TD SYNNEX

BLOCK STORAGE ADDENDUM TO GLOBAL HPE GREENLAKE PROGRAM GUIDE

1   DOCUMENT PURPOSE

This Block Storage Addendum (the "Addendum") to the TD SYNNEX Global HPE GreenLake Program Guide (the "Program Guide") is a frame contract for the resale of the HPE GreenLake for Block Storage services defined herein. Individual orders will be agreed on pursuant to the Block Storage SOW and Order Form.

References in this agreement to HPE do not create any obligation for HPE with respect to Reseller or Customer. HPE's obligations to Customer with respect to the HPE GreenLake services are set out in the HPE GreenLake Terms for Block Storage ("Terms") and the documents referenced therein e.g., the HPE GreenLake for Block Storage Datasheet.

The Terms create binding delivery obligations from Distributor to Reseller in parallel to the respective delivery obligations of HPE to Customer. When HPE performs the Services under the Terms to Customer, Distributor shall be released from its respective obligations to Reseller.

In the event of any conflict, the following order of precedence applies with respect to the Services:

a. The SOW

b. This Addendum

c. The Program Guide

d. The Terms and Conditions under which Reseller buys Products from TD SYNNEX (the "Resale Terms")

1.1   Definitions

• **Buffer Capacity:** Buffer Capacity can be deployed ahead of demand, and the Reseller will pay for it only when the Buffer Capacity is used. Its replenishment is subject to the Contract Change Management Process and Customer's capacity forecast which must provide plenty of lead time for deployment of incremental capacity to meet new demand.

• **Contract Change Management Process:** The process initiated by the Reseller pursuant to the respective request of the Customer for introducing changes to accepted SOWs. The Contract Change Management Process will result in a new binding SOW if accepted by both parties.

• **Customer:** The entity that will be receiving the Services.

• **HPE:** The Hewlett Packard Enterprise group company defined in clause 5.1.3.

• **Items:** services, hardware, software, technology or data.

• **Reseller:** The authorized HPE reseller that is reselling to the Customer.

• **Reserved Capacity:** Reserved Capacity is the minimum number of Units that will be invoiced monthly.

• **Useable capacity:** The unit of measure (UoM) in GB (gigabyte) for available storage, post-RAID and System overhead calculations.

• **Services**: The services, detailed in the Agreement, that HPE will perform for the Customer, including the right to use any Systems, and any add-on service.

• **SOW:** the Statement of Work for individual orders pertaining to the Services.

• **Service Level Agreement (SLA):** Any commitment by HPE for Service availability, including any liability for any qualifying outages as set out in the applicable HPE service datasheet.

• **System, Systems:** Any hardware and/or software provided by HPE under this Addendum (excluding Proprietary Service Tools) for Customer's use. <!-- Commented [CJ1]: Undefined -->

• **System Term:** The duration of the right to use a System for the period ordered. System Term applies to any Services that are included in the unit pricing of the System. Add-on Systems can be coterminous with the initial System or have their own System Term. If not stared otherwise, add-on Systems are non-coterminous.

• **Variable Capacity:** Variable Capacity is the delta between the Requested Capacity and Reserved Capacity. This capacity is billed when used.

All capitalized terms that are used but not defined in this agreement shall have the meaning given to them in the Program Guide.

1.2   Deviations from the Program Guide

- Any incentives and rebates applicable specifically to the resale of HPE GreenLake Services do not apply to the resale of HPE GreenLake Block Storage Services.

- Article 2.1.1 (Usage Metering and Capacity Services) of the Program Guide shall read as follows when applied to HPE GreenLake for Block Storage:

    HPE GreenLake for Partners is designed to provide ease of startup, flexible pricing models, scalability, and flexible usage for eligible infrastructure and software. The service is designed for Customers looking for a pay-per-use model (subject to minimums).

2   HPE SERVICES AND TERM

HPE GreenLake is designed to provide ease of startup, flexible pricing models, scalability, and flexible usage for eligible infrastructure (compute, storage, networking, etc.) and software. The service is designed for Customers looking for a pay-per-use model (subject to minimums).

2.1   [Intentionally left blank]

2.1.1   Usage Metering

2.1.1.1   Metering Tools
- Metering will be through the HPE GreenLake Cloud Platform to measure the Systems' usage for the purpose of monthly billing.

- HPE's metering collects the data needed to determine usage.

