

**Carahsoft Rider to Manufacturer Commercial Supplier Agreements**  
**(for U.S. Government End Users)**  
**Revised 20160504**

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").
  
- 2. Applicability.** The terms and conditions in the attached Manufacturer's CSA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule Contract, GS-35F-0119Y, including, but not limited to the following:
  - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", defined as an entity authorized to order under Government contracts as set forth in Government Order 4800.2H ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
  
  - (b) Changes to Work and Delays.** Subject to General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of the GSAR and the FAR provisions shall take precedence.
  
  - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

- (d) Audit.** During the term of this CSA: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this CSA. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing termination or cancellation of the Manufacturer's CSA are hereby deemed to be deleted. Termination shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section (q) below or if such remedy is otherwise ordered by a United States Federal Court.
- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w)(1)(x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer's CSA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w)(1)(iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

**(r) Limitation of Liability: Subject to the following:**

Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

**(s) Advertisements and Endorsements.** Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

**(t) Public Access to Information.** Manufacturer agrees that the CSA and this Rider contain no confidential or proprietary information and acknowledges the CSA and this Rider will be available to the public.

**(u) Confidentiality.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).

DOCUSIGN, INC.

TERMS AND CONDITIONS for CoSign Services

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These Terms and Conditions and Attachments govern the use of CoSign Service(s) and Product(s) purchased on an Order Form (collectively, the "Agreement") entered into by DocuSign, Inc., a corporation organized under the laws of the State of Delaware, with its principal place of business located at 221 Main Street Suite 1000, San Francisco, CA 94105 ("DocuSign") and the Subscriber identified on the Order Form. By signing the Order Form, each party agrees as follows:

1. DEFINITIONS. Capitalized terms not defined in this Section 1 are as defined in the Order Form.

"Automated Processing" means the processing of a Signature(s) using automated batch or bulk sending operations or for the use of initiating a Signature through the use of the Product.

"Authorized User" means any employee or agent of Subscriber who has been issued a unique signing credential that can be authenticated by the Product, provided that no two persons may register or use CoSign Service(s) as the same Authorized User.

"CoSign API" means the application(s) programming interface that supports interoperation of applications with the CoSign Service(s) and that are governed by the terms of the CoSign Services Developer Bundle License Agreement attached hereto as Attachment 1.

"CoSign Service(s)" means the CoSign Software, Professional Services, and Support and Maintenance as subscribed to by Subscriber during the Term and subject to this Agreement, as indicated in the applicable Order Form(s) or Work Order.

"Equipment" has the meaning set out on the Order Form, and includes connectors, and/or add-ons.

"Developer License" means the Developer Bundle License set forth in Attachment 1.

"Documentation" means explanatory written materials or files that are provided by DocuSign or otherwise made available to Subscriber in connection with the Software.

"Order Form" means the schedule that sets forth the pricing, features and options of the CoSign Service(s) and Product(s) selected by Subscriber. An Order Form is not binding until it is duly executed by both DocuSign and Subscriber, at which point it becomes incorporated into and part of the Agreement.

"Product" means the CoSign system comprised of Equipment and Software that is identified on the Order Form.

"Professional Services" means any integration consulting or assistance, training, transition and similar ancillary services that are set forth in an Order Form or Work Order as described in Section 11 through 14.

“Seat” means an Authorized User activated to use the Product or Service. Subscriber may unregister or deactivate Authorized Users and replace them with other Authorized Users without penalty, so long as the number of active Authorized Users registered at any one time is equal to or less than the number of Seats subscribed.

“Signature” means data associated with a signature request, including date of request, hash value, associated application, and Signature Party’s name, job title, email address, and the successful fulfillment of that request by the Product or Service.

“Software” means any and all software, including Updates and Upgrades thereof subscribed to and/or licensed by DocuSign to Subscriber under this Agreement as specified in an Order Form hereto and delivered to Subscriber, all as developed by or for DocuSign, Inc. and any of its affiliated companies.

“Subscriber’s Application” means the Subscriber’s Application, if any, described in the Order Form with which CoSign Service(s) shall be solely used.

“Support and Maintenance” means the customer support and maintenance services provided to Subscriber in accordance with Section 5.11 of this Agreement and the Support and Maintenance Agreement attached hereto as Attachment 2.

“Third Party Software” means software or services that may be provided by DocuSign, its agents, or partners to Subscriber for use solely in conjunction with the Software that is created by a third party, and covered by different license or service terms.

“Update” means, with respect to any component of the Software, a new version that includes modifications, revisions or minor enhancements to the Products’ existing functionality to correct programming or design errors (designated by an increase in the release number to the right of the decimal point following the version previously supplied).

“Upgrade” (aka “Major New Release”) means a version of the Product(s) which incorporates additional functionality or features as compared with prior versions (designated by an increase in the release number to the left of the decimal point).

