

# The Google Play Mediation Scheme

## Mediation Agreement

2024 Edition



THIS AGREEMENT dated \_\_\_\_\_ IS MADE BETWEEN

**Party A**

**Google** [entity details and address]

**Party B**

[Developer name, address]

(together referred to as '**the Parties**')

**The Mediator**

[Mediator name] C/O CEDR, 3 CAVENDISH ROW, DUBLIN 1, DUBLIN, D01A2T5, IRELAND

(a term which includes any agreed **Mediator Observer**)

and

**CEDR** of 3 CAVENDISH ROW, DUBLIN 1, DUBLIN, D01A2T5, IRELAND

IT IS AGREED by those signing this Agreement THAT:

### “The Mediation”

1. The parties agree to attempt in good faith to settle their dispute at the Mediation. The Parties expressly acknowledge and agree that nothing in this Agreement obligates the parties to settle their dispute at the Mediation. The parties, and if they desire, their representatives, are invited to attend Mediation sessions. No one else may attend without the permission of the parties and the consent of the Mediator. The parties agree that the Mediator is not acting as an attorney or providing legal advice on behalf of any party.
2. The Mediator agrees to conduct and the Parties to participate in the Mediation in accordance with this Agreement to mediate and consistent with the CEDR Model Mediation Procedure and the CEDR Code of Conduct for Third Party Neutrals as published on CEDR's website as at the date of this Agreement.
3. The Mediation will begin, and the terms of this agreement will apply from the moment that the Mediator first communicates with either of the Parties and will continue until the date agreed by the Mediator and the Parties.
4. The Mediation will take place remotely using telephone or video conferencing technology, or any combination of the aforementioned (or other media which is compliant with the CEDR Model Mediation Procedure) as agreed by the Parties and the Mediator.

### Online/Remote Mediations

5. The Parties agree that for the purposes of the Mediation the Mediator will be the Host and/or Organiser of any video conferencing software used, unless otherwise agreed by all Parties.

### Authority

6.
  - 6.1 The person signing this Agreement on behalf of each Party warrants having authority to bind that Party and all other persons present on that Party's behalf at the Mediation, to observe the terms of this Agreement, and also having authority to bind that Party to the terms of any settlement.
  - 6.2 Each party warrants that a person will participate in the Mediation with authority to agree to terms of any settlement.

### Confidentiality and Without Prejudice Status

7. Each Party shall ensure that all persons participating in the Mediation on their behalf are informed and agree to the confidentiality provisions set out in this section.
8. Each Party and every person involved in the Mediation:
  - 8.1 will keep confidential all information arising out of or in connection with the Mediation (in accordance with Section 8 of the CEDR Model Mediation Procedure), including but not limited to communications relating to the set-up and scheduling of the Mediation, the discussions leading up to and at the Mediation, and terms of any settlement, unless otherwise agreed by the Parties

- in writing but not including the fact that the Mediation is to take place or has taken place or where disclosure is required by law, or to comply with legal and statutory duties, to prevent physical harm to self or to others, or to implement or to enforce terms of settlement or to notify their regulatory insurers, insurance brokers and/or accountants;
- 8.2 agrees that all such information passing between the Parties, the Mediator and/or CEDR, however communicated, are privileged settlement discussions, and are made without prejudice to any Party's legal position, and are inadmissible for any purpose in any legal proceeding, and may not be produced as evidence or disclosed to any judge, arbitrator or other decision-maker in any legal or other formal process, except where otherwise disclosable in law;
- 8.3 will not make any attempt to, or make any audio or video recording, of any part of the Mediation; and;
- 8.4 will ensure that where the Mediation or a portion thereof is taking place using video conferencing software or other remote means of communication, the only person(s) present in the room where the computer, phone or other communication device is located will be those persons notified in writing as attending to the Mediator and any and all other Party or Parties.
9. Where a Party privately discloses to the Mediator or CEDR any information in confidence before, during or after the Mediation, the Mediator or CEDR will not disclose that information to any other Party or person without the consent of the Party disclosing it, except under the circumstances provided in Section 8 of the CEDR Model Mediation Procedure. The Parties agree, however, that the Mediator may disclose such information to CEDR provided that such disclosure is made by the Mediator and received by CEDR in confidence.
10. The parties acknowledge and agree that Google has been designated as a "gatekeeper" under the Digital Markets Act – Regulation (EU) 2022/1925 (the DMA) in relation to access to the Google Play Store. The DMA includes certain legal and regulatory requirements which apply to Alphabet Inc. and its subsidiaries (together Google). As such it is reasonable for this Agreement to permit Party A to disclose certain information, which this Agreement might otherwise require to be kept confidential, internally within Google or where otherwise required to facilitate compliance with legal obligations including those created under the DMA.

