

IT Services Addendum

to the

Credit Suisse General Terms and Conditions for the Purchase of Products and/or Services

This IT Services Addendum (the “**Addendum**”) is incorporated by reference or attached to the Purchase Order. The Purchase Order (including any statement of work attached thereto), the GTC and the Addendums attached to it together form the agreement (the “**Agreement**”). The Agreement is made between the Credit Suisse company named in the Purchase Order (“**Credit Suisse**”), which shall include its Affiliates, successors, assignees and agents, and the supplier named in the Purchase Order (the “**Supplier**”) (each of Credit Suisse and Supplier, a “**Party**” and together, the “**Parties**”).

1. Definitions

Capitalized terms not defined herein shall have the meaning set forth in section 34 (Definitions) of the GTC.

In this Addendum, the following terms shall have the following meanings:

“**Credit Suisse Pre-Existing Material**” means material created or acquired by or on behalf of Credit Suisse (other than created by or on behalf of Supplier or acquired from Supplier).

“**Deliverable**” means each item (which, for the avoidance of doubt, may include any Supplier Pre-Existing Materials as defined herein) provided or to be provided to Credit Suisse by or on behalf of Supplier pursuant to the Agreement.

“**Harmful Code**” means any computer instructions, circuitry, or other means whose purpose or effect is to (i) disrupt, disable, harm, or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of the Deliverables, Products or Services, or any other software, firmware, hardware, computer system or network (sometimes referred to as “viruses” or “worms”), (ii) disable the Deliverables, Products or Services or impair in any way their operation, or the operation of any other software, firmware, hardware, computer system or network, based on the elapsing of a period of time, exceeding a number of users,

processors, copies, advancement to a particular date or other numeral, or the occurrence of any other event (sometimes referred to as “time bombs”, “time locks”, or “drop dead” devices) or (iii) permit unauthorized access to the Deliverables, Products or Services or any other software, firmware, hardware, computer system or network (sometimes referred to as “traps”, “back doors”, “access codes” or “trap door” devices), and (iv) any other harmful, malicious, hidden, or self-replicating procedures, routines or mechanisms which could or do cause the Deliverables, Products or Services, or any other software, firmware, hardware, computer system or network to cease functioning or to damage or corrupt data, storage media, programs, equipment or communications, or otherwise interfere with any part of Credit Suisse’s or any third party’s operations.

“**Intellectual Property Rights**” means and includes, to the extent recognized under applicable Law, patents, patent applications, copyrights (including rights in computer software), trademarks, service marks, trade dress, trade names, business names, internet domain names, e-mail address names, trade secrets, moral rights, database rights, customer lists, design rights, know-how, techniques, processes, methods, inventions (whether patentable or not), conceptions, discoveries, improvements, chip designs, mask works, proprietary information, technical information, specifications, and all other rights of authorship and intellectual and industrial property rights, and other equivalent or similar rights which may subsist anywhere in the world, in all cases whether registered or unregistered, including any form of application for any of the foregoing, and including any goodwill relating thereto.

“**Supplier Pre-Existing Material**” means material created or acquired by or on behalf of Supplier outside the scope of Services to be provided by Supplier under this Agreement. For the avoidance of doubt, the term ‘Supplier Pre-Existing Material’ does not include Deliverables.

2. Acceptance Testing

2.1 The Deliverables shall be subject to an acceptance testing (“**Acceptance Testing**” or “**Acceptance Testing Process**”) by Credit Suisse for the purpose of demonstrating that the Deliverables conform to, and satisfy, the

requirements or any other acceptance criteria set forth in the Purchase Order or otherwise agreed to by the Parties (“**Acceptance Criteria**”). The positive outcome would be acceptance, by Credit Suisse, of the applicable Deliverable (“**Acceptance**”). The results of any Acceptance Testing must be formally recorded in an inspection report to be signed by Credit Suisse. This inspection report must list all errors and deficiencies discovered during the Acceptance Testing, and Credit Suisse shall classify the errors and deficiencies according to the following categories:

Category	Description
1	Errors or deficiencies that prevent, or significantly interfere with, important functions or requirements of the Deliverable or the use of the Deliverable as a whole for the intended purpose.
2	Errors or deficiencies that significantly interfere with important functions or requirements of the Deliverable or the use of the Deliverable as a whole for the intended purpose but which can be overcome with reasonable effort by the users (such user effort intended to be temporary).
3	Errors or deficiencies that have only a minor impact with regards to important functions or requirements of the Deliverable or the use of the Deliverable as a whole for the intended purpose.