“Work Order” has the meaning set out in Section 11 of this Agreement.

## 2. TERM AND TERMINATION

2.1 Term. The term of this Agreement will begin on the Order Start Date and, unless terminated sooner as provided herein, will continue until the Order End Date specified on the Order Form (the “Term”). Except as specifically provided herein, the Agreement shall be non-cancellable during the Term. If either party commits a material breach or default in the performance of any of its obligations under this Agreement, then the other party may terminate this Agreement by giving the defaulting party written notice of termination, unless the material breach or default in performance is capable of being cured within 30 days after the defaulting party receives notice thereof.

2.2 Subscriber may not cancel any order due to delay in delivery unless it (i) first provides DocuSign with written notice of the delay and its intent to cancel, and (ii) allows DocuSign an opportunity to complete shipment within sixty (60) days following receipt of Subscriber’s notice. DocuSign shall not be

liable for any damages or penalty for delay in delivery or for failure to give notice of delay for any reason whatsoever.

2.3 Post-Termination Obligations. If this Agreement expires or is terminated for any reason: (a) Subscriber will pay to DocuSign any amounts that have accrued before, and remain unpaid as of, the date of the termination or expiration; (b) any and all liabilities of Subscriber to DocuSign that have accrued before the effective date of the termination will survive; (c) licenses and use rights granted to Subscriber with respect to CoSign Service(s) and intellectual property will immediately terminate; (d) DocuSign's obligation to provide any further services to Subscriber under this Agreement will immediately terminate; (e) Subscriber shall return or destroy, as DocuSign may direct, any and/or all Software, Documentation, and Developer Bundle and if so requested by DocuSign, deliver to DocuSign a certificate executed by one of its duly authorized officers confirming compliance with the return or destruction obligation; and (f) the parties' rights and obligations under Sections 6.1, 6.3, 8.2, 9, 10, 12.2 and 14 will survive together with those Sections as set forth Attachment 1 . Upon termination of this Agreement by DocuSign for Subscriber's uncured material breach of this Agreement, Subscriber will be responsible for any costs and expenses incurred by DocuSign to recover any Equipment, Software and/or Documentation.

### 3. FEES AND PAYMENT TERMS

3.1 Invoicing. Subscriber will be invoiced as set forth in the Order Form. Unless otherwise specified in an applicable Order Form, the first invoice will coincide with the Order Start Date and, unless otherwise agreed by the parties in writing, all amounts will be denominated in U.S. dollars. DocuSign may assess finance charges equal to the lesser of 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law. Subscriber will be responsible for any reasonable attorneys' fees, costs and expenses incurred by DocuSign to collect any amounts that are not paid when due.

3.2 Payment. DocuSign may accept any partial payment, regardless of any language that would purport to limit DocuSign's rights to collect further amounts, and without prejudice to DocuSign's right to recover the balance of the amount due or to pursue any other right or remedy. Amounts due to DocuSign may not be withheld or offset by Subscriber for any reason against amounts due or asserted to be due to Subscriber from DocuSign. If Subscriber fails to timely pay any undisputed amounts due under this Agreement, then without limitation of any of its other rights or remedies, DocuSign may suspend performance of those services until DocuSign receives all past due amounts from Subscriber.

3.3 Taxes. Other than income taxes imposed on DocuSign, Subscriber will bear all taxes, duties, VAT and all other governmental charges (collectively, "taxes") resulting from this Agreement or transactions conducted in relation to this Agreement or the CoSign Service(s) and/or Product(s). If Subscriber is exempt from any applicable taxes, it will provide evidence reasonably satisfactory to DocuSign of its tax-exempt status, and DocuSign will not include such taxes in its invoices to Subscriber.

4. SUBSCRIPTION PLANS AND USAGE PRICING. CoSign Service(s) is sold on the basis of an annual prepaid subscription, and may be limited by number of Signatures, or Authorized User or Seat or other metrics or usage limitations as set forth in the Order Form.

## 5. SUBSCRIPTION SERVICE AND LICENSE.

5.1 Delivery of Equipment. Delivery of CoSign Product(s) equipment ("Equipment") will be FCA Origin, Incoterms 2010. Unless otherwise specified in an applicable Order Form, DocuSign will pay the freight for transportation of Equipment to Subscriber when Subscriber is within an active subscription Term. Title transfers and Subscriber assumes all risk of loss upon delivery of the Equipment by DocuSign to a carrier at DocuSign's premises. DocuSign will select the carrier but shall not be deemed thereby to assume any liability in connection with the shipment nor shall the carrier be an agent of DocuSign. Subscriber will be responsible for all storage drayage and other charges at Subscriber's site.

