.2 Changes to Available Products

- (a) Distributor may add new Products (or a form factor, version or SKU of a Product) to the Price List at any time and without notice.
- (b) Distributor may update, or otherwise modify, an existing Product to add new features or functionality at any time. The Distributor will provide the Reseller with no less than thirty (30) days' prior notice before discontinuing a Product or removing any existing features or functionality of a Product (or SKU of a Product), unless such discontinuance or removal relates to a currency fluctuation event.

14.3 Changes to Price List.

- (a) The Distributor may decrease or increase Product Fees listed on the Price List at any time. The Distributor will provide the Reseller with no less than thirty (30) days' prior preview of an updated Price List before such becomes effective; provided, however, that the Distributor reserves the right to make changes to the previewed Price List up until ten (10) days before the effective date of such Price List.
- (b) Notwithstanding the foregoing:
 - (i) the prices for Microsoft Azure Services may change without notice; and
 - (ii) the Distributor will not be required to provide any prior notice before the effectiveness of a decrease or increase in Product Fees that relates to a currency fluctuation event.
- (c) **Changes to Product Specific Terms.** The Distributor may change the terms and conditions of the Product Specific Terms at any time. The Distributor will provide Company with no less than thirty (30) days' prior notice before such changes become effective.
- (d) **Changes to Territory.** The Distributor may change the Territory at any time by providing the Reseller no less than sixty (60) days' prior notice.
- (e) **Changes to Non-Microsoft Products.** The Distributor may change the prices for Non-Microsoft Products and may add or remove Non-Microsoft Products from the price lists at any time on notice to the Reseller.

15. SUPPORT TERMS.

15.1 **Service Level Agreement.** The current Online Services Service Level Agreement can be found at: <http://www.aka.ms/csla>.

15.2 **Severity Table.** When the Reseller contacts the Distributor to escalate a Reseller issue, the incident will receive a severity level ranking based on the nature of the issue. This ranking will define the response guideline and on-going communication as the Distributor along with Microsoft works to resolve the incident. The following table shows the Distributor's severity and response guidelines.

Severity	Definition	Initial Response Goal
A – Critical	One or more Products aren't accessible or are unusable. Production, operations, or deployment deadlines are severely affected, or there will be a severe impact on production or profitability. Multiple users or Products are affected.	2 hours
B – Urgent	The Product is usable but in an impaired fashion. The situation has moderate business impact and can be dealt with during normal business hours. A single user, Reseller, or Product is partially affected.	4 hours
C – Important	The situation has minimal business impact. The issue is important but does not have a significant current Product or productivity impact for the Reseller. A single user is experiencing partial disruption, but an acceptable workaround exists.	8 hours

15.3 **Business Continuity Management.** If a Force Majeure Event inhibits the conduct of normal licensing or service operations, the Distributor may choose to immediately alter its operational procedures. In such cases, the Distributor will provide responsive instructions to the Reseller. The Reseller must follow such instructions until the Distributor declares its return to normal operations procedures.

16. PRODUCT SPECIFIC TERMS AND CONDITIONS.

16.1 **Microsoft Azure Services Offer Terms.** These terms will supplement the CSP Agreement.

- (a) Preview Releases. Microsoft may make preview releases available from time-to-time. Previews are provided “as-is,” “with all faults,” and “as-available,” as further described in the CSP Customer Agreement and the Online Services Terms.
- (b) Microsoft CSP Sandbox Environment. THE DISTRIBUTOR (A) PROVIDES THE APIS AND CSP SANDBOX TENANT “AS-IS” AND WITH ALL FAULTS; (B) PROVIDES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; AND (C) DOES NOT GUARANTEE THAT THE APIS OR CSP SANDBOX TENANT WILL BE AVAILABLE, UNINTERRUPTED, OR ERROR-FREE, OR THAT LOSS OF DATA WILL NOT OCCUR.
- (c) The Distributor does not guarantee resource availability. The Distributor may change, suspend or delete any sandbox tenant or sandbox subscriptions at

any point without prior notice. The Distributor does not guarantee that the Distributor can retrieve configuration or data from changed, suspended, or deleted sandbox accounts or subscriptions.

16.2 Microsoft Azure Stack Offer Terms. Microsoft Azure Stack software or services hosted by the Distributor are:

- (a) hosted by the Distributor and not Microsoft; and
- (b) Use of such software or services is subject to the Distributor's data protection obligations as set out in the Master Services Agreement and not those of Microsoft.

