

Terms of Service

# DocuSign, Inc.

## Supplemental end user software license agreement terms

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These Supplemental Terms and Conditions (the "Terms") govern your ("Customer") use of the DocuSign Subscription Service, and will be effective when accepted by Customer in connection with the ProConnect Tax Online Software End User License Agreement ("Agreement") where you have purchased DocuSign Products. These Terms establish a binding legal agreement between DocuSign and Customer. These Terms supplement the Agreement, which remain in full force and effect and apply to the DocuSign Subscription Service. In the event of a conflict between these Terms and the Agreement, the provisions of these Terms shall control with respect to the subject matter hereof.

By clicking "I AGREE," Customer indicates that it understands and agrees to the Terms. If Customer does not agree the Terms, Customer will not be able to access or use the DocuSign Subscription Service. Customer's continued use of DocuSign Subscription Service constitutes its continued acceptance of these Terms.

### 1. Definitions

**"Account"** means a unique account established by the Customer in order to gain access for its Authorized Users to the Subscription Services and, where applicable, other DocuSign Products.

**"Authorized User"** means an individual employee or third party agent of Customer, as identified by a unique email address and user name, who is registered as a member of Customer's Account. No two persons may register, access or use the Subscription Services as the same Authorized User.

**"Customer"** means the entity using the DocuSign Subscription Service, via an Agreement with Intuit.

**"DocuSign Products"** means the products and services identified on the Agreement, including, but not limited to, the Subscription Services.

**"eContract"** refers to a contract, notice, disclosure, or other record or document deposited into the System by an Authorized User for Processing under the Subscription Services.

**"Envelope"** means an electronic record containing one or more eContracts consisting of a single page or a group of pages of data uploaded to the System.

**"Personal Data"** means: (a) non-public personally identifiable information, including driver's license numbers, national identification numbers such as social security account numbers, credit card numbers, digital identity certificates; (b) personally identifiable financial information regarding a consumer (i) provided by a consumer to a financial institution, (ii) resulting from any transaction with the consumer or any service performed for the consumer by a financial institution, (iii) otherwise obtained by the financial institution, including any list, description, or other grouping of consumers

(and publicly available information pertaining to them) that is derived using any nonpublic personal information; and (c) personally identifiable medical or health related information.

**"Process"** and means to perform any operation or set of operations upon Customer's eContracts, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

**"Agreement"** means the agreement between Customer and Intuit that describes DocuSign Products to be purchased by Customer, however such agreement is titled ProConnect Tax Online Software End User License Agreement.

**"Subscription Services"** means DocuSign's on-demand electronic signature service, as updated from time to time, which provides on-line display, certified delivery, acknowledgement, electronic signature, and storage services for eContracts via the Internet.

**"System"** refers to the software systems and programs, communication and network facilities, and hardware and equipment used by DocuSign or its agents to provide the Subscription Services.

**"Term"** means the term of the Agreement that will be effective through December 31 of the current year

**"Transaction Data"** means data associated with an eContract, including transaction history, eContract image hash value, information concerning method and time of eContract purge, and sender and recipient names, email addresses and signature IDs.

## 2. Subscription Services

2.1 DocuSign will provide the Subscription Services during the term of the applicable Agreement. If the Agreement expires or is terminated, these Terms will automatically terminate, except with respect to terms that by their nature are intended to survive termination. Customer will comply with the terms of the Agreement, including any terms related to payment of fees to Intuit for the Subscription Services.

2.2 From the Start Date defined in the Agreement, Customer's right to use the Subscription Services is limited to its Authorized Users, and Customer agrees not to resell or otherwise provide or assist with the provision of the Subscription Services to any other third party. The use of the Subscription Services by Customer and its Authorized Users is subject to Customer's acknowledgement and agreement that:

a) Nothing in these Terms will be construed to make DocuSign a party to any eContract, and DocuSign makes no representation or warranty regarding the transactions sought to be effected by any eContract;

b) DocuSign maintains no control or access to the contents of any eContract, and so the content, quality, and format of any eContract is at all times in the exclusive control and responsibility of Customer;

c) If Subscriber elects to use optional features designed to verify the identity of the intended recipient of an eContract ("Authentication Measures"), DocuSign will apply only those Authentication Measures (if any) selected by the Subscriber, but makes no representations or warranties about the appropriateness of any Authentication Measure and further, assumes no liability for the inability or failure by the intended recipient or other party to satisfy the Authentication Measure or to circumvent it;

d) Certain types of agreements and documents are excluded from electronic signature laws, such that they cannot be legally formed by electronic signatures, and additionally, various agencies may have promulgated specific regulations that apply to electronic signatures and electronic records. DocuSign assumes no responsibility to determine whether any particular eContract is an exception to applicable electronic signature laws or whether it is subject to any particular agency promulgations and whether it can be legally formed by electronic signatures;

e) Customer is solely responsible for making available to third parties (including parties to its eContracts) all contracts, documents, and other records required by applicable law, including, without limitation, electronic signature laws and other laws that may require records relating to a transaction to be retained or made accessible for a certain period of time; and

