



Chrome Service License Agreement

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This Chrome Service License Agreement (the "**Agreement**") is entered into between by and between Google Asia Pacific Pte Ltd, with offices at 03-01 70 Pasir Panjang Road, Mapletree Business City II, Singapore 1173714 ("**Google**") and the entity agreeing to these terms ("**Customer**"). This Agreement is effective as of the date Customer clicks the "I Accept" button or a similar button, or indicates its acceptance of this Agreement by using the **Services** (the "**Effective Date**"). If Customer does not agree to these terms and conditions, Customer should click the "Cancel" button or a similar button, or make no further use of the Services. If you are accepting this Agreement on behalf of Customer, you represent and warrant that: (i) you have full legal authority to bind your employer, or the applicable entity, to these terms and conditions; (ii) you have read and understand this Agreement; and (iii) you agree, on behalf of the party that you represent, to this Agreement. If you do not have the legal authority to bind Customer, please do not click the "I Accept" button below.

This Agreement governs Customer's access to and use of the Services during the Term.

1. Services.

1.1. **Subscription to Services.** If Customer purchased a valid subscription license to the Services, as indicated by an Order Form accepted and processed by Google, and in consideration of Customer's payment of all Fees, then, during the Term, Google grants to Customer and Customer agrees to comply with a non-sublicensable, non-transferable, non-exclusive, limited license to use the Services to manage each unit of Customer Hardware up to the number of licenses, for the corresponding Services, indicated in the applicable Order Form. All subscription licenses purchased by Customer during the Term are subject to the terms of this Agreement. The license grants in this Section 1.1 (Subscription to Services) is subject to Customer's compliance with the terms of this Agreement.

1.2. Upgrades; Automatic Renewal; and Co-termination of Subscriptions.

A. **Upgrades.** If, during the Term, Customer purchase Upgrade licenses to a Service for which Customer already has an existing subscription license, such Upgrade licenses will be prorated by



- B. **Automatic Renewal.** For subscription licenses to the Services purchased by Customer through the Admin Console, the subscription licenses for such Services will, on the anniversary of the Service Commencement Date, automatically renew and Customer's payment method will be charged according to Customer's billing option automatically, without Customer taking any additional action. At any time during the subscription license term for the Services, Customer may change Customer's billing settings, including cancelling automatic renewal of the subscription licenses, by going to the Billing section in the Admin Console and changing the settings there.
 - C. **Co-Termination of Subscriptions.** Customer may request Google to change its subscription licenses to the Service to co-term with another Google service or product license term. Customer may make such request only during the initial purchase or a renewal purchase and such request must be in the form of (i) a written request (email acceptable) with an Order Form accepted by Google or (ii) an Order Form with special instructions included and accepted by Google. If Customer's request is accepted by Google, Google will renew Customer's existing subscription licenses or adjust Customer's new subscription licenses (except for perpetual subscription licenses) to co-term with the service or license term for the specified Google service or product (for example, G Suite) on the condition that Customer has an existing and valid license for such Google service or product at the time of such request. If Customer purchases its subscription licenses for the Services through the Admin Console, Google will prorate the subscription license fees to match the co-termed service or license term and bill Customer in accordance with Customer's payment plan.
 - D. **No Co-term for Perpetual Subscriptions.** For clarity, perpetual subscription licenses are not eligible for co-termination. Perpetual subscription licenses to the Services will continue for the period the Customer Hardware remains on the Google approved ChromeOS device list included with the Auto Update Policy.
- 1.3. **Trial Subscription.** If Customer was provisioned the Services for trial use, the Trial Terms will govern Customer's use of the Services, except if Customer has executed a separate written agreement for its trial use of the Services. In such situation, the terms of the executed separate written agreement will govern Customer's trial use of the Services and not the Trial Terms.
- 1.4. **Provision of Services and Cloud Identity.** During the Term, Google will make the Services available to Customer. To use the Services, Customer will need Cloud Identity. If Customer already has Cloud Identity, Customer can log-in and start using the Services. If Customer does not have Cloud Identity, Google will provision Customer with access to Cloud Identity. Customer will need to activate Cloud Identity by logging-in to create and complete Customer's Cloud Identity account. Use of Cloud Identity (specifically excluding the Services) is subject to the Cloud Identity Terms.
- 1.5. **Customer Domain Name Ownership.** As part of providing the Services, Google may verify that Customer owns or controls the Customer Domain Name(s). If Customer does not own, or control, the Customer Domain Name(s), then Google will have no obligation to provide Customer with the Services. However, Google may, at its sole discretion, provide Customer with a Google Provided Domain for Customer's use with the corresponding Services during the Term. If a Google Provided Domain is issued to Customer, Customer's use of the Google Provided Domain is subject to the terms of the Agreement and the terms of the Google Subdomain License Agreement.



1.7. **Facilities and Data Transfer.** All facilities used to store and process Customer Data will adhere to reasonable security standards no less protective than the security standards at facilities where Google stores and processes its own information of a similar type. As part of providing the Services, Google may transfer, store and process Customer Data in the United States or any other country in which Google or its agents maintain facilities. By using the Services, Customer consents to this transfer, processing and storage of Customer Data.

