

# Google

## RESELLER AGREEMENT MINIMUM TERMS

**End Users.** Subject to the terms and conditions of this Agreement, Distributor authorizes and appoints Reseller as a non-exclusive Reseller of certain Google enterprise products ("Product") to end users during the term of this Agreement. Retail prices shall be determined by Reseller without consultation with Google. Reseller acknowledges and agrees that Google may publish suggested retail prices from time to time; provided, however that Google's suggested retail prices are recommendations only. Google reserves the right to sell directly to End Users or other customers and may appoint other Resellers, in its sole discretion.

**End User License Agreements.** Reseller acknowledges that the End User to which the Product is sold will be required to click on a button to indicate acceptance of the terms of the Google end user licence agreement ("EULA") for the Product before it can install the Google proprietary software. Reseller represents and warrants that any agreement between Reseller and End User to which it sells the Product shall not contain any terms which are inconsistent with the EULA.

Reseller may use and display a Google Enterprise logo, provided by the Google marketing team, in compliance with the Logo License Terms and Guidelines located at <http://support.google.com/enterprise>, or such other URL as Google may provide from time to time. Use of other Google trade names, trademarks, service marks, logos, trade dress, and any other distinctive or proprietary symbols, labels, designs or designations ("Google Brand Features") is subject to the terms set forth on <http://www.google.com/permissions/index.html>, or such other URL as Google may provide from time to time.

**No Modification to Product.** Reseller agrees not to, or to allow others, directly or indirectly, to: (i) adapt, alter, modify, decompile, translate, disassemble, or reverse engineer the Product or any component thereof, including without limitation, the source code and any other underlying ideas or algorithms of the software (except to the extent applicable laws specifically prohibit such restriction); (ii) if applicable, alter the license limits; (iii) create license keys that enable the software; (iv) use the Product for High Risk Activities, as defined below; (v) transfer, sublicense, loan, sell, lease or use for timesharing or service bureau purposes the Product or any component thereof unless explicitly permitted by Google; (vi) remove Product from the internal shipping packaging in which such Products are delivered by Google; or (vii) to the extent that Product includes both Google Software and Google Hardware, distribute the Google Software or Google Hardware separately from the Product (on a stand-alone basis).

**Export Restrictions.** Reseller agrees to comply with all applicable U.S. export and reexport 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. Specifically, Reseller covenants that it shall not – directly or indirectly – sell, export, reexport, transfer, divert, or otherwise dispose of any products, software, or technology (including products derived from or based on such technology) received under this Agreement to any destination, entity, or person prohibited by the laws or regulations of the United States, without obtaining prior authorization from the competent government authorities as required by those laws and regulations. The Google Search Appliance has been approved for export and reexport under the restricted provisions of License Exception ENC. This means that the Appliance may be distributed to non-sanctioned, non-government entities in the Territory without further US government approval. Subject to the Territory restrictions set forth herein, sales to government entities are only permitted to the following countries without additional U.S. government approval: Austria, Australia, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and United Kingdom. Subject to the indemnification obligations below, Reseller agrees to indemnify Google, to the fullest extent permitted by law, from and against any fines or penalties that may arise as a result of Reseller's breach of this provision. This export control clause shall survive termination or cancellation of this Agreement.

**No Misrepresentations; Approvals; Business Practices.** Reseller agrees not to misrepresent any Product in any way, or make any representation or warranty inconsistent with this Agreement, the Documentation, any Google agreement, order document or promotional materials. Reseller shall, at its own expense, obtain and arrange for the maintenance in full force and effect of all governmental approvals, consents, licenses, authorizations, declarations, filings and registrations relating to shipments, installation and services relating to the Product. Reseller agrees that its marketing, advertising, sales and service activities shall be of high quality, that it will not engage in any deceptive, misleading, illegal or unethical business practice, and that it will deal with all End Users and prospective customers in a professional manner that reflects favorably and enhances the image and reputation of Google and the Product. To the extent that Reseller fails to fulfill any contractual or other legal obligation to any Reseller, End User, Reseller agrees that Google may in its sole discretion elect to fulfill those obligations, and Reseller shall reimburse Google for any costs and expenses so incurred by Google.

**Indemnity and Insurance.** Reseller agrees to indemnify, defend and hold Google, its directors, officers, and employees, ("Indemnified Person(s)") harmless from and against (i) any third party claim, liability, loss, and expense (including damage awards, settlement amounts, and reasonable legal fees), brought against any Indemnified Person(s), arising out of Reseller's use or sale of the Product, and/or Reseller's breach of any Term of this Agreement and (ii) any fines or penalties that may arise as a result of Reseller's breach of export compliance obligations of this Agreement. Reseller shall carry reasonable commercial general liability insurance sufficient to cover its obligations under this Agreement. Reseller agrees to promptly notify Google when Reseller becomes aware of any breach of a requirement of this Agreement or of any lawsuit or proceeding regarding the Product.