- Metering of the Systems will begin on the start date of the System Term.

2.1.1.2   Used Capacity Measurements
- The basic pricing factor is used capacity, subject to the pricing model and minimum invoiceable amounts.

- Used capacity is calculated by reading the max capacity used in the monthly billing period.

2.1.2   System Term

- Each System term will start on the day on which the Customer is notified of the System being available for use (for example, through an automated System notification).

- The System Term will continue for an initial period purchased (System term). The System term will automatically extend on a month-to-month basis unless either party gives at least 90 days prior notice whereby no extension will apply. In case the System includes components that cannot be extended monthly (for example, third-party software), the System term will extend for the minimum period of time applicable to the components. During the extension period(s), each party can terminate the extended System term to the end of the extension period by giving at least 30 days prior notice.

2.1.3   SLA

- Any SLAs applicable to Services will be detailed in the relevant HPE service datasheet. Any rights and obligations that are specific to those SLAs, for example any remedies and remuneration for qualifying outages, will be exclusively governed by this agreement. In the absence of such provisions the relevant HPE service datasheet will apply.

2.2   Charges

2.2.1   Pricing

2.2.1.1   Pricing Mechanism

The monthly price is calculated by

- Multiplying the Reserved Capacity by the applicable price per unit for each System

- Multiplying the difference between the Used Capacity and the Reserved Capacity by the applicable Variable Capacity Consumption rate
- Adding any applicable fixed monthly charges
- Adding any applicable charges for add-on Services

2.2.2   Minimum Invoiceable Amounts

- The minimum invoice will be the Reserved Capacity.
- If a Variable Capacity is included in the SOW, then Reseller will be invoiced on the greater of Reserved Capacity or Used Capacity.
- If a Variable Capacity is not included in the SOW then Reseller will pay for Reserved Capacity.

2.2.3   Pricing in case of metering issues

- If daily usage data cannot be collected by the HPE GreenLake Cloud Platform metering micro service or scripts for more than 2 calendar days (including delays in implementing the metering script), Distributor will send Reseller an email indicating that the daily usage data cannot be gathered. Reseller will immediately assist Distributor in resolving the problem.
- If this issue continues for up to 30 days and
  a. Usage data has already been collected, then the greater of a) Reserved Capacity, or b) the usage data from the day immediately preceding the failure for that 30-day period will be used.
  b. No usage data has been collected, then the Reserved Capacity will be used for that 30-day period.
- If the issue continues beyond 30 days, one of the following will apply until the daily usage data issue is resolved:
  a. If the cause is attributable to Reseller or Customer, the billable amount will be equal to the Reserved Capacity or the sum of the Reserved Capacity and Variable Capacity if a Variable Capacity is included.
  b. If the cause is attributable to HPE or Distributor, the billable amount will be equal to the Reserved Capacity.
- If the cause is due to unidentified or unforeseeable external factors (in other words, neither HPE nor Distributor nor Reseller nor Customer have directly contributed to the failure through action or inaction), the billable amount will be equal to the mid-point between the Installed Capacity and the Reserved Capacity.

2.2.4   Price Adjustments

- Prices are calculated upon the Customer's chosen service levels and attributes.
- Distributor and Reseller will negotiate equitable changes to the prices and fees in good faith if:
  a. A material adverse change in Customer's financial or operating condition has occurred since the execution of the SOW, or
  b. For Change Orders only, there is a material adverse change in market conditions (e.g. commodity pricing, supply chain restrictions, inflation, etc.).

2.2.5   Invoicing

2.2.5.1   Start of Monthly Invoicing

- Invoicing for the Services will begin on the first day after the start of the System Term:
  a. If the start of the System Term is delayed for a cause not attributable to Distributor or a force majeure event, on the 31st day from delivery of the System, Distributor will start invoicing Reseller a delay fee monthly in arrears. The delay fee is calculated as follows:

    1/30th of monthly Reserved Capacity charged daily as defined. Example: If Reserved Capacity is $30,000/month then the delay fee would be $1,000 a day. A 25-day delay would equal a fee of $25,000.

  b. If the delay exceeds 90 days Distributor may terminate this agreement with immediate effect and claim Early Termination Fees in addition to any outstanding Delay Fee.

2.2.5.2   Invoice Breakdown

- Distributor will invoice Reseller monthly in arrears, unless otherwise stated, for:

– The Monthly Price

– Any applicable additional charges (e.g., Early Termination Fees, etc.)

