

## **OPENVPN CONNECT CERTIFIED PROGRAM CO-MARKETING AGREEMENT**

THIS OPENVPN CONNECT CERTIFIED PROGRAM CO-MARKETING AGREEMENT (“Agreement”) is entered into by and between OpenVPN, Inc., a Delaware corporation (“OpenVPN”) and the party identified above as the “Participant” with reference to the following facts.

OpenVPN is a developer of *Access Server*™ and *CloudConnexa*®, solutions that permit users to create and operate virtual private networks. The Participant is a manufacturer of routers, firewalls, and other devices that the manufacturer claims are compatible with the OpenVPN protocol that OpenVPN has tested and certified as being interoperable with *Access Server* and *CloudConnexa*.

OpenVPN and the Participant believe it is in their mutual interests to market each other’s products as being interoperable with their own products. The parties wish to set forth the terms under which they will market the products of the other party.

IN VIEW OF THE FOREGOING FACTS, the parties agree as follows:

1. Definitions. In addition to capitalized terms that are defined elsewhere in this Agreement, the following terms have the meanings below for the purposes of this Agreement.
  - a. “Certification Mark” means the OpenVPN Connect Certified certification mark as further described in the OpenVPN Certification Mark Terms of Use.
  - b. “Certification Mark Terms of Use” means the OpenVPN Connect Certified Program Standards and Certification Mark Terms of Use attached to this Agreement as Schedule A.
  - c. “Co-Marketing Party” means the party marketing the products of the Principal Party.
  - d. “Designated Participant’s Products” means those routers, firewalls, and other devices of the Participant that OpenVPN has certified as interoperable with *Access Server*™ and *CloudConnexa*® and that the Participant may market with the Certification Logo pursuant to the Certification Mark Terms of Use.
  - e. “Effective Date” means the later of the date of this Agreement set forth above or the date upon which the last of the Parties to have signed this Agreement has done so.

f. “Licensed Marks” means those trademarks of the Principal Party that are listed in Exhibit B of this Agreement and such other trademarks that the parties agree to add to those in Exhibit B.

g. “OpenVPN Products” means *Access Server*<sup>™</sup> and *CloudConnexa*<sup>®</sup> described in the recitals, including all updates and upgrades to those products.

h. “Party” means OpenVPN and the Participant individually and “Parties” means OpenVPN and the Participant collectively.

i. “Principal Party” means the party whose products the Co-Marketing Party will be marketing under this Agreement.

j. “Products” means the Designated Participant’s Products and the OpenVPN Products.

k. “Term” means the term of this Agreement as defined in Section 7.a.

l. “Territory” means worldwide, without limitation/United States of America.

2. Co-Marketing of Products. The Participant agrees to promote the sale of OpenVPN Products, and OpenVPN agrees to promote the sale of the Designated Participant’s Products within the Territory, in accordance with the terms below.

a. Marketing Channels and Materials Created by Co-Marketing Party. Each Co-Marketing Party will provide the Principal Party with a description of the channels through which the Co-Marketing Party proposes to promote the sale of the Principal Party’s Products in the Territory and provide specimens of advertisements and other marketing materials which the Co-Marketing Party proposes to use for this purpose prior to their use. The Principal Party will review those specimens promptly and notify the Co-Marketing Party whether it approves the use of those materials no later than ten (10) business days after the Co-Marketing Party submits them to the Principal Party. The Co-Marketing Party will not use any marketing materials to promote the Principal Party’s Products unless the Principal Party has approved of the use of those marketing materials.

b. Marketing Materials of Principal Party. Each Principal Party will provide the Co-Marketing Party with a commercially reasonable quantity of the Principal Party’s marketing materials to best enable the Co-Marketing Party’s sales and marketing teams to familiarize themselves with and promote the Designated Participant’s Products (in the case of OpenVPN) and the OpenVPN Products (in the case of the Participant).

c. Joint Marketing Materials. If the parties determine it to be mutually beneficial, they shall develop joint materials to promote both parties’ products with the costs of any such materials to be shared equally between the parties.

d. Meetings. The Parties shall consult with each other on a *[monthly/quarterly]* basis to review the effectiveness of the cross-promotion activities

and to discuss, where applicable, other opportunities that might be available for the mutual benefit of the Parties.

e. Non-Exclusive Relationship. The co-marketing efforts of the Parties are non-exclusive. Each Party acknowledges and agrees that the other Party may promote, market, and sell its Products with the products of competitors of the other Party.