1.8. **Modifications to the Services.**

- A. **Changes to the Services.** Google may make commercially reasonable changes to the Services from time to time. If Google makes a material change to the Services, including discontinuing the Services or features or portions thereof, Google will inform Customer, by either sending an email to the Notification Email Address or alerting Customer through the Admin Console.
- B. **Changes to the Agreement.** Google may make changes to this Agreement, including any linked documents from time to time. Unless otherwise noted by Google, material changes to the Agreement will become effective 30 days after they are posted, except if the changes apply to new functionality in which case they will be effective immediately.
- C. **Changes to the Data Processing Amendment.** Google may only change the Data Processing Amendment where such change is required to comply with applicable law, applicable regulation, court order, or guidance issued by a governmental regulator or agency, where such change is expressly permitted by the Data Processing Amendment, or where such change:
 - i. is commercially reasonable;
 - ii. does not result in a degradation of the overall security of the Services;
 - iii. does not expand the scope of or remove any restrictions on Google's processing of Customer Personal Data, as described in Section 5.2 (Scope of Processing) of the Data Processing Amendment; and
 - iv. does not otherwise have a material adverse impact on Customer's rights under the Data Processing Amendment.

If Google makes a material change to the Data Processing Amendment in accordance with this Section, Google will post the modified Data Processing Amendment to the URL containing those terms

1.9. **Data Processing Amendment.** The Data Processing Amendment is incorporated by this reference into the Agreement.

1.10. **Customer Hardware.**

- A. **Use of Services.** Subject to the terms in Section 1.10(B) (No Hardware Supplied), Section 1.10(C) (Termination of Support for Services), and Section 1.10(D) (Replacement Customer Hardware) below, the TSS Guidelines and during the period Customer Hardware remains on the Google approved ChromeOS device list included with the Auto Update Policy, the Services will function with Customer Hardware.



operate with the Services. Customer is responsible for ensuring Customer Hardware is updated properly in accordance with the original terms that accompanied the Supported ChromeOS Hardware and the terms of the TSS Guidelines. If Customer Hardware is not updated, it may cease to be deemed a Supported ChromeOS Hardware, as described in the TSS Guidelines and it may not function with the Services.

- C. **Termination of Support for Services.** Over time, Customer Hardware that was initially Supported ChromeOS Hardware may cease to be supported in accordance with the Auto Update Policy, at which point the Services may cease to function with, and Google may cease to provide TSS for use of the Services with that Supported ChromeOS Hardware. For such Supported ChromeOS Hardware, Google will inform via Customer's Admin Console or online under Google's Auto Update Policy at least 90 days in advance of the date that such Supported ChromeOS Hardware will cease to be supported.
- D. **Replacement Customer Hardware.** During the Term, Customer may, via such procedure as Google may prescribe, transfer a subscription license to the Services from an enrolled Customer Hardware to a replacement Customer Hardware. Customer may make such subscription license transfer even if the enrolled Customer Hardware is no longer included in the Auto Update Policy, so long as such transfer occurs during the Term. For clarify, the ability to transfer subscription licenses, as permitted in this Section 1.10 (D) (Replacement Customer Hardware), will not apply to a perpetual subscription license.

1.11. Intellectual Property Rights; Feedback

- A. **Intellectual Property Rights.** Except as expressly set forth in this Agreement, this Agreement does not grant either party any rights, implied or otherwise, to the other's content or any of the other's intellectual property. Intellectual Property Rights in and to the content accessed through the Services are the property of the applicable content owner and may be protected by applicable laws. As between the parties, Google (and/or its licensors or suppliers) owns all Intellectual Property Rights in the Services.
 - B. **Customer Feedback.** If Customer provides Google with Feedback about the Services, then Google may use that information without obligation to Customer, and Customer hereby irrevocably assigns to Google all right, title, and interest in that Feedback.
2. **Customer Data Processing.** Google will not access or use Customer Data, except as necessary to provide the Services to Customer. Such access and use will be in accordance with the Data Processing Amendment.
3. **Customer Obligations.**
- 3.1. **Compliance.** Customer must ensure that all use of the Services by Customer, its Administrators and its End Users complies with this Agreement.
 - 3.2. **Notification Email Address.** Customer is required to provide a current and accurate Notification Email Address in the Admin Console within a reasonable time after being provisioned with a subscription license to the Services. During the Term, Customer will make commercially reasonable efforts to review and designate a current and accurate Notification Email Address in the Admin Console to



in the Admin Console will not be construed or deemed as a breach of any kind by Google of its notification obligations under this Agreement.

- 3.3. **Additional Products.** Google may make Additional Products available to Customer in accordance with the Additional Product Terms. Additional Products are not subject to or governed by this Agreement. Customer can enable or disable Additional Products and is not required to use Additional Products in order to use the Services.
- 3.4. **Customer Administration of the Services.** Customer may appoint one or more Administrators through the Admin Console who will have the rights to access Admin Account(s). Customer is responsible for: (i) maintaining the confidentiality of the password and Admin Account(s); (ii) designating those individuals who are authorized to access the Admin Account(s); (iii) ensuring that all activities that occur in connection with the Admin Account(s) comply with the Agreement; and (iv) promptly notifying Google of any unauthorized use of, or access to, the Admin Console of which it becomes aware. At all times during the Term, Customer remains responsible for the foregoing obligations if Customer designates a third party (including but not limited to Reseller) as an Administrator. For clarity, Customer agrees that Google's responsibilities do not extend to the internal management or administration of the Services for Customer and that Google is merely a data-processor.
- 3.5. **Administrator Access; End User Consent.**
- A. **Administrator Access.** Administrators with Admin Accounts will have the ability to access the Admin Console on Customer's behalf to administer the Services. In accessing the Admin Console on Customer's behalf, Administrators will have the ability to access, monitor, use, modify, or disclose Customer Data stored in the Admin Console as part of administering the Services.
 - B. **Reseller as Administrator.** If Customer purchased subscription licenses to the Services via Reseller, Reseller may have Administrator access to Customer Data. As between Google and Customer, Customer is solely responsible for: (i) any access by Reseller to the Admin Console on Customer's behalf, including access to Customer Data; and (ii) defining in the Reseller Agreement any rights or obligations as between Reseller and Customer with respect to the Services.
 - C. **End User Consent.** Customer will obtain and maintain all required consents from End Users to allow: (i) Administrators to have the access described in this Agreement; and (ii) Google's provision of the Services as described in this Agreement.
- 3.6. **Third Party Requests.** Customer is responsible for responding to Third Party Requests. Google will, to the extent allowed by law and by the terms of the Third Party Request: (i) promptly notify Customer of its receipt of a Third Party Request; (ii) comply with Customer's reasonable requests regarding its efforts to oppose a Third Party Request; and (iii) if the relevant information is solely held by Google and reasonably accessible by Google, provide Customer with the information required for Customer to respond to the Third Party Request. Customer will first seek to obtain the information required to respond to the Third Party Request on its own, and will contact Google only if it cannot reasonably obtain such information.
- 3.7. **Educational Institutions.** If Customer is an educational institution, Customer acknowledges and agrees that it is solely responsible for compliance with all applicable laws and regulations, including, but not