Notwithstanding the foregoing, Reseller agrees to defend, indemnify, and hold harmless Distributor, including its affiliates, subsidiaries, agents, directors, officers, managers, employees, successors, and assignees from and against any and all third party claims, actions, demands, legal proceedings, liabilities, damages, losses, judgments, authorized settlements, costs or expenses, including without limitation reasonable attorneys' fees, arising out of or in connection with any alleged or actual injury or damage arising from any actual or alleged acts, omissions, breaches of warranty or misrepresentation by Reseller.

**Technical Support to End Users.** Reseller agrees that it shall provide first-line technical support services to End Users.

**Government Approvals.** Reseller shall, at its own expense, obtain and arrange for the maintenance in full force and effect of all applicable governmental approvals, consents, licenses, authorizations, declarations, filings and registrations relating to shipments and services relating to the Product.

**DISCLAIMER OF WARRANTY.** GOOGLE AND ITS LICENSORS MAKE NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NON-INFRINGEMENT. THE PRODUCT AND SERVICES ARE PROVIDED BY GOOGLE AND ITS LICENSORS "AS IS". GOOGLE AND ITS LICENSORS DO NOT WARRANT THAT THE PRODUCT OR ANY PORTION THEREOF, ARE ERROR OR BUG FREE, OR THAT YOUR USE OF THE PRODUCT OR SERVICES WILL BE UNINTERRUPTED. GOOGLE AND ITS LICENSORS ASSUME NO RESPONSIBILITY FOR THE PROPER INSTALLATION AND USE OF THE PRODUCT. GOOGLE AND ITS LICENSORS MAKE NO REPRESENTATIONS ABOUT ANY CONTENT OR INFORMATION MADE ACCESSIBLE BY THE PRODUCT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. IN THAT EVENT, TO THE EXTENT PERMISSIBLE, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF SHIPMENT OF THE APPLICABLE PRODUCT. THE PRODUCT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USES SUCH AS THE OPERATION OF NUCLEAR FACILITIES, AIR TRAFFIC CONTROL OR LIFE SUPPORT SYSTEMS, WHERE THE FAILURE OF THE PRODUCT COULD LEAD TO DEATH, PERSONAL INJURY, OR ENVIRONMENTAL DAMAGE ("**High Risk Activities**").

**LIMITATION OF LIABILITY.** Except for (i) amounts payable to third parties pursuant to the parties' indemnification obligations, (ii) breaches by Reseller of any licence granted under this Agreement, (iii) breaches of Google's Intellectual Property Rights, in no event shall either party be liable under or in relation to this Agreement or their subject matter (whether such liability arises in tort (including negligence), breach of contract, misrepresentation or otherwise) for: (a) any economic losses (including, without limitation, loss of revenues, profits, contracts, data, business, anticipated savings; (b) the cost of obtaining similar or substitute services from anyone; (c) any loss of goodwill or reputation; or (d) any special, indirect or consequential losses, in each case, whether or not such losses were within the contemplation of the parties at the date of acceptance of this Agreement, and in no event shall either party's total aggregate liability for all claims arising out of this Agreement exceed the amount of fees paid by Reseller for the Product giving rise to such liability.

**OWNERSHIP; INTELLECTUAL PROPERTY.** For purposes of this Agreement, "**Intellectual Property Rights**" means any and all rights existing from time to time 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. All ownership rights, title, and Intellectual Property Rights in and to the Products, any Google Web pages (included but not limited to such support site(s) that may be made available to Reseller, as applicable), Google documentation and other materials or specifications provided by Google hereunder shall remain in Google and/or its licensors, except that title to the hardware component of any Product shall pass to End User upon its receipt of the Product, as set forth in the applicable End User License Agreement. All ownership rights, title, and Intellectual Property Rights in and to the content accessed through any Product are the property of the applicable content owner and may be protected by copyright and/or other applicable laws. In the event Google determines that it is not commercially reasonable to use or distribute an allegedly infringing Appliance in the Reseller's Territory, Reseller will cooperate with Google to obtain return of affected Appliance(s) which have been sold or transferred by Reseller to End Users.

**THIRD PARTY RIGHTS.** Reseller acknowledges and agrees that Google Ireland Limited is a third party beneficiary of this license and has the rights to enforce the terms set forth herein.

**Company Name** \_\_\_\_\_

**Company Address** \_\_\_\_\_

**Ingram Customer Number** \_\_\_\_\_

**Contact Name** \_\_\_\_\_

**Contact Phone Number** \_\_\_\_\_

**Company Fax #** \_\_\_\_\_

**Contact Email** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Date** \_\_\_\_\_