



**Idaho Division of Purchasing**

**Participating Addendum**

**Purchase Order Name:** Google Cloud Services  
**Contract Number:** PADD20210622  
**Contract Value:** 500,000.00 USD  
**Purchase Order Date:** 11/23/2020  
**Submitted By:** Arianne Quignon

**Supplier**

Smartronix, LLC  
44150 Smartronix Way  
[[ Street Line 2 (\* Smartronix, LLC) ]]  
Hollywood  
Maryland, 20636-3172  
**Phone:** +1 301-373-6000  
**Fax:** [[ Fax Number (\* Smartronix, LLC) ]]  
**Email:** jmparris@smartronix.com

**Shipping Details**

**Ship FOB:** Destination, Prepaid  
**Shipping Instructions:** Ship to Ordering Agency

**Bill To Address**

DOP - Various State Agencies  
State of Idaho  
Various Locations See  
Below for Details on  
Specific Locations  
Various, Idaho 83702  
**Phone:** 208-327-7465  
**Fax:** 208-327-7320  
**Email:** purchasing@adm.idaho.gov  
**Mail Stop:** DOP - Various Locations

**Ship To Address**

Ship to Ordering  
Agency  
**Phone:** 208-327-7465  
**Fax:** 208-327-7320  
**Email:** purchasing@adm.idaho.gov  
**Mail Stop:** DOP - Various Locations

**Payment Details**

**Payment Terms:** Net 30

**Participating Addendum**

NOTICE OF STATEWIDE CONTRACT (PADD) AWARD

This Contract is for Google Cloud Services, awarded pursuant to State of Utah Master Agreement [[ Parent Contract ]], issued as a cooperative contract in conjunction with NASPO ValuePoint. This Contract is issued on behalf of State of Idaho Agencies, institutions, departments, and eligible public agencies as defined by Idaho Code Section 67-2327 and shall be for the period noted above. It may be amended, renewed, or extended upon mutual, written agreement of the parties, as detailed in the RFP.

Contract Type: Open

Public Agency Clause: Yes

Contractor Contact: Joel Parris

Phone: +1 317-416-8541

E-mail: jmparris@smartronix.com

This Contract is to be drawn upon as requested by the Ordering Agency for the period noted above. THIS NOTICE OF AWARD IS NOT AN ORDER TO SHIP. Purchase orders against this PADD will be furnished by the Ordering Agency on whose behalf this Contract is made. Contractor must ship and bill directly to the Ordering Agency. DO NOT INVOICE DOP unless DOP is the Ordering Agency. Notating the Contract Award Number on any invoices/statement will facilitate the efficient processing of payment.

QUANTITIES: DOP can only give approximations of quantities; no maximum or minimum quantities can be guaranteed.

This PADD, including any attached files, constitutes the State of Idaho's acceptance of your signed Proposal (including any electronic submission), which is incorporated herein by reference. In the event of any inconsistency, precedence shall be given in the following order:

1. This PADD
2. State of Utah's original sourcing event, CH16012
3. The Contractor's signed Proposal

---

**Special Instructions:**

**Internal Comments:**

---

**Total USD \$500,000.00**

---

**Signed By:** Arianne Quignon

**Signature:** 



Master Agreement #: AR2489

Contractor: **SMARTRONIX, INC.**

Participating Entity: **STATE OF IDAHO**

The following products or services are included in this contract portfolio:

- Google Cloud Services

**Master Agreement Terms and Conditions:**

1. Scope: This addendum covers **Cloud Solutions** led by the State of *Utah* for use by state agencies and other entities located in the Participating State authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Idaho. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official. For the purposes of this contract, 'Customer' in the Google Cloud Master General Terms (included by reference in Smartronix NASPO Master Agreement AR2489) is defined as the ordering entity and relates to the organizational unit of the State of Idaho that will be actually utilizing Google Cloud Platform services.
3. Term: The initial term of this PA will be effective upon the last signature and continue through September 15, 2026. The PA may be extended or renewed as detailed in the Master Agreement or this PA.
4. Access to Cloud Solutions Services Requires State CIO Approval: Unless otherwise stipulated in this Participating Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.

Pursuant to Idaho Code Section 67-827A and policy established by the Idaho Office of the Governor's Information Technology Services (ITS), Idaho state agencies are required to received approval from ITS prior to purchasing certain types of IT property, including the goods and services covered by this agreement. The Contractor shall not fulfill orders place by Idaho state agencies unless it receives confirmation from the agency that ITS has given approval. This requirement does not apply to other public agencies in the state.

5. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):



Contractor

Name:	Terrie Callahan
Address:	12950 Worldgate Drive, Suite 450 Herndon, VA 20170
Telephone:	(703) 314-1458
Fax:	(703) 435-3112
Email:	tcallahan@smartronix.com

Participating Entity

Name:	Arianne Quignon
Address:	304 N 8 <sup>th</sup> Street, Room 403
Telephone:	208-332-1604
Fax:	208-327-7320
Email:	<a href="mailto:arianne.quignon@adm.idaho.gov">arianne.quignon@adm.idaho.gov</a>

6. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

These modifications or additions apply only to actions and relationships within the Participating Entity. Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

The following changes are modifying or supplementing the Master Agreement terms and conditions.

