

## UNIVERSAL CLOUD AGREEMENT

This Universal Cloud Agreement describes the rights and responsibilities related to the Cloud Service(s) You purchase from Cisco or an Approved Source and is between You and Cisco. The Universal Cloud Agreement includes the applicable Offer Description(s) located at [www.cisco.com/go/cloudterms](http://www.cisco.com/go/cloudterms) (collectively "Agreement").

**By clicking 'accept,' or using the Cloud Service, You agree to the terms of this Agreement. If You do not have authority to enter into this Agreement, or if You do not agree with its terms, do not click 'accept' and do not use the Cloud Service. If You determine that You cannot comply with the terms of this Agreement after You have paid for the Cloud Service, You may terminate Your access to the Cloud Service for a full refund provided You do so within thirty (30) days of Your purchase.**

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#### ***Section 1. Our Responsibilities***

- a. We provide the Cloud Service and Support.** We will make the Cloud Service available and provide basic technical support, as described in each Offer Description. Higher levels of support may be available for an additional fee.
- b. Updates to the Cloud Service.** Cisco may enhance and refine the Cloud Service provided we do not materially reduce its functionality other than in accordance with our End of Life Policy. From time to time, Cisco performs scheduled maintenance to update the servers and software that are used to provide You the Cloud Service. You acknowledge that Cisco may, in certain situations, need to perform emergency maintenance of a Cloud Service without providing advance notice to You.

#### ***Section 2. Your Payment Obligations***

Fees for the Cloud Service are set out in Your purchase terms with Your Approved Source. Fees are non-refundable and payment obligations are non-cancelable, except as provided in Your purchase terms or where prohibited by law.

#### ***Section 3. Your Use of the Cloud Service***

- a. Acceptable Use.** You may use the Cloud Service during the applicable term for Your internal business purposes only, and in accordance with the applicable Offer Description, Order, and Documentation. You are responsible for the accuracy, quality and legality of Your Customer Data, the means by which You acquired Your Customer Data and Your use of Your Customer Data with our Cloud Service. You will not (i) interfere with the Cloud Service, other customers' access to the Cloud Service, or with the security of the Cloud Service; (ii) sell, resell, or distribute the Cloud Service; (iii) make the Cloud Service available to third parties as a managed or network provisioned service; or (iv) attack or disrupt the Cloud Service, including denial of service (DoS), unauthorized access, monitoring or crawling, or distribution of malware (including but not limited to viruses, Trojan horses, worms, time bombs, spyware, adware, or cancelbots).
- b. You are responsible for Your users.** Authorized Users may submit Customer Data to the Cloud Service, such as messages or files. Cisco does not endorse and has no control over what Your Authorized Users submit through the Cloud Service. You are responsible for all content and Customer Data submitted to, or created in the Cloud Service. You will inform Your Authorized Users of Your policies and practices that are relevant to their use of the Cloud Service and of any settings that may impact the processing of Customer Data.
- c. Your account must be accurate and up-to-date.** You represent that all account information You provide is accurate and will be kept up-to-date. In addition, You will use reasonable means to protect Your account information, passwords and other login credentials for the Cloud Service, and promptly notify Cisco of any known unauthorized use of or access to Your account.

#### ***Section 4. Data Protection, Privacy & Confidential Information***

- a. How we use Your data.** Cisco will process Customer Data and Personal Data in accordance with this Agreement, Cisco's [Privacy Statement](#), and the applicable Offer Description. Cisco will maintain administrative, physical and technical safeguards consistent with industry standards and the Documentation, which are designed to provide security, confidentiality and integrity of the Customer Data processed by Cisco. Certain Data that Cisco collects from a Cloud Service, or that You provide or make accessible to Cisco as part of Your use of a Cloud Service, is necessary for the essential use and functionality of such Cloud Service. Data is also

used by Cisco to provide associated services such as technical support and to continually improve the operation, security, efficacy and functionality of the Cloud Service. For those reasons, You may not be able to opt out of some of the Data collection other than by uninstalling or disabling the Cloud Service.

