

## GOOGLE FOR EDUCATION PARTNERSHIP AGREEMENT

This agreement ("**Agreement**") is entered into by:

**Google Asia Pacific Pte Ltd**, whose principal place of business at 70 Pasir Panjang Road, #03-01, Mapletree Business City II, Singapore 117371 ("**Google**"); and

**The Sovereign in Right of the Government of New Zealand** acting by and through the **Secretary for Education** or his or her authorised delegate whose principal place of business is at Level 1, Mātauranga House, 33 Bowen Street, Wellington, New Zealand ("**MOE**").

This Agreement is effective from the date it is signed by Google ("**Effective Date**").

### INTRODUCTION

- (A) MOE intends to enter into an agreement for the procurement of a minimum of [REDACTED] Chrome Education licences through Google's authorised distributor(s) or reseller(s), as applicable, in New Zealand ("**Authorised Distributor(s)**").
- (B) This Agreement sets out commitments of the parties to give effect to the above procurement and to work together on opportunities for MOE and Participating Schools to adopt Chrome Education licences, G Suite and Chromebook resources in New Zealand.

### AGREED TERMS

#### 1. Definitions and interpretation

##### 1.1. In this Agreement:

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

"**Brand Features**" means trade name(s), trademarks, logos and other distinctive brand features.

"**Chrome Education**" means the Google service made available by Google to an education institution customer under a license and is described at the following URL: <https://support.google.com/chrome/a/answer/2717664>, or other such URL as Google may provide, and any updates Google may make to such services from time to time.

"**Chrome Education Terms of Service**" or "**Chrome Education TOS**" means the service terms governing Google's provision of Chrome Education and further described at the following URL: [https://www.google.com/intl/ALL\\_au/chrome/terms/chrome-device-management/index.html](https://www.google.com/intl/ALL_au/chrome/terms/chrome-device-management/index.html), or other such URL as Google may provide, and any updates Google may make to such services from time to time, as varied by section 4 of this Agreement.

"**Intellectual Property Rights**" means all current or future patent rights, copyrights, trademark rights, rights in trade secrets, database rights, moral rights, and any other intellectual property rights (registered or unregistered) throughout the world, including all applications, renewals, extensions, restorations, and reinstatements of those rights.



**"Participating Schools"** means any eligible State or State Integrated School as listed on the [www.educationcount.govt.nz](http://www.educationcount.govt.nz) website. This excludes private and other vote education schools.

**"TSS Guidelines"** means Google's then-current technical support services guidelines for the Services, which is available at the following URL: <https://support.google.com/googlecloud/answer/6182373?hl=en>, or other such URL as Google may provide, and any updates Google may make to such services from time to time.

1.2. In this Agreement (a) **"including"** means "including but not limited to," and (b) examples are illustrative only.

## 2. MOE's obligations

2.1. MOE will:

- (a) enter into a separate agreement with Google's Authorised Distributor for the purchase of a minimum [REDACTED] Chrome Education licences ("**Order Agreement**");
- (b) advise Google in writing of the commencement date of the Order Agreement.

2.2. Following the commencement of the Order Agreement, MOE will:

- (a) work in good faith with Google to develop materials that inform Participating Schools with unmanaged Chromebooks of the benefits of enrolling those devices for additional security and management features;
- (b) support creation of case studies for schools using G Suite and Chromebooks; and
- (c) communicate to all Participating Schools that Google for Education Chrome licences will be made available for the Term of this Agreement and provide details on how they can receive and activate the licences.

2.3. Despite any other clause in this Agreement and the Chrome Education Terms of Service, Google acknowledges and agrees that:

- (a) it must obtain MOE's approval to use any materials that contain MOE's Brand Features, including materials, case studies or communications developed under clauses 2.2 and 3.6 of this Agreement;
- (b) MOE, as a New Zealand government agency, cannot and will not endorse Google, its products or services;
- (c) MOE may agree to participate in promotional activities or produce promotional materials as set out in this Agreement, but will not give Google, its products or services any general endorsement;
- (d) MOE's co-operation or approval for Google to publish any press release, public document or promotional materials is not to be regarded as a general endorsement of Google, its

products or services, and Google must not use MOE's co-operation or approvals, or any publicity or materials, in any way that is inconsistent with this section 2.3; and

- (e) nothing in the Agreement or the Chrome Education Terms of Service restricts MOE from supporting, promoting, distributing or using non-Google technology.

MOE may revoke approval or agreement relating to these matters by providing Google with written notice and a reasonable period of time to cease such usage. All goodwill arising from the use by Google of MoE's approval or agreement will belong to MOE.

### 3. Google's obligations

3.1. Google's obligations under this Section 3 will begin on the commencement of the Order Agreement, as advised by MOE pursuant to Section 2.1(b) and are subject to Google having a valid agreement with Google's Authorised Distributor.