2.2 Where no errors or deficiencies prevented Credit Suisse from being able to perform proper Acceptance Testing and where, furthermore, no Category 1 or 2 Errors or deficiencies are listed in the acceptance report and, furthermore, absent of Failure Of Critical On Time And Error-Free Delivery (as defined below), the Deliverables will be deemed as conditionally Accepted once the acceptance report has been signed. However, unless otherwise agreed, such errors and deficiencies must still be corrected by the Supplier per the next paragraph below. If such errors and deficiencies cannot be corrected by the Supplier within this timeframe, Credit Suisse

may pursue all options available under this section 2 as if it was a Repeat Acceptance Failure (as defined below), but not a Substantial Deficiency.

2.3 In the event that any Deliverable does not conform to, and satisfy, the Acceptance Criteria or where errors or deficiencies in any Deliverable prevent Credit Suisse from being able to confirm whether the Deliverable conforms to, and satisfies, the Acceptance Criteria (in either case, an “**Acceptance Failure**”), and unless delayed delivery of error and deficiency free Deliverables would prevent Credit Suisse from using any Deliverable for the intended purpose as a whole (“**Failure Of Critical On Time And Error-Free Delivery**” or “**Fixgeschäft**”), the Supplier shall, at no cost to Credit Suisse, immediately commence using its best efforts to correct any errors and deficiencies which prevent such Deliverable from conforming to, and satisfying, the Acceptance Criteria – or which prevent Credit Suisse from being able to confirm whether the Deliverable conforms to, and satisfies, the Acceptance Criteria - and continue to work diligently to correct such errors and deficiencies as soon as possible, and in any event within thirty (30) days, unless otherwise agreed to by the Parties. The Supplier shall then expeditiously re-submit such Deliverables to Credit Suisse for a repeat Acceptance Testing.

2.4 In the event of a repeat Acceptance Failure for any Deliverable (“**Repeat Acceptance Failure**”), or in case of any Failure Of Critical On Time And Error-Free Delivery (whether through Acceptance Failure or delay or otherwise), Credit Suisse shall have the following options and remedies at its disposal and within its sole discretion, while reserving all other rights:

- (i) despite Repeat Acceptance Failure or in case of Acceptance Failure that relates to a Failure Of Critical On Time And Error-Free Delivery, Credit Suisse may accept the Deliverable against a fee reduction in an amount corresponding to the loss of value due to such errors and deficiencies or delay; or
- (ii) If the errors or deficiencies prevent, impair or interfere with substantial or

important functions of the Deliverable or the use of the Deliverable for the intended purpose as a whole (“**Substantial Deficiencies**”), including Failure Of Critical On Time And Error-Free Delivery (whether through Acceptance Failure or delay or otherwise), Credit Suisse is alternatively entitled to:

- (a) immediately rescind, in its entirety, the respective Statement of Work and any other Statement of Work whose utility to Credit Suisse is materially affected by the Deliverables containing Substantial Deficiencies or having had a Failure Of Critical On Time And Error-Free Delivery, against return of all Deliverables to Supplier. In such event, Supplier shall refund Credit Suisse immediately any fees paid by Credit Suisse under the Purchase Order; or
- (b) immediately terminate for cause (according to the relevant section of the GTC) the Agreement and/or any other Purchase Order whose utility to Credit Suisse is materially affected by the Deliverables containing Substantial Deficiencies or having had a Failure Of Critical On Time And Error-Free Delivery, while returning, to the Supplier, the Deliverables containing, or being impacted by the Deliverables containing, Substantial Deficiencies or having had, or being impacted by the Deliverables having had, a Failure Of Critical On Time And Error-Free Delivery. In such event, Supplier shall refund Credit Suisse immediately any fees paid by Credit Suisse for Deliverables so returned, while Credit Suisse may keep any other, unreturned Deliverable(s) against the payment of the according fees.

