Splunk Service Switching Addendum

This Splunk Service Switching Addendum is entered into by and between Splunk LLC, a Delaware corporation, with its principal place of business at 3098 Olsen Drive, San Jose, California 95128, USA ("Splunk" or "we" or "us" or "our") and [add customer name] having its principal place of business at [add customer address] ("You") and describe the measures, rights, and obligations for customers of Splunk's Data Processing Services to Switch eligible Data Processing Services.

1. General

1.1 **Definitions.** All capitalized terms not otherwise defined in this Addendum will have the same meaning as provided for in the Agreement. In the event of a conflict between this Addendum and the Agreement or any other document related to the subject matter contained herein, this Addendum will control with respect to the subject matter herein.

1.2 **Splunk's Switching Enablement**

(a) Splunk provides additional information on Exportable Data, categories of data exempted, standard service fees, and early termination penalties that might apply in the disclosure documents available on the Cisco Trust Portal;

(b) Splunk takes measures to enable You to initiate the Switching Process as set out in Sections 2.1 to 2.2;

(c) Splunk conducts the Switching Process as set out in Sections 3.1 to 3.5; and

(d) Splunk offers a post-termination data retrieval service as set out in Section 4.1.

2. Notification Period

2.1 **Initiation of the Switching Process**

(a) If You decide to Switch, You must provide Splunk with a written Switching Notice that specifies which Switching Actions You intend to take after the termination of the Maximum Notice Period. Your Switching Notice becomes binding upon receipt by Splunk and can only be changed or rescinded with Splunk's written approval. You may access the template for a Switching Notice at https://www.cisco.com/c/en/us/about/legal/cloud-and-software/software-terms.html#%7Esupplemental-terms.

(b) If You decide to erase Exportable Data and Digital Assets, You will give Splunk a written Erasure Notice. Your Erasure Notice becomes binding upon receipt by Splunk. You may access the Splunk template for an Erasure Notice at https://www.cisco.com/c/en/us/about/legal/cloud-and-software/software-terms.html#%7Esupplemental-terms. Subject to Splunk's data retention policies, technical feasibility, and compliance with Applicable Laws, Splunk will erase Your Exportable Data and Digital Assets.

(c) The Switching Notice must be received by Splunk before the expiry date of your Order for the applicable Data Processing Service.

(d) The Maximum Notice Period begins when Splunk receives the Switching Notice. The General Terms remain applicable, at a minimum, until the end of the Maximum Transitional Period.

2.2 **Switching and Erasure**

(a) Splunk generally carries out Switching by enabling you to export or erase Exportable Data and Digital Assets. After Splunk exports the Exportable Data and Digital Assets. Once You do this, You bear the responsibility for uploading the Exportable Data and Digital Assets to Your chosen alternative system / environment.

(b) If the Switching or Erasure Notice results in an early termination of the Order, i.e. before the expiry of the agreed Term set out in the Order, You are responsible for paying all outstanding Fees for the unexpired term of the Order.

(c) Exportable Data that are protected as trade secrets or subject to intellectual property rights may be excluded from the scope of a Switching Action if such Switching Action poses an imminent or actual risk of loss of a trade secret or intellectual property rights.

(d) As part of Switching, Splunk is not required to:

(1) develop new technologies or services; or

(2) compromise the security or integrity of Splunk's Data Processing Service.

3. Transitional Period

3.1 Switching Process

(a) Upon the expiration of the Maximum Notice Period, Splunk will perform, within the Maximum Transitional Period, the Switching Actions.

(b) The Switching Process is considered successful if the Switching Action is completed, e.g., if Splunk has enabled You to export Your Exportable Data and/or Digital Assets or if the Exportable Data and/or Digital Assets have been erased.

   (1) Splunk will provide You with written confirmation of completion of the Switching Action; and

   (2) You will confirm with Splunk that the Switching was successful within 10 days from completion of the Switching Actions.

   If You do not confirm in writing that the Switching was successful, the parties will cooperate in good faith as set out in Article 27 Data Act to complete the Switching Actions.

