

Product Passthrough Terms - Chrome Device Management

Customer has entered into a certain written agreement (the "Agreement") pursuant to which Customer has purchased the right to access and use the Product (referred to in these Product Passthrough Terms as "Services").

1. Services.

- 1.1 License. Upon Provider's receipt and acceptance of an Order Form, and subject to the terms and conditions of these Product Passthrough Terms, Provider grants to Customer and Customer agrees to comply with a non-sublicensable, non-transferable, non-exclusive, limited license to use the Services with each unit of Customer Hardware, and any updates provided by Provider (each such license being a "License") during the License Term.
- 1.2 Ordering and Enabling the Services. On or after Provider's receipt and acceptance of an Order Form, Provider will configure Customer's account to enable Customer to use the Services via the Admin Console.
- 1.3 Modification and Updates to the Services. Provider may make commercially reasonable changes to the Services from time to time. If Provider makes a material change to the Services, Provider will inform Customer, provided Customer has subscribed with Provider to be informed about such change. The Services may automatically download and install updates from Provider from time to time. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules and/or completely new versions. Customer agrees to receive (and permit Provider to deliver) such updates as part of Customer's use of the Services. Provider may make new applications, features or functionality for the Services available from time to time, the use of which may be contingent upon Customer's agreement to additional terms.
- 1.4 Privacy Policy. The Services and its interaction with the administered Supported Chrome OS Hardware are subject to Provider's Privacy Policy. Changes to the Privacy Policy will be made as stated in the policy.
- 1.5 Supported Chrome OS Hardware. Subject to Sections 1.6 (No Hardware Supplied under these Product Passthrough Terms), 1.7 (Termination of Support for Supported Chrome OS Hardware), and 1.8 (Replacement Customer Hardware), the Services will function with Customer Hardware, and Provider will provide TSS for the use of the Chrome OS Services with Customer Hardware, for so long such hardware remains supported in accordance with the Supported Chrome OS Hardware End of Life Policy.
- 1.6 No Hardware Supplied under these Product Passthrough Terms. For clarity, these Product Passthrough Terms does not cover the purchase, replacement, updating or support of any hardware. Provider is under no obligation to provide Customer with hardware, hardware replacement, hardware updates, or hardware support under these Product Passthrough Terms. Notwithstanding the foregoing, Supported Chrome OS Hardware may require updates designed to improve, enhance and further develop the operation of the Supported Chrome OS Hardware with the Services and may take the form of bug fixes, enhanced functions, new software modules and/or completely new versions. Although Provider does not provide such updates under these Product Passthrough Terms, it is the Customer's responsibility to ensure that Customer Hardware is updated properly in accordance with the terms of use of the applicable Supported Chrome OS Hardware and the terms of use in the TSS Guidelines. If Customer Hardware is not updated, it may cease to be deemed Supported Chrome OS Hardware as described in the TSS Guidelines and it may not function with the Services.
- 1.7 Termination of Support for Supported Chrome OS Hardware. Over time, Hardware that was initially Supported Chrome OS Hardware may cease to be supported in accordance with the Supported Chrome OS Hardware End of Life Policy, at which point the Services may cease to function with, and Provider may cease to provide TSS for use of the Chrome OS Services with, that Supported Chrome OS Hardware. For such Supported Chrome OS Hardware, Customer may be informed via Customer's Admin Console or online under Provider's Supported Chrome OS Hardware End of Life Policy at least 90 days in advance of the date that such Supported Chrome OS Hardware will cease to be supported.
- 1.8 Replacement Customer Hardware. Except where the relevant License Term is perpetual, Customer may at any time, via such procedure as Provider may prescribe, transfer a License to use the Chrome

OS Services with a unit of Customer Hardware (including when such unit ceases to be supported in accordance with the Supported Chrome OS Hardware End of Life Policy) to a replacement unit of Customer Hardware.

- 1.9 Reservation of Rights. Except as expressly specified herein, these Product Passthrough Terms does not grant Customer any rights, implied or otherwise, to Provider'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. Provider (and/or its licensors or suppliers) owns all Intellectual Property Rights in the Services.

2. **Customer Obligations.**

- 2.1 Customer Administration of the Services. Customer may specify one or more Administrators through the Admin Console who will have the rights to access Admin Account(s) to administer the Services. Customer is responsible for: (a) maintaining the confidentiality of the password and Admin Account(s); (b) designating those individuals who are authorized to access the Admin Account(s); (c) ensuring that all activities that occur in connection with the Admin Account(s) comply with these Product Passthrough Terms; and (d) promptly notifying Provider of any unauthorized use of, or access to, the Admin Console of which it becomes aware. For the avoidance of doubt, Customer remains responsible for the foregoing obligations if Customer designates a third party as an Administrator.
- 2.2 End User Consent. Customer's Administrators may have the ability to access, monitor, use, or disclose data available to End Users within the Services and data about location of Supported Chrome OS Hardware. Customer will obtain and maintain all required consents from End Users to allow: (a) Customer's access, monitoring, use and disclosure of this data and Provider providing Customer with the ability to do so and (b) Provider to provide the Services.
- 2.3 Educational Institutions. If Customer is an educational institution, Customer acknowledges and agrees that it is solely responsible for compliance with the Children's Online Privacy Protection Act of 1998, including, but not limited to, obtaining parental consent concerning collection of students' personal information used in connection with the provisioning and use of the Services by the Customer and End Users.

