



Cisco Enterprise Agreement 3.0 Program Terms – End Users

These Cisco Enterprise Agreement 3.0 Program Terms – End Users (“**EA Program Terms**”) apply when You Order Suites and Add-Ons through the Cisco Enterprise Agreement 3.0 Buying Program (the “**EA Program**”). Capitalized terms, unless defined in these EA Program Terms, have the meaning in the General Terms.

1. Program Overview

- 1.1 **EA Program.** The EA Program provides You access to certain Software, Cloud Services, and Services offered as Suites and Add-Ons.
- 1.2 **Applicable Terms.** These EA Program Terms and the Buying Program Offer Description govern the EA Program and are Supplemental Terms to the End User Terms. These EA Program Terms will be effective and binding on the earlier of the date You (a) place Your Initial EA Order with an Approved Source, or (b) accept these EA Program Terms through Your Approved Source.
- 1.3 **Portfolio Specifics.** For Portfolio specific information, requirements, and eligibility, including related to Value Shift, Migration, and Commit and Overage see the Portfolio Features.

2. Purchases and Adjustments

- 2.1 **Ordering.** All purchases under the EA Program will be made through Your Approved Source and all pricing will be provided by Your Approved Source. Your first Order under these EA Program Terms must meet the minimum requirements for the EA Program (“Initial EA Order”). Following Your initial Full Commit Suite purchase in a Portfolio, You may only purchase additional Suites or Add-Ons within a Portfolio through the Approved Source that sold the initial Full Commit Suite within that Portfolio.
- 2.2 **Subsequent Purchases.** Unless stated otherwise in Section 2.3, Suites and Add-Ons purchased after Your Initial EA Order and any increases in Consumption will be governed by these EA Program Terms and, by default, co-terminate with the purchases in the Initial EA Order.
- 2.3 **Separate Purchases.** You must make a new EA Program purchase subject to Cisco’s then-current Enterprise Agreement Program Terms – End Users or a separate purchase outside of the EA Program for: (i) Suites and Add-Ons purchased with less than 12 months remaining in the EA Term, (ii) Suites and Add-Ons with a Suite Term ending after the EA Term, or (iii) Embedded Software delivered in the last 12 months of or after the EA Term.
- 2.4 **Payment Obligations and Increased Consumption.** You will pay for the EA Commitment for the EA Term, including for any increases in Consumption. Your EA Commitment cannot be decreased.
 - (A) **True Forward.** “True Forward” is a process of periodic reviews, invoices, and adjustments of Entitlements for increases in Consumption above Your then-current Entitlement. At True Forward, if Your Consumption is greater than Your then-current Entitlement for the measured Software, Cloud Service, or Service, then (i) Cisco has the right to invoice all associated charges for such increased Consumption over the applicable Entitlement prospectively through the remainder of the Suite Term, (ii) You will pay for all such charges, and (iii) Cisco will adjust Your Entitlement for that Suite or Add-On going-forward to the increased Consumption level.
 - (1) General. The True Forward will, by default, be conducted at the annual True Forward anniversary reflected in the Cisco EA Tool.
 - (2) Off-Cycle True Forward. If Your Consumption of a Suite or Add-On exceeds 115% of the value of Your then-current Entitlement (“Exceptional Growth”), Cisco has the right to initiate an off-cycle True Forward at the next semi-annual anniversary of the True Forward anniversary reflected in the Cisco EA Tool in addition to Your annual True Forward.