### 3. Trademark License.

a. Non-Exclusive License. Each Party grants to the other party a worldwide, non-exclusive, royalty-free, non-sublicensable, non-transferable, limited license during the Term to display the Licensed Marks on the Co-Marketing Party's website, advertising, product packaging, and other marketing collateral ("Licensee Materials") for the purpose of advertising that the Participant's Designated Products are interoperable with the OpenVPN Products and to otherwise market the products of the Principal Party under this Agreement. The Co-Marketing Party will not use the Licensed Marks for any other purpose without the prior consent of the Principal Party.

b. Usage Guidelines and Display. The Co-Marketing Party will display the Licensed Marks in accordance with the Principal Party's trademark usage guidelines, which the Principal Party has provided to the Co-Marketing Party and which the Principal Party may modify from time to time. The Co-Marketing Party will reproduce all trademark and other notices that the Principal Party designates on all advertising and other promotional materials advertising the products of the Principal Party. The Co-Marketing Party may not modify, add to, or remove any portion or feature of any of the Licensed Marks as they are displayed on the Co-Marketing Party.

c. Prohibited Uses. The Co-Marketing Party will not display the Licensed Marks in any manner that constitutes false or misleading advertising, makes statements concerning the Principal Party's Products' functions, specifications, or capabilities that the Principal Party has not authorized the Co-Marketing Party to make, or are defamatory, obscene, derogatory of products or services of any person (including any Principal Party's Products), or are in violation of law. If Principal Party determines in its good faith discretion that the Co-Marketing Party's use of the Licensed Marks violates the previous sentence, the Co-Marketing Party will promptly correct the improper use of the Licensed Marks, but in no event later than two (2) business days after receiving notice from Principal Party of such improper use.

d. Modifications to Marks. If Principal Party modifies or discontinues any Licensed Mark, the Co-Marketing Party will display and use the Licensed Marks as modified or cease using discontinued Licensed Marks (as applicable) in accordance with the instructions Principal Party provides to the Co-Marketing Party.

e. Use of Certification Mark. For the purpose of clarification, the Participant's right to use the Principal Party Connect Certified Logo is governed by the Certification Mark Terms of Use and not by this Agreement; however, the Participant's

violation of the Certification Mark Terms of Use will constitute a material breach of this Agreement by the Participant.

f. Ownership. The Co-Marketing Party acknowledges that Principal Party is the owner of the Licensed Marks and, by consenting to display any additional Principal Party Marks that Principal Party may designate as Licensed Marks in the future, the Co-Marketing Party acknowledges that the Principal Party is and will be the owner of those future Licensed Marks. Nothing in this Agreement or in the Parties' performance contemplated in this Agreement grants the Co-Marketing Party any ownership interest or other rights in the Licensed Marks other than the limited license granted in this Agreement. All goodwill associated with the Licensed Marks that are attributable to the Co-Marketing Party's use of the Licensed Marks will inure to the benefit of the Principal Party.

g. No Challenge – Infringing Marks. The Co-Marketing Party will make no statements or otherwise take any actions that are inconsistent with Principal Party's ownership of the Licensed Marks. The Co-Marketing Party will not challenge or seek to cancel, directly or indirectly, applications or registrations for any of the Licensed Marks in any jurisdiction. The Co-Marketing Party will not use or attempt to register any trademark, service mark, domain name, or trade name that is the same as or similar to any of the Licensed Marks.

#### 4. Confidentiality

a. Confidential Information. From time to time during the Term, either Party (as the "Disclosing Party") may disclose or make available to the other Party (as the "Receiving Party") information about its business affairs and its products, third-party confidential information and other sensitive or proprietary information, whether orally or in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" (collectively, "Confidential Information").

b. Excluded Information. Confidential Information shall not include information that: (i) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Section 4 by the Receiving Party or any of its Affiliates, employees, officers, directors, partners, shareholders, agents, attorneys, third-party advisors, successors, and permitted assigns (collectively "Representatives"); (ii) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (iii) was known by or in the possession of the Receiving Party or its Representatives before being disclosed by or on behalf of the Disclosing Party; or (iv) was or is independently developed by the Receiving Party without reference to or use, in whole or in part, of any of the Disclosing Party's Confidential Information.