5.2 DocuSign reserves the right, without prior approval from or notice to Subscriber, to make changes to Product(s) (i) which do not adversely affect the performance of the Product(s) or do not reduce performance below any contractually agreed to specification; (ii) when required for purposes of safety; or (iii) to meet Product(s) specifications. DocuSign also reserves the right to make product improvements without incurring any obligation or liability to make the same changes in Product(s) previously manufactured or purchased.

5.3 Provision of CoSign Services. Subject to the terms of this Agreement, Attachment 1 and the applicable licensing terms contained therein, DocuSign grants Subscriber a personal, non-exclusive, non-transferrable, revocable license to use the Equipment and Software to operate the Equipment in accordance with the Documentation. DocuSign will provide CoSign Service(s) in accordance with the Documentation. The right to use CoSign Service(s) and Product(s) is limited to the Authorized Users, and Subscriber may not resell CoSign Service(s) and/or Product(s) or use the Equipment with software other than the Software provided by DocuSign to Subscriber under this Agreement. DocuSign hereby grants to Subscriber for the Term a non-exclusive, non-transferable license to copy and use the object code versions of the Software that will accompany the Equipment, for the purposes of (i) integrating CoSign Service(s) with Subscriber's Application, (ii) using CoSign Service(s) for Subscriber's Application with Equipment, and (iii) supporting CoSign Service(s). No sublicensing rights are granted or implied. Title to the CoSign Service(s) Software shall at all times remain with DocuSign.

5.4 Subscriber Obligations. As a condition for this license, Subscriber shall (i) make all payments when due, (ii) grant DocuSign on-line access to the logs in Subscriber's CoSign Product(s) instance, (iii) cooperate with DocuSign's requests to electronically monitor the number of Seats and/or Signatures, and (iv) provide periodic reports in the form requested by DocuSign on Subscriber's usage metrics.

5.5 Usage and Access Limitations. All Software license rights which are not expressly granted herein are deemed withheld. Without limitation on the foregoing, no rights to the DocuSign source code are granted or implied. Subscriber shall not: (i) adapt, alter, modify, translate, create derivative works of, reverse compile, disassemble, or otherwise attempt to reconstruct the source code of the Software; (ii) use the Software for any purpose that is not authorized in the Software documentation; (iii) allow use of the Software in any manner that allows internal access to its functionality other than through the functionality of the Subscriber's systems that incorporate the Software or the Software's interface (as the same may be enhanced from time to time) published by DocuSign; (iv) allow use of the Software to create digital signatures by any device other than the Equipment; (v) allow use of the Equipment with any software not provided by DocuSign; (vi) assign, pledge, rent, lease, loan or timeshare the Software to third parties; (vii) obfuscate, remove or alter any of the trademarks, trade names, logos, patent or copyright notices, confidential or proprietary rights notices or legends or other notices or markings on or



in CoSign Service(s) or accompanying documentation, without DocuSign's express written consent; (viii) add, or permit any third party to add, any markings, notices or legends to CoSign Service(s) and/or Product(s) without DocuSign's express prior written consent; (ix) publish or otherwise disclose to any third party the results of any analysis, benchmark or other tests on CoSign Service(s) and/or Product(s); (x) copy any portion of the Software for any purpose not expressly allowed under this Agreement; (xi) sublicense or distribute the Software in any manner to any third party; or (xii) in the event the Subscriber's Application is specifically identified in the Order Form, use the Software for any other application.

5.6 Updates/Upgrades. DocuSign or its agents may make Updates and/or Upgrades of the Software available during the Term. Updates and/or Upgrades of Software may be provided to Subscriber subject to additional or different terms, and such terms shall be deemed accepted by Subscriber upon installation or use of such version. Subscriber acknowledges that failure to timely update the Software may prevent it from functioning, and that DocuSign shall have no liability for such malfunction. Notwithstanding the foregoing, Subscriber shall immediately install any Update and/or Upgrade of the Software provided for the purpose of avoiding or resolving a third party claim of intellectual property infringement applicable to a previous version of the Software.

5.7 Third Party Software. The Software may contain or be distributed with Third Party Software. Information concerning the inclusion of Third Party Software, if any, and the notices, license terms, and disclaimers applicable to that Third Party Software are contained in the Documentation. Except as expressly provided herein, this Agreement does not apply to any Third Party Software identified in the Documentation. Any Third Party Software provided with the Software is for use solely with the Software. Any use of the Third Party Software on a stand-alone basis is strictly prohibited. Subscriber will have no recourse against DocuSign unless DocuSign is the stated licensor and then only to the extent provided in such license. Unless stated otherwise in these Software License Terms or in the third Party Software license or provided under a maintenance contract, DocuSign will not provide support for Third Party Software and will not provide Subscriber with any IP indemnity for the Third Party Software.

