

## Google Apps for Education Agreement

This Google Apps for Education Agreement (the “Agreement”) is entered into by and between Google Inc. (“Google”), with offices at 1600 Amphitheatre Parkway, Mountain View, California 94043 and UNIVERSITY OF GUELPH, with an address at 50 Stone Road West, Guelph, Ontario N1G 2W1 Canada (“Customer”). This Agreement governs Customer’s access to and use of the Services and will be effective as of the Effective Date.

### 1. Services.

1.1 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. Google has implemented at least industry standard systems and procedures to ensure the security and confidentiality of Customer Data, protect against anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access to or use of Customer Data. 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.

### 1.2 Modifications.

- (a) 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, Google will inform Customer, provided that Customer has subscribed with Google to be informed about such material change.
- (b) To URL Terms. Google may make commercially reasonable changes to the URL Terms from time to time. If Google makes a material change to the URL Terms, Google will inform Customer by either sending an email to the Notification Email Address or alerting Customer via the Admin Console. If the change has a material adverse impact on Customer and Customer does not agree to the change, Customer must so notify Google via the Help Center within thirty days after receiving notice of the change. If Customer notifies Google as required, then Customer will remain governed by the terms in effect immediately prior to the change until the end of the then-current Term. If the Services are renewed, they will be renewed under Google’s then current URL Terms.

1.3 Aliases. Customer is solely responsible for monitoring, responding to, and otherwise processing emails sent to the “abuse” and “postmaster” aliases for Customer Domain Names but Google may monitor emails sent to these aliases for Customer Domain Names to allow Google to identify Services abuse.

### 1.4 Ads.

- (a) Default. The default setting for the Services is one that does not allow Google to serve Ads. Customer may change this setting in the Admin Console, which constitutes Customer’s authorization for Google to serve Ads. If Customer enables the serving of Ads, it may revert to the default setting at any time and Google will cease serving Ads.
- (b) Selectively Showing Ads. Notwithstanding Section 1.4(a), if Customer separates different classifications of End Users by domain or Google provides the capability for Customer to show Ads only to particular sets of End Users within the same domain, then Customer must enable the serving of Ads to End Users who are Alumni.

1.5 End User Accounts. Customer may request End User Accounts by: (i) requesting them online via the Admin Console; or (ii) after the Services Commencement Date, contacting Google support personnel. Customer can suspend or delete End User Accounts at any point in time through the Admin Console.

1.6 Google Apps Vault. If Customer purchases Google Apps Vault, the following additional terms apply:

- a. Retention. Google will have no obligation to retain any archived Customer Data beyond the retention period specified by Customer (other than for any legal holds). If Customer does not renew Google Apps Vault, Google will have no obligation to retain any archived Customer Data.
- b. Initial Purchase of Google Apps Vault. At its initial purchase of Google Apps Vault, Customer agrees to purchase Google Apps Vault End User Accounts for all of its Staff who have Google Apps for Education End User Accounts. Customer may use Google Apps Vault for Students and Alumni at no charge.
- c. Additional Staff End User Accounts. After Customer has made its initial purchase of Google Apps Vault, if during any Services Term Customer adds at least 20% more Staff End User Accounts than it purchased previously during that Services Term, Customer agrees to purchase Google Apps Vault for those additional End User Accounts for the remainder of Customer’s then current Google Apps Vault Services Term. In addition, on each anniversary of the Billing Start Date, Customer agrees to purchase Google Apps Vault for any additional Staff

End User Accounts it adds beyond those purchased previously, for the remainder of Customer's then current Google Apps Vault Services Term.