16.3 Skype for Business Online PSTN Services Offer Terms.

(a) **Important Information About Emergency Calling/911 in the US.** 911 emergency calling operates differently with Skype for Business Online PSTN Calling services than on traditional telephone services. Resellers are required to notify each user of the Skype for Business Online PSTN Calling services of these differences. The differences include the following: (i) Skype for Business may not know the actual location of a 911 caller, which could result in a 911 call being routed to the wrong 911 call center and/or emergency services being dispatched to the wrong location; (ii) when a Skype for Business user dials a 911 call, the user may be asked by an operator to provide his or her current location to assist in properly routing the 911 call and dispatching emergency services; (iii) if the user's device has no power, is experiencing a power outage or, for any reason, cannot otherwise access the Internet, the user cannot make a 911 call through Skype for Business Online PSTN Calling services; and (iv) although Skype for Business Online PSTN Calling services can be used anywhere in the world where an Internet connection is available, users should not call 911 from a location outside the U.S. because the call likely will not be routed to the appropriate call center in that country.

17. TERM AND TERMINATION

17.1 **Duration.** This CSP Agreement shall commence on the date it is entered into by the parties, and shall continue in force unless and until terminated in accordance with the provisions of this CSP Agreement.

17.2 **Termination without Cause.** The Distributor can terminate this CSP Agreement at any time without cause, and without intervention of the courts, by giving the Reseller not less than thirty (30) days' prior written notice. However, if any underlying Product specific terms require a longer period of prior notice prior to termination of such without cause (such being an "**W/O Cause Period**"), such W/O Cause Period shall apply here as well; provided that the prior notice period required to terminate without cause under this provision will not exceed one-hundred-and-fifty (150) days. Except as otherwise provided in this CSP Agreement, the Distributor will not have to pay the Reseller any costs or damages resulting from termination of this CSP Agreement without cause.

17.3 **Termination for Cause.** If a party breaches any term of this CSP Agreement and such breach is curable, then the breaching party shall have thirty (30) days' following written notice of such breach by the non-breaching party to cure. If the breaching party fails to cure the breach within such thirty-day period, the non-breaching party may terminate this CSP Agreement upon written notice to the breaching party. A party will be allowed to cure a breach once; if a party breaches this CSP Agreement for the same reason as a prior breach then the other party may terminate this CSP Agreement.

17.4 **Termination by Microsoft.** The Reseller agrees and acknowledges that Microsoft may, at its discretion, terminate the Reseller's status at any time. If this happens, the Reseller will be promptly notified, orders will no longer be taken, and the Distributor will stop delivery of any Products and materials to the terminated Reseller. Termination will not affect the Reseller's obligation to file the next required order or report, if any. Termination will not affect Microsoft's right to submit an invoice for the

order, or any obligation to pay Microsoft. The Distributor will be entitled to invoice the Reseller for the Products that the Reseller ordered before termination.

18. GENERAL

18.1 **Entire Agreement.** This CSP Agreement, the CSP Customer Agreement and the Indirect Reseller Agreement forms the entire agreement between the parties. It supersedes any prior or contemporaneous communications. Except for the Program Guides, this CSP Agreement can be changed only if both parties who entered into this Agreement sign an amendment.

18.2 **Notices.** All notices and requests required or permitted under this CSP Agreement shall be in writing. Any notice or request provided for by this CSP Agreement shall be given either by personal delivery; facsimile transmission; certified mail, return receipt requested; or recognized overnight express courier service. Notice or request shall be deemed to be effective:

- (a) when it is given, in the case of notice or request by personal delivery or by facsimile transmission (provided that in the case of notice by facsimile transmission delivery is electronically confirmed by the sender's telecopier);
- (b) three days after deposit in the mail, in the case of notice or request by certified mail, return receipt requested; and
- (c) one day after delivery to the courier service, in the case of notice or request by recognized overnight express courier service.

You must send notices by mail to the address below.

Notices to Distributor should be sent to:	Notices to Microsoft should be sent to:
Grey Matter Ltd, The Old Maltings, Prigg Meadow Ashburton, Devon, TQ13 7DF, UK	Microsoft Ireland Operations Limited Atrium Block A Carmen Hall Road Sandyford Industrial Estate Dublin 18, Ireland

A party may change its address for notification purposes by giving written notice of such change to the other party.

Notwithstanding the foregoing, communications in the ordinary course of business (which do not include any notices related to payment, any dispute under or alleged breach of this CSP Agreement, any effort to enforce the terms of this CSP Agreement, or any notice regarding termination or modification of this CSP Agreement or the Products) may be sent via email to the appropriate contact.

18.3 **Assignment.** Without Distributor's prior written consent, the Reseller may not assign or transfer this CSP Agreement or its rights or obligations under it, whether by contract or by operation of law (such as merger or sale of the Reseller's shares). The Reseller will provide Distributor with no less than 30 days' notice of any requested assignment and Distributor's consent will not be unreasonably withheld. Distributor may transfer Distributor's rights and obligations under this CSP Agreement without the Reseller's consent, but only to one of Distributor's Affiliates. Any prohibited assignment is void.

18.4 **No agency:** Nothing in this CSP Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

18.5 **Language.** The English language version of this CSP Agreement controls.