5.8 Intellectual Property Ownership, Copyright Protection. DocuSign and its licensors own various intellectual property and technology rights associated with the CoSign Service(s) and/or Product(s). Subscriber's rights with respect to the foregoing are limited to the rights to use the CoSign Service(s) and/or Product(s) that are granted under this Agreement or the applicable Order Form for the purposes contemplated by this Agreement, and no other, and all rights not expressly granted are reserved by DocuSign and its licensors and suppliers. DocuSign does not license or transfer to Subscriber, or any Authorized User or other third party, any of DocuSign's technology or other intellectual property rights. All right, title, and interest in and to DocuSign and its licensors' technology and intellectual property, whether patent, copyright, trade secret, trademark, service mark, design, database or moral rights, remain solely with DocuSign and its licensors at all times. Without limiting the generality of the foregoing, the structure, organization and code of the Software are trade secrets and confidential information of DocuSign and its licensors. The Software is protected by law, including without limitation the copyright laws of the United States and other countries, and by international treaty provisions.

5.9 Verification Rights. DocuSign or its independent auditor may, upon reasonable notice to Subscriber, examine and audit Subscriber's records and systems to ensure compliance with applicable software licenses. The audit will be performed during normal business hours in a manner which does not unduly interfere with Subscriber's business operations. If the audit shows that Subscriber is using more copies of the Software than permitted under Subscriber's applicable licenses, DocuSign will charge Subscriber additional usage fees.

5.10 Developer Bundle License. For Subscribers requiring Software and Materials to create interoperability between CoSign Services and Subscriber's product or systems for internal use, Subscriber may obtain a Developer Bundle (as defined in the Attachment 1) subject to the terms and conditions of Attachment 1.

5.11 Professional Service. Subscriber may purchase training and additional professional services from DocuSign subject to the terms and conditions of this Agreement at the Multiple Award Schedule (MAS) 70 Contract's or DocuSign's current rates that will be described in greater detail in an applicable Order Form or Work Order.

5.11 Support and Maintenance. DocuSign will provide customer support, technical support, and Equipment maintenance support to Subscriber in accordance with the Support and Maintenance plan that is identified on the Order Form, as further detailed in the Support and Maintenance Agreement attached hereto as Attachment 2.

## 6. WARRANTIES AND REMEDIES.

6.1 Warranty of Title. DocuSign warrants that it has the right, by title, license or contract, to enter into this Agreement.

6.2 Equipment Warranty and Remedy. Unless otherwise specified in an applicable Order Form, Equipment is warranted against defects in workmanship and material for the period of one (1) year from date of delivery as evidenced by DocuSign's packing slip or other shipment receipt ("Equipment Warranty Period"). DocuSign's sole responsibility under this warranty shall be to either repair or replace, at its option, any component which fails during the applicable warranty period because of a defect in workmanship and material, provided Subscriber has promptly reported same to Subscriber in writing. All replaced broken or defective Equipment or parts shall become DocuSign's property. DocuSign will honor the warranty at DocuSign's repair facility. It is Subscriber's responsibility to return, at its expense, the allegedly defective Equipment to DocuSign. Subscriber must obtain a Return Materials Authorization (RMA) number and shipping instructions from DocuSign prior to returning any Equipment under warranty. Transportation charges for the return of the Equipment to Subscriber shall be paid by DocuSign within USA. For all other locations, the warranty excludes all costs of shipping, customs clearance and other related charges. If DocuSign determines that the Equipment is not defective within the terms of the warranty, Carahsoft, acting on behalf of DocuSign, shall invoice Customer and Customer shall pay Carahsoft, in accordance with the Prompt Payment Act, costs of handling, transportation and repairs at the then prevailing MAS 70 Contract or DocuSign repair rates. All the above warranties are contingent upon proper use of the Equipment. These warranties will not apply (i) if adjustment, repair or parts replacement is required because of accident, unusual physical, electrical or electromagnetic stress,

negligence of Subscriber, misuse, failure of electric power environmental controls, transportation, not maintained in accordance with DocuSign specifications, or abuses other than ordinary use (ii) if the Equipment has been modified by Subscriber or has been repaired or altered outside DocuSign's factory, unless DocuSign specifically authorizes such repairs or alterations; (iii) where DocuSign serial numbers, warranty data or quality assurance decals have been removed or altered.

6.3 Acceptance of Equipment. Acceptance shall occur upon delivery, unless DocuSign is notified in writing within ten (10) days from receipt of the Equipment(s) by Subscriber that the Equipment do not conform to Subscriber's order or DocuSign product specifications. DocuSign's sole obligation for such nonconforming Equipment shall be limited to repair or replacement, at its option, pursuant to the provisions of the foregoing warranty clause. Notwithstanding the foregoing, Inspection and Acceptance shall occur in accordance with General Services Administration Acquisition Regulation (GSAR) 552.212-4(a) Inspection/Acceptance.

6.4 Extended Warranty. DocuSign offers an extended warranty service under a separate Support And Maintenance Agreement, a copy of which is available from DocuSign representatives.