information in the Additional Products that Customer (i) provisions and use to manage Customer Hardware and End Users, and (ii) allows End Users to access before using or allowing any End Users under the applicable age of majority to use those Additional Products.

- 3.8. **APIs.** Google may make certain APIs available to Customer with the Services for Customer or its Administrator's use. Customer or its Administrators' use of such APIs will be subject to the API TOS, unless the terms accompanying such API states otherwise. For clarity, APIs made available to Customer are not part of the Services and Customer is not required to use the APIs in order to use the Services.

4. Restrictions.

- 4.1. **Generally.** Subject to Section 4.2 (Third Party Components), Customer will not, and will not allow others to do any of the following unless required by law, or unless Google consents in writing: (i) adapt, alter, modify, decompile, translate, disassemble, or reverse engineer the Services, or any component thereof; (ii) copy or make derivative works of the Services, attempt to extract the source code of the Services, or otherwise attempt to reduce the Services to human perceivable form; (iii) use the Services for High Risk Activities; (iv) transfer, sublicense, distribute, sell, lease or use for time-sharing or service bureau purposes the Services or any component of the Services; (v) remove or alter any Brand Features or other proprietary notices included with the Services; (vi) violate, or encourage the violation of, the legal rights of others; and (vii) use the Services for any unlawful, invasive, infringing, defamatory, or fraudulent purposes.
- 4.2. **Third Party Components.** To the extent the Services includes components governed by open source licenses with provisions inconsistent with this Agreement, those components are instead governed solely by the applicable open source licenses. To the extent the Services includes components governed by open source licenses requiring the provision of corresponding source code for those components, Google hereby provides that source code consistent with those licenses. Google hereby provides the Third Party Component Notice.

5. Orders via Admin Console – Billing and Payment.

- 5.1. **Orders via Admin Console.** If Customer purchased the subscription license to the Services through the Admin Console, then the payment terms in Section 5.3 (Payment) will apply to Customer for such subscription licenses.

5.2. Billing.

- A. If one or more of the following billing options are made available to Customer by Google, Customer may elect one of the billing options when placing its order for the Services. Google may change its offering of billing options, including by limiting or ceasing to offer any billing option, upon 30 days written notice to Customer (which may be by email). Billing options may not be available to all customers.

- i. **Annual Plan.** If this option is made available to Customer and Customer selects or otherwise indicates consent to this option, Customer will be committed to purchasing subscription



using the payment options listed in Section 5.3 (Payment) below.

- ii. **Flexible Plan.** If this option is made available to Customer and Customer selects or otherwise indicates consent to this option, Customer will not be committed to purchase subscription license to the Services for a pre-defined term but will pay for the subscription license to the Services on a monthly basis. Google will bill Customer: (i) Fees based upon Customer's daily usage of the Services during the preceding month; and (ii) monthly in arrears for its use of the Services. Google will provide Customer with the monthly rate for the Services when Customer orders the Services, and will use this rate to calculate the Fees, on a prorated basis, for Customer's daily usage during that month. Any partial day of Services usages will be rounded up to a full day of Services usage for the purposes of calculating Fees. Customer may pay for the subscription licenses to the Services using the payment options listed in Section 5.3 (Payments) below.

- B. **Automatic Billing Renewal.** If Customer's subscription license to the Services is an automatic renewing subscription and Customer has not opted out of automatic renewal, then at the end of the then-current subscription license term Customer's (i) subscription license to the Services will be renewed for an additional subscription license term and (ii) without any additional action by Customer, Customer's payment option will automatically be charged at the then-current renewal price (plus applicable taxes) in accordance with Customer's billing options. At any time after Customer's initial purchase of the subscription license to the Services, Customer may change Customer's billing settings, including cancelling automatic renewal of the subscription licenses to the Services, by going to the Billing page in the Admin Console. When Customer cancels the automatic renewal, Customer's subscription licenses to the Services will end at the end of the then-current subscription license term, unless Customer's manually renews the subscription licenses by placing an Order Form to renew such subscription licenses with its Reseller.

5.3. **Payment.** All payments due are in U.S. dollars unless otherwise indicated on the Order Form or invoice.