- b. **Use of Telemetry Data and Statistical Data.** Cisco may process Telemetry Data related to Your use of the Cloud Service in order to (i) deliver, enhance, improve, customize, support, and/or analyze the Cloud Service and other Cisco offerings, and (ii) derive Statistical Data. Cisco may freely use Telemetry Data that does not identify You or any of Your Authorized Users. Statistical Data is owned by Cisco and may be used for any legitimate interest or purpose, including, without limitation, for purposes of enhancing, developing, marketing, and/or promoting Cisco products and services, including the Cloud Service.
- c. **International Data Transfers.** Cisco may process and store Customer Data and Personal Data in the United States or outside of the country where it was collected. You are responsible for providing any required notices to Authorized Users and obtaining all required consents from Authorized Users regarding the processing and transfer of Personal Data by the Cloud Service, including international transfers. Cisco will only transfer Personal Data consistent with applicable law. To the extent Cisco processes any Personal Data from the EEA or Switzerland on behalf of You, we will do so in a manner consistent with the relevant EU- or Swiss-US Privacy Shield Principles or successor frameworks (“Principles”) (see [www.commerce.gov/privacyshield](http://www.commerce.gov/privacyshield)). Where Cisco transfers Personal Data from an APEC Member Economy on behalf of You, Cisco will process such Personal Data in a manner consistent with the APEC Cross Border Privacy Rules Systems requirements (“CBPRs”) (see [www.cbprs.org](http://www.cbprs.org)) to the extent the requirements are applicable to Cisco’s processing of such data. If Cisco is unable to provide at least the same level of protection as required by the Principles or CBPRs, Cisco will promptly notify You and cease processing.
- d. **Confidential Information.** The parties will protect each other’s Confidential Information. Your Confidential Information includes Your Customer Data. The party receiving Confidential Information will exercise at least the same degree of care that it uses to protect its own Confidential Information of a similar nature, but in no event less than reasonable care to (i) restrict dissemination of Confidential Information only to individuals or third parties with a need to know and who are under a substantially similar duty of confidentiality, and (ii) not use any Confidential Information for any purpose other than to perform its obligations under this Agreement. The receiving party’s obligations will not apply to information that (w) is rightfully in its possession prior to receipt from the disclosing party, (x) is or becomes publicly available other than as a result of a breach of this Agreement, (y) is rightfully obtained by the receiving party from a third party under no obligation of confidentiality with respect to the information, or (z) is independently developed by the receiving party. The receiving party may disclose Confidential Information to the extent required by law or regulation.

#### ***Section 5. Ownership and Software Licensing Rights***

- a. **What You Own.** You retain all right, title and interest in and to Your Customer Data. We may use Your Customer Data in order to (i) provide the Cloud Service, and (ii) derive Statistical Data.
- b. **What We Own.** Cisco and its licensors retain ownership in all intellectual property rights to the Cloud Service and its underlying technology, software, patents, know-how and associated documentation, in whole or in part, including all improvements, enhancements, modifications, and derivative works (together, “Materials”). Cisco reserves all rights to the Cloud Service, Software and Materials that are not expressly granted under this Agreement.
- c. **Software License & Restrictions.** To use the Cloud Service, You may be required to download and install a Cisco proprietary agent, plug-in or similar software (“Software”). Cisco grants you a limited, non-exclusive, non-sublicensable and non-transferable license to use the Software solely as required to use the Cloud Service. The Software may contain open source code that is subject to its own license terms. With respect to Your use of the Software, You may not and may not allow a third party to modify, reverse engineer, decompile, or otherwise attempt to derive the source code for the Software, or create derivative works of the Software except as legally required for interoperability purposes.
- d. **Feedback.** We welcome Your feedback and suggestions about the Cloud Service and look for ways to implement them wherever possible. You authorize Cisco to use feedback and ideas You provide in connection with Your Use of the Cloud Service for any purpose without further obligation.
- e. **Beta and Trial Versions.** If we provide beta versions of the Cloud Service for You to evaluate, they are not yet generally released and may contain bugs, errors, or other issues so they may not be used in Your production environments. We may also give You trial access to the Cloud Service. Any trial period will expire thirty (30) days after it starts unless otherwise stated in writing from Cisco. Beta and trial Cloud Services are provided “AS-IS” without support or any express or implied warranty or indemnity for any problems or issues. Cisco may end the beta or trial at any time and any related data, information, and files would be lost and no longer accessible by You.