**5.a Reporting and Administrative Fee.**

- i. Idaho Administrative Fee. A 1.25% Administrative Fee will apply to all purchases made under this PADD by any Purchasing Entity. On a quarterly basis, the Contractor shall remit to the Division of Purchasing an amount equal to one and one-quarter percent (1.25%) of the Contractor's net (sales minus credits) quarterly sales made under the PADD. Pricing has been adjusted to incorporate the Administrative Fee so that the price to Purchasing Entities will reflect the adjustment. Notwithstanding the adjustment, all pricing updates and other terms and conditions of pricing shall be as set forth in the state of Oklahoma Master Agreement (Master Agreement #: OK-MA-818-040). Administrative Fee Payment checks must be made out and mailed to:

Division of Purchasing, State of Idaho  
P.O. Box 83720  
Boise, ID 83720-0075

- ii. Reporting Timeline. Administrative Fee payments and reports to DOP are due no later than thirty (30) calendar days after the end of each calendar quarter detailed below:

1<sup>st</sup> Quarter: July 1 – September 30  
2<sup>nd</sup> Quarter: October 1 – December 31  
3<sup>rd</sup> Quarter: January 1 – March 31

4<sup>th</sup> Quarter: April 1 – June 30

- iii. **Required Reports.** Two (2) quarterly reports must accompany each Administrative Fee payment and be furnished electronically in Microsoft Excel format. The required reports are: 1) PADD Summary Usage Report; and 2) Detailed Usage Report. The PADD Summary Usage Report can be found on the “Information for Vendors” page of DOP’s website: <https://purchasing.idaho.gov/information-for-vendors/>. The Detailed Usage Report template is attached to this PADD as **Attachment 1**.

The report must be emailed to: [purchasing@adm.idaho.gov](mailto:purchasing@adm.idaho.gov).

- 5.b **Governing Law.** This PA and all orders issued thereunder by Purchasing Entities shall be construed in accordance with, and governed by the laws of the state of Idaho, and the parties hereto consent to the jurisdiction and exclusive venue of the state courts of Ada county in the state of Idaho in the event of any dispute with respect to the PA.
- 5.c **Assignment.** The Contractor shall not assign this PA, or its rights, obligations, or any other interest arising from this PA, or delegate any of its performance obligations, without the express written consent of the Administrator of the Division of Purchasing. Transfer without such approval shall cause the annulment of the PA, at the option of the Participating Entity. All rights of action, however, for any breach of the PA are reserved to the Participating Entity. (I.C. §67-5726(1)).

Notwithstanding the foregoing, to the extent required by applicable law (including I.C. § 28-9-406), Contractor may assign its right to payment on an account provided that the Participating Entity shall have no obligation to make payment to an assignee until thirty (30) calendar days after Contractor (not the assignee) has provided the responsible procurement officer with (a) proof of the assignment, (b) the identity of the specific state contract to which the assignment applies, and (c) the name of the assignee and the exact address to which assigned payments should be made. The Participating Entity may treat violation of the clause as an event of default.

- 5.d **Amendments.** Amendments to the Master Agreement (including, but not limited to extensions, renewals, and modifications to the terms, conditions and pricing) will automatically be incorporated in this PA unless the Participating Entity elects not to incorporate an amendment by providing written notification to Contractor; which notice must be provided within ten (10) business days of the date of the amendment to the Master Agreement, in order to be effective. Failure to provide notice in accordance with this section 4.e will result in the Master Agreement amendment automatically being incorporated in this PA. In the event the Participating Entity does not elect to incorporate the Master Agreement’s Pricing amendment into this PA, the Contractor reserves the right to terminate this PA upon thirty (30) calendar days’ written notice to the Participating Entity.
- 5.e **Insurance.** The following requirements are supplemental to any insurance requirements contained in the Master Agreement:

- i. **REQUIREMENT TO PROVIDE PROOF OF INSURANCE:** The Contractor and its subcontractors (if the Contractor has any subcontractors that will provide goods or services to the Participating Entity under the PA) shall provide certificates of insurance to the Division of Purchasing for workers compensation insurance (see the paragraph below) and for the commercial general liability required section 21, Insurance, of the Contract. These certificates must be provided within seven (7) business days after the effective date of this PA, and all required insurance must be maintained by the Contractor for the entire term of this PA, including all renewal and extension periods.
- ii. **REQUIREMENTS FOR WORKERS' COMPENSATION INSURANCE:** The Contractor shall provide and maintain Workers' Compensation Insurance and Employer's Liability for the entire term of this PA. The employer's liability shall have limits not less than \$100,000 each accident for bodily insurance by accident, \$500,000 disease policy limit, and \$100,000 disease, each employee.