f) Certain laws or regulations may impose special requirements with respect to electronic transactions involving one or more "consumers," such as (among other things) requirements that the consumer consent to the method of contracting and/or that the consumer be provided with a copy, or access to a copy, of a paper or other non-electronic, written record of the transaction. DocuSign assumes no responsibility to: (i) determine whether any particular transaction involves a consumer; (ii) furnish or obtain any such consents or to determine if any such consents have been withdrawn; (iii) provide any information or disclosures in connection with any attempt to obtain any such consents; (iv) provide legal review of, or update or correct any information or disclosures previously given; (v) provide any such copies or access for all transactions, consumer or otherwise; or (vi) otherwise comply with any such special requirements. Customer expressly undertakes to determine whether any consumer is involved in any eContract presented by Customer or its Authorized Users for Processing, and, if so, to comply with all requirements imposed by law on such eContracts or their formation.

### 3. Confidentiality

3.1 "**Confidential Information**" means any trade secrets or other information of DocuSign or Customer, whether of a technical, business, or other nature (including, without limitation, in the case of DocuSign, DocuSign software and related information, and in the case of Customer, Personal Data and eContracts), that is disclosed to the other party (the "Recipient"). Confidential Information does not include any information that: (a) was known to Recipient prior to receiving it from the disclosing party; (b) is independently developed by Recipient without use of or reference to any Confidential Information of the other party; (c) is acquired by Recipient from another source that did not receive it in confidence from the other party to these Terms; or (d) is or becomes part of the public domain through no fault or action of Recipient.

3.2 **Restricted Use and Nondisclosure.** During and after the Term, Recipient will: (a) use the Confidential Information of the other party solely for the purpose for which it is provided; (b) not disclose such Confidential Information to a third party; and (c) protect such Confidential Information from unauthorized use and disclosure to the same extent (but using no less than a reasonable degree of care) that it protects its own Confidential Information of a similar nature.

3.3 **Required Disclosure.** If Recipient is required by law to disclose Confidential Information of the other party, Recipient will give prompt written notice of such requirement, and use reasonable efforts to provide notice before such disclosure occurs, and to assist the disclosing party to obtain an order protecting the Confidential Information from public disclosure.

3.4 **Remedies.** Recipient acknowledges that any actual or threatened violation of this confidentiality provision may cause irreparable, non-monetary injury to the disclosing party, the extent of which may be difficult to ascertain, and therefore agrees that the disclosing party shall be entitled to seek

injunctive relief in addition to all remedies available to the disclosing party at law and/or in equity. Absent written consent of the disclosing party, the burden of proving that the disclosing party's Confidential Information is not, or is no longer, confidential or a trade secret shall be on the Recipient.

## 4. Additional Customer Responsibilities

4.1 Customer agrees that it will not use or permit the use of the Subscription Services to send unsolicited mass mailings outside its organization, it being understood that the term "unsolicited mass mailings" includes all statutory and other common definitions, including all Commercial Electronic Marketing Messages as defined in the U.S. CAN SPAM Act.

4.2 Customer agrees that it is solely responsible for, and will indemnify DocuSign with respect to, the nature and content of all materials, works, data, statements, and other visual, graphical, video, written or audible communications of any nature submitted by any Authorized User or otherwise Processed through Customer's Account.

4.3 Customer further agrees not to use or permit the use of the Subscription Services: (a) to communicate any message or material that is defamatory, harassing, libelous, threatening, or obscene; (b) in a way that violates or infringes upon the intellectual property rights or the privacy or publicity rights of any person or entity or that may otherwise be unlawful or give rise to civil or criminal liability (other than contractual liability of the parties under eContracts Processed through the Subscription Services); (c) in any manner that is likely to damage, disable, overburden, or impair the System or the Subscription Services or interfere in any way with the use or enjoyment of the Subscription Services by others; or (d) in any way that constitutes or encourages conduct that could constitute a criminal offense. Although DocuSign does not actively monitor the content Processed through the Subscription Services, DocuSign may at any time and without prior notice suspend any use of the Subscription Services and/or remove or disable any content as to which DocuSign is made aware of a reason for concern as to such use or content. DocuSign agrees to exert reasonable commercial efforts to provide Customer with notice of any such suspension or disablement before its implementation, or promptly thereafter.

## 5. Intellectual Property

5.1 DocuSign is the owner of various intellectual property and technology rights associated with the Subscription Services, its document management, digital signature, and notary system, including patent, copyright, trade secret, and trademark and service mark rights. Except for the rights expressly granted in these Terms, DocuSign does not license or transfer to Customer or any Authorized User or other third party any of DocuSign's technology or other intellectual property or technology rights. All right, title, and interest in and to DocuSign's technology and intellectual property will remain solely with DocuSign. Customer agrees that it will not, directly or indirectly, reverse engineer, decompile, disassemble, or otherwise attempt to derive source code or other trade secrets from or about any of the DocuSign Products or DocuSign's technology. DocuSign agrees that data and information provided by Customer under these Terms shall remain, as between Customer and DocuSign, owned by Customer.