#### ***Section 6. Indemnification***

Cisco will defend You against any third-party claim that a Cloud Service infringes such third-party’s patent or copyright (a “Claim”), and will indemnify You against the final judgment entered by a court of competent jurisdiction or a settlement arising out of such Claim. Cisco will have no obligation for any Claim to the extent such Claim is based on (i) a modification of the Cloud Service by You or a third party, or use of the Cloud Service outside the scope of this Agreement; (ii) combination, operation, or use of the Cloud Service with non-Cisco products, software, services or business processes; (iii) Customer Data; or (iv) services You provide based on the Cloud Service. You must (x) promptly notify Cisco in writing of the Claim (or threat thereof), and any subsequent litigation updates, and (y) cooperate with

Cisco in the defense of the Claim (including any statements to third parties regarding the Claim), and (z) grant Cisco full and exclusive control of the defense and settlement of the Claim and any subsequent appeal. If You fail to notify Cisco promptly of the Claim or provide timely subsequent litigation updates, and that failure prejudices Cisco's ability to defend, settle or respond to the Claim, then Cisco's obligation to defend or indemnify You with respect to that Claim will be reduced to the extent Cisco has been prejudiced. In addition, such failure to provide prompt notification will relieve Cisco of any obligation to reimburse You for Your attorneys' fees incurred prior to notification. If a Claim is made or appears likely, Cisco may, at Cisco's option, (1) procure for You the right to continue using the Cloud Service under the terms of this Agreement, or (2) replace or modify the Cloud Service to be non-infringing without material decrease in functionality. If Cisco determines that neither of these options are reasonably available, Cisco may terminate the applicable Cloud Service upon written notice to You, and refund You a pro rata portion of the price You paid for the Cloud Service for the remainder of the unexpired term. This section states Cisco's entire obligation and Your exclusive remedy regarding any Claims against You.

#### **Section 7. Warranties, Disclaimers, and Limitation of Liability**

- a. **Warranty.** Unless otherwise provided in an applicable Offer Description, Cisco warrants that it provides the Cloud Service in accordance with the Offer Description using commercially reasonable skill and care. Upon prompt notification by You of Cisco's breach of this warranty, to the extent permitted by applicable law, Your sole and exclusive remedy is, at our option, either repair or replacement of the Cloud Service or a refund of the fees paid to Cisco for the period in which the Cloud Service did not materially comply. **Except as expressly stated in this Section 7(a), to the extent allowed by applicable law, Cisco: (i) expressly disclaims all warranties and conditions of any kind, express or implied, including without limitation any warranty, condition or other implied term as to merchantability, or fitness for a particular purpose or non-infringement; and (ii) makes no warranty or representation that: (1) the Cloud Service will be uninterrupted, completely secure, error-free, or free of viruses; or (2) the Cloud Service will meet Your business requirements or operate with Your existing systems.**
- b. **Limitation of Liability.** Except for any amounts due to Cisco for the Cloud Service, either party's liability for claims related to, or arising out of, this Agreement, Your Order, or the Cloud Service, shall not exceed, in the aggregate, the fees paid to Cisco for the Cloud Service in the twelve (12) months preceding the last event giving rise to the liability. In no event will either party be liable for (i) indirect, incidental, exemplary, special or consequential damages; (ii) loss or corruption of data or interrupted or loss of business; or (iii) loss of revenues, profits, goodwill or anticipated sales or savings. This limitation of liability applies whether the claims are in warranty, contract, tort, infringement, or otherwise, even if either party has been advised of the possibility of such damages. Nothing in this Section 7 limits or excludes any liability that cannot be limited or excluded under applicable law. This limitation of liability is cumulative and not per incident.