- A. **Credit Card or Debit Card.** Fees for orders where Customer is paying with a credit card, debit card or other non-invoice form of payment, are due at the end of the month during which Customer received the Services. For credit cards, or debit cards, as applicable: (i) Google will charge Customer for all applicable Fees when due and (ii) these Fees are considered delinquent 30 days after the end of the month during which Customer received the Services.
- B. **Invoices.** Payments for invoices from Google are due on the Payment Due Date and are considered delinquent after such date.
- C. **Other Forms of Payment.** Customer may change its payment method to those available within the Admin Console. Google may enable other forms of payment by making them available in the Admin Console. These other forms of payment may be subject to additional terms, which Customer may have to accept prior using the additional forms of payment.

5.4. **Taxes.** Customer is responsible for any Taxes. If Google is obligated to collect or pay Taxes, the Taxes will be separately itemized on the invoice issued to the Customer. If Google is obligated to collect or pay Taxes, the Taxes will be invoiced to Customer. In the event that Taxes must be withheld from any



withholding of local indirect tax from amounts payable to Google, the value of Services calculated in accordance with the above procedure will be increased (grossed up) by the Customer for the respective amount of local indirect tax and the grossed up amount will be regarded as a price inclusive of the indirect tax amount. Local indirect tax amount withheld from the price inclusive of indirect tax will be remitted to the applicable local tax entity by the Customer, and Customer will ensure that Google will receive payment for its services for the net amount as would otherwise be due (the price inclusive of indirect tax less the local indirect tax withheld and remitted to applicable tax authority). If required under applicable law, Customer will provide Google with applicable tax identification information that Google may require to ensure its compliance with applicable tax regulations and authorities in applicable jurisdictions. Customer will be liable to pay (or reimburse Google for) any taxes, interest, penalties or fines arising out of any mis-declaration by the Customer.

5.5. **Invoice Disputes.** Any invoiced disputes must be submitted prior to the Payment Due Date. If the parties determine that certain billing inaccuracies are attributable to Google, Google will not issue a corrected invoice, but will instead issue a credit memo specifying the incorrect amount in the affected invoice. If the disputed invoice has not yet been paid, Google will apply the credit memo amount to the disputed invoice and Customer will be responsible for paying the resulting net balance due on that invoice.

5.6. **Delinquent Payments.** Delinquent payments may bear interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) from the Payment Due Date until paid in full. Customer will be responsible for all reasonable expenses (including attorneys' fees) incurred by Google in collecting such delinquent amounts, except where such delinquent amounts are due to Google's billing inaccuracies.

6. Brand Features.

6.1. **Display of Brand Features.** Google may display those Customer Brand Features authorized by Customer within designated areas of the Services (such authorization is provided by Customer uploading its Brand Features to the designated areas of the Services). Customer may specify the nature of this use using the Admin Console. Google may also display Google Brand Features with the Services to indicate that the Services is provided by Google. Neither party may display or use the other party's Brand Features beyond what is allowed in this Agreement without the other party's prior written consent.

6.2. **Brand Features Limitation.** Any use of a party's Brand Features will inure to the benefit of the party holding Intellectual Property Rights in those Brand Features. A party may revoke the other party's right to use its Brand Features pursuant to this Agreement with written notice to the other and a reasonable period to stop the use.

7. Technical Support.

7.1. **By Customer.** Customer will, at its own expense, respond to questions and complaints from End Users or third parties relating to Customer's or End Users' use of the Services. Customer will use commercially reasonable efforts to resolve support issues before escalating them to Google.



Services), and 1.10 (D) (Replacement Customer Hardware) above, Google will provide TSS to Customer in accordance with the TSS Guidelines.

7.3. **By Reseller.** If Customer purchased subscription licenses to the Services via Reseller in accordance with the terms in Section 3.5(B) (Reseller as Administrators), Customer acknowledges and agrees that Reseller may disclose End User personal data to Google as reasonably required in order for Reseller to handle any support issues that Customer may choose to escalate to or via Reseller.

8. **Disclaimers. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY OR THEIR LICENSORS MAKE ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT. GOOGLE DOES NOT WARRANT AND MAKES NO REPRESENTATIONS (I) THAT THE OPERATION OF THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED, (II) ABOUT ANY CONTENT OR INFORMATION MADE ACCESSIBLE BY OR THROUGH THE SERVICES, AND (III) THAT THE SERVICES ARE DESIGNED OR INTENDED FOR HIGH RISK ACTIVITIES. CUSTOMER ACKNOWLEDGES THAT THE SERVICES ARE NOT A TELEPHONY SERVICE AND THAT THE SERVICES ARE NOT CAPABLE OF PLACING OR RECEIVING ANY CALLS, INCLUDING EMERGENCY SERVICES CALLS, OVER PUBLICLY SWITCHED TELEPHONE NETWORKS.**

9. **Term and Termination.**

9.1. **Term.**

- A. The terms of the Agreement becomes effective on the Service Commencement Date and will continue for the subscription license period specified in (i) the SKU, (ii) SKU description, (iii) the written communication (email acceptable) accompanying the Order Form accepted by Google, or (iv) the special instructions section of the Order Form accepted by Google, unless terminated earlier in accordance with Section 9 (Term and Termination) of this Agreement.
- B. In the event of a conflict regarding the subscription license period between the SKU; the SKU description; the written communication (email acceptable) accompanying the Order Form accepted by Google, or the special instructions section of the Order Form accepted by Google, the order of control will be as follows: the subscription license period specified in (i) the written communication (email acceptable) accompanying the Order Form accepted by Google; (ii) the special instructions section of the Order Form accepted by Google; (iii) the SKU description; and (iv) the SKU, in that order specifically.