### Settlement formalities

11. No terms of settlement reached at the Mediation will be legally binding until set out in writing and agreed to either in writing (including by email) or by wet or electronic signature, by or on behalf of each of the Parties.

### Fees and costs of the Mediation

12. Party A will be responsible for the fees and expenses of CEDR and the Mediator ('the Mediation Fees') (including any provision for additional hours if the Mediation process extends beyond the allocated hours).
13. Unless otherwise agreed by the Parties and CEDR in writing, each Party agrees to bear its own legal and other costs and expenses of preparing for and attending the Mediation ('each Party's Legal Costs'). However, each Party further agrees that any court or tribunal may treat each Party's Legal Costs as costs in the case in relation to any litigation or arbitration where that court or tribunal has power to assess or make orders as to costs, whether or not the Mediation results in settlement of their dispute.

### Liability of CEDR and the Mediator

14. Neither the Mediator nor CEDR shall be liable to the Parties for any act or omission in relation to the Mediation, including the use and operation of the video conferencing platform, unless the act or



omission is proved to have been fraudulent or involved wilful misconduct.

- 15. The Parties understand that neither the Mediator nor CEDR give legal advice and agree that they will not make any claim against the Mediator or CEDR in connection with this Mediation. The Parties will not make an application to call the Mediator or any employee or consultant of CEDR, as a witness, nor require them to produce in evidence any records or notes relating to the Mediation, in any litigation, arbitration or other formal process arising out of or in connection with their dispute and the Mediation. Neither the Mediator nor any CEDR employee or consultant will agree to act as a witness, expert, arbitrator or consultant in any such process. If any Party does make such an application (as listed above), that Party will fully indemnify the Mediator, CEDR or the employee or consultant of CEDR in respect of any costs any of them incur in resisting and/or responding to such an application, including reimbursement at the Mediator's standard hourly rate for the Mediator's time spent in resisting and/or responding to such an application.

**Law and Jurisdiction**

- 16. This Agreement is governed by Irish law and the courts of Ireland shall have exclusive jurisdiction to decide any matters arising out of or in connection with this Agreement and the Mediation.
- 17. The referral of the dispute to the Mediation does not affect any rights that exist under Article 6 of the European Convention of Human Rights, and if their dispute does not settle through the Mediation, the Parties' right to a fair trial remains unaffected.

**Termination**

- 18. The mediation shall be terminated (i) by the execution of a settlement agreement by the Parties; or (ii) by a written declaration of the Mediator to both Parties to the effect that further efforts at mediation would not contribute to a resolution of the Parties' dispute; or (iii) by a written or verbal declaration of any party to the effect that the mediation proceedings are terminated; or (iv) when there has been no communication between the Mediator and any party or party's representative for 10 days following the conclusion of the Mediation.

**Changes to this Agreement**

Any changes to this Agreement must be agreed in writing by the Parties, CEDR and the Mediator.

**Signed**

Party A .....

[Sign and Print Name]

Party B .....

[Sign and Print Name]

Mediator .....

CEDR .....