– Any applicable taxes (such as, sales, value-added tax (VAT), goods and services tax (GST) or similar taxes or fees including stamp duty)

2.2.5.3   Reserved

2.2.5.4   Questions About Invoices

- Reseller will have 10 business days to contact Distributor following the monthly billing cycle with any questions or concerns regarding the invoice after which period of time Reseller waives any billing dispute.

2.2.6   Payment

2.2.6.1   Reserved

2.2.6.2   Validation

- Reseller will assist Distributor in obtaining the necessary Customer information so that HPE can conduct a credit check on Customer.
- If HPE or Distributor is not able to perform a satisfactory credit check on Customer or if Customer fails the credit check, Distributor will notify the Reseller prior to the parties executing the SOW, and Reseller must authorize proceeding with the deal in writing before a sale may conclude. If Reseller opts to authorize a deal with a Customer under this paragraph, then Reseller waives any right it may have to relief from payment of Early Termination Fees resulting from Customer non-payment notwithstanding any provision of the Program Guide, this Addendum, or otherwise.

2.2.7   Returning Systems

- Customer must return the Systems to HPE within 30 days from expiration or termination date.
- The parties will discuss and agree upon a termination assistance plan, as may be required. If Customer requires termination assistance services, the parties will agree on these services and any applicable fees.

2.3   Termination

2.3.1   Termination rights

1. Either party may terminate a SOW:
   a. If the other party materially breaches its contractual obligations and fails to remedy the breach within 30 days of receiving written notice of the material breach

   c. If the other party is subject to an insolvency or bankruptcy event

   d. If Reseller or Customer terminate their contract for the Services in accordance with the terms of that contract

   e. If Reseller validly novates to HPE its agreement with the Customer pertaining to the Services.

2.3.2   Effects of Termination

2.3.2.1   Early Termination Fees

1. In the event of termination of a SOW or any System before the expiration of the System Term, Distributor will invoice the "Early Termination Fees" as calculated below:

   a. (the Reserved Capacity at the time of the termination x applicable price per System per month x the number of months remaining in the affected System Term) x 1.1

   b. **For fixed monthly charges:** The sum of any monthly fixed charges set forth in SOW or Order Form x the number of months remaining in the affected System Term

   c. **For optional software or services:** Early Termination Fees, if any, stated in the relevant Optional Solution Terms

2. Reseller will finally settle all liabilities arising out of any termination in accordance with this Section upon payment in full of Distributor's final invoice, which will include

a. The Early Termination Fees

b. Any outstanding consumption-based charges

c. Any outstanding Delay Fee

2.3.2.2   Termination for HPE or Distributor breach or insolvency

In the event of termination by Customer of the Terms for an uncured HPE breach or HPE insolvency event or in the event of termination by Reseller for Distributor uncured breach or insolvency event, Distributor will relieve Reseller of the Early Termination Fees.

2.3.2.3   Termination for Customer Non-payment

Unless Reseller has authorized a transaction despite the failure of Distributor's or HPE's credit check of Customer, or the inability of Distributor or HPE to perform a credit check on Customer as stated in Section 2.2.6.2, Reseller may terminate a SOW for Customer non-payment only in accordance with the terms of the Program Guide. In the event of a valid novation of Reseller's contract for the Services with Customer to HPE in line with all the requirements set out in the Program Guide and Reseller's termination of this Addendum on this account Distributor will relieve Reseller of the Early Termination Fees.

2.4   Ordering

2.4.1   Placing an Order

Either Signature or Email acceptance

1. The action of signing the completed SOW with Distributor shall indicate Reseller's acceptance and Distributor accepting the SOW shall create a valid binding order for the Services ("Order Acceptance"). Reseller represents and warrants that

   a. The person signing the SOW has the authority to place such order

   b. If Reseller issues purchase orders as a matter of business, it will promptly provide an acceptable purchase order for enabling the HPE beginning of the provision of the Services

   c. If Reseller does not issue purchase orders as a matter of business practice, Reseller warrants and represents that:

      I.   Its signing of the completed SOW authorizes the beginning of the provision of the Services

      II. Reseller will pay for the Services without the need of a purchase order

      III. Reseller will not contest payment for the provision of Services due to the fact that no purchase order was issued

2. The action of emailing the completed SOW to Distributor shall indicate Reseller's acceptance and Distributor accepting the SOW shall create a valid binding order for the Services ("Order Acceptance"). Reseller represents and warrants that

   a. The person sending the SOW has the authority to place such order

   b. If Reseller issues purchase orders as a matter of business, it will promptly provide an acceptable purchase order for enabling the HPE beginning of the provision of the Services

   c. If Reseller does not issue purchase orders as a matter of business practice, Distributor warrants and represents that:

      I.   Its emailing of the completed SOW authorizes the beginning of the provision of the Services

      II. Reseller will pay for the Services without the need of a purchase order

      III. Reseller will not contest payment for the provision of Services due the fact that no purchase order was issued

2.4.2   Updated Purchase Orders

Annually or when funds in an applicable purchase order are insufficient to cover estimated usage for the next 3 months for that order, Reseller will promptly provide Distributor with an updated or new purchase order with sufficient funds to cover estimated usage during the next year.

The fees in the SOW include the installation services for the Systems covered under the applicable SOW at the time of execution. The fees do not include installations that may be required as a result of a Customer initiated System relocation. Relocation services may be purchased separately.

2.4.3   Reseller understands and agrees:

- To provide the Customer with the appropriate link to the terms relating to the purchased Services, as applicable:
    - HPE GreenLake for Block Storage data sheet: hpe.com/psnow/doc/a50006454enw
    - HPE Pointnext Tech Care Support Services data sheet: hpe.com/psnow/doc/a00108652enw (only the HPE Pointnext Tech Care Essential level applies)
    - HPE GreenLake for Block Storage Terms: hpe.com/psnow/doc/a50006455enw
- To identify to the Customer the contracting Hewlett Packard Enterprise group company, as identified on the Order Form

COUNTRY SPECIFIC TERMS

1.1 FRANCE

2.3.1 **Termination rights.** Replace section 2.3.1. with the following:

Either party may terminate a SOW or Order Form:

- If the other party materially breaches its contractual obligations and fails to remedy the breach within 30 days of receiving written notice of the material breach

- If the Reseller or Customer terminate their agreement in accordance with the terms of their agreement

- If the Customer terminates their agreement with the Reseller because of HPE's uncured material breach

- If Reseller validly novates to HPE its agreement with the Customer pertaining to the Services

2.3.2.2. **Termination for HPE or Distributor breach or insolvency.** Replace section 2.3.2.2. with the following:

In the event of termination for an uncured HPE or Distributor breach, Distributor will relieve Reseller of the Early Termination Fees and the Return Fee.

1.2 GERMANY

Section 2.2.5.1 Start of Monthly Invoicing. Replace the second bullet as follows:

- Invoicing for the Services will begin on the first day after the start of the System Term. If installation services are delayed due to Reseller's or Customer's fault, on the 31st day from delivery of the System, Distributor will start invoicing Reseller a delay fee monthly in arrears. The delay fee shall be set off against any damages claims and shall be calculated as follows:

  1/30th of monthly reserved capacity of impacted billing Tiers charged daily as defined. Example: If reserved capacity is $30,000/month then the delay fee would be $1,000 a day. A 25-day delay would equal a fee of $25,000.

Section 2.3.1 Termination Rights. Add the following subsection:
2. The right to terminate a SOW for cause [aus wichtigem Grund] according to statutory laws remains unaffected.

Section 2.4.1 Placing an Order. Replace first sentence of subsection 2. as follows:
The action of signing the completed SOW and reception of the same by Distributor shall indicate Reseller acceptance as well as Distributor accepting the SOW shall create a valid binding order for the Services ("Order Acceptance").

Section 2.4.1 Placing an Order. Replace subsection 2. c. I. as follows:
Its signing of the completed SOW Form and reception as well as acceptance by Distributor authorizes the beginning of the provision of the Services

Section 2.4.1 Placing an Order. Replace first sentence of subsection 3. as follows:
The action of emailing the completed SOW to Distributor shall indicate Reseller acceptance and Distributor accepting the SOW shall create a valid binding order for the Services ("Order Acceptance").

Section 2.4.1 Placing an Order. Replace subsection 3. c. I. as follows:
Its emailing of the completed SOW and reception as well as acceptance by Distributor authorizes the beginning of the provision of the Services

1.3 IRELAND
Section 2.3.1 Termination Rights "b" shall read:

If the other party is subject to an insolvency or bankruptcy event and any analogous step is taken by or against a party in any jurisdiction.