c. Maintenance of Confidentiality Limitations on Use. The Receiving Party shall: (i) protect and safeguard the confidentiality of the Disclosing Party's Confidential

Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any third party, except to the Receiving Party's Representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under the Agreement. The Receiving Party shall be liable to the Disclosing Party for any breach of this Section 4 caused by any of the Receiving Party's Representatives if that breach resulted from a failure of the Receiving Party to exercise a commercially reasonable degree of care in supervising that Representative's use or disclosure of that Confidential Information.

d. Return of Confidential Information. At any time during or after the Term, at the Disclosing Party's written request, the Receiving Party shall promptly return, and shall require its Representatives to return to the Disclosing Party all copies, whether in written, electronic or other form or media, of the Disclosing Party's Confidential Information or destroy all such copies and certify in writing to the Disclosing Party that such Confidential Information has been destroyed; however, however, the Receiving Party may retain a copy of Confidential Information in an electronic format for archival purposes to the extent reasonably necessary to comply with applicable law or the rules of any governmental agency to which it the Receiving Party is subject and such Confidential Information so retained will continue to be subject to all the terms and conditions of this Agreement.

## 5. Indemnity

a. Indemnification Obligation. Each Party (the "Indemnifying Party") will indemnify and hold the other Party and that Party's officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, "Indemnified Party") harmless for and against any and all claims, costs, liabilities, and damages (including reasonable attorneys' fees) that the Indemnified Party incurs (collectively, "Losses"), arising out of any third-party claim:

i) against the Co-Marketing Party or any of its officers, directors, employees, agents, affiliates, successors, and permitted assigns for any breach of warranty, intellectual property infringement, product liability, bodily injury, or death related to the Products of the Principal Party, unless that claim arose as a result of unauthorized representations made by the Co-Marketing Party concerning those Products, or willful misconduct, negligence, or violations of law committed by the Co-Marketing Party in marketing those Products;

ii) against the Co-Marketing Party or any of its officers, directors, employees, agents, affiliates, successors, and permitted assigns alleging that the Principal

Party's Products or trademarks under which the Principal Party markets those Products infringes the intellectual property rights of the claimant or of another person;

iii) against the Principal Party or any of its officers, directors, employees, agents, affiliates, successors, and permitted assigns for any claim that arose out of any unauthorized representations made by the Co-Marketing Party concerning the Principal Party's Products in connection with the marketing of those Products or other violations of this Agreement committed by the Co-Marketing Party in marketing those Products; or

iv) any failure by Indemnifying Party to comply with any applicable federal, state, or local laws, regulations, or codes in the performance of its obligations under this Agreement.

b. Exculpation. Notwithstanding anything to the contrary in this Agreement, Indemnifying Party is not obligated to indemnify and hold the Indemnified Party harmless against any claim if such claim or corresponding Losses arise out of or result from the fraud, other willful misconduct, or gross negligence of the Indemnified Party.

c. Defense of Claim

i) If the Indemnified Party receives a summons and complaint or other written notice of any suit, arbitration or other proceeding (collectively a "Proceeding") that is instituted against an Indemnified Party,) arising out of a claim for which that Indemnified Party believes it is entitled to be indemnified, that Indemnified Party will provide notice of that Proceeding to the Indemnifying Party no later than five (5) business days after receiving notice of that Proceeding. No failure of in Indemnified Party to provide prompt notice of a Proceeding will relieve the Indemnifying Party of its obligation to indemnify that Indemnified Party or to conduct a defense of the Indemnified Party in that Proceeding unless that failure results in a default judgment against the Indemnified Party or otherwise materially prejudices the ability of the Indemnifying Party to conduct a defense of the Indemnified Party in that Proceeding. The Indemnifying Party will thereafter conduct the defense of the Indemnified Party with legal counsel reasonably satisfactory to the Indemnified Party and the Indemnifying Party will pay all fees, disbursements and other charges of such counsel. For such time as the Indemnifying Party is conducting the defense of the Indemnified Party, the Indemnifying Party will have the right to determine the manner in which the defense will be conducted, including decisions to settle or otherwise compromise any claim; however, the Indemnifying Party may not enter settlement of any claim without the Indemnified Party's consent that would: (1) require an admission of fault for any violation of law or other wrongdoing by the Indemnified Party; (2) require the Indemnified Party to make any payments to the plaintiff or other person or have any remaining liability (whether fixed or contingent) to any person; or (3) restrict that Indemnified Party from engaging in any otherwise lawful business activity.