2. Customer Obligations.

- 2.1 Permitted Uses. The Services are permitted for use only by (a) non-profit educational institutions and (b) other non-profit entities (as defined under the relevant state statutes) with 3,000 or less End User Accounts.
- 2.2 Compliance. Customer will use the Services in accordance with the Acceptable Use Policy. Google 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. In addition, Google will make other Non-Google Apps Products (beyond the Services) available to Customer and its End Users in accordance with the Non-Google Apps Product Terms and the applicable product-specific Google terms of service. If Customer does not desire to enable any of the Non-Google Apps Products, Customer can enable or disable them at any time through the Admin Console.
- 2.3 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) and to administer the End User Accounts. 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); and (c) ensuring that all activities that occur in connection with the Admin Account(s) comply with the Agreement. 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.
- 2.4 End User Consent. Customer's Administrators may have the ability to access, monitor, use, or disclose data available to End Users within the End User Accounts. Customer will obtain and maintain all required consents from End Users to allow: (i) Customer's access, monitoring, use and disclosure of this data and Google providing Customer with the ability to do so and (ii) Google to provide the Services.
- 2.5 Unauthorized Use. Customer will use commercially reasonable efforts to prevent unauthorized use of the Services and to terminate any unauthorized use. Customer will promptly notify Google of any unauthorized use of, or access to, the Services of which it becomes aware.
- 2.6 Restrictions on Use. Unless Google specifically agrees in writing, Customer will not, and will use commercially reasonable efforts to make sure a third party does not: (a) sell, resell, lease, or the functional equivalent, the Services to a third party (unless expressly authorized in this Agreement); (b) attempt to reverse engineer the Services or any component; (c) attempt to create a substitute or similar service through use of, or access to, the Services; (d) use the Services for High Risk Activities; or (e) use the Services to store or transfer any Customer Data that is controlled for export under Export Control Laws. Customer is solely responsible for any applicable compliance with HIPAA.
- 2.7 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: (a) promptly notify Customer of its receipt of a Third Party Request; (b) comply with Customer's reasonable requests regarding its efforts to oppose a Third Party Request; and (c) provide Customer with the information or tools 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. Payment. If any of the Services are purchased for a Fee, the terms in this Section 3 apply to those Services.

- 3.1 Payment. All Fees are due thirty days from the invoice date. All payments due are in U.S. dollars unless otherwise indicated in an Order Form. Payments made via wire transfer must include the following instructions:

Bank Name:	ABA Number:	Account Number:
Wells Fargo Bank	121000248	4375669785
Palo Alto, California USA	Google Inc.	

- 3.2 Delinquent Payments. Delinquent payments may bear interest at the rate of one-and-one-half percent 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.
- 3.3 Purchase Orders.
  - a. Required. If Customer wants a Purchase Order number on its invoice, Customer will inform Google and issue a Purchase Order to Google. If Customer requires a Purchase Order, and fails to provide the Purchase Order to Google, then Google will not be obligated to provide the Services until the Purchase Order has been received by Google. Any terms and conditions on a Purchase Order do not apply to this Agreement and are null and void.

- b. Not Required. If Customer does not require a Purchase Order number to be included on the invoice, Customer will provide Google a waiver of the Purchase Order requirement, which may be an email to this effect. If Customer waives the Purchase Order requirement, then: (a) Google will invoice Customer without a Purchase Order; and (b) Customer agrees to pay invoices without a Purchase Order.
- 3.4 Taxes. Customer is responsible for any Taxes, and Customer will pay Google for the Services without any reduction for Taxes. If Google is obligated to collect or pay Taxes, the Taxes will be invoiced to Customer, unless Customer provides Google with a valid tax exemption certificate authorized by the appropriate taxing authority. If Customer is required by law to withhold any Taxes from its payments to Google, Customer must provide Google with an official tax receipt or other appropriate documentation to support such payments.
- 3.5 Invoice Disputes. Any invoice disputes must be submitted prior to the invoice 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.
- 4. Invoicing; Rates. If any of the Services are purchased for a Fee, the terms in this Section 4 apply to those Services. On or after the Billing Start Date, Google will invoice Customer the following Fees for each applicable Service: in advance for the Monthly Charge, Annual Charge or Initial Term Charge (as applicable), all of which will be set forth in the Order Form.
- 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 them to Google.
  - 5.2 By Google. If Customer cannot resolve a support issue consistent with the above, then Customer may escalate the issue to Google in accordance with the TSS Guidelines. Google will provide TSS to Customer in accordance with the TSS Guidelines.
- 6. Suspension.
  - 6.1 Of End User Accounts by Google. If Google becomes aware of an End User's violation of the Agreement, then Google may specifically request that Customer Suspend the applicable End User Account. If Customer fails to comply with Google's request to Suspend an End User Account, then Google may do so. The duration of any Suspension by Google will be until the applicable End User has cured the breach, which caused the Suspension.
  - 6.2 Emergency Security Issues. Notwithstanding the foregoing, 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.
- 7. Confidential Information.
  - 7.1 Obligations. Each party will: (a) protect the other party's Confidential Information with the same standard of care it uses to protect its own Confidential Information; and (b) not disclose the Confidential Information, except to Affiliates, employees and agents who need to know it and who have agreed in writing to keep it confidential. Each party (and any Affiliates, employees and agents to whom it has disclosed Confidential Information) may use Confidential Information only to exercise rights and fulfill its obligations under this Agreement, while using reasonable care to protect it. Each party is responsible for any actions of its Affiliates, employees and agents in violation of this Section.
  - 7.2 Exceptions. Confidential Information does not include information that: (a) the recipient of the Confidential Information already knew; (b) becomes public through no fault of the recipient; (c) was independently developed by the recipient; or (d) was rightfully given to the recipient by another party.
  - 7.3 Required Disclosure. Each party may disclose the other party's Confidential Information when required by law but only after it, if legally permissible: (a) uses commercially reasonable efforts to notify the other party; and (b) gives the other party the chance to challenge the disclosure.
  - 7.4 FERPA. The parties acknowledge that (a) Customer Data may include personally identifiable information from education records that are subject to FERPA ("FERPA Records"); and (b) to the extent that Customer Data includes FERPA Records, Google will be considered a "School Official" (as that term is used in FERPA and its implementing regulations) and will comply with FERPA.