- 18.6 **Waiver.** No waiver of any breach of this CSP Agreement shall be a waiver of any other breach, and any waiver must be in writing and signed by an authorized representative of the waiving party.
- 18.7 **No Representations.** Distributor has not made any representation to the Reseller about any Products other than as specifically stated in this CSP Agreement. The Reseller has relied on its own skill and judgment (or that of its advisers) in deciding to enter into this CSP Agreement. However, neither party limits or excludes liability for fraudulent misrepresentations.
- 18.8 **Microsoft Corporation and Affiliates - Third Party Beneficiaries.** Certain sections of this CSP Agreement are for the benefit of Microsoft and its Affiliates. As a result, Microsoft and Microsoft's Affiliates are entitled to enforce this CSP Agreement. Accordingly, the parties agree that Microsoft's and its Affiliates may enforce such rights and promises in its own right (without being required to add Microsoft as a party to any proceedings for such enforcement). Except for Microsoft's and its Affiliates, this CSP Agreement does not create any enforceable rights by anyone other than the Reseller and Distributor. Any representation or agreement made by Microsoft and its Affiliates that would change the terms of this CSP Agreement must be in writing and signed by Microsoft's authorized representative.

19. DISPUTE RESOLUTION

- 19.1 If a dispute arises under this CSP Agreement (**Dispute**), including any Dispute arising out of any amount due to a party hereto, then before bringing any suit, action or proceeding in connection with such Dispute, a party must first give written notice of the Dispute to the other party describing the Dispute and requesting that it is resolved under this dispute resolution process (**Dispute Notice**).
- 19.2 If the parties are unable to resolve the Dispute within thirty (30) calendar days of delivery of the Dispute Notice, then each party will promptly (but no later than five Business Days thereafter):
- (a) appoint a designated representative who has sufficient authority to settle the Dispute and who is at a higher management level than the person with direct responsibility for the administration of this CSP Agreement (**Designated Representative**); and
 - (b) notify the other party in writing of the name and contact information of such Designated Representative.
- 19.3 The Designated Representatives will then meet as often as they deem necessary in their reasonable judgment to discuss the Dispute and negotiate in good faith to resolve the Dispute. The Designated Representatives will mutually determine the format for such discussions and negotiations, provided that all reasonable requests for relevant information relating to the Dispute made by one party to the other party will be honoured.
- 19.4 If the parties are unable to resolve the Dispute within thirty (30) calendar days after the appointment of both Designated Representatives, then either party may proceed with any other available remedy.

20. STAFF TRANSFER AND NON-SOLICITATION

- 20.1 It is not intended that any staff be transferred from the Distributor to the Reseller or from the Reseller to the Distributor pursuant to this Agreement or that any 'relevant transfer' occur for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the **Regulations**).

- 20.2 The Reseller shall not solicit the Distributor's or its Group Company's staff, contractors consultants or sub-contractors during the lifetime of this CSP Agreement and for a period of 9 months thereafter. For the purposes of this clause 'solicit' means the soliciting of such person with a view to engaging such person as an employee, director, sub-contractor or independent contractor.
- 20.3 In the event, that the Reseller is in breach of clause 20.2 above then it shall pay to the Distributor by way of liquidated damages an amount equal to 50% per cent of the gross annual budgeted fee income (as at the time of the breach or when such person was last in the service of the relevant party) of the person so employed or engaged. This provision shall be without prejudice to the Distributor's ability to seek injunctive relief.
- 20.4 The Reseller hereby acknowledges and agrees that the formula specified in clause 20.3 above is a reasonable estimate of the loss which would be incurred by the loss of the person so employed or engaged.
- 20.5 The Reseller shall not during the lifetime of this CSP Agreement and for a period of 12 months thereafter, deal with or seek the custom of any person that is or was within the previous 12 months (from the start of the Agreement), a client or reseller of the Distributor.
- 20.6 Each of the covenants in this clause is considered fair and reasonable by the parties

21. GOVERNING LAW

This CSP 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 Ireland.

22. JURISDICTION

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

Schedule 1 - FS Addendum

Microsoft Cloud Agreement Financial Services Amendment

This Financial Services Amendment (“Amendment”) is entered into between Customer and the Microsoft Affiliate who are parties to the Microsoft Cloud Agreement (the “Agreement”). The parties agree that this Amendment supplements the Agreement and applies only to the Online Services, defined below, that Customer buys under the Agreement.

Customer or Customer’s Affiliate is subject to oversight by a financial services Regulator. In consideration of such oversight, the parties agree that the Agreement is amended as follows:

1. Defined Terms

Capitalized terms used but not defined in this Amendment will have the same meanings as provided in the Agreement or the Online Services Terms (“OST”). The following definitions are used in this Amendment:

“Customer” means, for purposes of this Amendment, any Affiliates that are subject to oversight by a Regulator and are consuming Online Services.