d. An Indemnified Party may retain its own separate counsel at its expense in a Proceeding in which the Indemnifying Party is conducting a defense of that Indemnified Party. However, the Indemnified Party may conduct of its defense with its own counsel in such Proceeding or take over that defense if the parties so agree or if the Indemnified Party determines in good faith that: (1) a conflict of interest between the Indemnifying Party and the Indemnified Party actually or potentially exists that adversely impacts the ability of the Indemnifying Party's legal counsel to represent both the Indemnifying Party and the Indemnified Party effectively; (2) the Indemnifying Party has refused to conduct the defense as required under this Agreement or the Indemnifying Party has substantially ceased conducting the defense; or (3) due to its financial condition or other factors, the Indemnifying Party will be unable to conduct an effective defense. If the Indemnified Party conducts or takes over conducting its defense in the Proceeding under the circumstances described in the previous sentence, the Indemnifying Party will reimburse the Indemnified Party for expenses it incurs in connection with that Proceeding (including attorneys' fees) no later than fifteen (15) days after receipt of invoices for those expenses.

#### 6. Limitation on Authority of Parties.

a. No Authorization to Sell Products The purpose of the business relationship between the Parties established in this Agreement is limited to the cross-marketing of the Principal Party's Products with that Party's own Products. Nothing in this Agreement authorizes the Cross-Marketing Party to sell, license, rent, distribute, or otherwise grant rights in any Products to any other person, or enter into any agreement to do so, whether on behalf of the Principal Party or a third party.

b. No Agency. The relationship of the Parties is and will at all times be that of independent contractors. Nothing in this Agreement or in the course of the Parties' performance contemplated in this Agreement will create any partnership or joint venture between the Parties, nor will either Party be the agent or an attorney-in-fact for the other Party for any purposes. Neither Party will make any representation to any person or any public announcement that is contrary to this Section 6.

#### 7. Term and Termination

a. Term. The term of this Agreement (the "Term") will commence on the Effective Date and continue until this Agreement terminates as provided below.

b. Termination. Either Party may terminate this Agreement: (i) upon notice to the other Party if the other Party has committed a material breach of this Agreement and has not cured that breach within ten (10) days of receiving notice of that breach from the terminating Party; or (ii) at the discretion of either Party upon thirty (30) days' notice to the other Party.

c. Effect of Termination. Upon the termination of this Agreement: (i) the Co-Marketing Party will cease all advertising and other promotion of the Principal Party's Products; and (ii) the license granted to the Co-Marketing Party to use the

Licensed Trademarks granted under this Agreement will immediately terminate. The termination of this Agreement will not terminate the license of the Participant to display and use the Certification Mark on the Designated Participant Products to the extent that use continues to be permitted under the Certification Mark Terms of Use. Except as provided in this Section 7c and any provision that states is applies only during the Term, all provisions of this Agreement will survive the termination or expiration of this Agreement.

## 8. General Provisions

a. Governing Law -- Forum. This Agreement is governed by the laws of the State of California, excluding any conflicts of laws principles of that state that would otherwise apply the laws of any other state. Each Party consents to the bringing of any action to enforce or construe this Agreement in a California state court or United States District Court in Alameda County, California and irrevocably waives all objections to the bringing or maintenance of such an action on the grounds of lack of personal jurisdiction, improper venue, or *forum non conveniens*.

b. Equitable Remedies. The Parties acknowledge that a breach of Sections 3 or 4 by a Party will result in immediate and irreparable injury to the other Party for which monetary damages alone will not be an adequate remedy. Accordingly, a Party may seek interim and permanent injunctive relief, declaratory relief, specific performance, and other equitable remedies against the other Party for any breach of those sections in addition to any other remedy to which that Party may be entitled, and each Party irrevocably waives any defense to the granting of such relief on the basis that monetary damages constitute an adequate remedy. Each Party further agrees to waive irrevocably any claim that a Party must post a bond as a condition to obtaining a temporary restraining order or preliminary injunction.