## 8. Intellectual Property Rights; Brand Features.

- 8.1 Intellectual Property Rights. Except as expressly set forth herein, 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. As between the parties, Customer owns all Intellectual Property Rights in Customer Data, and Google owns all Intellectual Property Rights in the Services.
- 8.2 Display of Brand Features. Google may display those Customer Brand Features authorized by Customer (such authorization is provided by Customer uploading its Brand Features into the Services) within designated areas of the Services Pages. Customer may specify the nature of this use using the Admin Console. Google may also display Google Brand Features on the Services Pages to indicate that Google provides the Services. 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.
- 8.3 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.

## 9. Publicity. Customer agrees that Google may include Customer's name or Brand Features in a list of Google customers, online or in promotional materials. Customer also agrees that Google may verbally reference Customer as a customer of the Google products or services that are the subject of this Agreement. This Section is subject to Section 8.3.

## 10. Representations, Warranties and Disclaimers.

- 10.1 Representations and Warranties. Each party represents that it has full power and authority to enter into the Agreement. Each party warrants that it will comply with all laws and regulations applicable to its provision, or use, of the Services, as applicable (including applicable security breach notification law). Google warrants that it will provide the Services in accordance with the applicable SLA. 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.
- 10.2 Disclaimers. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY MAKES 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 MAKES NO REPRESENTATIONS 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.

## 11. Term; Fees.

- 11.1 Agreement Term. This Agreement will remain in effect for the Term.
- 11.2 Services Term and Purchases During Services Term. Google will provide the Services to Customer during the Services Term. Unless the parties agree otherwise in writing, End User Accounts added during any Services Term will have a prorated term ending on the last day of that Services Term.
- 11.3 Auto Renewal. At the end of each Services Term, the Services (and all End User Accounts previously purchased for a Fee) will automatically renew for an additional Services Term of twelve months. If either party does not want the Services to renew, then it must notify the other party in writing at least 15 days prior to the end of the then current Services Term. This notice of non-renewal will be effective upon the conclusion of the then current Services Term.
- 11.4 Fees. During the Initial Term, Google will not charge Customer Fees for the Services (other than for Google Apps Vault or paid storage, if applicable). Upon the parties' mutual written agreement, (a) Google may charge Customer Fees for the Services after the Initial Services Term and (b) Google may charge Customer Fees for a premium version of the Services or for optional functionality or enhancements that may be added to the Services by Google (such as Google Apps Vault or paid storage, if applicable).
- 11.5 Services Use. Customer has no obligation to use the Services and may cease using the Services at any time for any reason (or no reason).
- 11.6 Revising Rates. For Services which Customer has purchased for a Fee, Google may revise its rates for the following Services Term by providing Customer written notice (which may be by email) at least thirty days prior to the start of the following Services Term.

## 12. Termination.

- 12.1 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 thirty 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 ninety days; or (iii) the other party is in material breach of this Agreement more than two times notwithstanding any cure of such breaches.
- 12.2 Other Termination. Customer may terminate this Agreement for any reason (or no reason) with thirty days prior written notice to Google, provided, however, that Customer will remain obligated to pay any Fees for Services which Customer has purchased applicable to the remainder of the then-current Services Term for those Services.
- 12.3 Effects of Termination. If this Agreement terminates, then: (i) the rights granted by one party to the other will cease immediately (except as set forth in this Section); (ii) Google will provide Customer access to, and the ability to export, the Customer Data for a commercially reasonable period of time at Google's then-current rates, if applicable, for the Services; (iii) after a commercially reasonable period of time, Google will delete Customer Data by removing pointers to it on Google's active servers and overwriting it over time; and (iv) upon request each party will promptly use commercially reasonable efforts to return or destroy all other Confidential Information of the other party.