9.2. **Termination for Breach.** Either party may suspend performance or terminate this Agreement if: (i) the other party is in material breach of the Agreement and fails to cure that breach within 30 days after receipt of written notice; (ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within 90 days; or (iii) the other party is in material breach of this Agreement more than two times notwithstanding any cure of such breaches.

9.3. **Effects of Termination.**

- A. Termination of the Agreement is effective immediately unless otherwise specified in the termination notice. Customer will cease use the Services as of the termination date. Termination



immediately due upon Customer's receipt of the final invoice or similar document from Google (electronic invoice or similar document acceptable).

- B. After the termination date or the expiration of the Agreement, (i) Customer will not have access to, or the ability to export, the Customer Data; (ii) Customer will delete the Customer Data in a manner consistent with the functionality of the Services and in accordance with the terms of the Agreement; (iii) Google will delete Customer Data in accordance with the terms of the Agreement; and (iv) upon request each party will promptly use reasonable efforts to return or destroy any remaining Confidential Information of the other party.

9.4. **Survival.** The following Sections will survive termination or expiration of this Agreement: Section 1.11 (Intellectual Property Rights; Feedback); Section 4 (Restrictions); Section 5 (Orders via Admin Console – Billing and Payment); Section 8 (Disclaimers); Section 9.1(B); Section 9.3 (Effects of Termination); Section 9.4 (Survival); Section 11 (Confidentiality); Section 12 (Defense and Indemnity); Section 13 (Limitation of Liability); Section 15 (Miscellaneous); and Section 16 (Definitions). All other terms necessary for a party to meet its obligations under this Section 9.4 (Survival) or by its nature is intended to survive will continue to survive.

10. Suspension.

10.1. **Emergency Security Issues.** If there is an Emergency Security Issue, then Google may automatically Suspend the offending use. Suspension will be to the minimum extent and of the minimum duration required to prevent or terminate the Emergency Security Issue. If Google Suspends an End User Account for any reason without prior notice to Customer, at Customer's request, Google will provide Customer the reason for the Suspension as soon as is reasonably possible.

10.2. Suspension for Non-Payment

- A. **Automatic Suspension.** Customer will have 30 days to pay Google delinquent Fees. If Customer does not pay Google delinquent Fees within thirty days, Google will automatically suspend Customer's use of the Services. The duration of this suspension will be until Customer pays Google all outstanding Fees.
- B. **During Suspension.**
 - i. **Annual Commitment.** If Customer has an annual commitment to Google for the Services, Google will continue to charge Customer monthly Fees during Customer's suspension for non-payment and Customer must pay all outstanding Fees in order to resume its use of the Services.
 - ii. **Automatic Renewal.** If Customer has a subscription license to the Services that automatically renews in accordance with the terms in Section 1.2(B) (Automatic Renewal) and which annual renewal occurs during Customer's suspension period, Customer is responsible for turning off the auto-renewal setting in the Admin Console before the auto-renewal date. If Customer fails to change the auto-renewal settings by the auto-renewal date, then, during Customer's suspension, Google will continue to charge Customer the renewal Fees for the applicable



- C. **Termination After Suspension.** If Customer remains suspended for non-payment for more than 60 days, Google may terminate Customer for cause pursuant to Section 9 (Term and Termination).

10.3. **Suspension to Comply with Laws.** Google may at its sole discretion Suspend the provision of any Services at any time if required to comply with any applicable law.

11. **Confidentiality.** The recipient will not disclose the Confidential Information, except to Affiliates, employees, agents or professional advisors who need to know it and who have agreed in writing (or in the case of professional advisors are otherwise bound) to keep it confidential. The recipient will ensure that those people and entities use the Confidential Information only to exercise rights and fulfill obligations under this Agreement, and that they keep it confidential. The recipient may also disclose Confidential Information when required by law after giving reasonable notice to the discloser, if permitted by law.

12. Defense and Indemnity.

12.1. Definitions.

- A. **"Indemnified Liabilities"** means any (i) settlement amounts approved by the indemnifying party; and (ii) damages and costs in final judgment awarded against the indemnified part(ies) by a competent court.
- B. **"Third-Party Legal Proceeding"** means any formal legal proceeding filed by an unaffiliated third party before a court or government tribunal (including any civil, administrative, investigative or appellate proceeding).

12.2. **Obligations.** Subject to Section 12.4 (Conditions) and Section 13 (Limitation of Liability):

- A. **Google's Obligations.** Google will defend Customer and its Affiliates, and indemnify them against Indemnified Liabilities, in any Third-Party Legal Proceeding to the extent arising from any allegation that Customer's use of Google's technology used to provide the Services (excluding any open source software) in accordance with this Agreement infringes the third party's Intellectual Property Rights.
- B. **Customer's Obligations.** Unless prohibited by applicable law and without waiving sovereign immunity, Customer will defend Google and its Affiliates, and indemnify them against Indemnified Liabilities, in any Third Party Legal Proceeding to the extent arising from:
- i. an allegation that Google's use of Customer's Brand Features in accordance with this Agreement infringes the third party's Intellectual Property Rights;
 - ii. an allegation made against Google for infringement or misappropriation based on conduct by Customer as described in Section 12.3 (Exclusions); or
 - iii. Customer's breach of Section 15.5 (Export Compliance).