c. Notices. Notices between the parties required or otherwise contemplated under this Agreement must be in writing and sent and delivered by one of the following means: (a) by personal delivery; (b) by delivery via recognized international courier (such as Federal Express or DHL) with delivery charges paid by the sender; (c) by certified or registered mail, postage prepaid (and, if sent internationally, by air mail); or (d) by e-mail with acknowledgement of receipt given by the intended recipient or proof of the intended recipient's receipt obtained by the sender. Notice will be deemed given and received: (a) upon actual receipt if delivered personally or by e-mail; (b) one (1) business day after deposit with the courier if sent and delivered within the United States or three (3) business days after deposit with the courier if sent internationally; and (c) three (3) business days after deposit in the mail if mailed within the United States or seven (7) business days after deposit in the mail if mailed internationally. All communications to the parties shall be sent to the address and person identified below the signature of that party to this Agreement or to such other person or address as the intended recipient notifies the other party no less than three (3) business days before that change is enters into effect.



d. Enforcement Costs. If any action is brought to enforce or construe this Agreement, the party who substantially prevails in that action (the “Prevailing Party”) will be entitled to recover from the other party all costs and expenses (including reasonable attorneys’ fees) which the Prevailing Party incurred in prosecuting or defending that action. The recovery of these costs and expenses will be in addition to any other relief to which that Prevailing Party is entitled.

e. Assignment. Neither party may assign or sublicense its rights or obligations under this Agreement without the prior consent of the other party, except that a party may assign its rights to an acquirer of the entire business of that party (whether through a sale of ownership interests, merger, or assets), provided that that acquirer is legally bound (whether by operation of law or by written agreement) to perform and assume all of the obligations of the assigning party. No assignment will relieve an assigning party of any liability for any breach of this Agreement (whether committed by the assigning party or its permitted assignee) unless the other party agrees in writing.

f. Certain Definitions. Except where the term “business days” is used, all references to “days” in this Agreement mean calendar days. “Business days” means any day other than a weekend or federal or national holiday on which banks in Pleasanton, California are authorized to remain closed. If the day on which payment is due or an action must be taken falls on a day other than a business day, then that payment shall be deemed due or action shall need to be taken on the first business day thereafter. The word “including” as used in this Agreement means “including but not limited to.” All references to “consents” in this Agreement means a consent, which may be granted or withheld in the unlimited discretion of the party, that is set forth in a writing signed by the party granting that consent.

g. Amendments and Waivers. This Agreement may not be amended except by means of a written instrument, signed by both parties, setting forth the amendment. No right of a party under this Agreement will be deemed waived unless that waiver is in a writing referring to that waiver that is signed by the party who purportedly waived that right.

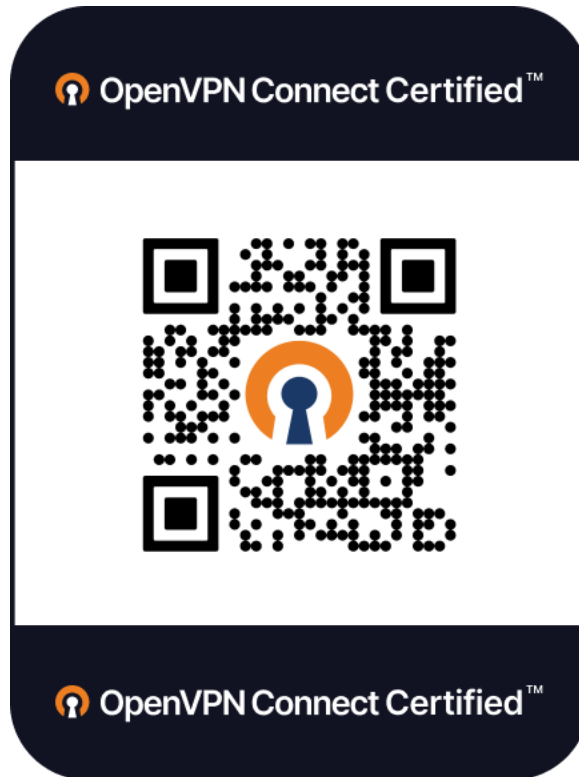
h. Entire Agreement. This Agreement, including the exhibits to this Agreement, contains the entire agreement and understanding of the parties with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous agreements, understandings and representations with respect to that subject matter, whether oral or in writing. For the purposes of clarification, nothing in this Agreement modifies, terminates, or supplements the Certification Mark Terms of Use.

i. Electronic Signatures. The parties acknowledge and agree that this Agreement may be signed means of an electronic signature that conforms to the requirements of the Federal Electronic Signatures in Global and National Commerce Act and that such electronic signature will be deemed the signature of that party to this Agreement in the same manner as a manual signature. This Agreement may be executed in one or more counterpart, each of which will be deemed an original.