## 13. Indemnification.

- 13.1 By Google. Google will indemnify, defend, and hold harmless Customer from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim that Google's technology used to provide the Services or any Google Brand Feature infringe or misappropriate any patent, copyright, trade secret or trademark of such third party. Notwithstanding the foregoing, in no event shall Google have any obligations or liability under this Section arising from: (i) use of the Services or Google Brand Features in a modified form or in combination with materials not furnished by Google, and (ii) any content, information or data provided by Customer, End Users or other third parties.
- 13.2 Possible Infringement.
- (a) Repair, Replace, or Modify. If Google reasonably believes the Services infringe a third party's Intellectual Property Rights, then Google will: (a) obtain the right for Customer, at Google's expense, to continue using the Services; (b) provide a non-infringing functionally equivalent replacement; or (c) modify the Services so that they no longer infringe.
- (b) Suspension or Termination. If Google does not believe the foregoing options are commercially reasonable, then Google may suspend or terminate Customer's use of the impacted Services. If Google terminates the impacted Services, then Google will provide a pro-rata refund of the unearned Fees (if applicable) actually paid by Customer applicable to the period following termination of such Services.
- 13.3 General. Customer will promptly notify Google of the claim and cooperate with Google in defending the claim. Google has full control and authority over the defense, except that: (a) any settlement requiring Customer to admit liability or to pay any money will require Customer's prior written consent, such consent not to be unreasonably withheld or delayed; and (b) Customer may join in the defense with its own counsel at its own expense. **THE INDEMNITY ABOVE IS CUSTOMER'S ONLY REMEDY UNDER THIS AGREEMENT FOR VIOLATION BY GOOGLE OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.**

## 14. Limitation of Liability.

- 14.1 Limitation on Indirect Liability. NEITHER PARTY WILL BE LIABLE UNDER THIS AGREEMENT FOR LOST REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY.
- 14.2 Limitation on Amount of Liability. NEITHER PARTY MAY BE HELD LIABLE UNDER THIS AGREEMENT FOR MORE THAN THE GREATER OF: (I) ONE THOUSAND DOLLARS OR (II) THE AMOUNT PAID BY CUSTOMER TO GOOGLE UNDER THIS AGREEMENT DURING THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.
- 14.3 Exceptions to Limitations. These limitations of liability apply to the fullest extent permitted by applicable law, but do not apply to breaches of confidentiality obligations, violations of a party's Intellectual Property Rights by the other party, or indemnification obligations.

## 15. Miscellaneous.

- 15.1 Notices. Unless specified otherwise herein: (a) all notices must be in writing and addressed to the attention of the other party's legal department and primary point of contact; and (b) notice will be deemed given: (i) when verified by written receipt if sent by personal courier, overnight courier, or when received if sent by mail without verification of receipt; or (ii) when verified by automated receipt or electronic logs if sent by facsimile or email.
- 15.2 Assignment. Neither party may assign or transfer any part of this Agreement without the written consent of the other party, except to an Affiliate, but only if: (a) the assignee agrees in writing to be bound by the terms of this Agreement; and (b) the assigning party remains liable for obligations incurred under the Agreement prior to the assignment. Any other attempt to transfer or assign is void.
- 15.3 Change of Control. Upon a change of control (for example, through a stock purchase or sale, merger, or other form of corporate transaction): (a) the party experiencing the change of control will provide written notice to the other party within thirty days after the change of control; and (b) the other party may immediately terminate this Agreement any time between the change of control and thirty days after it receives the written notice in subsection (a).
- 15.4 Force Majeure. Neither party will be liable for inadequate performance to the extent caused by a condition (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance) that was beyond the party's reasonable control.
- 15.5 No Waiver. Failure to enforce any provision of this Agreement will not constitute a waiver.
- 15.6 Severability. If any provision of this Agreement is found unenforceable, the balance of the Agreement will remain in full force and effect.
- 15.7 No Agency. The parties are independent contractors, and this Agreement does not create an agency, partnership or joint venture.
- 15.8 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.
- 15.9 Equitable Relief. Nothing in this Agreement will limit either party's ability to seek equitable relief.
- 15.10 Governing Law.
- a. For City, County and State Government Entities. If Customer is a city, county, or state government entity, then the parties agree to remain silent regarding governing law and venue.
  - b. For All other Entities. If Customer is any entity not set forth in Section 15.10(a) then the following applies: This Agreement is governed by New York law, excluding that state's choice of law rules. FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PARTIES CONSENT TO PERSONAL JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE COURTS IN NEW YORK CITY, NEW YORK.
- 15.11 Amendments. Any amendment must be in writing and expressly state that it is amending this Agreement.
- 15.12 Survival. The following Sections will survive expiration or termination of this Agreement: 7 (Confidential Information), 8.1 (Intellectual Property Rights), 12.3 (Effects of Termination), 13 (Indemnification), 14 (Limitation of Liability), 15 (Miscellaneous), and 16 (Definitions).
- 15.13 Entire Agreement. This Agreement, and all documents referenced herein, is the parties' entire agreement relating to its subject and supersedes any prior or contemporaneous agreements on that subject. If Customer is presented with a similar agreement on the same subject matter upon its log in to use the Services, this Agreement supersedes and replaces that agreement. The terms located at a URL and referenced in this Agreement are hereby incorporated by this reference.
- 15.14 Interpretation of Conflicting Terms. If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: the Order Form (if applicable), the Agreement, and the terms located at any URL.
- 15.15 Counterparts. The parties may enter into this Agreement by executing the applicable Order Form (if any) or this Agreement in counterparts, including facsimile, PDF or other electronic copies, which taken together will constitute one instrument.