For Workers' Compensation Insurance, the Contractor must provide either a certificate of Workers' Compensation insurance issued by a surety licensed to write Workers' Compensation Insurance in the state of Idaho or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission. The term "subcontractors" as used in this PADD shall specifically exclude all third-party suppliers and manufacturers of the products sold under this PADD and all third-party delivery service providers.

- 5.f **Applicable Terms.** The Participating Entity agrees to the terms and conditions of the Master Agreement only to the extent that the terms and conditions are not in conflict with this PA or with the laws of the state of Idaho.
- 5.g **Records Maintenance.** The Contractor shall maintain or supervise the maintenance of all financial records necessary to properly account for all payments made to the Contractor for the costs authorized by the PA. These financial records shall be retained by the Contractor for at least three (3) years after the PA terminates or expires, or until all audits initiated within the three (3) years have been completed, whichever is later.
- 5.h **Termination for Convenience.** The Participating Entity may terminate this PA for its convenience, in whole or in part, with or without cause, upon thirty (30) calendar days' written notice to the Contractor specifying the date of termination if the Participating Entity determines it is in its best interest.
- 5.i **Termination for Default.** The Participating Entity may terminate this PA when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or noncompliance within a reasonable time, not to exceed thirty (30) calendar days, unless such longer period of time is mutually agreed upon between the parties in writing. The Participating Entity, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.

A Purchasing Entity may terminate an order when the Contractor has been provided written notice of default or non-compliance and fails to cure such breach or non-compliance within thirty (30) calendar days of receiving written notice of said breach or non-compliance.

- 5.j **Public Records and Trade Secrets.** Title 74, Chapter 1, Idaho Code (the Public Records Act) provides for the examination of public records, including records related to procurements and contracts. Section 74-107 details an exemption to examination of records deemed "trade secrets." Generally, this exemption describes trade secrets to "include a formula, pattern, compilation, program, computer program, device, method, technique or process that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons and is subject to the efforts that are reasonable under the circumstances to maintain its secrecy."

Upon request, the Contractor must provide an electronic copy of any documents related to this PA, with any information it has determined to meet the Idaho Code definition of trade secret redacted within three (3) business days. The Contractor must redact only that information which meets the definition of "trade secret;" entire documents identified as "confidential" will not be accepted. The Contractor must also provide a separate document entitled "List of Redacted Trade Secret Information" which provides a succinct list of all trade secret information noted in your Document; listed in the order it appears in your submittal documents, identified by Page #, Section #/Paragraph #, Title of Section/Paragraph, specific portions of text/illustrations; or in a manner otherwise sufficient to allow the Participating Entity's procurement personnel to determine the precise text/material subject to the notation. Additionally, this list must identify with each notation the specific basis for your position that the material be treated as exempt from disclosure and how the exempting the material complies with the Public Records Law. In the event the Participating Entity or Purchasing Entity receives a request pursuant to the Public Records Act, which includes information deemed "trade secret" by the Contractor, the Contractor must agree to defend and indemnify the Participating Entity or the Purchasing Entity against any claim brought challenging the denial of the request under the trade secret exemption. Failure of the Contractor to provide an electronic copy of the redacted documents, or to defend and indemnify the Participating Entity or Purchasing Entity, will result in the full (unredacted) document being released in response to the request.

7. Subcontractors: All contactors, dealers, and resellers authorized in the State of Idaho, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
8. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.



9. In no event shall the liability of either Party in connection with this Agreement exceed \$10,000,000 (ten million dollars).

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: State of Idaho, Division of Purchasing	Contractor: SMARTRONIX, LLC.
Signature: 	Signature: Terrie L. Callahan  Digitally signed by Terrie L. Callahan Date: 2020.11.20 16:59:41 -05'00'
Name: Arianne Quignon	Name: TERRIE L. CALLAHAN
Title: Purchasing Officer	Title: SR. CONTRACTS MANAGER
Date: 11/23/2020	Date: November 20, 2020

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Fay Tan
Telephone:	801-683-2409
Email:	<a href="mailto:ftan@naspovaluepoint.org">ftan@naspovaluepoint.org</a>

***Please email fully executed PDF copy of this document to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate data bases.***



## Google Cloud Master General Terms

These Google Cloud Master Terms are comprised of the Google Cloud Master General Terms (“General Terms”), and all Services Schedules and Order Forms that are incorporated by reference into the Google Cloud Master General Terms (collectively, the “Terms”).

