



Cisco Enterprise Agreement 3.0 Program Terms for End Users

1. Program Overview

- 1.1 EA Program. The Cisco Enterprise Agreement 3.0 buying program (the “**EA Program**”) provides You access to certain Cisco Technology and Services offered as Suites and Add-ons.
- 1.2 Applicable Terms. These terms (“**EA Program Terms**”) and the Buying Program Offer Descriptions govern the EA Program, and the End User Terms govern Your Use of the Cisco Technology and Services purchased under the EA Program. Any capitalized terms not defined in these EA Program Terms have the meanings set out in the End User Terms. You agree to the terms of these EA Program Terms by the earlier of your (a) placing Your initial order with an Approved Source, or (b) signing these Program Terms.

2. Purchases and Adjustments

- 2.1 Ordering. All purchases will be made through Your Approved Source and all pricing will be provided by Your Approved Source. Your first order under the EA Program must meet the minimum requirements for the EA Program (“**Initial EA Order**”). Suites and Add-ons purchased after Your Initial EA Order will by default co-terminate with the purchases in the Initial EA Order if there is at least 12 months remaining in the EA Term. The following scenarios must be covered under a new EA Program purchase subject to Cisco’s then-current EA Program Terms or through a separate license purchase: (i) You make a new purchase or increase Use above your then-current Entitlement with less than 12 months remaining in the EA Term, (ii) You choose not to co-terminate Suites and Add-ons purchased after Your Initial EA Order, or (iii) Embedded Software is delivered within the last 12 months of or after the end of the EA Term. You may purchase Suites or Add-ons after Your initial Full Commit Suite purchase in a Portfolio only through the Approved Source that sold the initial Full Commit Suite within that Portfolio.
- 2.2 Payment Obligations and Growth. You will be charged and You will pay for any additional Suites and Add-ons that You purchase, and any increases in Use.
 - a. True Forward. “**True Forward**” is Cisco’s periodic review and prospective billing process for increases in Use above Your then-current Entitlement. Cisco will conduct a True Forward review on a quarterly basis.
 - b. Partial Commit Suites. True Forward charges for Partial Commit Suites will be invoiced quarterly during the Suite Term. At a True Forward review, if Your Use is greater than Your then-current Entitlement for the measured Suite or Add-on, then (i) You will be invoiced and will pay for all charges for such increased Use for the remainder of the Suite Term, and (ii) Your Entitlement for that Suite or Add-on will be adjusted on a going-forward basis to the increased Use level.
 - c. Full Commit Suites. True Forward charges for Full Commit Suites will be invoiced annually during the Suite Term, unless an Initial Growth Cap or Exceptional Growth is triggered as described below.
 - i. Initial Growth Cap and Exceptional Growth. If Your Use of a Full Commit Suite at any time (i) during the first six months of the Suite Term exceeds 105% of Your then-current Entitlement (“**Initial Growth Cap**”), or (ii) after the first six months of the Suite Term exceeds 115% of Your then-current Entitlement (“**Exceptional Growth**”), then Cisco has the right at the next quarterly anniversary of the applicable Suite Term to (1) issue to Your Approved Source(s) a True

Forward invoice for all associated charges for such increased Use over the applicable Entitlement for the remainder of the Suite Term, after accounting for any applicable Growth Allowance; and (2) adjust Your Entitlement for that Suite or Add-on on a going-forward basis to the increased Use level. Initial Growth Cap and Exceptional Growth only apply to certain Full Commit Suites specified in the Buying Program Offer Descriptions.

- ii. **Growth Allowance.** After the first six months of the Suite Term, You may Use up to 115% of Your initial Entitlement (which may have already increased up to 105% during the first six months) without incurring any additional fees (“**Growth Allowance**”). If Your Use is greater than the Growth Allowance, Cisco will charge Your Approved Source only for the Use above the Growth Allowance threshold at the time of Your next True Forward invoice. Growth Allowance applies only to certain Full Commit Suites specified in the Buying Program Offer Descriptions.
- d. **Verification.** Cisco may request Your assistance to verify the quantity of Software You have Used, to accurately calculate Your True Forward payment obligation. If Cisco reasonably believes You have Used a greater quantity of Software than Your then-current Entitlement, upon request from Cisco and no more than once per 12-month period, You will provide verification information (such as order records) regarding the quantity of Software You have Used.

2.3 **Value Shift.** You are entitled to value shift as described in the Buying Program Offer Descriptions.

- a. **Intra Suite Value Shift.** If You purchase a Full Commit Suite that is eligible for Intra Suite Value Shift, then during a True Forward review, the residual value of any purchased but unused licenses in the applicable Suite will automatically be applied to offset fees for increased Use of other licenses within the same Suite.
- b. **Cross Suite Value Shift.** If You purchase a Full Commit Suite that is eligible for Cross Suite Value Shift, then during a True Forward review, You may apply the value of (i) purchased but unused licenses and (ii) licenses previously Used that You agree to no longer Use to offset fees for increased Use in another eligible Full Commit Suite within the same Portfolio. To take advantage of Cross Suite Value Shift You will need to: (i) have ordered the Full Commit Suites from the same Approved Source, at the same time, and for the same term, and (ii) provide Your Approved Source with notice 60 days prior to Your next annual True Forward review.