16. Definitions.

"Acceptable Use Policy" means the acceptable use policy for the Services available at [http://www.google.com/a/help/intl/en/admins/use\\_policy.html](http://www.google.com/a/help/intl/en/admins/use_policy.html) or such other URL as may be provided by Google.

“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 reporting and certain other administration functions.

“Administrators” mean the Customer-designated technical personnel who administer the Services to End Users on Customer’s behalf.

“Ads” means online advertisements displayed by Google to End Users.

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with a party.

“Agreement” means, as applicable either this Google Apps for Education Agreement, or the combination of an Order Form and this Google Apps for Education Agreement.

“Alumni” means graduates or former Students of Customer.

“Annual Charge” means the annual charge for the Services set forth in the Order Form (if applicable).

“Billing Start Date” means the date upon which Customer will begin paying Google for the Services (if applicable).

“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.

“Confidential Information” means information disclosed by a party to the other party under this Agreement that is marked as confidential or would normally be considered confidential under the circumstances. Customer Data is considered Customer’s Confidential Information.

“Customer Data” means data, including email, provided, generated, transmitted or displayed via the Services by Customer or End Users.

“Customer Domain Names” means the following domain names owned or controlled by Customer, which will be used in connection with the Services: mail.uoguelph.ca. Customer may provide the Services to any of its sub-domains (for example, if Customer Domain Name is “edu.com”, a sub-domain may include “alumni.edu.com”) without written approval from Google.

“Effective Date” means the date this Agreement is countersigned.

“Emergency Security Issue” means either: (a) Customer’s use of the Services in violation of the Acceptable Use Policy, which could disrupt: (i) the Services; (ii) other customers’ use of the Services; or (iii) the Google network or servers used to provide the Services; or (b) unauthorized third party access to the Services.

“End Users” means the individuals Customer permits to use the Services.

“End User Account” means a Google-hosted account established by Customer through the Services for an End User.

“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 for the Services (if applicable) as described in this Agreement.

“FERPA” means the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and the Family Educational Rights and Privacy Act Regulations (34 CFR Part 99), as amended or otherwise modified from time to time.

“Help Center” means the Google help center accessible at <http://www.google.com/support/>, or other such URL as Google may provide.

“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.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as may be amended from time to time, and any regulations issued thereunder.

“Intellectual Property Rights” means current and future worldwide rights under patent law, copyright law, trade secret law, trademark law, moral rights law, and other similar rights.

“Initial Services Term” means the term for the applicable Services beginning on the Service Commencement Date and continuing for the “Current Services Term” set forth in the Order Form from the Billing Start Date (if an Order Form applies to the Services) or if no Order Form applies to the Services, for the term that begins on the Effective Date and continues for 3 years.

“Initial Term Charge” means the charge for the Services for the Initial Services Term (excluding any applicable one time fees), as set forth in the Order Form (if applicable).

“Monthly Charge” means the monthly charge for the Services set forth in the Order Form (if applicable).

“Non-Google Apps Products” means Google products which are not part of the Services, but which may be accessed by End Users using their End User Account login and password. The Non-Google Apps Products are set forth at the following URL: <http://www.google.com/support/a/bin/answer.py?hl=en&answer=181865>, or such other URL as Google may provide.

“Non-Google Apps Product Terms” means the terms found at the following URL: [http://www.google.com/apps/intl/en/terms/additional\\_services.html](http://www.google.com/apps/intl/en/terms/additional_services.html), or such other URL as Google may provide from time to time.

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

“Order Form” means an order form, which is the written document provided by Google specifying the Services Customer will purchase from Google for a Fee (if any) under the Agreement. The Order Form will contain: (i) a signature block for Customer, or for both Customer and Google; (ii) applicable service SKUs; (iii) Fees (if applicable); and (iv) number of, and current Services Term for, any End User Accounts.

