

Exabytes Google Workspace/G Suite Service Agreement

This Google Workspace/G Suite Service Agreement ("**this Agreement**") sets forth the terms and conditions governing your use of the hosted services provided by Google Inc. ("**Google**"), collectively referred to as the "**Services**." The Services are currently known as "**Google Workspace**" (formerly referred to as "G Suite," "Google Apps for Business," "Google Apps Vault," and/or "Google Drive Storage"), and may be renamed from time to time. For the purposes of this Agreement, "you" and "your" refer to the user of the Services, while "we," "us," and "our" refer to Exabytes.

1. Your Agreement:

- 1.1 The Services are provided by Google. You acknowledge and agree that your use of the Services is subject to (i) the terms of this Agreement and (ii) the Google Workspace Terms of Service ([Google Workspace Terms Of Service – Google Workspace](#)) (formerly known as the "Google Workspace (Online) Agreement" or "Google Workspace Agreement") ("**GWS TOS**"). Before using the Services, you must accept the GWS TOS upon your first login. The GWS TOS constitutes a binding agreement between you and Google.
- 1.2 Exabytes shall have no liability for Google's performance of the Services except as expressly set forth in this Agreement. You are responsible for obtaining and maintaining all necessary consents from your end users to allow us to fulfil our obligations under this Agreement.

2. Changes to this Agreement:

- 2.1 We may amend this Agreement from time to time, either due to changes in applicable law or at our discretion. Before any material changes take effect, we will notify you, for example, by sending an email to your registered email address. If you do not agree with the revised terms, your sole remedy is to discontinue your use of the Services. Your continued use of the Services after receiving notice of the changes constitutes your acceptance of the revised Agreement. Unless otherwise specified, changes will take effect thirty (30) days after notice is provided.

3. Service Fees and Payment Terms

- 3.1 You agree to pay all applicable Service fees before the desired Services become effective. The applicable fees will be communicated to you in advance.
- 3.2 If there are any changes to the Service fees, we will use reasonable efforts to provide you with at least thirty (30) days' prior notice, either on Exabytes' website, email or through other reasonable means. You are responsible for regularly reviewing our website for any fee updates.
- 3.3 All fees are non-refundable in whole or in part, except as expressly provided in this Agreement or the GWS TOS.
- 3.4 We reserve the right to require payment through a specific method (e.g., credit card, wire transfer) and may, at our sole discretion, mandate a change in your payment provider.
- 3.5 Chargebacks & Non-Payment Consequences:
 - i. If a chargeback, reversal, or similar action is initiated by your payment provider (e.g., credit card company or bank) for any fees paid, we may immediately suspend or terminate your access to the Services without further notice.

- ii. Reinstatement of Services, if permitted at our sole discretion, will be subject to full repayment of outstanding fees, any applicable reinstatement fees, and confirmation of a valid payment method.
- iii. Dispute Resolution Requirement: If you have concerns about charges, you must contact us before initiating a chargeback or reversal request with your payment provider. Failure to do so may result in additional fees and service termination.

4. Representations and Warranties:

4.1 You represent, warrant, and covenant that:

- i. You will not resell, sublicense, distribute, lease, or otherwise permit any third party to access or use the Services, whether for commercial gain or otherwise, without our prior written consent.
- ii. Prior to entering into this Agreement, you were not:
 - a. A customer of any of the Services;
 - b. A Google Workspace or G Suite for Government (formerly known as “Google Apps for Government”) customer; or
 - c. A customer of any edition of G Suite other than G Suite for Business (formerly known as “Google Apps for Business”).
- iii. Your business has no more than seven hundred forty-nine (749) staff members, including full-time employees, part-time employees, and contractors.
- iv. You shall immediately notify us in writing if the number of your staff members exceeds seven hundred forty-nine (749). Failure to provide timely notice may result in suspension or termination of Services.
- v. Your principal place of business is not located in any country or region subject to U.S. trade restrictions, including but not limited to China, Cuba, Iran, Myanmar, North Korea, Sudan, or Syria. Your principal place of business shall be determined based on the location where the majority of your business activities are conducted.

4.2 You acknowledge that any breach of the above representations and warranties may result in immediate suspension or termination of the Services, without liability to us, and you agree to indemnify and hold Exabytes harmless from any losses, liabilities, damages, demands or claims arising from such breach.