6.5 Software Warranty. DocuSign warrants that all Software shall operate substantially in accordance with DocuSign's published specifications and user manuals pertaining to such Software, for 90 days from the Order Start Date

6.6 Correction of Program Errors. Any non-conformance of the Software (a "Program Error"), if any, reported by Subscriber must be accompanied or followed by sufficient information to enable DocuSign to reproduce and verify the Program Error including, but not limited to, the input data that generated the Program Error. Once DocuSign has received all such information, if DocuSign is able to reproduce and verify the Program Error, DocuSign shall use commercially reasonable efforts to provide a remedy. Remedies may include, without limitation, providing instructions for Subscriber to cure the Program Error, or delivering a software patch or update. In no circumstances does DocuSign represent or warrant that any or all Program Errors can or will be remedied.

6.7 Mutual Warranties. Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against it in accordance with its terms; (b) no authorization or approval from any third party is required in connection with its execution, delivery, or performance of this Agreement; and (c) the execution, delivery, and performance of this Agreement does not violate the laws of any jurisdiction or the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

6.8 THIS SECTION 6, SETS FORTH SUBSCRIBER'S SOLE REMEDY AND DOCUSIGN'S ENTIRE OBLIGATION AND LIABILITY FOR BREACH OF ANY DOCUSIGN WARRANTY FOR EQUIPMENT, SOFTWARE, COSIGN SERVICES AND DOCUMENTATION UNDER THIS AGREEMENT.

7. INFRINGEMENT OF THIRD PARTY PROPRIETARY RIGHTS. If notified promptly in writing of any action (and all prior claims relating thereto) brought against Subscriber alleging that Subscriber's use of CoSign Service(s) infringes a United States patent, copyright or other proprietary right, DocuSign will defend such action at its expense and will pay the costs and damages awarded against Subscriber in such action, provided that (i) such claim of infringement arises solely from use of CoSign Service(s) itself,

and not as a consequence of CoSign Service(s) combination with any other products or technology, and (ii) DocuSign shall have sole control of the defense of any such action and all negotiations for its settlement or compromise. If a final injunction is obtained in such action against Subscriber's use of CoSign Service(s) or in DocuSign's opinion CoSign Service(s) is likely to become the subject of a claim of infringement, DocuSign shall, at its option and at its expense, either procure for Subscriber the right to continue using CoSign Service(s); replace or modify CoSign Service(s) so that it becomes non-infringing or accept Subscriber's return and cancelation of this Agreement. DocuSign shall not have any liability to Subscriber if the alleged infringement is based upon (a) DocuSign's compliance with Subscriber's designs, specifications or instructions, in which case Subscriber shall defend and hold DocuSign harmless against any expenses, judgment or loss for alleged infringement of any patents, copyrights or trademarks; (b) patent issued on a patent application published after the Order Start Date; (c) incorporation by the Software or combination, operation or use of the Software in or with any technology (including any software, hardware, firmware, system or network) or service not provided by DocuSign or specified for Subscriber's use in the Documentation, unless otherwise expressly permitted by DocuSign in writing; (d) modification of the Software other than: (i) by DocuSign in connection with this Agreement; or (ii) with DocuSign's express written authorization and in strict accordance with DocuSign's written directions and specifications; (e) failure to timely implement any Update or Upgrade, modification, or replacement of the Software made available to Subscriber by DocuSign; (f) use of the Software after DocuSign's notice to Subscriber of such activity's alleged or actual infringement, misappropriation or other violation of a third party's rights; (g) negligence, abuse, misapplication or misuse of the Software or Documentation by or on behalf of Subscriber, Subscriber's representatives or a third party; (h) use of the Software or Documentation by or on behalf of Subscriber that is outside the purpose, scope or manner of use authorized by this Agreement or in any manner contrary to DocuSign's instructions; events or circumstances outside of DocuSign's commercially reasonable control (including any third-party hardware, software or system bugs, defects or malfunctions). No costs or expenses shall be incurred for the account of DocuSign without the prior written consent of DocuSign. In no event shall DocuSign's total liability to Subscriber under or as a result of compliance with the provisions of this Section 7 ("Infringement of Third Party Proprietary Rights") exceed the sum paid to DocuSign by Subscriber under this Agreement. The foregoing states Subscriber's sole remedy and the entire liability of DocuSign with respect to alleged infringement of any third party proprietary rights by CoSign Service(s), Equipment or any part thereof or by its operation.

## 8. DISCLAIMERS AND LIMITATIONS.

### 8.1 DISCLAIMER OF CONSEQUENTIAL DAMAGES; CAP ON DAMAGES.

(i) IN NO EVENT WILL DOCUSIGN BE LIABLE TO SUBSCRIBER FOR (a) REPROCUREMENT COSTS; (b) SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES; (c) ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR THE USE OR PERFORMANCE OF COSIGN SERVICE, REGARDLESS OF WHETHER THE CAUSE OF ACTION IS IN CONTRACT, TORT, INCLUDING NEGLIGENCE, OR ANY OTHER FORM.