“Microsoft Online Services FSI Customer Compliance Program” or “FSI Customer Compliance Program” means an optional, fee-based program available to Microsoft customers or affiliates of those customers that are subject to oversight by a Regulator.

“Online Services” means, for purposes of this Amendment, the Microsoft Dynamics 365 Core Services, Office 365 Services, Microsoft Azure Core Services, Microsoft Intune Online Services and Microsoft Power BI Services, each as defined in the “Data Processing Terms” section of the OST.

“Regulator” means any financial services regulator that has examination or supervisory rights over Customer or Microsoft as the provider of Online Services to Customer.

2. Enabling Customer Compliance

a. Effective Access to Data and Business Premises. As set forth in this Amendment and for clarity and to be consistent with applicable regulations, Microsoft will provide Customer, Customer’s internal and external auditors (both of which are defined as “Customer Auditor” herein) and Customer’s Regulator, with effective access to data related to the activities outsourced to Microsoft, as well as reasonable access to Microsoft’s business premises (see Section 2(b)(ii) and Section 2(c)(iii)). Customer will at all times have direct access to Customer Data, including Customer’s virtual machines and applications deployed in the Online Services. This includes the ability for Customer to conduct vulnerability and penetration testing of Customer’s deployments in the Online Services or other similar testing as applicable to a specific Online Service that Customer is using. For avoidance of doubt, Customer must conduct any testing in accordance with Microsoft’s terms and conditions, which may require, among other things, Customer to provide Microsoft with advance notice of any tests and prohibit Customer from targeting any other Microsoft customer.

b. Regulator Right to Examine.

(i) In the event that Customer’s Regulator requests information relating to Customer’s use of the Online Services, Customer will, in the first instance, use the standard features of the Online Services and the information provided to Customer to respond to such request.

(ii) In the event that the Regulator requests to examine the Online Services operations and controls in order to meet the Regulator’s supervisory obligations of Microsoft as a service provider of Customer, Microsoft will provide the Regulator with a direct right to examine the Online Services, including the ability to conduct an on-premises examination; to meet with Microsoft personnel and Microsoft’s external auditors; and to access any related information, records, reports and documents. Such activities may take place at Microsoft’s offices, at other locations where activities relating to the Online Services provided to Customer and its Affiliates are performed, and as otherwise requested by the Regulator.

(iii) Microsoft will not disclose Customer Data to the Regulator except as described in the General Privacy and Security Terms in the OST, and the Regulator will not be allowed access to data belonging to any other Microsoft customer.

(iv) Customer will at all times have access to Customer Data using the standard features of the Online Services and may delegate its access to Customer Data to representatives of the Regulator.

(v) Customer and Microsoft will be responsible for their own costs associated with any of the activities described in this Section 2(b).

(vi) For clarity, Microsoft and Customer will work together to resolve each Regulator request through discussion and interaction between Customer, Microsoft and the Regulator. Microsoft and Customer acknowledge that the provisions relating to the Regulator right to examine are not intended to contravene or interfere with any applicable laws or regulations, and nothing in this section should be construed as an impediment to the Regulator's ability to examine the Online Services.

c. Customer Examination, Monitoring and Audits Rights. To enable Customer to meet its examination, oversight and control, and audit requirements, Microsoft has developed specific rights and processes that provide Customer, and other customers that are subject to oversight by a Regulator, with access to information, Microsoft personnel and Microsoft's external auditors. Such rights and processes are designed to provide Customer with effectively the same access to information and personnel that Microsoft would provide to a Regulator, while preserving Microsoft's ability to operate the Online Services and protect the privacy and confidentiality of other customers' data. Specifically, Microsoft will provide Customer, including Customer Auditor, with the rights described below. The activities described in Section 2(c)(iii) below may occur onsite in Microsoft's offices or at other locations where activities relating to the Online Services are performed.

(i) **Online Services Information Security Policy.** As set forth in the OST, each Online Service follows a written data security policy ("Information Security Policy") that complies with certain control standards and frameworks. Microsoft will make each Information Security Policy available to Customer, along with descriptions of the security controls in place for the applicable Online Service and other information reasonably requested by Customer regarding Microsoft security practices and policies.

(ii) **Audits of Online Services.** On behalf of customers including Customer and Customer's Auditor, as well as any Regulator, Microsoft will cause the performance of audits of the security of the computers, computing environment and physical data centers that it uses in processing Customer Data (including personal data) for each Online Service. Each audit will result in the generation of an audit report ("Audit Report"), as set forth in the OST. Pursuant to the terms set forth in the OST, if Customer requests, Microsoft will provide Customer with each Audit Report.

(iii) **FSI Customer Compliance Program.** Customer may participate in the optional FSI Customer Compliance Program at any time under this Agreement, which enables Customer to have additional monitoring, supervisory and audit rights and additional controls over the Online Services as described in Sections 2(c)(iii)(1) - (2) below.