5. Service Term and Renewal:

5.1 You agree that the Services shall be provided for the term you select through the Services interface (the “Initial Term”). Unless you terminate the Services through the Services interface before the expiration of the then-current term, the Services shall automatically renew for successive terms of equal duration (each a “Renewal Term”), and the applicable fees shall be charged to the credit card associated with your account.

5.2 By using the Services, you expressly waive any legal requirement that would otherwise require us to obtain your affirmative consent for recurring billings, and you acknowledge that your ongoing use of the Services constitutes your continuing consent to such charges. Your authorisation for automatic renewal shall remain valid until you terminate the Services through the Services interface.

5.3 You acknowledge and agree that termination requests made through any means other than the Services interface, including but not limited to email, phone, or written communication, shall not be effective unless and until expressly acknowledged by us in writing.

5.4 It is your sole responsibility to ensure that your payment method on file remains current and valid. We shall bear no obligation to notify you of expired or declined payment methods, and failure to update your payment information may result in suspension or termination of the Services without liability to us.

6. Termination:

6.1 We reserve the right to terminate this Agreement and discontinue the Services at our sole discretion, with or without cause, upon providing notice. In such an event, we or Google may, at our discretion, provide you with an option to:

- i. Migrate your account directly to Google or to another authorised reseller; or
- ii. Transition to an alternative service provided by us or a third party.

6.2 To the fullest extent permitted by law, we shall not be liable for any loss, damage, or disruption arising from such termination, including but not limited to loss of data, business interruptions, or any costs incurred due to migration to another provider.

7. Support and Data Responsibility:

7.1 We will use commercially reasonable efforts to address your questions and complaints regarding your use of the Services. However, our support obligations expressly exclude any technical issues, disruptions, or failures arising from Google's infrastructure, services, or policies. Google provides customer support solely in accordance with its GWS TOS, and we disclaim any liability for deficiencies, delays, or unavailability of Google's support.

7.2 You acknowledge and agree that maintaining, preserving, and backing up all data related to your use of the Services is solely your responsibility and shall be done at your own cost and effort. Exabytes shall not be liable for any loss, corruption, or destruction of data arising from hardware or software malfunctions, security breaches, cyberattacks, data corruption, accidental deletion, service disruptions, natural disasters, or other force majeure events. To the fullest extent permitted by law, we expressly disclaim any liability for direct, indirect, incidental, consequential, or special damages resulting from data loss, service downtime, or technical failures.

8. Service Level Agreement:

8.1 The GWS TOS includes a Service Level Agreement ("SLA") provided by Google, which may be updated by Google at its sole discretion from time to time. In the event of a service level violation by Google, your sole and exclusive remedy shall be those remedies expressly set forth in the GWS TOS or the SLA. Any claims for such remedies must be submitted directly to us in accordance with the GWS TOS or the SLA and within the applicable time frame. Exabytes shall have no further liability in connection with any service level violation.

9. Intellectual Property Rights:

9.1 Exabytes and Google shall retain all rights, title, and interest in and to their respective trademarks, data, materials, techniques, processes, inventions, software, works of authorship, and other proprietary information, including all derivative works developed,

embodied in, or practiced in connection with the Services. This includes, but is not limited to, all modifications, enhancements, derivative works, configurations, translations, upgrades, and interfaces. Nothing in this Agreement shall be construed to transfer any ownership rights in such intellectual property to you or any third party.

9.2 All intellectual property rights in the Services and service-related products shall remain solely vested in Google. You acknowledge that its use of Google's services and products is subject to the terms, conditions, and policies established by Google. You shall comply with all such terms of service and regulations and shall be solely responsible to Google as the actual user of the Services. Any unauthorised use of Google's intellectual property shall be deemed a material breach of this Agreement.

9.3 All intellectual property rights in the file data, applications, and software provided by Exabytes under this Agreement, excluding any of your intellectual property stored pursuant to the Services, shall be solely owned by Exabytes. You shall only use Exabytes' intellectual property for the purposes explicitly permitted under this Agreement and the Services. You shall not:

- i. Copy, modify, create derivative works of, distribute, sublicense, or otherwise exploit Exabytes' or Google's intellectual property;
- ii. Provide any third party with access to Exabytes or Google's documentary materials, applications, or software related to the Services;
- iii. Engage in any act that may infringe upon or dilute the intellectual property rights of Exabytes or Google.