3. **Restrictions.**

- 3.1 Generally. Subject to Section 3.2 (Third Party Components), Customer will not, and will not allow others to do any of the following unless required by law, or unless Provider consents in writing: (a) adapt, alter, modify, decompile, translate, disassemble, or reverse engineer the Services, or any component thereof; (b) 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; (c) use the Services for High Risk Activities; (d) transfer, sublicense, distribute, sell, lease or use for timesharing or service bureau purposes the Services or any component of the Services; or (e) remove or alter any Brand Features or other proprietary notices on or in the Services.
- 3.2 Third Party Components. To the extent the Services includes components governed by open source licenses with provisions inconsistent with these Product Passthrough Terms, 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, Provider hereby provides that source code consistent with those licenses. Provider hereby provides the Third Party Component Notice.

4. **Brand Features.**

- 4.1 Display of Brand Features. Provider 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 into the Services). Customer may specify the nature of this use using the Admin Console. Provider may also display Provider-Brand Features on the Services to indicate that the Services is provided by Provider. Customer may not display or use Provider's Brand Features.
- 4.2 Brand Features Limitation. Any use of a Provider's Brand Features will inure to the benefit of Provider. Provider may revoke Customer's right to use its Brand Features pursuant to these Product Passthrough Terms with written notice and a reasonable period to stop the use.

5. **Technical Support Services.**

- 5.1 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 the requests.
- 5.2 By Provider. If Customer cannot resolve a support issue consistent with the above, then Customer may escalate the issue to Distributor Authorized Reseller in accordance with the TSS Guidelines. Subject to Sections 1.5 (Supported Chrome OS Hardware), 1.6 (No Hardware Supplied under these Product Passthrough Terms), 1.7 (Termination of Support for Supported Chrome OS Hardware), and 1.8 (Replacement Customer Hardware) above, Provider will provide TSS to Customer in accordance with the TSS Guidelines.
- 5.3 Changes to TSS Guidelines. Provider may make commercially reasonable changes to the TSS Guidelines from time to time. If Provider makes a material change to the TSS Guidelines, Customer will be informed by either receiving an email to the Notification Email Address or an alert via the Admin Console.

6. **Disclaimers.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, PROVIDER NOR 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 NON-INFRINGEMENT. PROVIDER 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. 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.

7. **Term and Termination.**

- 7.1 License Term. Subject always to early termination in accordance with these Product Passthrough Terms and to Section 1.7 (Termination of Support for Hardware), any License(s) purchased will: (a) commence on the Service Commencement Date or, for Licenses purchased after the Service Commencement Date, on the date specified in the relevant Order Form, and (b) continue for the license period(s) specified for the SKU(s) listed on the relevant Order Form accepted by Provider (each such period being a "License Term"). If any additional Licenses are purchased during a then-current License Term (an "Existing License Term") and correspond to a SKU listed on an Order Form previously accepted by Provider, they will have a pro-rated License Term ending on expiry (if applicable) of the Existing License Term.
- 7.2 Product Passthrough Terms Term. These Product Passthrough Terms will commence on the Service Commencement Date and will remain in force until expiry (if applicable) of all License Terms.
- 7.3 Termination for Breach. Provider terminate these Product Passthrough Terms and Customer's use of the Services if: (a) Customer is in material breach of these Product Passthrough Terms and fails to cure that breach within 30 days after receipt of written notice; or (b) Customer is in material breach of these Product Passthrough Terms more than two times notwithstanding any cure of such breaches.
- 7.4 Effects of Termination. Termination is effective immediately unless otherwise specified in the termination notice. Termination of these Product Passthrough Terms also terminates all then-outstanding Order Forms. Upon expiration or termination of these Product Passthrough Terms, the rights granted by way of these Product Passthrough Terms to the other will cease immediately (except as specified in this Section).
- 7.5 Survival. The following sections will survive expiration or termination of these Product Passthrough Terms: 1.3 (Modification and Updates to the Services), 1.9 (Reservation of Rights), 2.2 (End User Consent), 3 (Restrictions), 6 (Disclaimers), 8 (Confidentiality), and 11 (Miscellaneous).

8. **Confidentiality.**

8.1 General. 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 these Product Passthrough Terms, and that they keep it confidential.