### Google Cloud Master General Terms

1. **Services.** After the Customer and Reseller and/or Distributor complete and execute an Order Form, (a) Google will provide the Services to Customer in accordance with the Terms, including the SLAs, and (b) Customer may use the Services in accordance with the applicable Services Schedule.
2. **Customer Obligations.**
  - 2.1 **Consents.** Customer is responsible for any consents and notices required to permit (a) Customer’s use and receipt of the Services and (b) Google’s accessing, storing, and processing of data provided by Customer (including Customer Data, if applicable) under the Terms.
  - 2.2 **Compliance.** Customer will (a) ensure that Customer and its End Users’ use of the Services complies with the Terms, (b) use commercially reasonable efforts to prevent and terminate any unauthorized access or use of the Services, and (c) promptly notify Google of any unauthorized use of, or access to, the Services of which Customer becomes aware.
  - 2.3 **Use Restrictions.** Customer will not, and will not allow End Users to, (a) copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, or otherwise attempt to extract any of the source code of the Services (except to the extent such restriction is expressly prohibited by applicable law); (b) sell, resell, sublicense, transfer, or distribute the Services; or (c) access or use the Services (i) in a manner intended to avoid incurring Fees; (ii) for materials or activities that are subject to the International Traffic in Arms Regulations (ITAR) maintained by the United States Department of State; (iii) in a manner that breaches, or causes the breach of, Export Control Laws; or (iv) to transmit, store, or process health information subject to United States HIPAA regulations except as permitted by an executed HIPAA BAA with Google (if approved), or an executed HIPAA BAA with Google’s Reseller or Distributor.
3. **RESERVED.**
4. **Intellectual Property.**
  - 4.1 **Intellectual Property Rights.** Except as expressly described in the Terms, the Terms do not grant either party any rights, implied or otherwise, to the other’s content or Intellectual Property. As between the parties, Customer retains all Intellectual Property Rights in Customer Data and Customer Applications, and Google retains all Intellectual Property Rights in the Services and Software.
  - 4.2 **Feedback.** At its option, Customer may provide feedback and suggestions about the Services to Google (“Feedback”). If Customer provides Feedback, then Google and its Affiliates may use that Feedback without restriction and without obligation to Customer.
5. **Confidentiality.**
  - 5.1 **Use and Disclosure of Confidential Information.** Subject to the Freedom of Information Act or similar state open records law, the Recipient will only use the Disclosing Party’s Confidential Information to exercise its rights and fulfill its obligations under the Terms, and will use reasonable care to protect against the disclosure of the Disclosing Party’s Confidential Information. Notwithstanding the foregoing, the Recipient may disclose the Disclosing Party’s Confidential Information (a) to its Delegates who have a need to know and who are bound by confidentiality obligations at least as protective as those in this

Section 5 (Confidentiality); (b) with the Disclosing Party's written consent; or (c) regardless of any other provision in the Terms, as strictly necessary to comply with Legal Process, provided the Recipient promptly notifies the Disclosing Party prior to such disclosure unless legally prohibited from doing so. The Recipient will comply with the Disclosing Party's reasonable requests to oppose disclosure of its Confidential Information.

- 5.2 Redirect Disclosure Request. If the Recipient receives Legal Process for the Disclosing Party's Confidential Information, the Recipient will first attempt to redirect the third party to request it from the Disclosing Party directly. To facilitate this request, the Recipient may provide the Disclosing Party's basic contact information to the third party.
6. **Marketing and Publicity**. Each party may use the other party's Brand Features in connection with the Terms as permitted in the Terms. Customer may state publicly that it is a Google customer and display Google Brand Features in accordance with the Trademark Guidelines. Customer and Google will work together on an announcement of Customer being a Google customer, which will take place on a mutually agreed upon date within 6 months of the Effective Date. Additionally, with prior written consent, the parties may engage in joint marketing activities such as customer testimonials, press engagements, public speaking events, and analyst interviews. A party may revoke the other party's right to use its Brand Features with 30 days' written notice. Any use of a party's Brand Features will inure to the benefit of the party holding Intellectual Property Rights to those Brand Features.
7. **RESERVED**.
8. **Disclaimer**. Except as expressly provided for in the Terms, to the fullest extent permitted by applicable law, Google (a) does not make any warranties of any kind, whether express, implied, statutory, or otherwise, including warranties of merchantability, fitness for a particular use, noninfringement, or error-free or uninterrupted use of the Services or Software and (b) makes no representation about content or information accessible through the Services. The Services are not intended to be used for High Risk Activities. Any use of the Services for High Risk Activities by Customer or its End Users will be at Customer's own risk, and Customer will be solely liable for the results of any failure of the Services when used for High Risk Activities.
9. **Indemnification**.
- 9.1 Google Indemnification Obligations. Google will defend Customer and its Affiliates participating under the Terms ("Customer Indemnified Parties"), and indemnify them against Indemnified Liabilities in any Third-Party Legal Proceeding to the extent arising from an allegation that the Customer Indemnified Parties' use of Google Indemnified Materials infringes the third party's Intellectual Property Rights.
- 9.2 Customer Intellectual Property Infringement. If Google is damaged or becomes subject to a Third-Party Legal Proceeding as a result of Customer's infringement of any third-party intellectual property, Google will pursue available remedies under applicable federal, state or local law.
- 9.3 Indemnification Exclusions. Sections 9.1 (Google Indemnification Obligations) and 9.2 (Customer Intellectual Property Infringement) will not apply to the extent the underlying allegation arises from (a) Customer's or Google's breach of the Terms or (b) a combination of the Google Indemnified Materials or Customer Materials (as applicable) with materials not provided by Google or the Customer under the Terms, unless the combination is required by the Terms.
- 9.4 Indemnification Conditions. Sections 9.1 (Google Indemnification Obligations) is conditioned on the following:
- (a) Customer must promptly notify Reseller who will notify Google in writing of any allegation(s) that preceded the Third-Party Legal Proceeding and cooperate reasonably with Google to resolve the allegation(s) and Third-Party Legal Proceeding. If breach of this Section 9.4(a) prejudices the