9.4 You shall promptly notify Exabytes in writing of any unauthorised use, infringement, or unfair competition involving Exabytes' or Google's intellectual property by any third party. Exabytes reserves the right to take legal action to protect its intellectual property, and you shall cooperate in any such enforcement efforts.

10. Confidentiality:

10.1 All information disclosed by either Party under this Agreement, whether in written, electronic, oral, or any other form, shall be treated as confidential by the receiving Party ("Confidential Information"). Confidential Information includes, but is not limited to, quotations, fees, documents, data, recommendations, reports, business strategies, trade secrets, proprietary methods, and any other information related to the Services.

10.2 The receiving Party shall:

- i. maintain the confidentiality of the Confidential Information and use it solely for the purpose of performing its obligations under this Agreement;
- ii. not disclose such information to any third party without the prior written consent of the disclosing Party, except as required by law or regulatory authority; and
- iii. take all reasonable measures to protect the confidentiality of such information, at least to the same extent it protects its own confidential information.

10.3 Confidential Information shall not include information that:

- i. is or becomes publicly available through no breach of this Agreement;

- ii. is lawfully received from a third party without restriction;
- iii. is independently developed by the receiving Party without reference to the disclosing Party's Confidential Information; or
- iv. is required to be disclosed by law, provided that the receiving Party gives prior notice (to the extent permitted) and cooperates with the disclosing Party to seek protective measures.

11. Disclaimers:

- 11.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER EXABYTES NOR GOOGLE MAKE ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, ACCURACY, RELIABILITY, AVAILABILITY, SATISFACTORY QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND NEITHER EXABYTES NOR GOOGLE WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE FROM HARMFUL COMPONENTS.
- 11.2 NEITHER EXABYTES NOR GOOGLE MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE QUALITY, ACCURACY, OR RELIABILITY OF ANY CONTENT OR INFORMATION MADE ACCESSIBLE THROUGH THE SERVICES. YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK, AND THAT YOU HAVE NOT RELIED ON ANY REPRESENTATIONS, WARRANTIES, OR STATEMENTS OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT.

12. Limitation Of Liability:

- 12.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES WILL NOT BE LIABLE UNDER THIS AGREEMENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, PROFITS, BUSINESS OPPORTUNITIES, DATA, GOODWILL, OR BUSINESS INTERRUPTION, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A REMEDY FAILS ITS ESSENTIAL PURPOSE.
- 12.2 IN NO EVENT SHALL THE PARTIES' TOTAL LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY YOU TO US FOR THE SERVICES DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY, EXCLUDING ANY TAXES, THIRD-PARTY FEES, OR OTHER INCIDENTAL CHARGES. HOWEVER, EXABYTES AND GOOGLE'S TOTAL AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO SERVICES PROVIDED FREE OF CHARGE SHALL BE LIMITED TO FIVE THOUSAND DOLLARS (USD \$5,000). THIS LIMITATION SHALL APPLY TO ALL CLAIMS, REGARDLESS OF THE LEGAL THEORY UPON WHICH THEY ARE BASED, INCLUDING BUT NOT LIMITED TO CONTRACT, TORT, NEGLIGENCE, OR STRICT LIABILITY

13. Indemnification:

- 13.1 You agree to indemnify, defend, and hold us, our affiliates, officers, directors, employees, and agents harmless from and against any third-party claims, demands, suits, or proceedings, including all related liabilities, damages, losses, costs, and expenses (including reasonable attorneys' fees), arising out of or related to:

- i. Your or your end users' use of the Services in violation of applicable laws, regulations, or third-party rights;
 - ii. Any breach of this Agreement or the GWS TOS by you or your end users;
 - iii. Any content, data, or materials that you or your end users provide, upload, or transmit through the Services; and
 - iv. Any claims of intellectual property infringement, defamation, or privacy violations arising from your or your end users' use of the Services.
- 13.2 You shall provide prompt written notice of any claim and fully cooperate with us in the defence. You may not settle any claim without our prior written consent if such settlement imposes any liability or obligations on us.
- 13.3 The GWS TOS sets forth Google's indemnification obligations to you. Your indemnification obligations to us shall be to the same extent that you indemnify Google under the GWS TOS.
- 13.4 Your indemnification obligations shall survive the termination or expiration of this Agreement.