3.2 Splunk's Obligations

(a) Subject to You meeting Your obligations in this Addendum, Splunk agrees to the following during and for the purpose of the Switching Process, to the extent applicable, reasonable, and technically feasible:

   (1) support Your communicated exit strategy relevant to the Data Processing Service;

   (2) provide assistance to You and third parties You authorize during the Switching Process;

   (3) act with due care to maintain business continuity and continue to provide the Data Processing Service under the Agreement, to the extent the requested data is under Splunk's control;

   (4) provide clear information concerning known risks to continuity in providing the Data Processing Service;

   (5) maintain at least the same or higher the level of security as applicable to the Data Processing Services, as further set out in the security exhibits at https://www.splunk.com/en_us/legal/splunk-security-addenda.html; and

   (6) provide access to available Splunk APIs intended to support Your Switching.

(b) If any problems arise during the Switching Process that cannot be resolved through technical support, You and Splunk agree to cooperate in good faith, analyze the causes, and agree on solutions.

3.3 Your Obligations

(a) You will, as applicable:

   (1) take reasonable measures to achieve effective and timely Switching, including being responsible for the import and implementation of Exportable Data and Digital Assets in Your systems or the systems of the Destination Provider(s);

   (2) respect and treat as confidential Splunk's intellectual property rights, including trade secrets of any materials and information provided by Splunk during and for the Switching Process;

   (3) contractually bind any third party that You have authorized, including the Destination Provider(s), with a provision to fulfil Your obligations as described in this Addendum and allow Splunk to audit compliance with these obligations; and

   (4) contractually bind any third party that You have authorized, including the Destination Provider(s) to take all necessary measures for achieving effective Switching and timely transfer of Exportable Data and Digital Assets.

(b) You agree to act in good faith to implement any reasonable instructions that we give You related to the erasure request or the Switching Actions. You also agree to ensure that any third party You authorize, including the Destination Provider, cooperates in good faith as set out in Article 27 Data Act to make the erasure request or Switching Process effective. You are solely responsible for any act or omission of any third party You authorize, including the Destination Provider, that affects the successful and timely erasure or Switching.

(c) In addition to the early termination fee as set out in Section 2.2(b), Your payment obligations under the Agreement remain applicable during the Maximum Transitional Period.

3.4 Initial and Maximum Transitional Period

(a) Upon initiating the Switching Process via the Switching Notice, the Initial Transitional Period begins on the next working day following the last day of the Maximum Notice Period and lasts 30 days.

(b) Where the Initial Transitional Period is technically unfeasible, Splunk will:

   (1) notify You within 14 working days of Splunk's receipt of the Switching Notice;

   (2) duly justify the technical unfeasibility; and

   (3) indicate an Alternative Transitional Period, not to exceed 7 months from the end of the Maximum Notice Period.

(c) You may extend the Initial Transitional Period once to accomplish the Switching Process, for a reasonable period that You consider more appropriate, but not longer than the initial term of the Agreement plus the Initial Transitional Period. You must notify Splunk in writing of Your intention, stating the Extended Transitional Period. You may not, under any circumstances, extend the use of the Offerings beyond the Term set out in the applicable Order.

(d) The Maximum Transitional Period is the longest lasting of the Initial Transitional Period, the Alternative Transitional Period, or the Extended Transitional Period.

3.5 **Termination of the Data Processing Service.**

(a) Splunk will notify You in writing that the Data Processing Service is terminated upon the earlier to occur of:

(1) the successful completion of the Switching Process; or

(2) the end of the Maximum Notice Period (where You elect to erase Exportable Data and Digital Assets, which does not trigger the Switching Process as described above).

(b) If the Switching Process is not completed successfully by the agreed timeline, the parties agree to act in good faith to determine the necessary measures either to successfully complete the Switching Process or to find a mutually acceptable alternative solution.

(c) Termination of a specific Data Processing Service by Switching under this Addendum will not affect any other Offering on your Order.

4. Post-Switching Obligations

4.1 **Post Transition Data Retrieval Period**

(a) Following successful Switching or expiration of the Maximum Transitional Period, Splunk offers a 30-day Data Retrieval Period to all customers who have not requested erasure of the Exportable Data and Digital Assets.