“Purchase Order” means a Customer issued purchase order.

“Services” means the Google Apps for Education Services (and if applicable, the Google Apps Vault Services) provided by Google and used by Customer under this Agreement. The Services are described here: [http://www.google.com/a/help/intl/en/users/user\\_features.html](http://www.google.com/a/help/intl/en/users/user_features.html), or such other URL as Google may provide.

“Service Commencement Date” is the date upon which Google makes the Services available to Customer.

“Services Pages” mean the web pages displaying the Services to End Users.

“Services Term” means the Initial Services Term and all renewal terms for the applicable Services.

“SLA” means the Services Level Agreement located here: <http://www.google.com/a/help/intl/en/admins/sla.html>, or other such URL as Google may provide.

“Staff” means an individual (including any faculty) who is or has been employed by Customer. Any Student or Alumni who are also Staff are deemed Staff under this Agreement (and excluded from the Student or Alumni definition) if they have been employed by Customer within the last twelve months.

“Student” means an individual who has been registered for classes offered by Customer within the last twelve months.

“Suspend” means the immediate disabling of access to the Services, or components of the Services, as applicable, to prevent further use of the Services.

“Taxes” means any duties, customs fees, or taxes (other than Google’s income tax) associated with the sale of the Services, including any related penalties or interest.

“Term” means the term of the Agreement, which will begin on the Effective Date and continue until the earlier of: (i) the end of the last Services Term or (ii) the Agreement is terminated as set forth herein.

“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.

“TSS” means the technical support services provided by Google to the Administrators during the Term pursuant to the TSS Guidelines.



"TSS Guidelines" means Google's technical support services guidelines then in effect for the Services. TSS Guidelines are at the following URL: <http://www.google.com/a/help/intl/en/admins/tssg.html> or such other URL as Google may provide.

"URL Terms" means the Acceptable Use Policy, the SLA, and the TSS Guidelines.

IN WITNESS WHEREOF, the parties have executed this Agreement by persons duly authorized as of the Effective Date.

Google

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Customer

By: *Rebecca A. Graham*  
(Authorized Signature)

*Rebecca A. Graham*  
(Print Name)

Title: *CIP / Chief Librarian*

Date: *9 July 2014*

[Note: In the alternative, this Agreement may also be executed via a mutually signed Order Form]



## Addendum

This Addendum (the "Addendum") is incorporated by reference into the Google Apps Enterprise Agreement, Google Apps for Education Agreement, Google Apps for Government Agreement, Google Apps for Business via Reseller Agreement, Google Apps for Government via Reseller Agreement, or Google Apps Enterprise via Reseller Agreement attached to this Addendum between Google and the Customer (as applicable, the "Agreement"). The provisions of this Addendum shall amend or supplement the referenced section(s) of the Agreement as indicated below.

WHEREAS, the parties desire to modify certain provision(s) of the Agreement;

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

1. Publicity. The "Publicity" section of the Agreement is deleted and replaced in its entirety with the following:

"Customer agrees that Google may include Customer's name in a list of Google customers, online or in promotional materials. Customer also agrees that Google may verbally reference Customer as a customer of the Google products or services that are the subject of this Agreement."
2. Security Standards. The following is added to the Agreement:

"Security Standards. As of the Effective Date, Google abides by the security standards set forth as Exhibit: Security Standards to the Addendum (the "Security Standards"). During the Term of the Agreement, the Security Standards may change but Google agrees that any such change shall not cause a material degradation in the security of the Services."
3. Representations and Warranties. The parties hereby agree to replace in its entirety the section under the Agreement titled "Representations and Warranties" with the following:

"Each party represents that it has full power and authority to enter into the Agreement. Each party warrants that it will comply with all laws and regulations applicable to its provision, or use, of the Services, as applicable (including applicable security breach notification law). Google warrants that it will provide the Services in accordance with the applicable SLA. Customer acknowledges and agrees that it is solely responsible for compliance with the Children's Online Privacy Protection Act of 1998 (if applicable), 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."
4. FIPAA.
  - a. Acknowledgement Regarding FIPPA. "FIPPA" means the Freedom of Information and Protections of Privacy Act (Ontario), as amended or otherwise modified from time to time. Customer advises Google that Customer is subject to FIPPA. Google covenants and agrees to utilize commercially reasonable efforts to provide Customer with timely access to End User Accounts and Customer Data as limited by section 2.7 (Third Party Requests). Customer is responsible for evaluating whether use of the Services is consistent with its legal obligations under FIPPA.
  - b. Indemnification By Customer. Customer agrees to indemnify Google from and against any fines relating to FIPPA violations.
5. Miscellaneous. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event of a conflict between the terms and conditions of the Agreement and the terms and conditions of this Addendum, the terms and conditions of this Addendum shall govern.