1) Supervisory Access to Online Services Information and Microsoft Personnel.

A. Additional Microsoft Support. Through Customer's Premier Support Services engagement, Customer will have access to Microsoft personnel for raising questions and escalations relating to the Online Services.

B. Audit Webcasts. Subsequent to Microsoft receiving an Online Services Audit Report, Microsoft will invite all FSI Customer Compliance Program members ("Members") to participate in a webcast, hosted by Microsoft, for Members to discuss the results of the audit. Each webcast will include an assessment of whether: (1) the control procedures were suitably designed to provide reasonable assurance that the stated internal control objectives would be achieved if the procedures operated as designed, and (2) the control procedures operated effectively during the reporting period. Upon request from Members that attend the audit webcast, Microsoft will provide detailed information regarding planned remediation of any deficiencies identified by the audit.

C. Significant Events. Microsoft will provide communications to all Members regarding (1) the nature, common causes, and resolutions of security incidents and other circumstances that can reasonably be expected to have a material service impact on Members' use of the Online Services; (2) Microsoft risk-threat evaluations; and

(3) significant changes to Microsoft's business resumption and contingency plans, or other circumstances, that might have a serious impact on Members' use of the Online Services.

D. Penetration Testing. At least annually, Microsoft will conduct third party penetration testing against the Online Services, including evidence of data isolation among

tenants in the multi-tenant Online Services. Upon request, Microsoft will provide Members with a summary report of the results of such penetration testing.

E. Transparency of Online Services Through Program Events. Microsoft will make subject matter experts for the Online Services available to all Members through group events such as webcasts or in-person meetings, including an annual summit event. Such events will include a roadmap of planned developments, an opportunity for Members to provide structured feedback and/or suggestions regarding the FSI Customer Compliance Program and its desired future evolution, and reports of significant events (as described in this section). These events will also provide an opportunity for Members to discuss common issues with each other and raise them with Microsoft. The format and frequency of community events may vary over time; provided, that the objectives set forth in this paragraph will be accomplished not less than annually.

F. Additional Member Requests for Information. For Online Services that have been audited pursuant to SSAE 16 SOC 1 Type II and SSAE 16 SOC 2 Type II, as reflected in the OST, Members may request additional information from Microsoft subject matter experts not addressed through the standard features of the Online Services, the provisions in Section 2 or other available resources, on a fee-based per diem basis. In order to respond to any such request, Microsoft will prepare a statement of work with estimated fees, based on a per diem rate of US\$4,000 per day for each Microsoft employee, plus reasonable travel expenses. Members will not be charged the full per diem fee for a Microsoft engineering resource who is needed for only a portion of a single day. Microsoft will only charge fees for work performed on a pro rata basis. Further, Microsoft will not charge fees for any Microsoft employee performing administrative tasks, such as meeting coordination, escorting visitors or document copying. The statement of work must be executed by both parties before work can commence. Invoicing, payment and tax terms will be the same as for Professional Services under the Microsoft Premier Support Services Agreement.

If a Member is not reasonably satisfied by the sufficiency of the information provided by Microsoft employees, the Member may submit a written request to meet with one of Microsoft's external auditors. Microsoft will request that the external auditor that has audited the relevant Online Service meet with the Member to discuss any questions. Any such discussion will be subject to the agreement of the external auditor, will be at the Member's expense, and will be subject to the Member signing confidentiality documentation in form and content satisfactory to the external auditor.

2) Ability to Influence the Online Services and Programs – Suggestions for Additional Testing.

Microsoft will provide each Member with advanced details on existing and future certifications, audit plans and scope and will solicit feedback on any potential changes to current certifications. For each Microsoft audit, 100% of the existing controls in scope for that audit type will be subject to testing by the auditor, and the expectation is that all controls for each audit scope will be tested within a 3-year audit cycle. As part of the FSI Customer Compliance Program, each Member may suggest additional controls to be included in a future audit scope. Microsoft will consider each such suggestion and, if not accepted, will provide a reasoned basis for refusal. For any given audit cycle, across all suggestions from all Members, Microsoft will include a minimum of five Member-specified controls (from the existing control set) in the audit instructions and will inform the auditor that these controls were selected by the Members. Compliance with these controls will be

validated using tests that are consistent with the type of audit (e.g., ISO or SSAE) undertaken.

If the total number of Members in the FSI Customer Compliance Program exceeds 15, Microsoft will establish an executive committee (“Executive Committee”). For a given audit cycle, the Executive Committee will determine the five controls described above on behalf of all Members. Microsoft may, at its discretion, include additional controls requested by Members.