(ii) IN NO EVENT WILL DOCUSIGN'S TOTAL AGGREGATE LIABILITY OF ANY KIND ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF FORUM AND BASIS OF ACTION OR CLAIM (CONTRACT,

TORT, OR OTHERWISE), WILL EXCEED THE TOTAL AMOUNT PAYABLE BY SUBSCRIBER TO DOCUSIGN UNDER THE ORDER FORM TO WHICH THE LIABILITY RELATES.

(iii) No person, including any dealer, agent or representative of DocuSign is authorized to assume for DocuSign any other liability on its behalf except as set forth herein. NONPAYMENT OF ANY INVOICE RENDERED WITHIN THE STATED PAYMENT TERMS AUTOMATICALLY CANCELS ANY WARRANTY OR GUARANTEE STATED OR IMPLIED. If any payment is due DocuSign for services performed hereunder, it shall be subject to the same payment terms as the original purchase.

8.2 DISCLAIMER OF WARRANTIES. ALL DOCUSIGN EQUIPMENT, SOFTWARE, PROFESSIONAL SERVICES AND COSIGN SERVICES ARE PROVIDED "AS-IS". DOCUSIGN DISCLAIMS ALL IMPLIED WARRANTIES FOR EQUIPMENT, SOFTWARE, PROFESSIONAL SERVICES AND COSIGN SERVICES INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Subscriber has no right to make or pass on any representation or warranty on behalf of DocuSign to any third party.

8.3 DocuSign's Suppliers. All limitations and exclusions of DocuSign's liability under this agreement, including without limitation the limitations and exclusions for breach of warranty and for infringement, shall extend to DocuSign's affiliated companies, subsidiaries, subcontractors and suppliers.

## 9. CONFIDENTIALITY

9.1 "Confidential Information" means any trade secrets or other information of DocuSign or Subscriber, whether of a technical, business, or other nature (such as DocuSign's software), that is disclosed to the other party (the "Recipient") and that is marked "confidential," or, whether or not marked, that a reasonable person would understand to be confidential given the circumstances of the disclosure. Confidential Information does not include any information that: (a) was known to Recipient before 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 this Agreement; or (d) is or becomes part of the public domain through no fault or action of Recipient.

9.2 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, except on a need-to-know basis to its attorneys, auditors and consultants who are under confidentiality obligations at least as restrictive as contained herein; 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.

9.3 Required Disclosure. If Recipient is required by law to disclose Confidential Information of the other party or the terms of this Agreement, Recipient will give prompt written notice to the other party before making the disclosure, unless prohibited from doing so by the legal or administrative process, and assist the disclosing party to obtain where reasonably available, an order protecting the Confidential Information from public disclosure.

9.4 Ownership. Recipient acknowledges that, as between the parties, all Confidential Information it receives from the disclosing party, including all copies thereof in Recipient's possession or control, in any media, is proprietary to and exclusively owned by the disclosing party. Nothing in this Agreement grants Recipient any right, title or interest in or to any of the disclosing party's Confidential Information. Recipient's incorporation of the disclosing party's Confidential Information into any of its own materials will not render Confidential Information non-confidential.

9.5 Remedies. Recipient acknowledges that any actual or threatened breach of this Section 9 may cause irreparable, non-monetary injury to the disclosing party, the extent of which may be difficult to ascertain. Accordingly, the disclosing party is entitled to (but not required to) seek injunctive relief in addition to all remedies available to the disclosing party at law and/or in equity, to prevent or mitigate any breaches of this Agreement or damages that may otherwise result from those breaches. Absent written consent of the disclosing party to the disclosure, the Recipient, in the case of a breach of this Section 9, has the burden of proving that the disclosing party's Confidential Information is not, or is no longer, confidential or a trade secret and that the disclosure does not otherwise violate this Section 9.

9.6 Existing Obligations. The obligations in this Section 9 are in addition to, and supplement, each party's obligations of confidentiality under applicable law and under any nondisclosure or other agreement between the parties.

## 10. GENERAL PROVISIONS

10.1 Notices. Any notice required or permitted to be given in accordance with this Agreement will be effective only if it is in writing and sent using: (a) certified or registered mail; or (b) insured courier, to the appropriate party at the address set forth on the Order Form, with a copy, in the case of DocuSign, to [legal@docuSign.com](mailto:legal@docuSign.com). Either party may change its address for receipt of notice by notice to the other party through a notice provided in accordance with this Section. Notices are deemed given upon receipt if delivered using CoSign Service(s), two business days following the date of mailing, or one business day following delivery to a courier.

