

Software Services Reseller Addendum
Microsoft SPLA

THIS Software Services Reseller Addendum "Addendum" is by and between the Zadara affiliate and the Partner who signed the Partner Agreement.

RECITALS

Zadara is licensed by Microsoft to provide Microsoft software licenses (Product licenses) together with Zadara Software Services under the terms of the Microsoft Service Provider License Agreement ("**SPLA**").

Zadara is required by the terms of SPLA to sign and maintain this Addendum with all its Partners who resell Zadara's Services. The Parties are hereby entering into this Addendum which shall govern the resale by Partner of Microsoft software licenses, in addition to the terms of the Partner Agreement.

In the event of a conflict between the terms of this Addendum and the Partner Agreement, this Addendum shall take precedence over with respect to the resale of Microsoft software licenses.

Terms not defined herein shall have the meaning ascribed to them in the Partner Agreement.

Zadara and Partner are sometimes individually referred to as a "**Party**," and collectively referred to as the "**Parties**".

Partner acknowledges that by accepting the Partner Agreement it accepts this Addendum for each Order it submits.

Definitions

i. "**Client Software**" means software that is installed on an End User's device that allows the device to access or use the Products. Client Software for the SPLA program is listed in the Service Provider Use Rights (SPUR) <https://microsoft.com/licensing/spur>.

ii. "**End User**" means an individual or legal entity that obtains Software Services provided by Zadara through Partner.

iii. "**Partner Agreement**" means the partner agreement signed between the Partner and Zadara which governs Partner's resale of the Zadara Services including Software Services.

iv. "**Microsoft**" means Microsoft Corporation.

v. "**Product(s)**" means, for the purpose of this Addendum, (1) all products listed in the Product Index section in the SPUR and (2) Redistribution Software.

vi. "**Redistribution Software**" means software that may be installed on an End User's device that may be used, modified, reproduced and/or redistributed by an End User without separate payment.

vii. "**Software Services**" means services that Zadara provides and Partner resells to End Users that make available, display, run, access, or otherwise interact, directly or indirectly, with the Products, whether or not Partner or Zadara receive a fee. Software Services exclude any services involving installation of a Product directly on any End User device to permit an End User to interact with the Product.

viii. "**Trade Laws**" means all applicable import and export laws and regulations, including but not limited to, trade laws such as the U.S. Export Administration Regulations or other end user, end use, and destination restrictions by the U.S. and other governments, as well as sanctions regulations

administered by the U.S. Office of Foreign Assets Control.

1. Terms

a. Partner must comply with all applicable laws and regulations, including, without limitation, Trade Laws.

b. Partner will use commercially reasonable efforts to prevent any unauthorized installation, distribution, copying, use, or pirating of the Products and Client Software.

c. During the course of this Addendum, Zadara may authorize Partner to distribute original media or software containing only Client Software and/or Redistribution Software to End Users. Partner is legally responsible to Zadara for any unauthorized installation, use, copying, access, or distribution of Client Software and/or Redistribution Software by Partner and any End Users.

d. Microsoft may request Zadara to disclose Partner's name and address to Microsoft. Notwithstanding any confidentiality and non-disclosure provisions in the Partner Agreement and elsewhere, Zadara reserves such right to comply with the terms of SPLA with Microsoft.

e. Partner is required to sign and maintain End User Agreements with End Users as described in the section of this Addendum entitled "**End User Agreement requirements**".

f. Partner may not modify or use the Client Software and/or Redistribution Software in any manner that is not expressly authorized in this Addendum.

g. Partner must inform individuals that have access to the Products and Client Software that they are licensed by Microsoft and may only be used in accordance with the terms and conditions of this Addendum;

2. End User Agreement Requirements.

a. **Minimum required terms.** Partner must maintain End User Agreements with all End Users. Partner must include terms that are substantially similar to, but no less restrictive than, the terms detailed on: <https://www.zadara.com/ms-license/> and ensure that the End User Agreements are effective and binding in all applicable jurisdictions.

b. **Compliance.** If Microsoft reasonably believes that any End User is not complying with the End User Agreement terms required by this Section, Partner must cooperate in good faith with Zadara and Microsoft to investigate and remedy the non-compliance.

c. **Copies of Client Software or Redistribution Software** (individually or collectively, "**Supplemental Software**"). Within thirty (30) days of the termination of an End User Agreement, Partner shall:

i. remove all copies of Supplemental Software from the End User's devices or otherwise render the Supplemental Software permanently unusable; and

ii. require that the End User return or destroy all copies of Supplemental Software that it received.

3. Termination and Expiration

a. In accordance with SPLA, Microsoft reserves the right to prohibit Zadara use of Partner by providing 30 days' written notice to Zadara if Microsoft reasonably concludes that Partner

is not compliant with applicable laws or regulations, including, without limitation, Trade Laws. Zadara will have the right to terminate this Addendum upon 30 day notice to Partner unless a shorter notice is required by Microsoft.

b. If Microsoft or Zadara terminate the SPLA between Microsoft and Zadara or that SPLA expires and not renewed, it will result in automatic termination of this Addendum.

c. **Obligations on termination or expiration.** Upon termination or expiration of this Addendum, Partner must return or destruct all copies of the Products and Client Software (including their component parts) and Software Documentation that Partner received under this Addendum to Zadara. Partner must certify to Microsoft the deletion and destruction of those copies, components parts, and Software Documentation. Partner must instruct its End Users to do the same. Zadara will not refund any amounts paid for Software Documentation or original media or software that have been destroyed.

4. **Verifying compliance**

a. **Right to verify compliance.** Partner must keep records relating to all use and distribution of Products, during the term of this Addendum and after its termination, until the lapse of the statutes of the limitation period. Microsoft has the right, at its expense, to verify such compliance with the Products' license terms.

b. Microsoft will engage an independent auditor and Partner must collaborate with Zadara to provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including visible access to systems running the Products and evidence of licenses for Products the Zadara hosts, sublicenses, or distributes to third parties, and Partner resells. Partner must provide, without undue delay, the foregoing information and access upon request of the independent auditor.

c. **Verification process.** Microsoft will notify Zadara at least

30 calendar days in advance of its intent to verify Zadara compliance with the license terms for the Products. Zadara will subsequently provide Partner at least ten days written notice of its intent to exercise its rights under this provision.

d. **Remedies for non-compliance.** If verification reveals any use of Products without applicable license rights by the End Users of Partner, then within 30 days, Partner must order sufficient licenses to cover its use, and shall indemnify Zadara for any fees and expenses incurred by Zadara in connection with such non-compliance, including without limitation legal fees, audit fees, penalties and excess license fee imposed on Zadara by Microsoft.

e. **Self-audit.** Microsoft, at its sole discretion, may require Zadara to conduct a self-audit, subject to the non-compliance remedies as set forth herein. Zadara will provide Partner at least ten days written notice of its intent to exercise its rights under this provision. Partner must collaborate with Zadara in conducting the self-audit and obtain its End User's corporation with such audit.

f. **Third Party Beneficiary.** Microsoft is a third-party beneficiary of this Addendum. As a result, Microsoft and its Affiliates are entitled to enforce this Addendum.

5. **GENERAL**

a. **Governing Laws.** This Addendum, will be exclusively governed by and construed in accordance with the Governing Laws and dispute resolution provisions of the Partner Agreement.

b. **Amendments.** No Amendments to this Addendum shall be valid, unless made in writing and dully signed by both Parties, unless a change is required due to a change in the SPLA, in which case Zadara will provide Partner written notice describing such change.

c. **Assignment.** Partner shall not assign this Addendum without the prior written consent of Zadara.