- (3) Adjustments to True Forward. Certain Software, Cloud Services, and Services may be eligible for Value Shift and/or Migration. Eligibility information and procedural requirements to take advantage of any Value Shift or Migration is described in the Portfolio Features. You must order the applicable Software, Cloud Services, and Services from the same Approved Source with the same Suite Term end date in the same Enterprise Agreement subscription.
- (a) Intra Suite Value Shift. During a True Forward, where eligible, the remaining value (on a pro rata basis) of any purchased but not Consumed Software, Cloud Services, or Services will automatically be applied to offset amounts owed for increased Consumption within the same Suite (“Intra Suite Value Shift”).
 - (b) Cross Suite Value Shift. During a True Forward, where eligible, the remaining value (on a pro rata basis) of any purchased but not Consumed Software, Cloud Services, or Services can be requested to offset amounts owed for increased Consumption in another eligible Suite (“Cross Suite Value Shift”).
 - (c) Intra Suite Migration. If eligible, prior to True Forward, You may terminate any purchased Software, Cloud Services, or Services and request to apply the remaining value (on a pro rata basis) to eligible Software, Cloud Services, or Services in the same Suite; provided that You may not decrease the value of Your overall EA Commitment (“Intra Suite Migration”). If You owe additional amounts after accounting for such Migration, the amount due will be owed at Your next True Forward.
 - (d) Cross Suite Migration. If eligible, prior to True Forward, You may terminate any purchased Software, Cloud Services, or Services and request to apply the remaining value (on a pro rata basis) to eligible Software, Cloud Services, or Services in a different eligible Suite; provided that You may not decrease the value of Your overall EA Commitment (“Cross Suite Migration”). If You owe additional amounts after accounting for such Migration, the amount due will be owed at the time of Cross Suite Migration.
- (B) Commit and Overage. “Overage Review” is a process of periodic reviews to monitor if Your Consumption exceeds the applicable Committed Usage during a review period. If Your Consumption for a measured Software, Cloud Service, or Services exceeds the applicable Committed Usage during a review period, then (i) Cisco has the right to invoice separately all charges for such Consumption in arrears and (ii) You will pay for all such charges. Your Committed Usage will not automatically change if You Consume more than Your Committed Usage. The review will be conducted monthly. However, Cisco may issue a new or additional invoice for Your Consumption up to 180 days later, and You will pay for all such charges.
- 2.5 **Price Predictability.** True Forward charges will be based on either a: (i) Not-to-Exceed Pricing for Full Commit Suites or (ii) fixed discount for applicable Partial Commit Suites or Add-Ons, in each case as provided to You by Your Approved Source. Commit and Overage charges will be based on a (i) Not-to-Exceed Pricing for the Committed Usage and (ii) a fixed discount for any applicable overages, in each case as provided to You by Your Approved Source. The pricing and discount terms for specific Suites and Add-Ons apply only to the Approved Source from whom You purchased such Suites and Add-Ons.
- 2.6 **Responsibility for Affiliates.** Your payment obligation will be based on the EA Commitment by You and any Affiliates that You permit to participate in this EA Program. You remain responsible for all actions and omissions of You, Your Affiliates, and Authorized Users, and payment of all charges incurred by You, Your Affiliates, and Authorized Users. You will provide Your Approved Source an updated list of participating Affiliates to ensure compliance with the EA Program.

3. Term and Termination

- 3.1 **EA Term.** These EA Program Terms will remain in effect until expiration or termination of all the Suites and Add-Ons purchased in Your Initial EA Order (“EA Term”).
- 3.2 **Termination**
- (A) Either party may terminate these EA Program Terms (or the right to Consumes of specific Suites or Add-Ons, as applicable) if the other party materially breaches the Applicable Terms, and that party does not cure the breach within 30 days of written notice from the non-breaching party. If You materially breach the Applicable Terms and do not cure within 30 days of written notice (including

non-payment of undisputed fees to the Approved Source), Cisco may also suspend Your access to the EA Program (including the right to Consume specific Suites or Add-Ons, or resources such as the Cisco EA Tool).

- (B) Except as required by law or set forth in Section 3.2(A), these EA Program Terms and any Orders accepted under the EA Program may not be cancelled or terminated.

3.3 Consequences of Termination or Expiration of a Suite Term

(A) Upon expiration of the Suite Term or termination pursuant to Section 3.2(A), all rights to Consume the affected Suites and Add-Ons, or the Cisco EA Tool and resources available as part of the Suites and Add-Ons, will terminate.

(B) If You terminate pursuant to Section 3.2(A), Cisco will refund Your Approved Source for the remaining pro rata portion of amounts prepaid to Cisco for the terminated Purchased Suites and attributable to the period after termination.

(C) If Cisco terminates pursuant to Section 3.2(A), You will pay all unpaid fees through the end of the then-current Suite Term for all terminated Purchased Suites.

- 3.4 **Assignment and Transfer.** Neither these EA Program Terms, nor any right or obligation herein, may be assigned or transferred by a party (including under the Cisco Software Transfer and Re-licensing Policy) without the other party's prior written consent, which may not be unreasonably conditioned, withheld, or delayed. However, to continue providing You with the benefits of the EA Program, Cisco may assign or transfer its obligations (in whole or in part) upon written notice to You in the event of an acquisition of business assets to which these EA Program Terms relate. When validly assigned or transferred, these EA Program Terms will bind and inure to the benefit of the parties and their successors and assigns.