12.3. **Exclusions.** This Section 12 (Defense and Indemnity) will not apply to the extent the underlying allegation arises from:

- A. the indemnified party's breach of this Agreement;



- D. failure to use the most current, supported version of Google's technology provided under this Agreement; or
- E. compliance with Customer's design or request for customized features.

12.4. **Conditions.**

- A. The indemnified party must promptly notify the indemnifying party of any allegation(s) that preceded the Third-Party Legal Proceeding and cooperate reasonably with the indemnifying party to resolve the allegation(s) and Third-Party Legal Proceeding. If a breach of this Subsection (a) prejudices the defense of the Third-Party Legal Proceeding, the indemnifying party's obligations under this Section 12 (Defense and Indemnity) will be reduced in proportion to the prejudice.
- B. The indemnified party must tender sole control of the indemnified portion of the Third-Party Legal Proceeding to the indemnifying party, subject to the following:
 - i. the indemnified party has the right to approve controlling counsel, such approval not to be unreasonably withheld (and which approval may be withheld or withdrawn if there is a conflict of interest);
 - ii. the indemnified party may appoint its own non-controlling counsel, at its own expense; and
 - iii. any settlement requiring the indemnified party to admit liability, pay money, or take (or refrain from taking) any action, will require the indemnified party's prior written consent, not to be unreasonably withheld, conditioned, or delayed.

12.5. **Remedies.**

- A. If Google's technology is subject to an Intellectual Property Rights allegation or Third-Party Legal Proceeding, Google may do the following at its sole option and expense:
 - i. procure the right to continue providing the Services in compliance with this Agreement; or
 - ii. modify the Services without materially reducing their functionality; or
 - iii. replace the Services with a functionally-equivalent alternative.
- B. If an injunction prevents continued use of the Services, Google will use commercially reasonable efforts to provide one of the remedies in Section 12.5(A) in its sole expense.
- C. If the remedies under Section 12.5(A) are not commercially reasonable in the circumstances, or are not provided within 30 days of an injunction, then Google will notify Customer and the parties will discuss practical remedies in good faith. If the parties cannot agree on remedies within 15 days of initiating discussions, then:
 - i. either party may terminate the Agreement on written notice to the other; or
 - ii. Google may terminate or suspend the impacted portion of the Services (but not the entirety of the Services) on written notice to Customer; and



the period following either the termination or (if earlier) the injunction. Customer's eligibility to receive a refund in respect of the Services for such period will then be governed by the terms of the Reseller Agreement.

12.6. **Sole Rights and Obligations.** Without affecting either party's termination rights, this Section 12 states the parties' only rights and obligations under this Agreement for Intellectual Property Rights-related allegations and Third-Party Legal Proceedings.

13. Limitation of Liability.

13.1. **LIABILITY.** IN SECTION 13, "**LIABILITY**" MEANS ANY LIABILITY, WHETHER UNDER CONTRACT, TORT, OR OTHERWISE, INCLUDING FOR NEGLIGENCE. LIABILITY INCLUDES ALL AMOUNTS A PARTY INCURS TO FULFILL SECTION 12 (DEFENSE AND INDEMNITY).

13.2. **LIMITATIONS.** SUBJECT TO SECTION 13.3 (EXCEPTIONS TO LIMITATIONS):

- A. NEITHER PARTY WILL HAVE ANY LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT FOR:
 - i. THE OTHER PARTY'S LOST REVENUES;
 - ii. INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSSES (WHETHER OR NOT FORESEEABLE OR CONTEMPLATED BY THE PARTIES AT THE EFFECTIVE DATE); OR;
 - iii. EXEMPLARY OR PUNITIVE DAMAGES.
- B. EXCEPT AS SET FORTH IN SUBSECTION (C), EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT IS LIMITED TO THE GREATER OF: (i) THE TOTAL AMOUNT PAID AND PAYABLE TO GOOGLE BY, AS APPLICABLE, (A) RESELLER ON BEHALF OF CUSTOMER HEREUNDER OR (B) CUSTOMER DURING THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY; OR (ii) US\$250,000.
- C. GOOGLE'S TOTAL AGGREGATE LIABILITY UNDER SECTION 1.3 (TRIAL SUBSCRIPTION) IS LIMITED TO (i) THE AMOUNT PAID BY CUSTOMER TO GOOGLE UNDER THIS AGREEMENT FOR TRIAL SUBSCRIPTIONS DURING THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY; OR (II) US\$15,000.

13.3. **EXCEPTIONS TO LIMITATIONS.** NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS EITHER PARTY'S LIABILITY FOR:

- A. DEATH OR PERSONAL INJURY RESULTING FROM ITS NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES OR AGENTS;
- B. FRAUD OR FRAUDULENT MISREPRESENTATION;
- C. BREACH OF SECTION 11 (CONFIDENTIALITY);
- D. INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; OR
- E. MATTERS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.