## SCHEDULE A

### CERTIFICATION MARK TERMS OF USE

(Begins on following page)



## OPENVPN CONNECT CERTIFIED PROGRAM

### STANDARDS AND CERTIFICATION MARK TERMS OF USE

OpenVPN has created the OpenVPN Connect Certified Program to permit manufacturers of devices to display the OpenVPN Connect Certified logo to advertise that their products meet the requirements for operating with OpenVPN's *Access Server*™ and *CloudConnexa*®. The following are the Terms of Use governing the display and use of the OpenVPN Connect Certified Logo by manufacturers and resellers participating in the OpenVPN Connect Certified Program.

The Vendor's submission of its products for testing as provided below or its use of the OpenVPN Certification Logo constitutes its agreement to these Standards and Certification Mark Terms of Use (hereafter the "Terms of Use").

1. Definitions.

- a. "Certification Testing" means the testing of products in Section 2 of these Terms of Use.
- b. "Certified Products" are routers, , firewalls, and other devices that the manufacturer claims are compatible with the OpenVPN protocol that have passed the Certification Testing establishing that they are interoperable with *Access Server* and *CloudConnexa*.
- c. "OpenVPN Certification Logo" means the "OpenVPN Connect Certified" certification mark of OpenVPN that Vendors are permitted to place on their Certified Products.
- d. "Vendors" means manufacturers of Certified Products.

2. Testing and Product Approval.

- a. If a Vendor wishes to obtain a license to use and display the OpenVPN Certification Logo on its products, it must submit that product to OpenVPN for testing for interoperability with *Access Server* and *CloudConnexa*.
- b. The product testing will be conducted by OpenVPN or a third party designated by OpenVPN.
- c. OpenVPN will determine the testing criteria, testing environment, and performance standards the product is required to meet. OpenVPN may modify the testing criteria, environment, and standards from time to time as it deems reasonably necessary; however, all Certification Testing will be performed in a consistent and objective manner that does not discriminate in favor of or against the products of any Vendor.

- d. The Vendor requesting certification of its product will provide OpenVPN with such information concerning that product as OpenVPN reasonably requests to permit testing of that product.
- e. OpenVPN will provide a report of the results of testing to the Vendor. The report will provide a level of detail as OpenVPN deems appropriate in its discretion
- f. If the tested product fails to pass the Certification Testing, OpenVPN may discuss that failure with the Vendor and make recommendations about modifications to the product that may allow it to pass the Certification Testing. **OpenVPN gives no warranties of any kind, whether express or implied, concerning any recommendations it provides of any modifications, enhancements, improvements, and other changes to the products. The Vendor will be solely responsible for any modifications, enhancements, improvements, and other changes it or any other person makes to these products in response to these recommendations.**

### 3. Use of Logo -- Certified Products

- a. The Vendor may display the OpenVPN Certification Logo on labels affixed to Certified Products, on packaging for the Certified Products, on product manuals, websites, and on point of sale displays, and may display and otherwise use the OpenVPN Certification Logo on advertisements and other materials promoting the Certified Products.
- b. The Vendor may not display or otherwise use the OpenVPN Certification Logo on or in connection with any product or service that is not a Certified Product. The Vendor may not use the OpenVPN Certification Logo on any new model or version of an existing Certified Product unless that model or version has satisfactorily passed the Certification Testing or received an exemption because the changes in new model or version are inconsequential.
- c. The Vendor will ensure that any new version of a Certified Product or a version of a Certified Product with updated or upgraded firmware or software (an "Upgraded Device") passes the use cases listed in the certification test report for that previously tested device. If the Vendor is not certain that an Upgraded Device will pass the testing criteria after running its own certification tests, the Vendor will request that OpenVPN conduct Certification Testing of that Upgraded Device.
- d. The Vendor will provide OpenVPN with release notes on all Upgraded Devices and submit those Upgraded Devices to OpenVPN once per year for Certification Testing.
- e. OpenVPN may require that the Vendor resubmit a previously certified device for Certification Testing or submit an Upgraded Device for Certification Testing at any time if OpenVPN believes that the certified device or that

Upgraded Device may not pass or may no longer pass the Certification Testing. The Vendor will submit that previously certified device and Upgraded Device for Certification Testing by OpenVPN no later than ten (10) days after receiving a notice from OpenVPN that it wishes to conduct Certification Testing on that device.