## **EXHIBIT: SECURITY STANDARDS**

In these Security Standards below, unless specified herein, "Services" means the following: Google Apps for Business, Google Apps for Education, Google Apps for Government and Google Apps – Postini Services:

### **1. Data Center & Network Security.**

#### **a. Data Centers**

- i. **Infrastructure.** Google maintains a vast number of geographically distributed Google-owned or Google-managed data centers. Google stores all production data in physically secure data centers.
- ii. **Redundancy.** Infrastructure systems have been designed to eliminate single points of failure and minimize the impact of anticipated environmental risks. Dual circuits, switches, networks or other necessary devices help provide this redundancy. The Services are designed to allow Google to perform certain types of preventative and corrective maintenance without interruption. All environmental equipment and facilities have documented preventative maintenance procedures that detail the process for and frequency of performance in accordance with the manufacturer's or internal specifications. Preventative and corrective maintenance of the data center equipment is scheduled through a standard change process according to documented procedures.
- iii. **Power.** The data center electrical power systems are designed to be redundant and maintainable without impact to continuous operations, 24 hours a day, and 7 days a week. In most cases, a primary as well as an alternate power source, each with equal capacity, is provided for critical infrastructure components in the data center. Backup power is provided by various mechanisms such as uninterruptible power supplies (UPS) batteries, which supply consistently reliable power protection during utility brownouts, blackouts, over voltage, under voltage, and out-of-tolerance frequency conditions. If utility power is interrupted, backup power is designed to provide transitory power to the data center, at full capacity, for up to 10 minutes until the diesel generator systems take over. The diesel generators are capable of automatically starting up within seconds to provide enough emergency electrical power to run the data center at full capacity typically for a period of days.
- iv. **Server Operating Systems.** Google servers use a Linux based implementation customized for the Google application environment. Customer Data is stored using Google proprietary algorithms to augment data security and redundancy. Google employs a code review process to increase the security of the code used to provide the Services and enhance the security products in production environments.
- v. **Businesses Continuity.** Google has designed and regularly engages in actively planning and testing its business continuity planning/disaster recovery programs.

#### **b. Networks & Transmission.**

- i. **Data Transmission.** Data centers are typically connected via high-speed private links to provide secure and fast data transfer between data centers. Google transfers all Customer Data via Internet standard protocols.
- ii. **External Attack Surface.** Google employs multiple layers of network devices and intrusion detection to protect Google's external attack surface. Google considers potential attack vectors and incorporates appropriate purpose built technologies into external facing systems.
- iii. **Intrusion Detection.** Intrusion detection is intended to provide insight into ongoing attack activities and provide adequate information to respond to incidents. Google's approach to this involves:
  1. Tightly controlling the size and make-up of Google's attack surface through preventative measures;
  2. Employing intelligent detection controls at data entry points; and
  3. Employing technologies that automatically remedy certain dangerous situations.
- iv. **Incident Response.** Google monitors a variety of communication channels for security incidents, and Google's security personnel will react promptly to known incidents.

### **2. Access and Site Controls.**

#### **a. Site Controls.**

- i. **On-site Data Center Security Operation.** Each Google data center maintains an on-site security operation responsible for all physical data center security functions 24 hours a day, 7 days a week. The on-site security operation personnel monitor Closed Circuit TV (CCTV) cameras and all alarm systems. On-site Security operation personnel perform internal and external patrols of the data center regularly.
- ii. **Data Center Access Procedures.** Google maintains formal access procedures for allowing physical access to the data centers. The data centers are housed in facilities that require electronic card key access, with alarms that are linked to the on-site security operation. All entrants to the data center

are required to identify themselves as well as show proof of identity to on-site security operations. Only authorized Google employees, contractors and visitors are allowed entry to the data centers. Only Google employees and contractors are permitted to request electronic card key access to these facilities. Data center electronic card key access requests must be made through e-mail, and requires the approval of the requestor's manager and the data center director. All other entrants requiring temporary data center access must: (i) obtain approval in advance from the data center managers for the specific data center and internal areas they wish to visit; (ii) sign in at on-site security operations (iii) and reference an approved data center access record identifying the individual as approved.