3.2. Google will create the following SKU/part number for MOE and Participating Schools to obtain Chrome Education licences on these terms through its Authorised Distributor:

[REDACTED]

Description: Chrome Education: EDU, [REDACTED] perpetual license term

3.3. Google will provide Chrome Education licences, on the Chrome Education TOS, to MOE and Participating Schools through its Authorised Distributor.

3.4. Google will guarantee the allocation of Chrome Education licences up to the amount paid by MOE to the Authorised Distributor.

3.5. Google will provide:

- (a) technical support to schools provisioned with Chrome Education licences as set out in the Chrome Education TOS and Google's Chrome TSS Guidelines; and
- (b) GSuite and Chromebook online training programs for teachers and administrators which may include certification courses where applicable.

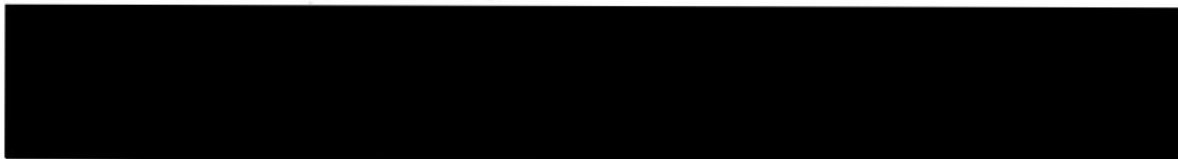
3.6. Google will, with MOE's prior written approval and subject to clause 2.3 of this Agreement, use commercially reasonable efforts to promote the adoption of GSuite and Chromebook resources in Participating Schools, which will include:

- (a) provision of a dedicated resource to, among other activities, travel and host professional learning and development training at each community of learning in New Zealand; and
- (b) holding multiple Chromebook roadshows in New Zealand each calendar year of the Term; and
- (c) localisation of online content to align with New Zealand curriculum and requirements.



#### 4. Chrome Education licences

- 4.1. The Chrome Education TOS will be varied as set out in this section 4. Despite any right of Google to update the Chrome Education TOS, if there is any inconsistency between Google's updated terms and the terms of this section 4, the terms of this section 4, will prevail to the extent of any inconsistency.
- 4.2. The perpetual subscription licences provided by Google under the Chrome Education Terms of Service will allow MOE to do the following:



- 4.3. MOE may do the things listed in section 4.1 for devices owned or leased by the Participating School or devices brought by personnel (including teachers, administrators and contractors) and students (including their families).
- 4.4. The Chrome Education TOS will be governed by New Zealand Law. For any dispute arising out of or relating to the Chrome Education, the parties consent to the non-exclusive jurisdiction of the courts in New Zealand.

#### 5. Intellectual Property Rights

Except as expressly stated in this Agreement, this Agreement does not grant either party any express or implied rights to the other's Intellectual Property Rights.

#### 6. Brand Features

##### 6.1. Licence to MOE Brand Features.

- (a) Subject to clause 2.3 of this Agreement, MOE grants to Google and its Affiliates a limited, non-exclusive and non-sublicensable licence during the Agreement to display the MOE Brand Features in connection with marketing and promotional materials, and for the purposes of performing its obligations under this Agreement.
- (b) MOE may revoke this licence by providing Google with written notice and a reasonable period of time to cease such usage. All goodwill arising from the use by Google of MOE's Brand Features will belong to MOE.

##### 6.2. Licence to Google's Brand Features.

- (a) Google grants to MOE a limited, non-exclusive and non-sublicensable licence during the Agreement to display the Google Brand Features provided by Google to MOE for the purposes of performing its obligations under this Agreement, subject to the Google Brand



Features Guidelines at <http://www.google.com/permissions/> (or such other URL as Google may specify) and any restrictions specified by Google.

- (b) Google may revoke this licence by providing MOE with written notice and a reasonable period of time to cease such usage. All goodwill arising from the use by MOE of Google's Brand Features will belong to Google.

## 7. Confidentiality and publicity

7.1. Definition. "**Confidential Information**" means information that one party (or an Affiliate) discloses to the other party under this Agreement, and that is marked as confidential or would normally be considered confidential information under the circumstances. It does not include information that is independently developed by the recipient, is rightfully given to the recipient by a third party without confidentiality obligations, or becomes public through no fault of the recipient.

### 7.2. Confidentiality Obligations.

- (a) The recipient will use the other party's Confidential Information only to exercise rights and fulfill obligations under this Agreement. The recipient will not disclose the other party's Confidential Information, except to employees, Affiliates, agents, or professional advisors ("**Delegates**") who need to know it and who have a legal obligation to keep it confidential.
- (b) The recipient will ensure that its Delegates are also subject to the same use and non-disclosure obligations.
- (c) The recipient may disclose Confidential Information if required by law. The recipient will give reasonable notice to the discloser, if permitted by law to do so.

### 7.3. Publicity.

- (a) Neither party may make any public statement regarding this Agreement without the other's written approval, except to the extent disclosure is required by laws or a regulatory body.
- (b) If a party is required by laws or a regulatory body to make a public announcement in connection with this Agreement or any transaction contemplated by it, that party must, to the extent practicable, first consult with and take into account the reasonable requirements of the other party.