defense of the Third-Party Legal Proceeding, then Google's obligations under Section 9.1 (Google Indemnification Obligations) will be reduced in proportion to the prejudice.

- (b) Unless otherwise prohibited by law, Customer must tender sole control of the indemnified portion of the Third-Party Legal Proceeding to the indemnifying party, subject to the following: (i) the Customer may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring the Customer to admit liability, pay money, or take (or refrain from taking) any action, will require the Customer's prior written consent, not to be unreasonably withheld, conditioned, or delayed.

## 9.5 Remedies.

- (a) If Google reasonably believes the Services might infringe a third party's Intellectual Property Rights, then Google may, at its sole option and expense, (i) procure the right for Customer to continue using the Services, (ii) modify the Services to make them non-infringing without materially reducing their functionality, or (iii) replace the Services with a non-infringing, functionally equivalent alternative.
- (b) If Google does not believe the remedies in Section 9.5(a) are commercially reasonable, then Google may Suspend or terminate the impacted Services. If Google terminates Services under this Section 9.5 (Remedies), then upon Customer request (i) Google will refund to Customer any unused prepaid Fees that Customer paid to Google for use of the terminated Services, and (ii) if Customer has made financial commitments in an Order Form or addendum to the Terms, then Google will agree to amend such commitments proportional to Customer's spend on the terminated Services in the year preceding the termination of the Services.

9.6 Sole Rights and Obligations. Without affecting either party's termination rights, this Section 9 (Indemnification) states the Customer's sole and exclusive remedy under the Terms for any third-party allegations of Intellectual Property Rights infringement covered by this Section 9 (Indemnification).

## 10. Liability.

### 10.1 Limited Liabilities.

- (a) **To the extent permitted by applicable law and subject to Section 10.2 (Unlimited Liabilities), neither party will have any Liability arising out of or relating to the Terms for any**
  - (i) **indirect, consequential, special, incidental, or punitive damages or**
  - (ii) **lost revenues, profits, savings, or goodwill.**
- (b) **Each party's total aggregate Liability for damages arising out of or relating to the Terms is limited to the Fees Customer paid under the applicable Services Schedule during the 12 month period before the event giving rise to Liability.**

10.2 Unlimited Liabilities. **Nothing in the Terms excludes or limits either party's Liability for:**

- (a) **subject to Section 8 (Disclaimer), death, personal injury, or tangible personal property damage resulting from its negligence or the negligence of its employees or agents;**
- (b) **its fraud or fraudulent misrepresentation;**
- (c) **its obligations under Section 9 (Indemnification);**
- (d) **its infringement of the other party's Intellectual Property Rights;**
- (e) **its payment obligations under the Terms; or**
- (f) **matters for which liability cannot be excluded or limited under applicable law.**

## **11. Term and Termination.**

- 11.1 Term. The Terms, unless they expire or terminate in accordance with the Reseller Agreement or Distributor Agreement, will remain in effect for the contract period as described in the applicable Reseller Agreement or Distributor Agreement.
- 11.2 Termination for Convenience. Subject to any financial commitments in an Order Form or addendum to the Terms, Customer may terminate the Terms or an Order Form for convenience prior written notice to Reseller or Distributor.
- 11.3 Reserved.
- 11.4 Effects of Termination. If the Terms terminate or expire, then all Services Schedules and Order Forms also terminate or expire. If an Order Form terminates or expires, then after that Order Form's termination or expiration effective date, (a) all rights and access to the Services under that Order Form will terminate (including access to Customer Data, if applicable), unless otherwise described in the applicable Services Schedule, and (b) Reseller or Distributor will send Customer a final invoice (if applicable) for payment obligations under that Order Form. Termination or expiration of one Order Form will not affect other Order Forms.
- 11.5 Survival. The following Sections will survive expiration or termination of the Terms: Section 4 (Intellectual Property), Section 5 (Confidentiality), Section 8 (Disclaimer), Section 9 (Indemnification), Section 10 (Liability), Section 11.4 (Effects of Termination), Section 12 (Miscellaneous), Section 13 (Definitions), and any additional sections specified in the applicable Services Schedule.