iii. On-site Data Center Security Devices. Google data centers employ an electronic card key and biometric access control system that are linked to a system alarm. The access control system monitors and records each individual's electronic card key and when they access perimeter doors, shipping and receiving, and other critical areas. Unauthorized activity and failed access attempts are logged by the access control system and investigated, as appropriate. Authorized access throughout the business operations and data centers is restricted based on zones and the individual's job responsibilities. The fire doors at the data centers are alarmed. CCTV cameras are in operation both inside and outside the data centers. The positioning of the cameras has been designed to cover strategic areas including, among others, the perimeter, doors to the data center building, and shipping/receiving. On-site security operations personnel manage the CCTV monitoring, recording and control equipment. Secure cables throughout the data centers connect the CCTV equipment. Cameras record on site via digital video recorders 24 hours a day, 7 days a week. The surveillance records are retained for up to 90 days based on activity.

b. Access Control.

i. Infrastructure Security Personnel. Google has, and maintains, a security policy for its personnel, and requires security training as part of the training package for Google personnel. Google's infrastructure security personnel are responsible for the ongoing monitoring of Google's security infrastructure, the review of the Services, and for responding to security incidents.

ii. Access Control and Privilege Management. Administrators and End Users must authenticate themselves via a central authentication system or via a Customer's single sign on system in order to use the Services. Each application checks credentials in order to allow the display of data to an authorized End User or authorized Administrator.

iii. Internal Data Access Processes and Policies – Access Policy. Google employs a centralized access management system to control personnel access to Google production servers, and only provides access to a limited number of authorized personnel. LDAP, Kerberos and a Google proprietary system utilizing RSA keys are designed to provide Google with secure and flexible access mechanisms. These mechanisms are designed to grant only approved access rights to site hosts, logs, Customer Data and configuration information. Google requires the use of unique user IDs, strong passwords; two factor authentication and carefully monitored access lists to minimize the potential for unauthorized account use. The granting or modification of access rights is based on: the authorized personnel's job responsibilities; job duty requirements necessary to perform authorized tasks; a need to know basis; and must be in accordance with Google's internal data access policies and training. Approvals are managed by workflow tools that maintain audit records of all changes. Access to systems is logged to create an audit trail for accountability. Where passwords are employed for authentication at Google (e.g., login to workstations), password policies that follow at least industry standard practices are implemented. These standards include password expiry, restrictions on password reuse and sufficient password strength. For access to extremely sensitive information (e.g., Credit Card data), Google uses hardware tokens.

c. Audits and Certifications. During the Term, Google will maintain its Standard for Attestation Engagement No. 16 audit report or a comparable report ("Audit Report") and its ISO/IEC 27001:2005 Certification or a comparable certification ("ISO Certification") for Google Apps Core Services. Google will update the Audit Report, at least every eighteen (18) months.

d. Security Breach. To the extent a state or federal security breach law applies to a Security Breach, Google will comply with the applicable law. To the extent no such law applies to a Security Breach, Google will notify Customer of a Security Breach, following the discovery or notification of such Security Breach, in the most expedient time possible under the circumstances, without unreasonable delay, consistent with the legitimate needs of applicable law enforcement, and after taking any measures necessary to determine the scope of the breach and restore the reasonable integrity of the system. Google will send any applicable notifications regarding a Security Breach to the Notification Email Address or via direct communication with the Customer (e.g. phone call, in person meeting, etc). For purposes of this Section, "Security Breach" means an actual disclosure, or reasonable belief that there has been a disclosure, by Google of Customer Data to any unauthorized person or entity.

3. Data.

a. Data Storage, Isolation & Authentication. Google stores Customer Data in a multi-tenant environment on Google-owned servers. Customer Data, the Services database and file system architecture are replicated between multiple geographically dispersed data centers. Google logically isolates data on a per End User basis at the application layer. Google also logically isolates data on a per Customer account basis, and each Customer account will be given control over specific data sharing policies. Google logically separates data from different End Users from each other, and data for an authenticated End User will not be displayed to another

End User (unless the former End User or Administrator allows the data to be shared). A central authentication system is used across all Services to increase uniform security of data.

- b. Decommissioned Disks and Disk Erase Policy. Certain disks containing Customer Data may experience performance issues, errors or hardware failure that lead them to be decommissioned by Google (“Decommissioned Disk”). Every Decommissioned Disk is subject to a series of data destruction processes (the “Disk Erase Policy”) before leaving Google’s premises either for reuse or destruction. Decommissioned Disks are erased in a multi-step process and verified complete by at least two independent validators. The erase results are logged by the Decommissioned Disk’s serial number for tracking. Finally, the erased Decommissioned Disk is released to inventory for reuse and redeployment. If, due to hardware failure, the Decommissioned Disk cannot be erased, it is securely stored until it can be destroyed. Each facility is audited regularly to monitor compliance with the Disk Erase Policy.