5.2 DocuSign hereby grants to users and licensees of its products and services a limited, nonexclusive and nontransferable right to use DocuSign's regular trade names, trademarks, titles and logos ("Licensed Marks") solely for purposes of identifying DocuSign's products and services. Details of this trademark license are available at: <https://www.docusign.com/IP>

## 6. Storage

**6.1 General eContract Storage and Deletion Policy.** DocuSign will store all completed eContracts sent by Customer until the Term expires. Copies of stored eContracts may be retrieved by Customer through its Account at any time during the Term. Customer may, at its option and wholly at Customer's risk, direct that any eContract be deleted or purged at a time stated by Customer and prior to the end of the Term.

**6.2 Uncompleted eContracts.** DocuSign may at its sole discretion delete an uncompleted eContract from the System immediately and without notice upon earlier of: a) expiration of the Envelope or b) expiration of the Term.

**6.3 Transaction Data.** Transaction Data collected by DocuSign may be retained by DocuSign permanently, provided that any Transaction Data that constitutes Confidential Information of Customer will at all times maintain that status and DocuSign will comply with its obligations in Section 3.

## 7. Warranties, Disclaimers, And indemnification

**7.1 DocuSign Warranties.** DocuSign represents and warrants that: (a) the Subscription Service as delivered to Customer will not infringe on any United States patent, copyright or trade secret; (b) the Subscription Service shall be performed in their then-current form at the time of the provision of such Subscription Service; (c) any DocuSign Products that are software shall be free of harmful or illicit code, trapdoors, viruses, or other harmful features; (d) the proper use of the Subscription Service by Customer in accordance with applicable law in the formation of an eContract not involving any consumer will be sufficient under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq. (the "ESIGN Act") to support the validity of such formation, to the extent provided in the ESIGN Act; (e) the proper use of the Subscription Service by Customer in accordance with applicable law in the formation of an eContract involving a consumer will be sufficient under the ESIGN Act to support the validity of such formation, to the extent provided in the ESIGN Act, so long as and provided that Customer complies with all special requirements for consumer eContracts, including and subject to those referenced in Section 2.2.e) and f) above; and (f) DocuSign has implemented information security policies and safeguards to preserve the security, integrity, and confidentiality of Personal Data and to protect against unauthorized access and anticipated threats or hazards thereto, that meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Customer Information as set forth in Section 501 (b) of the Gramm-Leach-Bliley Act.

**7.2 Disclaimer.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN SECTION 7.1 ABOVE, DOCUSIGN MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND -- WHETHER EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY -- AS TO ANY MATTER WHATSOEVER. DOCUSIGN EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. DOCUSIGN DOES NOT WARRANT THAT THE DOCUSIGN PRODUCTS, ARE OR WILL BE ERROR-FREE, WILL MEET CUSTOMER'S REQUIREMENTS, OR BE TIMELY OR SECURE. CUSTOMER WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY.

**7.3 Customer Warranties.** Customer hereby represents and warrants to DocuSign that: (a) it has all requisite rights and authority to use the Subscription Service under these Terms and to grant all applicable rights herein; (b) the performance of its obligations under these Terms will not violate, conflict with, or result in a default under any other agreement, including confidentiality agreements

between Customer and third parties; (c) Customer will use the Subscription Service for lawful purposes only and subject to these Terms; (d) Customer is responsible for all use of the Subscription Service in its Account; (e) Customer is solely responsible for maintaining the confidentiality of its Account names and password(s); (f) Customer agrees that DocuSign will not be liable for any losses incurred as a result of a third party's use of its Account, regardless of whether such use is with or without Customer's knowledge and consent; (g) Customer will not attempt to gain unauthorized access to the System or the Subscription Service, other accounts, computer systems, or networks under the control or responsibility of DocuSign through hacking, cracking, password mining, or any other unauthorized means.

**7.4 Customer Indemnification.** Customer will defend, indemnify, and hold DocuSign and its affiliates, officers, directors, employees, suppliers, consultants, and agents harmless from any and all third party claims, liability, damages, and costs (including, but not limited to, attorneys' fees) arising from or related to: (a) Customer's use of the Subscription Service; (b) Customer's violation of these Terms; (c) Customer's infringement, or infringement by any other user of its Account, of any intellectual property or other right of any person or entity; or (d) the nature and content of all materials, works, data, statements, and other visual, graphical, written, or audible communications of any nature submitted or otherwise Processed through Customer's Account.

## 8. Limitations of Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, DOCUSIGN WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO CUSTOMER FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTION CONTEMPLATED UNDER THESE TERMS AND CONDITIONS, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. UNDER NO CIRCUMSTANCES WILL DOCUSIGN'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER FOR THE SUBSCRIPTION SERVICES UNDER THESE TERMS DURING THE 3 MONTHS PRECEDING THE DATE OF THE ACTION OR CLAIM. EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THESE TERMS BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED TO CUSTOMER FOR THE SUBSCRIPTION SERVICE AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE WARRANTIES AND REMEDIES IN THESE TERMS HAVE FAILED OF THEIR ESSENTIAL PURPOSE. Because some states and jurisdictions do not allow limitation of liability in certain instances, portions of the above limitation may not apply to Customer.