## **12. Miscellaneous.**

- 12.1 Notices. Google will provide notices under the Terms to Customer by sending an email to the Notification Email Address. Customer will provide notices under the Terms to Google by sending an email to [legal-notices@google.com](mailto:legal-notices@google.com). Notice will be treated as received when the email is sent. Customer is responsible for keeping its Notification Email Address current.
- 12.2 Emails. The parties may use emails to satisfy written approval and consent requirements under the Terms.
- 12.3 Reserved.
- 12.4 Reserved.
- 12.5 Force Majeure. Neither party will be liable for failure or delay in performance of its obligations to the extent caused by circumstances beyond its reasonable control, including acts of God, natural disasters, terrorism, riots, or war.
- 12.6 Subcontracting. Google may subcontract obligations under the Terms but will remain liable to Customer for any subcontracted obligations.
- 12.7 No Agency. The Terms do not create any agency, partnership, or joint venture between the parties.
- 12.8 No Waiver. Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under the Terms.
- 12.9 Severability. If any part of the Terms is invalid, illegal, or unenforceable, the rest of the Terms will remain in effect.
- 12.10 No Third-Party Beneficiaries. The Terms do not confer any rights or benefits to any third party unless it expressly states that it does.

- 12.11 Equitable Relief. Nothing in the Terms will limit either party's ability to seek equitable relief.
- 12.12 Reserved.
- 12.13 Amendments. Except as specifically described otherwise in the Terms, any amendment to the Terms must be in writing, expressly state that it is amending the Terms, and be signed by both parties.
- 12.14 Independent Development. Nothing in the Terms will be construed to limit or restrict either party from independently developing, providing, or acquiring any materials, services, products, programs, or technology that are similar to the subject of the Terms, provided that the party does not breach its obligations under the Terms in doing so.
- 12.15 Reserved.
- 12.16 Conflicting Terms. If there is a conflict among the documents that make up the Terms, then the documents will control in the following order: the applicable Order Form, the applicable Services Schedule, the General Terms, and the URL Terms.
- 12.17 Reserved.
- 12.18 Reserved.
- 12.19 Reserved.
- 12.20 Headers. Headings and captions used in the Terms are for reference purposes only and will not have any effect on the interpretation of the Terms.

### **13. Definitions.**

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

"AUP" means Google's acceptable use policy as defined in the applicable Services Schedule.

"BAA" or "Business Associate Agreement" is an amendment to the Customer's Reseller Agreement or Distributor Agreement covering the handling of Protected Health Information (as defined in HIPAA).

"Brand Features" means each party's trade names, trademarks, logos, domain names, and other distinctive brand features.

"Confidential Information" means information that one party or its Affiliate ("Disclosing Party") discloses to the other party ("Recipient") under the Terms, and that is marked as confidential or would normally be considered confidential information under the circumstances. Customer Data is Customer's Confidential Information. Confidential Information does not include information that is independently developed by the recipient, is shared with the recipient by a third party without confidentiality obligations, or is or becomes public through no fault of the recipient.

"Control" means control of greater than 50% of the voting rights or equity interests of a party.

"Customer Application" has the meaning described in the Services Schedule.

"Customer Data" has the meaning described in the Services Schedule (if applicable).

"Customer Indemnified Materials" has the meaning described in the applicable Services Schedule.

“Delegates” means the Recipient’s employees, Affiliates, agents, or professional advisors.

“Distributor” means an entity authorized by Google to distribute the Services to a Reseller for resale to federal, state, or local government entities of the United States (or representatives of such entities).

“Distributor Agreement” means, if applicable, the separate agreement between Customer and Distributor regarding the Services. The Distributor Agreement is independent of and outside the scope of these Terms.

“Effective Date” means the date of the last party’s signature of the General Terms (or other applicable ordering document that incorporates the General Terms).

“End User” or “Customer End User” means an individual that Customer permits to use the Services or a Customer Application.

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

“Fees” means the product of the amount of Services used or ordered by Customer multiplied by the Prices, plus any applicable Taxes. Fees will be described in the Customer’s Reseller Agreement or Distributor Agreement.

“Google Indemnified Materials” has the meaning described in the applicable Services Schedule.

“High Risk Activities” means activities where the failure of the Services could lead to death, serious personal injury, or severe environmental or property damage.

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

“including” means including but not limited to.

“Indemnified Liabilities” means any (a) settlement amounts approved by the indemnifying party, and (b) damages and costs finally awarded against the indemnified party and its Affiliates by a court of competent jurisdiction.

“Intellectual Property” or “IP” means anything protectable by an Intellectual Property Right.

“Intellectual Property Right(s)” means all patent rights, copyrights, trademark rights, rights in trade secrets (if any), design rights, database rights, domain name rights, moral rights, and any other intellectual property rights (registered or unregistered) throughout the world.

“Legal Process” means an information disclosure request made under law, governmental regulation, court order, subpoena, warrant, governmental regulatory or agency request, or other valid legal authority, legal procedure, or similar process.

“Liability” means any liability, whether under contract, tort (including negligence), or otherwise, regardless of whether foreseeable or contemplated by the parties.