2.5 Alternatively, in case of Repeat Acceptance Failure or any Failure Of Critical On Time And Error-Free Delivery, Credit Suisse may grant the Supplier one or more further deadlines to correct the errors and deficiencies of the Deliverable (followed by one or more further

Acceptance Testing) until (1) the Deliverable has successfully conformed to and satisfied the Acceptance Criteria; or (2) Credit Suisse decides to accept the Deliverables against a fee reduction according to lit a) above; or (3) Credit Suisse executes its rights for termination for cause or rescission pursuant to lit. b) above.

- 2.6 In all cases, Credit Suisse reserves all other rights under this Agreement, including, without limitation, the right to claim compensation for damages pursuant to the relevant section of the GTC.
- 2.7 In all cases, use of the Deliverables, or payment of the compensation, does not constitute Acceptance, and Acceptance does not impose any restrictions on the representations and warranties. Signature of an acceptance report indicating only Category 1 or 2 Errors or indicating the fact that errors or deficiencies prevented Credit Suisse from being able to perform proper Acceptance Testing shall in no event constitute Acceptance by Credit Suisse, but rather serves only to document such errors and deficiencies. An acceptance report only containing Category 3 Errors and deficiencies indicates conditional Acceptance (as further outlined above) only.

3. Intellectual Property Rights

- 3.1 Pre-Existing Material. Credit Suisse shall retain all right, title, and interest in, to and under its Credit Suisse Pre-Existing Material, including all Intellectual Property Rights therein. Supplier shall retain all right, title, and interest in, to and under its Supplier Pre-Existing Material, including all Intellectual Property Rights therein.
- 3.2 Intellectual Property Rights. Unless otherwise expressly set forth in the Purchase Order, Supplier agrees that Credit Suisse shall own all right, title, and interest in, to and under the Deliverables, including all Intellectual Property Rights throughout the world therein, and that Credit Suisse and its assigns shall have the right to obtain and hold in their own name all Intellectual Property Rights throughout the world in, to, and under the Deliverables. Supplier hereby irrevocably and perpetually assigns, transfers and conveys, and shall

cause its agents, subcontractors and Supplier Personnel to irrevocably and perpetually assign, transfer and convey, to Credit Suisse all right, title, and interest in, to, and under such Deliverables, including all Intellectual Property Rights throughout the world therein, and all rights to causes of action and remedies relating to any of the foregoing, effective immediately upon the inception, conception, creation, fixture, development or reduction to practice thereof.

- 3.3 Supplier further agrees to sign, execute and acknowledge any documents and perform any and all such acts as may be necessary, useful or convenient for the purpose of perfecting the assignment to Credit Suisse of all Intellectual Property Rights throughout the world, to ensure that all requirements for the transfer and assignment of rights to the extent described above are entirely fulfilled, and to ensure that all moral rights are waived including without limitation with respect to employees and third parties.
- 3.4 No part of the Deliverables shall be considered Supplier Pre-Existing Materials except to the extent specifically identified as such in the Purchase Order. The Deliverables shall not require any Supplier Party Pre-Existing Materials for their proper operation or use, unless expressly set forth in the Purchase Order. With respect to any Supplier Pre-Existing Materials contained in, provided with, or that are necessary or desirable for the proper operation or use of the Deliverables, Supplier hereby grants to Credit Suisse, at no additional charge, a perpetual, non-exclusive, world-wide, royalty-free, fully paid-up, irrevocable license to use, make, modify, execute, reproduce, display, perform, distribute, sublicense and create derivative works of, such Supplier Pre-Existing Materials, including the right to authorize others to do some or all of the foregoing on their behalf. With respect to Supplier Pre-Existing Materials consisting of computer programming, Supplier shall deliver such Supplier Pre-Existing Materials in source code form in addition to such other form as may be required pursuant to the Purchase Order.