8.2 Disclosure of Confidential Information.

- a. General. Subject to this section 9.2, Provider may disclose Customer's Confidential Information (i) pursuant to a Legal Process or (ii) with Customer's written consent. Customer is responsible for responding to all third party requests or Legal Process relating to its and its End Users' use of the Services.
- b. Notification.
 - i. General Notification. Before disclosing Confidential Information pursuant to a Legal Process, the disclosing entity will promptly notify the other entity. Provider will give notice to the Customer via the Notification Email Address.
 - ii. Delayed Notification. If a party is informed that the Legal Process relates to exceptional circumstances involving danger of death or serious physical injury to any person, such party may disclose the other entity's Confidential Information pursuant to the Legal Process and will provide notice to the other entity as soon as reasonably practicable.
 - iii. Exceptions to Notification. Subsections 8.2b(i) and 8.2b(ii) do not apply if an entity is informed that it is legally prohibited from giving notice.
- c. Opposition. The disclosing party will comply with the other entity's reasonable requests relating to efforts to oppose disclosure of its Confidential Information.

9. **Possible Infringement.**

9.1 Options. If Provider reasonably believes the Services infringe a third party's copyright, trademark rights, or trade secrets, then Provider will: (a) obtain the right for Customer, at Provider's expense, to continue to use the Services; (b) provide a non-infringing replacement with substantially the same functionality; or (c) modify the Services so that they no longer infringe.

9.2 Suspension or Termination. If Provider does not believe the foregoing options are commercially reasonable, then Provider may suspend or terminate Customer's use of the impacted portion of the Services.

10. **Publicity**. Customer agrees that Provider may include Customer's name and Brand Features in a list of Provider's customers. Customer also agrees that Provider may verbally reference Customer as a customer of the Provider products or services that are the subject of these Product Passthrough Terms.

11. **Miscellaneous.**

11.1 Force Majeure. Provider will not be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control.

11.2 Export Compliance. Customer will comply with, and will obtain all prior authorization from the competent government authorities required by, the Export Control Laws.

11.3 No Waiver. Failure to enforce any provision of these Product Passthrough Terms will not constitute a waiver.

11.4 No Agency. These Product Passthrough Terms do not create any agency, partnership or joint venture.

11.5 No Third Party Beneficiaries. These Product Passthrough Terms does not confer any benefits on any third party unless it expressly states that it does.

- 11.6 Severability. If any term (or part of a term) of these Product Passthrough Terms is invalid, illegal or unenforceable, the rest of these Product Passthrough Terms will remain in effect.
- 11.7 Conflicting Terms. If there is a conflict between any terms of these Product Passthrough Terms and any other document that makes up the entire agreement as needed for Customer to use the Product, the terms of these Product Passthrough Terms will take precedence.

12. Definitions.

"Admin Console" means the online tool provided by Provider 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.

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

"Brand Features" means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each Customer or Provider, respectively.

"Confidential Information" means information that is disclosed by or to Customer under these Product Passthrough Terms, and that is marked as confidential or would normally be considered confidential 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 an entity.

"Customer Hardware" means each unit of Supported Chrome OS Hardware registered by Customer from time to time for use with the Services, provided that Customer has not deregistered such unit.

"Documentation" means the description of the Services available at the following URL: <https://support.google.com/chrome/a/answer/1289314?hl=en>, or such other URL as Provider may provide, as such description may be updated from time to time.

"End Users" means the individuals Customer permits to use 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.

"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.

"Legal Process" 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.

"License Term" has the meaning given in Section 8.1.

"Notification Email Address" means the email address designated by Customer to receive email notifications from Provider. Customer may change this email address through the Admin Console.

"Order Form" means the written or online order document indicating that Customer has signed up for the Services. Each Order Form is subject to the terms of these Product Passthrough Terms.

"Privacy Policy" means Provider's privacy policy available at the following URL: <http://www.google.com/policies/privacy/>, or such other URL as Provider may provide, as such policy may be updated from time to time.

"Provider" means the third party provider of the Service.

"Service Commencement Date" means after acceptance of the initial Order Form, the date the Services are made available to Customer.

"Services" means the Chrome OS for Business and Education Services provided by Provider to a Customer or as described at the following URL: <https://support.google.com/chrome/a/answer/1289314?hl=en>, or such other URL as Provider may provide.

"Supported Chrome OS Hardware" means the proprietary Chrome OS computer hardware device described in the TSS Guidelines.

"Supported Chrome OS Hardware End Of Life Policy" means Provider's device end of life policy available at the following URL: <http://www.google.com/intl/en/chrome/devices/eol.html>, or such other URL as Provider may provide.

"Third Party Component Notice" means the notice available at the following URL: <http://www.google.com/chromebook/business-education-tos-additional.html>, or such other URL as may be provided, as such notice may be updated from time to time.

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

"TSS" means the technical support services provided for the Services identified in the Order Form.

"TSS Guidelines" means Provider's technical support services guidelines then in effect for the Services. TSS Guidelines are available at the following URL: <http://support.google.com/enterprise/terms>, or other such URL as Provider may provide.