14. Governing Law and Dispute Resolution:

- 14.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of Malaysia, without regard to conflict of law principles. In the event of any dispute arising out of or in connection with this Agreement, the Parties shall first attempt to resolve the dispute amicably through good-faith negotiations. If the dispute remains unresolved after sixty (60) days from the date it first arose, or such other period as may be mutually agreed in writing, the dispute shall be referred to the courts of Malaysia or to arbitration in Malaysia, as mutually agreed by the Parties.

15. Notices:

- 15.1 Each notice, demand, or other communication under this Agreement shall be in writing and in English. It shall be deemed duly served:
- i. By hand delivery, upon written acknowledgment of receipt.
 - ii. By electronic mail to your registered email address(es) in your Exabytes' account, upon receipt of an electronic confirmation of delivery.
 - ii. By registered post or courier to your registered business address(es) in your Exabytes' account (or any other address notified in accordance with this Agreement), upon proof of delivery.

16. Precedence of Terms:

- 16.1 In the event of any inconsistency or conflict between this Agreement and the terms of service of Google, the following order of precedence shall apply, in descending order:
- i. The terms of service and policies of Google, as applicable to the use of Google Workspace;
 - ii. This Agreement, including its schedules, annexes, and any amendments hereto;
 - iii. Any additional terms or service policies published by Exabytes that do not conflict with Google's GWS TOS; and

- iv. Any other agreements, purchase orders, or communications between the Parties.

17. General:

- 17.1 This Agreement constitutes the complete and exclusive agreement between you and us, superseding all prior proposals, agreements, or other communications, whether written or oral. No terms, conditions, or representations not expressly set forth in this Agreement shall be binding on us unless expressly agreed to in a written document signed by our authorised representative.
- 17.2 You, we, and Google are independent contractors with respect to the Services. Nothing in this Agreement shall be construed as creating any agency, partnership, joint venture, fiduciary duty, or any other form of joint enterprise between the parties. Neither party has the authority to bind, obligate, or represent the other in any manner.
- 17.3 We act as the processor of any personal data that we process on your behalf, while you remain the controller of such data, as defined under the Malaysian Personal Data Protection Act 2010. You acknowledge and agree that we may transfer, store, and process your personal data in Malaysia or any other jurisdiction where we or our authorised agents maintain facilities. By using the Services, you explicitly consent to such transfers, processing, and storage. You further represent and warrant that you have obtained all necessary consents and authorisations from data subjects to permit us to process such personal data in accordance with applicable laws.
- 17.4 Each Party shall comply with all applicable laws, regulations, and industry standards, including but not limited to privacy laws and anti-bribery and anti-corruption laws of California. The Customer shall ensure that its use of the Services does not cause the Service Provider to be in violation of any such laws. If either Party becomes aware of any non-compliance, it shall promptly notify the other Party. You agree to indemnify and hold the Exabytes harmless from any claims, penalties, or liabilities arising from your non-compliance with applicable laws.
- 17.5 Our failure to enforce any provision of this Agreement shall not constitute a waiver of our rights to enforce such provision at any time thereafter. A waiver of any breach shall not be deemed a waiver of the provision itself or any subsequent breach.
- 17.6 No Party may assign or transfer all or any part of its rights and obligations under this Agreement without the prior written consent of the other Party except that Exabytes shall have the right to assign the Agreement or any of its rights or delegate any of its duties under the Agreement at any time to any Exabytes' affiliates, or to a successor in interest of all or substantially all of the business to which this Agreement relates.
- 17.7 If any provision of this Agreement is held to be invalid, illegal, or unenforceable under applicable law, such provision shall be replaced or modified to the extent necessary to render it valid and enforceable while maintaining our original intent and objectives to the greatest extent possible. The remaining provisions of this Agreement shall remain in full force and effect.
- 15.6 This Agreement may not be modified, amended, or supplemented by you except through a written instrument duly executed by an authorised representative of both parties. Any attempt to unilaterally modify this Agreement by you shall be void and of no effect.