2.4 **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. The pricing and discount terms for specific Suites apply only to the Approved Source You selected for the applicable Suites.

2.5 **Responsibility for Affiliates.** Your payment obligation will be based on the EA Commitment by You and any Affiliates that You have identified as participating in this EA Program. You remain responsible for all actions and payment of all charges incurred by You, any of Your Affiliates, or any individual otherwise permitted by You or any of Your Affiliates to access or order Suites and Add-ons. In addition, You will provide Your Approved Source with 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 specific Suites or Add-ons, as applicable) if the other party materially breaches these EA Program Terms, and that party does not cure the breach within 30 days of written notice from the non-breaching party. If You materially breach these EA Program Terms (including for non-payment of undisputed fees to the Approved Source),

Cisco may also suspend Your access to the EA Program (including Use of specific Suites or Add-ons, or resources such as the Cisco EA Tool) after providing You notice and an opportunity to cure as set forth in this section.

- b. Except as permitted by law or Section 3.2(a) above, these EA Program Terms and any orders accepted under the EA Program may not otherwise be cancelled or terminated.

3.3 Consequences of Termination or Expiration of a Suite Term.

- a. If these EA Program Terms terminate pursuant to Section 3.2(a), or if the Suite Term You have purchased under the EA Program expires, then any rights to access or Use Cisco Technology or Services, or the Cisco EA Tool, or resources available as part of the EA Program, will terminate.
- b. If You terminate for Cisco's material breach, Cisco will provide a refund to Your Approved Source for the remaining pro rata portion of amounts prepaid to Cisco attributable to the period after termination.
- c. If Cisco terminates for Your material breach, You will pay Your Approved Source all unpaid fees through the end of the then-current Suite Term for all terminated Suites.

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 Cisco hardware will be made available to You and Your Affiliates at the address provided with the purchase order for the Cisco hardware, and for purchases of Cisco hardware You must use the EA Tool during the setup of Your Cisco EA.

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 Cisco 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. 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 Descriptions, and the End User Terms, the order of precedence is: the Buying Program Offer Descriptions, the EA Program Terms, and then the End User Terms.

5.2 Entire agreement. These EA Program Terms, together with the applicable Buying Program Offer Descriptions and End User Terms, are the complete agreement between the parties regarding the purchase of Cisco Technology and Services under the EA Program and supersedes all prior or contemporaneous communications, understandings, or agreements (whether written or oral).

5.3 Definitions. These terms have the meanings specified below:

- a. **"Add-on"** means an optional Cisco Technology and Services offering that is available as an add-on purchase to an underlying Suite.
- b. **"Buying Program Offer Descriptions"** means the description of EA Program features applicable to the Cisco Technology and Services in the EA Program available at <https://www.cisco.com/c/en/us/about/legal/cloud-and-software/software-terms.html>.
- c. **"Cisco EA Tool"** means 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 Entitlement, Use, and the Suites and Add-ons; and (ii) access information about the EA Program.

- d. **“Cross Suite Value Shift”** means the ability to shift value across eligible Suites as described in Section 2.3(b). For more information on the eligibility of a Suite for Cross Suite Value Shift, see the Buying Program Offer Descriptions.
- e. **“EA Commitment”** means (i) the initial Entitlement under Your Initial EA Order, (ii) additional Entitlements associated with subsequent purchases of additional Suites and Add-ons, and (iii) increases in Use.
- f. **“Embedded Software”** means Software that is delivered on newly purchased Cisco hardware.
- g. **“End User Terms”** means:
 - i. for Cisco Technology, the End User License Agreement (including applicable [Product Specific Terms](#), available at <http://www.cisco.com/go/eula>), or equivalent written agreement between You and Cisco for accessing and using Cisco Technology; and
 - ii. for Services, the applicable Service Descriptions available at <https://www.cisco.com/c/en/us/about/legal/service-descriptions.html>.
- h. **“Entitlement”** means the type, duration, and quantity of Suites and Add-Ons that You have committed to acquire, as adjusted (e.g., as a result of a True Forward).
- i. **“Full Commit Suite”** means a Suite acquired on terms (including duration, price, and quantities) that fulfill the minimum eligibility criteria for a ‘Full Commit Suite’ as set out in the Buying Program Offer Descriptions.
- j. **“Intra Suite Value Shift”** means the ability to shift value within an eligible Suite, as described in Section 2.3(a). For more information on the eligibility of a Suite for Intra Suite Value Shift, see the Buying Program Offer Descriptions.
- k. **“Partial Commit Suite”** means any other Suite that does not meet the minimum eligibility requirements for a Full Commit Suite.
- l. **“Portfolio”** means a standardized grouping of Suites and optional Add-Ons.
- m. **“Services”** means maintenance, technical assistance, or other support for the Cisco Technology in a purchased Suite.
- n. **“Suite”** means a defined combination of Cisco Technology and Services made available under the EA Program.
- o. **“Use”** means to download, install, activate, provision, enable, or otherwise access Suites and Add-Ons available under the EA Program.
- p. **“You”** or **“Your”** means the individual or legal entity purchasing the Cisco Technology and Services under the EA Program.