15. Miscellaneous.

- 15.1. **Notices.** All notices of termination or breach must be in writing and addressed to the other party's Legal Department. The address for notices being sent to Google's Legal Department is legal-notices@google.com. All other notices must be in English, in writing and addressed to the other party's primary contact. Notice will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable).
- 15.2. **Assignment.** Neither party may assign any part of this Agreement without the written consent of the other, except to an Affiliate where: (a) the assignee has agreed in writing to be bound by the terms of this Agreement; (b) the assigning party remains liable for obligations under the Agreement if the assignee defaults on them; and (c) the assigning party has notified the other party of the assignment. Any other attempt to assign is void.
- 15.3. **Change of Control.** If a party experiences a change of control (for example, through a stock purchase or sale, merger, or other form of corporate transaction): (a) that party will give written notice to the other party within 30 days after the change of control, and (b) the other party may immediately terminate this Agreement any time between the change of control and 30 days after it receives that written notice.
- 15.4. **Force Majeure.** Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control.
- 15.5. **Export Compliance.** Customer will comply with, and will obtain all prior authorization from the competent government authorities required by, the Export Control Laws.
- 15.6. **No Waiver.** Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Agreement.
- 15.7. **No Agency.** This Agreement does not create any agency, partnership or joint venture between the parties.
- 15.8. **No Third Party Beneficiaries.** This Agreement does not confer any benefits on any third party unless it expressly states that it does.
- 15.9. **Severability.** If any term (or part of a term) of this Agreement is invalid, illegal or unenforceable, the rest of the Agreement will remain in effect.
- 15.10. **Governing Law.**
- A. ALL CLAIMS ARISING OUT OR RELATING TO THIS AGREEMENT OR ANY RELATED GOOGLE PRODUCTS OR SERVICES (INCLUDING ANY DISPUTE REGARDING THE INTERPRETATION OR PERFORMANCE OF THE AGREEMENT) ("DISPUTE") WILL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, USA, EXCLUDING CALIFORNIA'S CONFLICTS OF LAWS RULES.
 - B. The parties will try in good faith to settle any Dispute within 30 days after the Dispute arises. If the Dispute is not resolved within 30 days, it must be resolved by arbitration by the American



- C. The parties will mutually select one arbitrator. The arbitration will be conducted in English in Santa Clara County, California, USA.
- D. Either party may apply to any competent court for injunctive relief necessary to protect its rights pending resolution of the arbitration. The arbitrator may order equitable or injunctive relief consistent with the remedies and limitations in this Agreement.
- E. Subject to the confidentiality requirements in Subsection (g), either party may petition any competent court to issue any order necessary to protect that party's rights or property; this petition will not be considered a violation or waiver of this governing law and arbitration section and will not affect the arbitrator's powers, including the power to review the judicial decision. The parties stipulate that the courts of Santa Clara County, California, USA, are competent to grant any order under this Subsection (e).
- F. The arbitral award will be final and binding on the parties and its execution may be presented in any competent court, including any court with jurisdiction over either party or any of its property.
- G. Any arbitration proceeding conducted in accordance with this Section will be considered Confidential Information under this Agreement's confidentiality section, including (i) the existence of, (ii) any information disclosed during, and (iii) any oral communications or documents related to the arbitration proceedings. The parties may also disclose the information described in this Subsection (g) to a competent court as may be necessary to file any order under Subsection (e) or execute any arbitral decision, but the parties must request that those judicial proceedings be conducted in camera (in private).
- H. The parties will pay the arbitrator's fees, the arbitrator's appointed experts' fees and expenses, and the arbitration center's administrative expenses in accordance with the Rules. In its final decision, the arbitrator will determine the non-prevailing party's obligation to reimburse the amount paid in advance by the prevailing party for these fees. (i) Each party will bear its own lawyers' and experts' fees and expenses, regardless of the arbitrator's final decision regarding the Dispute.

15.11. **Amendments.** Any amendment must be in writing, signed by both parties, and expressly state that it is amending this Agreement.

15.12. **Conflicting Terms.** If there is a conflict between any terms of this Agreement and an Order Form, the terms of the Order Form will control followed by the terms of this Agreement, in that order.

15.13. **Conflicting Languages.** If this Agreement is translated into any other language, and there is a discrepancy between the English text and the text of the other language, the English text will govern.

15.14. **Counterparts.** The parties may enter into this Agreement by Google's acceptance of the initial Order Form, or subsequent Order Forms, which may be executed in counterparts, including facsimile, PDF or other electronic copies, which taken together will constitute one instrument.

15.15. **Entire Agreement.** This Agreement, the Order Form and all documents referenced herein or therein or attached to this Agreement, sets out all terms agreed between the parties and supersedes all other agreements between the parties relating to its subject matter. Furthermore, this Agreement supersedes any Customer Minimum Terms (if any) that Reseller incorporated into the Reseller



16. Definitions.

"Affiliate" means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with a party.

"Additional Products" means products, services and applications that are not part of the Services but that may be accessible, via the Admin Console or otherwise, for use with the Services and which are listed here <https://support.google.com/chrome/a/answer/9005456>, or such URL Google may provide from time to time, and any updates Google may make to such list from time to time.

"Additional Product Terms" means those separate terms of services corresponding to the applicable Additional Product, as such terms can be found at this URL: <https://support.google.com/chrome/a/answer/9005456>, or such URL Google may provide from time to time, and any updates Google may make to such terms of services from time to time.

"Admin Account(s)" means the administrative account(s) provided to Customer by Google for the purpose of administering the Services. The use of the Admin Account(s) requires a password, which Google will provide to Customer.

"Admin Console" means the online tool provided by Google to Customer for use in configuring and administering the Services.

"Administrators" mean the Customer-designated technical personnel who administer the Services to End Users on Customer's behalf.

"API TOS" means the terms governing Customer's use of APIs made available to Customer with the Services and which can be found at the following URL: <https://developers.google.com/terms/> or such other URL as Google may provide from time to time, and any updates Google may make to such terms from time to time.

"Auto Update Policy" means the policy at this URL: <https://support.google.com/chrome/a/answer/6220366> or such other URL as Google may provide from time to time, and any updates Google may make to such policy from time to time.

"Brand Features" means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by such party from time to time.