“Notification Email Address” has the meaning described in the applicable Services Schedule.

“Order Term” means the period of time starting on the Services Start Date for the Services and continuing for the period indicated on the Order Form unless terminated in accordance with the Agreement.

“Prices” has the meaning described in the applicable Reseller Agreement or Distributor Agreement.

“Reseller Agreement” means the separate agreement between Customer and Reseller regarding the Services. The Reseller Agreement is independent of and outside the scope of these Terms.

“Reseller” means, if applicable, the authorized non-Affiliate third party reseller that sells Google Services through a Distributor to Customer.

“Service Level Agreement” or “SLA” has the meaning described in the Services Schedule.

“Services” has the meaning described in the applicable Services Schedule.

“Services Schedule(s)” means a schedule to the Terms with terms that apply only to the services and software (if applicable) described in that schedule.

“Services Start Date” means either the start date described in the Order Form or, if none is specified in the Order Form, the date Google makes the Services available to Customer.

“Software” has the meaning described in the Services Schedule (if applicable).

“Suspend” or “Suspension” means disabling access to or use of the Services or components of the Services.

“Third-Party Legal Proceeding” means any formal legal proceeding filed by an unaffiliated third party before a court or government tribunal (including any appellate proceeding).

“Trademark Guidelines” means Google’s Brand Terms and Conditions described at <https://www.google.com/permissions/trademark/brand-terms.html>.

“URL” means a uniform resource locator address to a site on the internet.

“URL Terms” has the meaning described in the Services Schedule.

“Use Restrictions” means the restrictions in Section 2.3 (Use Restrictions) of these General Terms and any additional restrictions on the use of Services described in a section entitled “Additional Use Restrictions” in the applicable Services Schedule.

## Google Cloud Master Terms

### Google Cloud Platform Services Schedule

This Google Cloud Platform Services Schedule (the “Services Schedule”) supplements and is incorporated by reference into the Google Cloud Master Terms. This Services Schedule applies solely to the services and software described in this Services Schedule. Terms defined in the General Terms apply to this Services Schedule.

#### 1. Using the Services.

- 1.1 Admin Console. Google (or Reseller or Distributor) will provide Customer an Account to access the Admin Console through which Customer may manage its use of the Services. Customer may make Customer Applications available to End Users. Customer is responsible for (a) maintaining the confidentiality and security of the Account and associated passwords and (b) any use of the Account.
- 1.2 Ceasing Services Use. Customer may stop using the Services at any time.
- 1.3 Additional Use Restrictions. Unless otherwise permitted in the GCP Service Specific Terms, Customer will not (a) use, and will not allow End Users to use, the Services to operate or enable any telecommunications service, or to place or receive calls from any public switched telephone network, including as part of a Customer Application; or (b) use the Services to provide a hosting, outsourced, or managed services solution to unaffiliated third parties, except as part of a Customer Application that provides value distinct from the Services.

#### 2. Data Processing and Security.

- 2.1 Protection of Customer Data. Google will only access or use Customer Data to provide the Services ordered by Customer and will not use it for any other Google products, services, or advertising. Google has implemented and will maintain administrative, physical, and technical safeguards to protect Customer Data, as further described in the Data Processing and Security Terms.
- 2.2 Data Processing and Security Terms. The Data Processing and Security Terms are incorporated by reference into this Services Schedule.

#### 3. Additional Payment Terms.

- 3.1 Usage and Invoicing. Customer will pay all Fees for the Services and GCP Technical Support Services. Google’s measurement tools will be used to determine Customer’s usage of the Services. Each invoice, which may be generated by Reseller or Distributor, will include data in sufficient detail to allow Customer to validate the Services purchased and associated Fees.
- 3.2 Reserved.
- 3.3 Reserved.

#### 4. Updates to Services and Terms.

- 4.1 Changes to Services.
  - (a) Limitations on Changes. Google may update the Services, provided the updates do not result in a material reduction of the functionality, performance, availability, or security of the Services.
  - (b) Discontinuance. Google will notify Customer at least 12 months before discontinuing any Service (or associated material functionality), and at least 36 months for any Key Service (or associated material functionality), in each case unless Google replaces such discontinued Service or functionality with a materially similar Service or functionality.