#### **Section 8. Term and Termination**

- a. **Term.** The initial term of a Cloud Service starts on the date the Cloud Service is available for Your use and lasts for the period stated in the Order.
- b. **Renewal.** *In order to provide You with uninterrupted service, the Cloud Service will automatically renew for the renewal period selected on the Order ("Renewal Term") unless (i) either of us notifies the other (via the Approved Source) in writing at least thirty (30) days before the end of the then-current term of its intention not to renew or (ii) You or Your Approved Source elect on the Order at the time of initial purchase not to auto-renew the Cloud Service. Your Approved Source will notify You reasonably in advance of any Renewal Term if there are any fee changes. The new fees will apply for the upcoming Renewal Term unless You promptly notify in writing, before the applicable renewal date, that You do not accept the fee changes.* In such event, the Cloud Service will terminate at the end of the then-current term.
- c. **Termination.** If a party materially breaches this Agreement and does not cure that breach within thirty (30) days after receipt of written notice of the breach, the non-breaching party may terminate this Agreement for cause. Cisco also has the right to immediately suspend or terminate Your use of the Services if You breach Section 3(a) above. Upon termination or expiration of this Agreement, You must cease any further use of the Cloud Service and destroy any copies of Software within Your control. Upon any termination by You for Cisco's material breach of the Agreement, we will refund to You or Your Approved Source any prepaid fees covering the remainder of the then-current term after the effective date of termination. Upon any termination by Cisco for Your material breach of the Agreement, You will pay any unpaid fees covering the remainder of the then-current term.
- d. **End-of-Life.** Cisco reserves the right to end-of-life (EOL) the Cloud Service three (3) years after the end-of-sale date. If You prepaid the fee for the Cloud Service which is subject to EOL, Cisco will use commercially reasonable efforts to transition You to a substantially similar Cloud Service. If Cisco does not have a substantially similar Cloud Service, then Cisco will credit You any unused portion of the prepaid fee for such Cloud Service, calculated from the last date the Cloud Service is available. Such credit can be applied towards the future purchase of Cisco products.
- e. **Survival.** The following sections survive the expiration or termination of this Agreement: 2, 3, 4, 5a, 5b, 7, and 9.

#### **Section 9. General Provisions**

- a. **Assignment and Subcontracting.** We may assign any of our rights or delegate any of our obligations under this Agreement in our sole discretion. We may also subcontract the performance of the Cloud Service to third parties. Any such subcontract will not relieve Cisco of any of its obligations under this Agreement. You may not assign this Agreement without the prior written consent of Cisco.

- b. Modifications.** As our business evolves, we may modify this Agreement. Any material changes to the Agreement are not retroactive and will only apply to future Orders. If You place a new Order after such modification, Your use of the Cloud Service will be deemed as acceptance of the Agreement, as modified.
- c. Compliance with Laws.** Cisco will comply with all applicable laws when providing the Cloud Service. We may restrict the availability of the Cloud Service in any particular location or modify or discontinue Cloud Service features to comply with applicable laws and regulations. You will comply with all applicable laws and regulations related to Your receipt and use of the Cloud Service. You must ensure You have the right to use all features of the Cloud Service in Your jurisdiction.
- d. Governing Law and Venue.** The Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the applicable governing law below, based on Your primary place of business and without regard to conflicts of laws rules or the United Nations Convention on the International Sale of Goods. The courts located in the applicable venue below will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the Agreement or its formation, interpretation or enforcement. Each party hereby consents and submits to the exclusive jurisdiction of such courts. Regardless of the below governing law, either of us may seek interim injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of our intellectual property or proprietary rights.