10.2 Notice to U.S. Government End Users. The Software and Documentation are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States. Copyright 2015 DocuSign, Inc., 221 Main Street, Suite 1000, San Francisco, CA 94105, USA.

10.3 Feedback. Any feedback provided by Subscriber to DocuSign concerning the functionality or performance of the Software (including identifying potential errors and improvements) ("Feedback"), is hereby assigned by Subscriber to DocuSign which includes all right, title, and interest in and to the Feedback, and DocuSign is free to make unrestricted use of the Feedback without any necessity of payment to Subscriber. Subscriber represents and warrants that i at the time of disclosure to Subscriber

is the sole owner of the Feedback, or otherwise have the unfettered right or license to make the foregoing assignment.

10.4 Export Rules. Subscriber may not export or re-export the Software without: (a) the prior written consent of DocuSign; and (b) complying with all applicable export and import control laws and obtaining any necessary permits and licenses.

10.5 Relationship. At all times, the parties are independent actors, and are not the agents or representatives of the other. This Agreement is not intended to create a joint venture, partnership, or franchise relationship, or give rise to any third party beneficiary.

10.6 Assignability. Subscriber may not assign its rights or obligations under this Agreement without DocuSign's prior written consent. If consent is given, this Agreement will bind Subscriber's successors and assigns. Notwithstanding the foregoing, either party may assign this Agreement to a purchaser of its business entity or substantially all of its assets without the other party's consent, as long as the purchaser is not insolvent or otherwise unable to pay its debts as they become due. Other than the foregoing, any attempt by Subscriber to transfer its rights or obligations under this Agreement will be void.

10.7 Force Majeure. Except for any payment obligations, neither party will be liable for failure to perform any obligation under this Agreement to the extent such failure is a force majeure event (including acts of God, natural disasters, war, civil disturbance, action by governmental entity, strike and other causes beyond the party's reasonable control). The party affected by the force majeure event will provide notice to the other party within a commercially reasonable time and will use commercially reasonable efforts to resume performance as soon as practicable. Obligations not performed due to a force majeure event will be performed as soon as reasonably possible when the force majeure event concludes.

10.8 Governing Law. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Washington, U.S.A., without reference to its choice of law rules to the contrary. Any legal action arising under this Agreement must be initiated within two years after the cause of action arises. Each party hereby irrevocably waives, to the fullest extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement.

10.9 Waiver. The waiver by either party of any breach of any provision of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.

10.10 Severability. If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the grant of any license to Subscriber under this Agreement is found to be illegal, unenforceable, or invalid, the license will immediately terminate.

10.11 Entire Agreement. This Agreement is the final and complete expression of the agreement between these parties regarding the CoSign Service(s) and Product(s). This Agreement supersedes, and the terms of this Agreement govern, all previous oral and written communications regarding these matters. These terms and conditions are an essential consideration for DocuSign's agreement to sell its

products and shall apply to all DocuSign's shipments. In the event of conflict between the Agreement, the terms and conditions of the MAS 70 Contract, the Order Form or other document, the conflict shall be resolved in accordance with GSAR 552.212-4(s) Order of Precedence. This Agreement may be changed only by a written agreement signed by an authorized agent of both parties.

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## ADDITIONAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

The following additional terms and conditions apply to Professional Services, if any, that are made the subject of an Order Form or Work Order.

### 11. SERVICES, WORK ORDERS AND CHANGE ORDERS.

11.1 Services. If and as set out in a Work Order, and subject to the terms and conditions of this Agreement, DocuSign will perform certain Professional Services for Subscriber.

11.2 Work Orders. The specific details of the Professional Services to be performed will be determined on a per-project basis, and the details for each project will be described in a Work Order that is executed by both parties (called the "Work Order" for purposes of the Professional Services). To the extent that an Order Form includes a standard implementation, training, consulting package, such Order Form will constitute a Work Order. Once executed by both parties, each Work Order will be a unique agreement that incorporates the terms of this Agreement and stands alone with respect to all other Work Orders and Order Forms. If there is a conflict between the terms of this Agreement and the terms of a Work Order, the conflict shall be resolved in accordance with GSAR 552.212-4(s) Order of Precedence.

11.3 Change Orders. Unless otherwise specified in a Work Order, Subscriber may reasonably request in writing that revisions be made with respect to the Professional Services or deliverables set forth in that Work Order ("Change Order"). Within 10 business days after DocuSign's receipt of the Change Order, DocuSign will deliver to Subscriber a written, revised Work Order reflecting DocuSign's reasonable determination of the revised Professional Services, deliverables, delivery schedule, payment schedule, and adjusted fees or fee estimates, if any, that will apply to the implementation of the revisions. If Subscriber approves the revised Work Order, then the parties will execute it, and upon execution, the revised Work Order will supersede the then-existing Work Order. If Subscriber does not approve the revised Work Order within 10 business days after its receipt by Subscriber, the then-existing Work Order will remain in full force and effect, and DocuSign will have no further obligation with respect to the applicable Change Order.