The Executive Committee will be comprised of at least one representative from each key regulated market with a participant in the FSI Customer Compliance Program. If there are multiple Members from a given market, the Executive Committee member for that market will be determined by (1) majority agreement among the Members from that market that have more than 10,000 active seats in the Office 365 Services or more than US\$500,000.00

annual commitment of Microsoft Azure Core Services, or (2) a regulator having authority over all Members from that market. The key regulated markets shall, at a minimum, include Canada, United States, United Kingdom, France, Germany, Japan and Italy. Microsoft may add key regulated markets or increase the number of Members on the Executive Committee only in consultation with all Members.

For clarity, nothing in this section precludes Members from requesting that new controls or additional details for a given product, feature or Online Service be included in the roadmap for future audits. Microsoft will consider each such request and, if not accepted, will provide a reasoned basis for refusal.

3) **FSI Customer Compliance Program Conditions and Processes.**

A. Conditions. Customer’s participation in the FSI Customer Compliance Program is conditioned on Customer (a) being regulated by a Regulator; (b) maintaining an active, paid subscription to one or more Online Services through the Agreement; and (c) maintaining an active, paid Microsoft Premier Support Services agreement. Customer also must pay a US\$50,000 annual fee for each year Customer participates.

B. Onboarding. If Customer decides to join the FSI Customer Compliance Program, an authorized Customer representative shall notify Microsoft by sending Customer contact information and purchase order details for the annual fee to the following Microsoft email address: fsicomppro@service.microsoft.com.

C. Termination. Customer may terminate its membership in the FSI Customer Compliance Program at any time by notifying Microsoft. Microsoft may terminate Customer’s membership in the FSI Customer Compliance Program if Customer fails to satisfy any of the conditions set forth in Section 2(c)(iii)(3)(A) above.

3. Security Incident: Limited Reimbursement for Certain Costs

To the extent that a Security Incident (as defined in the OST) results from Microsoft’s failure to comply with its obligations under the Agreement, and subject to the limitations of liability applicable to each Online Service, Microsoft will reimburse Customer for reasonable out-of-pocket remediation costs incurred by Customer in connection with that Security Incident. “Reasonable out-of-pocket remediation costs” consist of (a) actual costs of payments, fines, penalties, sanctions, attorneys’ fees, court costs or fees, or other remedies or liabilities, and any interest thereon, imposed by a court, tribunal, arbitration panel, government body or regulatory agency for a Microsoft-caused Security Incident;

(b) additional commercially-reasonable out-of-pocket expenses incurred by Customer or its Affiliates to manage or remedy the Microsoft-caused Security Incident including, without limitation, costs associated with restoring, correcting, or repairing the affected Online Service; (c) commercially-reasonable out-of-pocket expenses for legally-required notifications of Customer’s end users of the Microsoft-caused Security Incident (but not the costs of any professional third-party services, including those relating to crisis management, public relations or media relations services, which are indirect and consequential damages under the Agreement). Customer must document all such expenditures and, upon Microsoft’s request, those expenditures must be validated by an independent, internationally-recognized third party financial services industry expert chosen by both parties. For avoidance of doubt, the costs reimbursed by Microsoft under this paragraph will be characterized as direct damages subject to the limitation on liability in the Agreement, and not as indirect, consequential, special or incidental damages excluded in the Agreement.

4. Customer Termination Rights

a. Termination at the Direction of Regulator. Customer may terminate an Online Service at the express direction of a Regulator with reasonable notice.

b. Termination for Regulatory Compliance. In the event Customer becomes subject to a new government law, regulation, requirement, decision, order or other ruling that Customer determines it cannot comply with because Customer is using the Online Service(s), Microsoft will discuss with Customer how to accommodate Customer's requirements. The parties may contemplate adding additional products or services, procuring those products or services from a third-party provider, or adding other solutions, each at Customer's expense. If the parties are not able to satisfy Customer's new regulatory requirements, Customer may terminate the applicable Online Service without cause by giving 60 days' prior written notice to Microsoft.

5. Business Continuity of Online Services

Microsoft acknowledges that Customer may be required by its Regulator to ensure that it is able to continue to carry on its business in the event of (1) regulatory or other legal action impacting Customer or one of its Affiliates; or (2) termination of the Agreement. Microsoft and Customer agree as follows:

a. Continuity after Customer Transfer of Rights.