## 8. Term and termination

8.1. Term. The Agreement will start on the Effective Date and continues until the earlier of:

- (a) termination or expiry of the Order Agreement;
- (b) termination or expiry of the agreement between Google and its Authorised Distributor through which Google products and services are provided in New Zealand. If such

termination or expiry occurs, Google will, fulfil any orders to provide Chrome Education licences to MOE and Participating Schools, which may include transferring MOE to a direct payment relationship with Google (if MOE agrees); and

- (c) termination in accordance with Sections 8.2 or 8.3.
- 8.2. A party may terminate this Agreement at any time by notice in writing to the other party if that party is in breach of this Agreement and:
- (a) in the case of a breach capable of remedy, the breach is not remedied within 14 days of the party in breach receiving written notice specifying the breach and requiring its remedy; or
  - (b) the breach is not capable of remedy.
- 8.3. If at any time MOE notifies Google in writing that it does not intend to enter into the Order Agreement with Google's Authorised Distributor(s) for any reason, or if the Order Agreement is not executed on or before 23 October 2018 (or such later date as Google may notify to MOE in writing and in Google's absolute discretion), this Agreement will automatically terminate and be of no further effect between the parties.
- 8.4. When the Agreement expires or terminates, all rights and licences granted by each party will cease immediately, but Section 7 and any other sections that under their terms or by implication ought to survive, will survive. To be clear, all Chrome Education licences provided by Google to MOE through its Authorised Distributor during the Term, and allocated at the end of the Term according to clause 8.5 below, will survive the expiry or termination of this Agreement in accordance with the Chrome Education Terms of Service.
- 8.5. All remaining licences not supplied to the Participating Schools of the initial [REDACTED] Chrome Education licences at the end of the Term will be allocated to a domain of MOE's choice.
9. **Support.** Google will provide 24x7 support through the helpline on the Google Admin Console.
10. **Additional Support.** Google will provide a nationwide 'Google For Education' adoption specialist.
11. **Reporting.**
- 11.1. Google will provide (and provide assistance to its Authorised Distributor to provide) MOE with information in relation to the provision of Chrome Education licences to MOE and Participating Schools and the deployment and use of such Chrome Education licences at Participating Schools, including the number of licences that have been acquired and the remaining licences that have not been allocated ("**Reporting Information**").
- 11.2. Google must provide the Reporting Information at least monthly from the Effective Date.
12. **General.**
- 12.1. **Notices.** All notices of termination or breach must be in English, in writing, and addressed to the other party's Legal Department. The address for notices to Google's Legal Department is legal-notices@google.com. All other notices (including approvals and consents) must be in English, in

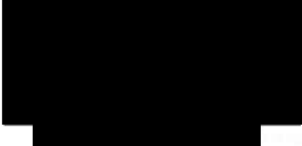
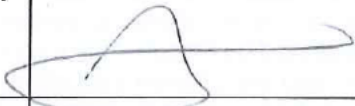
writing, and addressed to the other party's primary contact. Notice will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable).

- 12.2. Assignment. Neither party may assign any part of this Agreement without the written consent of the other, except to an Affiliate where: (a) the assignee has agreed in writing to be bound by the terms of this Agreement; (b) the assigning party remains liable for obligations under this Agreement if the assignee defaults on them; and (c) the assigning party has notified the other party of the assignment. Any other attempt to assign is void. Effective as of November 1, 2018 this Agreement will be assigned by Google Asia Pacific Pte. Ltd. to Google New Zealand Limited, as its authorized reseller, and the Chrome Education TOS will be between Google New Zealand Limited (as authorized reseller) and the Participating Schools. No further notice will be provided for this assignment.
- 12.3. Subcontracting. Either party may subcontract any of its obligations under this Agreement, but will remain liable for all subcontracted obligations and its subcontractors' acts or omissions.
- 12.4. No Agency. This Agreement does not create any agency, partnership, or joint venture between the parties.
- 12.5. Counterparts. The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument.
- 12.6. Entire Agreement. This Agreement states all terms agreed between the parties and supersedes all other agreements between the parties relating to its subject matter. In entering into this Agreement neither party has relied on, and neither party will have any right or remedy based on, any statement, representation or warranty (whether made negligently or innocently), except those expressly stated in this Agreement.

### 13. **Governing Law**

ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF NEW ZEALAND; THE PARTIES CONSENT TO THE NON-EXCLUSIVE JURISDICTION OF THE NEW ZEALAND COURTS IN RESPECT OF ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT.

Signed by the parties' authorized representatives on the dates below.

GOOGLE	MOE
 2018.10.11 08:51:15 +08'00' Director Google Asia Pacific Pte. Ltd	By:  Name: MARK HORRAN
Title:	Title: ACTING CIO
Date:	Date: 10/10/2015