- f. If OpenVPN or the Vendor becomes aware that a Certified Product may no longer operate with *Access Server* or *CloudConnexa* in a manner that would satisfy the Certification Testing criteria, OpenVPN or the Vendor will provide notice to the other of that fact. The Vendor will cease all use of the OpenVPN Certification Logo on that product until the Vendor makes upgrades, updates, or other modifications to that previously Certified Product so that it passes the Certification Testing.

#### 4. Display of Logo

- a. The Vendor will display the OpenVPN Certification Logo in compliance with these Terms of Use and the other rules pertaining to the use and display of the Open VPN Certification Logo and OpenVPN's trademarks in general as OpenVPN promulgates from time to time.
- b. The Vendor will not display or otherwise use the OpenVPN Certification Logo in a manner that is false, misleading, defamatory, violates applicable law, or disparages OpenVPN or its products or services or those of any other person.
- c. The Vendor may not modify the appearance of the OpenVPN Certification Logo in any manner without OpenVPN's prior written consent, which it may grant or deny in its sole discretion
- d. Upon OpenVPN's request, the Vendor will provide OpenVPN with specimens of product labels, packaging, advertising, marketing materials, and other writings (whether in an electronic format or paper) showing the Vendor's use of the OpenVPN Certification Logo. The fact that OpenVPN makes any such request or has the right to do so does not waive OpenVPN's rights under these Terms of Use to terminate the Vendor's right to use the OpenVPN Certification Logo if the Vendor violates these Terms of Use or to exercise any other rights it has under applicable law.

#### 5. Ownership and Modifications

- a. OpenVPN is and will be the sole owner of all trademark and other proprietary rights in the OpenVPN Certification Logo, including in all modifications it makes or approves to the OpenVPN Certification Logo.
- b. The Vendor has a limited, non-exclusive, non-assignable, non-sublicensable license to display the OpenVPN Certification Logo in connection with the sale

and marketing of Certified Products in the manner permitted in these Terms of Use.

- c. OpenVPN may modify the OpenVPN Certification Logo at any time in its sole discretion at any time. OpenVPN will provide Vendor with notice of those modifications, and the Vendor will thereafter display and use only the OpenVPN Certification Logo as modified. OpenVPN will permit the Vendor's a reasonable period of time (not to exceed 60 days) to transition to the use of the modified OpenVPN Certification Logo unless OpenVPN determines that the continued use of the existing OpenVPN Certification Logo would infringe upon the intellectual property rights of a third party or otherwise violate applicable law.

## 6. General Terms

- a. OpenVPN may amend these Terms of Use and its rules governing trademarks that are applicable to the OpenVPN Certification Logo at any time in its sole discretion. Amendments will enter into effect 30 days after OpenVPN posts changes to these Terms of Use on its website unless OpenVPN specifies a later date for these changes. Except as provided above, these Terms of Use may not be amended without the consent of OpenVPN.
- b. OpenVPN may terminate the Vendor's license to display and use the OpenVPN Certification Logo upon notice to the Vendor if the Vendor's display or other use of the OpenVPN Certification Logo violates these Terms of Use. The Vendor will cease all display and other use of the OpenVPN Certification Logo upon termination of this license.
- c. OpenVPN may discontinue the OpenVPN Connect Certification Program at any time, which will terminate the licenses it has granted to the Vendor to use the OpenVPN Certification Logo. Such termination will be effective no earlier than 60 days after OpenVPN provides notice of that termination.
- d. These Terms of Use are governed by the laws of the State of California, excluding conflicts of laws principles of that state that would otherwise apply the laws of another jurisdiction.
- e. These Terms of Use set forth the entire agreement of OpenVPN and the Vendor concerning the subject matter of these Terms of Use, and they supersede all prior and contemporaneous agreements, whether oral or written about that subject matter. No representations, warranties, or other inducements that are not set forth in these Terms of Use will be deemed valid for any reason.

## **SCHEDULE B -- LICENSED MARKS**

### **OpenVPN Trademarks**

OpenVPN®

Access Server™

CloudConnexa®



### **Participant Trademarks**

*[Insert Participant's Trademarks Here]*