(b) Subject to Splunk's data retention policies, technical feasibility, and compliance with Applicable Laws, Splunk will erase Your Exportable Data and Digital Assets after the expiry of the Data Retrieval Period.

5. Miscellaneous

5.1 **Custom Builds**

(a) This Section 5.2 applies when a Data Processing Service qualifies as:

(1) "Custom-Built Service" – meaning a Data Processing Service of which the majority of its main features has been custom-built to accommodate the specific needs of You, or of which all components have been developed solely for the purposes of You, and where Splunk does not offer the Data Processing Service at broad commercial scale; or

(2) "Non-Production Version" – meaning a Data Processing Service provided exclusively for testing and evaluation purposes and for a limited period of time.

Both Section 5.2(a)(1) and 5.2(a)(2) are referred to as an "**Exempt Service**".

5.2 For every Exempt Service:

(a) Splunk has no obligation to ensure functional equivalence when You decide to use a new Data Processing Service in the ICT environment of a Destination Provider covering the Same Service Type;

(b) Splunk may charge reasonable service fees to assist with enabling the Switching Process, which Splunk will inform You about separately; and

(c) Splunk has no obligation to ensure compatibility with common specifications based on open interoperability specifications or harmonized standards for interoperability referred to in Article 30(1) and (3) Data Act.

5.3 **Interoperability for the Purposes of In-Parallel Use of Data Processing Services.** Where You operate a Data Processing Service in parallel with one or more third-party Data Processing Services covering the Same Service Type ("**In-Parallel Use**"), the parties agree as follows:

(a) Where applicable, the requirements to facilitate interoperability as set out in Article 34(1) Data Act will apply;

(b) Splunk may impose Data Egress Charges but only for the purpose of passing on egress costs incurred, without exceeding such costs. Splunk will calculate Data Egress Charges using a transparent, cost-based methodology and communicate these charges to You in advance in writing. Splunk will provide reasonable substantiation of Data Egress Charges upon written request.

6. Definitions

Term	Meaning
Addendum	This Splunk Service Switching Addendum.
Agreement	The contract terms that apply to the provision of a Data Processing Service, *e.g.* the Splunk General Terms or any other written or electronic agreement between Splunk and You for the provision of a Data Processing Service.
Alternative Transitional Period	The period as set out in Section 3.4(b)(3).
Splunk API	A Splunk application programming interface and associated documentation.
Data Act	Regulations (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonized rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act);
Data Egress Charges	The definition in Article 2(35) Data Act.
Data Processing Service	The definition in Article 2(8) Data Act and a Hosted Service.
Data Retrieval Period	The period as set out in Section 4.1(a).
Destination Provider	The provider of data processing services chosen by You to replace Splunk as provider of the Data Processing Service.
Digital Assets	The definition in Article 2(32) Data Act, customer input configuration data, account data, registration data, and as stated as Customer Content in the General Terms.
Exportable Data	The definition in Article 2(38) Data Act, customer input configuration data, account data, registration data, and as stated as Customer Content in the General Terms.
Extended Transitional Period	The period as set out in Section 3.4(c).
Initial Transitional Period	The period as set out in Section 3.4(a).
Maximum Notice Period	The period starting from the day that Splunk receives the Switching Notice from You and ending 2 months after that.
Maximum Transitional Period	The period as set out in Section 3.4(d).
Same Service Type	A set of Data Processing Services that share the same primary objective, data processing service model, and main functionalities.
Switching or Switch	The process involving Splunk as the source provider of the Data Processing Service, You, the customer of the Data Processing Service and, where relevant, a Destination Provider for the Data Processing Service, whereby Your change from using one Data Processing Service to using another Data Processing Service of the Same Service Type, offered by a different provider of Data Processing Services, or to an on-premises ICT infrastructure, including through extracting, transforming, and uploading the data.
Switching Action(s)	An action or several actions available for Your Switching request.
Switching Notice	Your completion and submission of the Switching Request Form to Splunk with Your binding intent to Switch.
Switching Process	The process as detailed in Section 3.1.
Switching Request Form	The document provided by Splunk as set out in Section 2.1(a).