Your Primary Place of Business	Governing Law	Jurisdiction and Venue
United States, Latin America or the Caribbean	State of California, United States of America	Superior Court of California, County of Santa Clara and Federal Courts of the Northern District of California
Canada	Province of Ontario, Canada	Courts of the Province of Ontario
Europe (excluding Italy), Middle East, Africa, Asia (excluding Japan and China), Oceania (excluding Australia)	Laws of England*	English Courts
Japan	Laws of Japan	Tokyo District Court of Japan
Australia	Laws of the State of New South Wales	State and Federal Courts of New South Wales
Italy	Laws of Italy	Court of Milan
China	Laws of the People's Republic of China	Hong Kong International Arbitration Center
All other countries or territories	State of California	State and Federal Courts of California

\*Where the governing law is the laws of England, no person who is not a party to this Agreement shall be entitled to enforce or take the benefit of any of its terms under the Contracts (Rights of Third Parties) Act 1999.

- e. Notification.** Cisco may provide You with notice via email, regular mail and/or postings on the Cisco.com website or any other website used as part of the Cloud Service. Notices to Cisco should be sent to Cisco Systems, Office of General Counsel, 170 Tasman Drive, San Jose, CA 95134 unless an applicable Offer Description specifically allows other means of notice.
- f. Force Majeure.** Except for payment obligations, neither of us will be responsible for failure of performance due to a Force Majeure Event.
- g. Reservation of Rights.** Failure to enforce any right under this Agreement will not waive that right.
- h. Severability.** If any term of this Agreement is not enforceable, this will not affect any other terms.
- i. Complete Agreement.** This Agreement together with the applicable Offer Description(s) is the complete agreement between the parties concerning the Cloud Service and supersedes all prior or contemporaneous communications, understandings or agreements (whether written or oral) regarding this subject matter. In the event of any conflict the order of precedence is: i) Offer Description; ii) this Agreement; then iii) any applicable policies referenced in this Agreement. The parties agree that the English version of this Agreement will govern in the event of a conflict between it and any version translated into another language.

#### **Section 10. Definitions**

**"Administrative Data"** means data related to Your employees or representatives to administer or manage Your use of the Cloud Service. Administrative Data may include Personal Data and information about our contractual commitments, whether collected at the time of the initial registration or thereafter.

**"Approved Source"** means Cisco or a Cisco authorized reseller, distributor or systems integrator.

**"Authorized User"** means the individuals authorized by You to access the Cloud Service.

**“Cisco” “we,” “our” or “us”** means Cisco Systems, Inc. or its applicable affiliate.

**“Cloud Service”** means the Cisco hosted software-as-a-service offering described in the applicable Offer Description that You purchase with an Order and which is governed by this Agreement.

**“Confidential Information”** means non-public confidential or proprietary information of the disclosing party that is clearly marked confidential or should be reasonably assumed as confidential given the nature of the information and the circumstances of disclosure.

**“Customer Data”** means all information and data that You or anyone acting on Your behalf provides or transfers to Cisco in connection with Your use of the Cloud Service. Customer Data includes Administrative Data but does not include Telemetry Data.

**“Data”** means Telemetry Data and Statistical Data.

**“Documentation”** means the Cisco user or technical manuals, training materials, specifications, privacy data sheets, or other information applicable to the Cloud Service.

**“Force Majeure Event”** means an event beyond the affected party’s reasonable control, including accidents, severe weather events, acts of God, actions of any government agency, epidemic, pandemic, acts of terrorism, or the stability or availability of the Internet or a portion thereof.

**“Offer Description(s)”** means a description of the applicable Cloud Service(s) (located [here](#)).

**“Order”** means an ordering document (including a web or other electronic form) submitted to Cisco that specifies at least the duration, type/product ID (PID) and quantity of Cloud Service(s) to be provided and the associated fees.

**“Personal Data”** has the same meaning given to Personal Information in Cisco’s [Privacy Statement](#).

**“Statistical Data”** means any information/data that Cisco derives from Customer Data and/or Telemetry Data, provided that such information/data is aggregated and/or de-identified such that it cannot reasonably be used to identify an individual or entity.

**“Telemetry Data”** means information generated by instrumentation and logging systems created through the use and operation of Cisco products and services.

**“You” or “Your”** means the individual or legal entity purchasing the Cloud Service.