4. Delivery, Tax and Customs

4.1 **Delivery.** Cisco will make electronically delivered Software available to You and Your Affiliates in the transaction country of record, and You are responsible for distributing such Software across Your organization. Software delivered on newly purchased Hardware will be made available to You and Your Affiliates at the address provided with the purchase order for the Hardware. For purchases of Hardware with Embedded Software, You must use the EA Tool to set up Your Cisco Enterprise Agreement.

4.2 **Embedded Software.** During the Suite Term, for Purchased Suites that include Embedded Software, the value of Embedded Software may be deducted from the purchase price of the related Hardware from Cisco to Your Approved Source. If You are required to pay an importation fee, Your jurisdiction may use the value of both the Hardware and Embedded Software to calculate the importation fee and related duties. Accordingly, the importation fee on the value of the combined products may be higher than if calculated solely using the price of the Hardware.

5. Interpretation

5.1 **Order of Precedence.** If there is any conflict between the EA Program Terms, the Buying Program Offer Description, and the End User Terms, the order of precedence is: the Buying Program Offer Description, these EA Program Terms, Offer Descriptions or Services Descriptions, and then the General Terms or equivalent written agreement between You and Cisco for accessing and using Software and Cloud Services. This order of precedence supersedes the order of precedence in the General Terms for Orders in the EA Program.

5.2 **Entire Agreement.** These EA Program Terms, together with the Buying Program Offer Description and End User Terms, are the complete agreement between the parties regarding the purchase of Software, Cloud Services, and Services under the EA Program and supersede all prior or contemporaneous communications, understandings, or agreements (whether written or oral).

6. Definitions

| Term | Meaning |
|---|--|
| Add-On | An optional Software, Cloud Services, or Services offering ineligible for Full Commit status. |
| Applicable Terms | The EA Program Terms, Buying Program Offer Description, and End User Terms. |
| Buying Program Offer Description | The description of EA Program terms specific to certain Software, Cloud Services, and Services in the EA Program available at the Offer Descriptions site. |

| Term | Meaning |
|------------------------------|---|
| Cisco EA Tool | The applicable platform, website, tool, or portal that Cisco makes available to You under the EA Program from time to time to enable You to: (i) view and manage Your Entitlements and Consumption; and (ii) access information about the EA Program. |
| Committed Usage | The minimum Entitlements You commit to purchase each month or year, as applicable, for a specific Software, Cloud Services, or Services under Commit and Overage. |
| Consume/Consumption | To download, install, activate, provision, enable, or otherwise access or have available (even if You are not actively utilizing) Software, Cloud Services, and/or Services under the EA Program. |
| EA Commitment | (i) The initial Entitlement under Your Initial EA Order, (ii) additional Entitlements associated with subsequent purchases, and (iii) Entitlements associated with increases in Consumption (after accounting for any applicable adjustments related to Section 2.4(A)(3)). |
| Embedded Software | Software delivered on newly purchased Hardware. |
| End User Terms | The General Terms , or equivalent written agreement between You and Cisco for accessing and using Software, Cloud Services, and Services; and (i) for Cisco Software and Cloud Services, the applicable Offer Descriptions , and (ii) for Services, the applicable Service Descriptions . |
| Entitlement | The type, quantity or value, and duration of Suites and Add-Ons that You have committed to acquire (or previously acquired and agreed to cover under the EA Program), as adjusted (e.g., as a result of a True Forward). |
| Full Commit Suite | A Suite acquired on terms (including duration, price, and quantities) that fulfill the minimum requirements for a Full Commit Suite, as set out in the Portfolio Features. |
| Migration | Intra Suite Migration and Cross Suite Migration. |
| Not-to-Exceed Pricing | Pricing model that (i) includes a maximum price and (ii) allows for lower prices if applicable list price decreases. |
| Partial Commit Suite | A Suite acquired in addition to a corresponding Full Commit Suite, that does not meet the minimum eligibility requirements for a Full Commit Suite. |
| Portfolio | A standardized grouping of Suites and Add-Ons. |
| Portfolio Features | The Portfolio Features document, currently available at the Portfolio Features site. |
| Purchased Suite(s) | The Suites and Add-Ons purchased under the EA Program. |
| Services | Services for the applicable Hardware, Software, or Cloud Services corresponding to the Purchased Suite. |
| Suite | A defined combination of Software, Cloud Services, and Services made available under the EA Program. |
| Suite Term | For each Purchased Suite, the duration of the Purchased Suite, commencing on the EA start date reflected in the Cisco EA Tool. |
| Value Shift | Intra Suite Value Shift and Cross Suite Value Shift. |
| You or Your | The individual or legal entity purchasing the Software, Cloud Services, and Services under the EA Program. |