4. Representations and warranties

- 4.1 The Supplier warrants and represents to Credit Suisse that:
- (i) the Deliverables and its Services are compatible for use with, work in combination with, successfully integrate and interface with and will not adversely affect the Credit Suisse systems;
 - (ii) all Supplier interconnectivity to Credit Suisse's systems shall be in compliance with Credit Suisse's information systems security guidelines provided to Supplier from time to time;
 - (iii) it has full access and right to all relevant technical information, Personnel, expertise and data (including technical information, expertise and data belonging to or under the control of any of its Affiliates, representatives, agents or subcontractors), which is or might reasonably be required for the purposes of the Services;
 - (iv) it and its Personnel are adequately trained, skilled, experienced and qualified at a level appropriate to provide the Services;
 - (v) the Deliverables shall meet and perform in accordance with the description, specifications and other requirements set out in the Agreement, without the necessity of purchasing any additional software, hardware, or firmware, other than the specified operating environment;
 - (vi) the Deliverables shall not, at the time of delivery to Credit Suisse contain any Harmful Code;
 - (vii) the Deliverables and Supplier Pre-Existing Materials shall not contain any computer code:
 - (a) intentionally designed to disrupt, disable, harm or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of any systems (sometimes referred to as 'viruses' or 'worms');
 - (b) that would disable or impair Credit Suisse's systems or impair in any way its operation based on the elapsing of a period of time,

exceeding an authorized number of copies, advancement to a particular date or other numeral (sometimes referred to as 'time bombs', 'time locks', or 'drop dead' devices); or

- (c) that would permit the Supplier (or any third party) to access the Credit Suisse systems so as to cause any such disablement or impairment (sometimes referred to as 'traps', 'access codes' or 'trap door' devices), or any other similar harmful, malicious or hidden procedures, routines or mechanisms which would cause such programs to cease functioning or to damage or corrupt data, storage media, programs, equipment or communications, or otherwise interfere with operations.

4.2 The warranty and representation set out in section 4.1(v) above shall apply for a period of twelve (12) months, with such period commencing immediately following the later of:

- (i) the Effective Date of the underlying Agreement;
- (ii) the due date of the applicable Deliverable so specified in the underlying Agreement; and
- (iii) Acceptance of the applicable Deliverable by CS in accordance with the Acceptance Testing Process;

("Warranty Period").

4.3 Without limiting any of the Supplier's other obligations under this Agreement, if at any time during the Warranty Period Credit Suisse notifies the Supplier of a breach of section 4.1 (**"Warranty Issue"**), the Supplier shall correct the Warranty Issue within:

- (i) three (3) Business Days following receipt of Credit Suisse's notice under this section 4.3; and
- (ii) any period specified in the Purchase Order.

4.4 CS shall not be liable for any Fees or other charges relating to the correction of any Warranty Issue.

4.5 If the Contracting Party fails to comply with its obligations within the relevant timeframe (as specified in section 4.3), CS may:

- (i) correct the Warranty Issue or instruct a third party to correct the Warranty Issue; and
- (ii) deduct from the Fees (or recover as a debt due from the Contracting Party) all reasonable costs incurred in correcting the Warranty Issue.

4.6 The Warranty Period shall automatically extend by any period taken by the Supplier (or Credit Suisse, as the case may be) to correct a Warranty Issue.

4.7 On termination or expiry of a relevant Purchase Order the provisions of this section 4 shall remain in full force and effect.

5. Payment Terms

5.1 Credit Suisse shall pay each invoice received in accordance with the GTC within sixty (60) calendar days following the later of (i) receipt of the invoice, or (ii) expiration of the Acceptance period, provided Credit Suisse has not rejected the Deliverable as set forth in this Addendum.