- 1) In the event of the insolvency, reorganization, liquidation or some other action impacting Customer or one of its Affiliates, as provided by applicable law or regulation for the financial industry (e.g., "too big to fail", "recovery and resolution", "special administration", and similar regulations and actions), and to the extent required to maintain continuity of Microsoft's provision of the Online Services purchased by Customer under the Agreement, Microsoft will consent to Customer assigning, sublicensing or transferring its rights under the Agreement to (A) one or more of its Affiliates, or (B) a third party that purchases or otherwise succeeds to any or all of the business or assets or equity of Customer. In each case, the entity to which rights are transferred is the "Transferee," and Transferee will have access to Customer Data through Microsoft's standard processes and tools.
- 2) Microsoft will neither terminate the Agreement nor suspend or delay the performance of its obligations under the Agreement, subject to the following conditions:
 - A. The Transferee must pay all fees and charges payable by Customer to Microsoft under the terms of the Agreement for services provided before the transfer and through the renewal or replacement of the Agreement.
 - B. The Transferee and Microsoft will work in good faith to renew the Agreement or, as appropriate, to replace the Agreement with appropriate terms for Microsoft to provide the Online Services to the Transferee.
 - C. If Microsoft and the Transferee cannot agree on terms, as described in clause B, within 12 months after the transfer of rights to Transferee, then Microsoft may terminate the Agreement by providing notice to Transferee.
 - D. The aggregate liability of Microsoft and its Affiliates to Customer, Customer's Affiliates and the Transferee will not exceed the aggregate liability of Microsoft and its Affiliates under the Agreement.
- 3) In the event the Transferee would like to enter into a new Agreement, the parties will work in good faith to put in place terms that are appropriate in light of the transfer under this Section 5(a).

b. Continuity after Termination of Agreement. If the Agreement terminates for any reason, then Customer may elect to extend the Online Services on a month-to-month basis for up to twelve months from the date of termination by providing notice of such election to Microsoft. During such period, Microsoft will continue to provide, and Customer will continue to receive and pay for, the Online Services pursuant to the terms and conditions of the Agreement. In addition, during such period Customer will be able to retrieve its Customer Data through Microsoft's standard processes and tools. Customer may cancel the extended service by providing a notice of cancellation to Microsoft. Cancellation will be effective at the end of the month following thirty days after Microsoft receives the notice of cancellation.

c. Reversibility. In the event of a termination of the Agreement as described in Section 4 and this Section 5 and Customer chooses to migrate to a different online service, Customer may request that Microsoft provide assistance in such transition through Microsoft's Professional Services

Organization at the then-current rates for such services.

Customer may request migration or transition assistance and support from Microsoft's Professional Services Organization at any time during the extended service period described in Sections 5(a) and 5(b).

6. Miscellaneous

a. Confidentiality. This Amendment, the Information Security Policy, the Audit Reports, and all information regarding and provided through the FSI Customer Compliance Program are Microsoft Confidential Information. Customer may disclose these items to a Customer Auditor or consultant or a Regulator, provided that (1) Customer first redacts all terms that are unrelated to regulatory oversight and approval, including pricing information and order quantities; and (2) other than disclosures to a Regulator, Customer must comply with the Confidentiality terms of the Agreement as if the disclosure was a disclosure of Microsoft Confidential Information by Customer to a Customer Representative.

b. Term and termination. Subject to Section 4 and Section 5 above, this Amendment will terminate automatically upon any termination of the Agreement. Except for changes made by this Amendment, the Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Agreement identified above and any provision in the OST, this Amendment shall control.

Schedule 2 - Data Protection Principles

For the purposes of this CSP Agreement, the words "**Data Controller**" shall mean the Reseller, the "**Data Processor**" shall mean the Distributor, and "**Data Subject**", "**Personal Data**", "**processing**", "**transfer**" (in the context of Personal Data transfers) and "**appropriate technical and organisational measures**" shall be interpreted in accordance with the applicable UK Data Protection Legislation.

- 1.1 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 1 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws
- 1.2 Without prejudice to the generality of clause 1.1, the Data Controller will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Relevant Personal Data to the Distributor as Data Processor for the duration and purposes of this CSP Agreement.
- 1.3 In performance of its obligations under the CSP Agreement, the Data Controller shall provide the Data Processor with complete and accurate details of the scope, nature and purpose of processing by the Distributor, the duration of the processing and the types of Personal Data and categories of Data Subject, as may be required to ensure compliance with the Data Protection Legislation and as more fully set out in Annex 1 (**Details of Personal Data Processed**). The Distributor shall not be deemed to have breached any of its obligations as Data Processor by virtue of a breach of the Data Protection Legislation by the Data Controller. The Distributor shall not be deemed liable for any claim including but not limited to a claim by a Data Subject arising from any action or omission by the Distributor to the extent that such action or omission resulted directly from the Data Controller's instructions.
- 1.4 The parties shall, at all times, comply with the provisions and obligations imposed by the Data Protection Legislation and the data protection principles set out therein when processing Relevant Personal Data.
- 1.5 In processing Relevant Personal Data, the Data Processor shall (and will procure all the Data Processor Personnel shall):
 - (a) process that Relevant Personal Data only on the documented instructions of the Data Controller, unless the Data Processor is required by Applicable Laws to otherwise process that Relevant Personal Data. Where the Data Processor is relying on Applicable Laws as the basis for processing Relevant Personal Data, the Data Processor shall notify the Data Controller of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Data Processor from so notifying the Data Controller on important grounds of public interest. The Data Processor shall inform the Data Controller if, in the opinion of the Data Processor, the instructions of the Customer infringe Applicable Data Protection Laws;
 - (b) implement appropriate the technical and organisational measures to protect against unauthorised or unlawful processing of Relevant Personal Data and against accidental loss or destruction of, or damage to, Relevant Personal Data, which the Data Controller has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) ensure that any personnel engaged and authorised by the Data Processor to process Relevant Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