"Cloud Identity" means the Google Cloud Identity – Free offering and services described at the following URL: <https://cloud.google.com/terms/identity/user-features>, or such URL Google may provide from time to time, and any updates Google may make to such services from time to time.

"Cloud Identity Terms" means the terms which governs use of the Cloud Identity-Free services and which can be found at this URL: https://cloud.google.com/terms/identity/na_terms, or such URL as Google may provide from time to time, and any updates Google may make to such terms from time to time.



information under the circumstances. It does not include information that the recipient already knew, that becomes public through no fault of the recipient, that was independently developed by the recipient, or that was lawfully given to the recipient by a third party.

"Control" means control of greater than fifty percent of the voting rights or equity interests of a party.

"Customer Data" means data provided by or on behalf of Customer or End Users via the Service and related technical support.

"Customer Domain Name(s)" mean the domain name owned by Customer, which Customer provides to Google for purposes of provisioning Customer with the Services.

"Customer Hardware" means each unit of Supported ChromeOS Hardware registered by Customer or its Administrators from time to time to be managed by Customer through the Services, provided that Customer has not deregistered such unit.

"Customer Personal Data" means personal data contained within the Customer Data.

"Data Processing Amendment" means the agreement which governs Google's processing of Customer Data if Customer is subject to GDPR requirements and which terms can be found at the following URL: https://www.google.com/chrome/terms/dpa_terms.html, or other such URL as Google may provide from time to time, and any updates Google may make to such agreement from time to time.

"Emergency Security Issue" means either: (a) Customer's or End Users' use of the Services in violation of the Agreement, in a way that disrupts: (i) the Services; (ii) other customers' use of the Services; or (iii) the Google network or servers used to provide the Services; or (b) to prevent unauthorized third party access to the Services or data within the Services.

"End Users" means the individuals Customer permits to use Customer Hardware who may or may not be managed by Customer via the Services.

"Export Control Laws" means all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State.

"Fees" means the amounts invoiced to Customer by Google or Reseller for the Services.

"Feedback" means feedback or suggestions about the Services provided to Google by Customer.

"Google Provided Domain" means the subdomain(s) created by Google, using a Google owned domain, and provisioned to Customer for Customer's use with the Services.



"High Risk Activities" means uses such as the operation of nuclear facilities, air traffic control or life support systems, where the use or failure of the Services could lead to death, personal injury, or environmental damage.

"Intellectual Property Rights" means current and future worldwide rights under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.

"Notification Email Address" means the email address(es) designated by Customer to receive email notifications from Google, as such email address(es) are reflected in the Admin Console. Customer may change this email address(es) through the Admin Console.

"Order Form" means the written or online order document indicating that Customer has signed up for the Services, describing the following, including but not limited to: the Services SKU ordered; Fees; and quantity, that is either submitted to Google by Customer or by Reseller on Customer's behalf. Each Order Form is subject to the terms of this Agreement.

"Payment Due Date" means the payment due date set out in the applicable Order Form.

"Reseller" means a designee within Google's applicable reseller or retail channels authorized to make the Services or Supported ChromeOS Hardware available to Customer.

"Reseller Agreement" means the separate agreement between Customer and Reseller regarding the Services. The Reseller Agreement is independent of and outside the scope of this Agreement.

"Reseller Console" means the web interface and related tools provided by Google to Reseller to facilitate order management and provisioning, and management and suspension of Customer accounts for the applicable Services.

"Reseller Console Trial Terms" means the terms governing Customer's use of trial licenses to the applicable Services provisioned to Customer from its Reseller via the Reseller Console and which trial terms are set forth at the following URL: https://cloud.google.com/terms/chrome-enterprise/enterprise_reseller_trial.html, or other such URL as Google may provide from time to time, and any updates Google may make to such trial terms from time to time.

"Services" means the Chrome service offerings governed by this Agreement and further described at the following URL: <https://support.google.com/chrome/a/answer/2717664>, or other such URL as Google may provide, and any updates Google may make to such services from time to time.

"Service Commencement Date" means the start date stated in the Order Form (if applicable) or, if later (or if none is specified in the Order Form), the date Google makes the Services available to Customer.



provide from time to time, and any updates Google may make to such trial terms from time to time.

"Software" means the ChromeOS Software, in binary executable form only, which is installed on the Supported ChromeOS Hardware.

"Supported ChromeOS Hardware" means the proprietary ChromeOS computer hardware device described in the TSS Guidelines that Google supports and makes available to Customer directly or via a Reseller.

"Taxes" means all government-imposed taxes, except for taxes based on Google's net income, net worth, asset value, property value, or employment.

"Third Party Component Notice" means the notice available at the following URL: <https://www.google.com/chromebook/termsofservice.html>, or such other URL as Google may provide from time to time, and any updates Google may make to such notice from time to time.

"Third Party Products" means any non-Google branded products, software, or services.

"Third Party Request" means a request from a third party for records relating to an End User's use of the Services. Third Party Requests can be a lawful search warrant, court order, subpoena, other valid legal order, or written consent from the End User permitting the disclosure.

"Trial Terms" means either the Reseller Console Trial Terms or the Services Trial Terms, as applicable.

"TSS" means the technical support services provided by Google for the Services identified in the Order Form in accordance with the TSS Guidelines.

"TSS Guidelines" means Google's then-current technical support services guidelines for the Services, which is available at the following URL: <http://support.google.com/enterprise/terms>, or other such URL as Google may provide from time to time, and any updates Google may make to such guidelines from time to time.

"Upgrades" means additional subscription licenses purchased by Customer during the Term.

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