- (c) **Support.** Google will continue to provide product and security updates, and Technical Support Services, until the conclusion of the applicable notice period under subsection (b) (Discontinuance).
- (d) **Backwards Incompatible Changes.** Google will notify Customer at least 12 months before significantly modifying a Customer-facing Google API in a backwards-incompatible manner.
- 4.2 **Changes to Terms.** Google may update the URL Terms, provided the updates do not (a) result in a material degradation of the overall security of the Services, (b) expand the scope of or remove any restrictions on Google's processing of Customer Data as described in the Data Processing and Security Terms, or (c) have a material adverse impact on Customer's rights under the URL Terms. Google will notify Customer of any material updates to URL Terms.
- 4.3 **Permitted Changes.** Sections 4.1 (Changes to Services) and 4.2 (Changes to Terms) do not limit Google's ability to make changes required to comply with applicable law or address a material security risk, or that are applicable to new or pre-general availability Services or functionality.
- 5. Temporary Suspension.**
- 5.1 **Services Suspension.** Google may Suspend Services if (a) necessary to comply with law or protect the Services or Google's infrastructure supporting the Services or (b) Customer or any End User's use of the Services does not comply with the AUP, and it is not cured following notice from Google.
- 5.2 **Limitations on Services Suspensions.** If Google Suspends Services, then (a) Google will provide Customer notice of the cause for Suspension without undue delay, to the extent legally permitted, and (b) the Suspension will be to the minimum extent and for the shortest duration required to resolve the cause for Suspension.
- 6. Technical Support.** Google will provide GCP Technical Support Services to Customer during the Order Term in accordance with the GCP Technical Support Services Guidelines. Customer is responsible for the technical support of its Customer Applications and Projects.
- 7. Copyright.** Google provides information to help copyright holders manage their intellectual property online, but Google cannot determine whether something is being used legally without input from the copyright holders. Google will respond to notices of alleged copyright infringement and may terminate repeat infringers in appropriate circumstances as required to maintain safe harbor for online service providers under the U.S. Digital Millennium Copyright Act. If Customer believes a person or entity is infringing Customer's or its End User's copyrights and would like to notify Google, Customer can find information about submitting notices, and Google's policy about responding to notices, at <http://www.google.com/dmca.html>.
- 8. Software.**
- 8.1 **Provision of Software.** Google may make Software available to Customer, including third-party software. Customer may choose to use the Software in connection with Customer's use of the Services. Some Software may be subject to third-party license terms, which Google will provide to Customer.
- 8.2 **Ceasing Software Use.** If the Terms or the Google Cloud Platform Order Form terminates or expires, then Customer will stop using the Software.
- 9. Benchmarking.** Customer may conduct benchmark tests of the Services (each a "Test"). Customer may only publicly disclose the results of such Tests if it (a) obtains Google's prior written consent, (b) provides Google all necessary information to replicate the Tests, and (c) allows Google to conduct benchmark tests of Customer's publicly available products or services and publicly disclose the results of such tests.

10. **Survival.** The following Sections of this Services Schedule will survive expiration or termination of this Services Schedule: Section 9 (Benchmarking) and Section 12 (Additional Definitions).
11. **Termination of Previous Agreements.** If Google and Customer have previously entered into a Google Cloud Platform License Agreement, then that agreement will terminate on the Services Start Date, and the Terms will govern the provision and use of the Services going forward.
12. **Additional Definitions.**

“Account” means Customer’s Google Cloud Platform account.

“Admin Console” means the online console(s) and tool(s) provided by Google to Customer for administering the Services under this Services Schedule.

“AUP” means the then-current acceptable use policy for the Services described at <https://cloud.google.com/terms/aup>.

“Customer Application” means a software program that Customer creates or hosts using the Services.

“Customer Data” means data provided to Google by Customer or End Users through the Services under the Account, and data that Customer or End Users derive from that data through their use of the Services.

“Customer Materials” means Customer Data, Customer Brand Features, Customer Applications, and Projects.

“Data Processing and Security Terms” means the then-current terms describing data processing and security obligations with respect to Customer Data, as described at <https://cloud.google.com/terms/data-processing-terms>.

“GCP Service Specific Terms” means the then-current terms specific to one or more Services or Software described at <https://cloud.google.com/cloud/terms/service-terms>.

“GCP Technical Support Services” or “TSS” means the then-current technical support service provided, if applicable, by Google to Customer under the GCP Technical Support Services Guidelines.

“GCP Technical Support Services Guidelines” or “TSS Guidelines” means the then-current Google Cloud Platform support service guidelines described at <https://cloud.google.com/terms/tssg/>.

“Google API” means any application programming interface provided by Google as part of the Services.

“Google Indemnified Materials” means Google’s technology used to provide the Services and Google’s Brand Features.

“Key Services” means the then-current list of Services described at <https://cloud.google.com/terms/key-services>. Google may not remove a Service from this URL unless that Service is discontinued in accordance with Section 4.1(b) (Discontinuance).

“Notification Email Address” means the email address(es) designated by Customer in the Admin Console.

“Prices” means those prices listed in the applicable Reseller Agreement or Distributor Agreement.

“Project” means a grouping of Services configured by Customer via the Admin Console.

“Services” means the then-current services described at <https://cloud.google.com/terms/services>.

“SLA” means the then-current service level agreements described at <https://cloud.google.com/terms/sla/>.

“Software” means any downloadable tools, software development kits, or other such computer software provided by Google for use in connection with the Services, and any updates Google may make to such Software from time to time.

“URL Terms” means the AUP, Data Processing and Security Terms, GCP Service Specific Terms, GCP Technical Support Services Guidelines, and SLAs.