- (d) assist the Data Controller insofar as this is possible (taking into account the nature of the processing and the information available to the Data Processor), and at the Data Controller's cost and written request, in responding to any request from a data subject and in ensuring the Data Controller's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (e) notify the Data Controller without undue delay on becoming aware of a personal data breach involving the Relevant Personal Data;
 - (f) at the written direction of the Data Controller, delete or return Relevant Personal Data and copies thereof to the Data Controller on termination of the CSP Agreement unless the Data Processor is required by Applicable Law to continue to process that Relevant Personal Data. For the purposes of this clause 1.5(f) Relevant Personal Data shall be considered deleted where it is put beyond further use by the Data Processor; and
 - (g) maintain records to demonstrate its compliance with this clause 1 and allow for reasonable audits by the Data Controller or the Data Controller's designated auditor, for this purpose, on reasonable written notice.
- 1.6 The Data Controller consents to the appointment of the Sub-Processor Wayside Technology Group, Inc.
- 1.7 The Data Controller hereby provides its prior, general authorisation for the Data Processor to:
- (a) appoint Sub-Processors to process the Relevant Personal Data, provided that the Data Processor:
 - (i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Data Processor in this clause 1;
 - (ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Data Processor; and
 - (iii) shall inform the Data Controller of any intended changes concerning the addition or replacement of the processors, thereby giving the Data Controller the opportunity to object to such changes provided that if the Data Controller objects to the changes and cannot demonstrate, to the Data Processor's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Data Controller shall indemnify the Data Processor for any losses, damages, costs (including legal fees) and expenses suffered by the Data Processor in accommodating the objection.
 - (b) transfer Relevant Personal Data outside of the UK as required for the Purpose, provided that the Data Processor shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Data Controller shall promptly comply with any reasonable request of the Data Processor, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK Data Protection Legislation applies to the transfer).

Schedule 3 - Surveil EULA

2. The End User Terms and Conditions located at <https://slim.azureedge.net/slim/eula.pdf> ("IT Exact Terms") apply to the provision of the IT Exact Software as a Service ("IT Exact Service") as between the Client and IT Exact Limited ("IT Exact"). In the event the Client does not accept the IT Exact Terms, the Supplier reserves the right to suspend the provision of the Services until such time as the Client accepts such IT Exact Terms.
3. IT Exact be solely responsible for its compliance with the IT Exact Terms.
3. The Supplier:
 - (a) expressly excludes any warranty to the Client that the IT Exact Service supplied or licensed under the Managed Services Agreement will operate substantially in accordance with, and perform, the material functions and features as set out in the its marketing, sales or other associated documentations; and
 - (b) shall not be liable to the Client:
 - (i) for the acts or omission of IT Exact; or
 - (ii) for any failure to perform its obligations under the Managed Services Agreement or this Order Form where there is a corresponding failure by IT Exact to perform its obligations under the IT Exact Terms.
4. The Client shall be liable to the Supplier for, and shall indemnify and keep the Supplier indemnified on demand against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings in respect of:
 - (a) any loss or damage that arise or result from the Client's breach of the IT Exact Terms; and
 - (b) the amount of all costs and expenses (including legal and out-of-pocket expenses) incurred by the Supplier in connection with enforcing or preserving any rights under, or monitoring the provisions of the IT Exact Terms.The Client's liability under this clause shall be unlimited.
5. The provision of the IT Exact Service referred to in this Order Form shall be solely governed by the IT Exact Terms. For the avoidance of any doubt, in the event of a conflict between the IT Exact Terms and the Managed Services Agreement or this Order Form insofar as it relates to the IT Exact Service only, the IT Exact Terms shall prevail. For all other Services, the Managed Services Agreement and this Order Form shall apply.

Annex 1
(Details of Personal Data Processed)

Data subjects:	Reseller personnel Reseller's Clients Reseller third parties Business contacts in general
Types of personal data:	Name Job title Email address Phone number Business/home address Date of birth Place of birth Any other personal data provided by the Reseller to the Distributor
Special categories of personal data:	None
Purpose of processing:	In the case of data subjects other than staff: for the purpose of providing IT services and support to the Reseller's business. In the case of staff: for the purpose of providing IT services and support for the Reseller's employment and HR matters.
Nature of processing:	As set out in the body of the CSP Agreement.
Additional instructions:	None