### 12. PERFORMANCE OF PROFESSIONAL SERVICES.

12.1 Fees; Project Management. In accordance with GSAR 552.212-4(g) and (i), Carahsoft will invoice Customer and Customer shall pay Carahsoft for Professional Services at rates and under payment terms described in the applicable Work Order ("Professional Fees"). Unless otherwise agreed in the applicable Work Order, Professional Fees will be invoiced in total on the Effective Date of the Work Order (or on



the Order Start Date in the case of an Order Form). For each project described in a Work Order, each party will designate a single point of contact within its organization to manage the project ("Project Leader"). The Project Leaders will communicate as necessary to manage the Professional Services to be performed under a Work Order.

12.2 Performance Standard. DocuSign warrants to Subscriber for a period of one year that the Professional Services will be performed in accordance with standard industry practice and the applicable Work Order ("Professional Services Warranty"). DocuSign will complete the Professional Services, including the delivery of any deliverables, in accordance with the schedule of times and milestones specified in the Work Order. If the Professional Services do not conform to the Professional Services Warranty, at DocuSign's option, DocuSign will either re-perform the Professional Services to conform to the Professional Services Warranty or credit to Subscriber the amounts paid therefore. THE FOREGOING REMEDIES ARE SUBSCRIBERS SOLE AND EXCLUSIVE REMEDIES AND DOCUSIGN'S ENTIRE LIABILITY FOR ANY BREACH OF THE PROFESSIONAL SERVICES WARRANTY.

13. TERM AND TERMINATION OF WORK ORDERS. Each Work Order will commence on the specified effective date and will continue until each party's obligations under the Work Order have been fulfilled or the Work Order is terminated as provided in the Work Order. If any Work Order is terminated in accordance with terms contained in the applicable Work Order, then Subscriber will pay to DocuSign any Professional Fees and all other payment obligations accrued and payable for the Professional Services performed under the terminated Work Order through the effective date of the termination. If a Work Order is terminated for any reason other than for material breach by DocuSign, Subscriber will pay to DocuSign all Professional Fees due under the Work Order had the Work Order not been terminated and had the Professional Services been fully performed in accordance with the schedule then in effect.

#### 14. PROPRIETARY RIGHTS.

14.1 Subscriber Materials. Any materials provided by Subscriber to DocuSign specifically for use by DocuSign in the course of the Professional Services ("Subscriber Materials") will be used and disclosed solely as required to perform the Professional Services. As between the parties, Subscriber will continue to own the Subscriber Materials.

14.2 Inventions. Except as expressly set forth to the contrary in a Work Order, all works of authorship, inventions, discoveries, improvements, methods, processes, formulas, designs, techniques, and information conceived, discovered, developed or otherwise made by DocuSign, solely or in collaboration with others: (a) in the course of performing the Professional Services; or (b) that form all or part of a deliverable provided as part of the Professional Services, whether developed as part of the Professional Services or separately, but excluding Subscriber Materials (as defined in Section 14.1) (collectively, "Inventions"), is and will remain the sole property of DocuSign.

14.3 License Grant. Upon and subject to final payment by Subscriber of all Professional Fees owing to DocuSign, DocuSign hereby grants to Subscriber a nonexclusive, perpetual, worldwide, royalty-free license to use, copy the Inventions solely for purposes of Subscriber's internal business operations with the Co-Sign Services and only during the terms of this Agreement. The rights granted to Subscriber in

this Section 14 are not assignable or transferable, by operation of law or otherwise, without the advance written consent of DocuSign. Any assignments or transfers in violation of this Section 14 will be void.

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ATTACHMENT 1 DEVELOPER LICENSE to  
DOCUSIGN, INC. TERMS AND CONDITIONS FOR COSIGN<sup>®</sup> SERVICES

The following additional terms and conditions apply to a Subscriber accessing a Developer Bundle (as defined below).

This CoSign Services Developer License (“Developer License”) is a legal agreement between Subscriber as a Licensee and DocuSign, Inc. regarding the use of the Developer Bundle created by DocuSign Inc. and its affiliates (collectively “DocuSign”) for implementing access to DocuSign’s digital signature solution known as CoSign<sup>®</sup> Services and is incorporated into and made a part of the DocuSign, Inc. Terms and Conditions for CoSign Services (“Agreement”). This Developer Bundle may include: (i) the SAPI<sup>®</sup> toolkit, (ii) CoSign Agent software, (iii) CoSign Code Samples, (iv) CoSign Documentation, (v) any and all other software products made available to Licensee under this Developer License (collectively the “Developer Bundle”), and (v) access to the CoSign hosted sandbox for testing the Developer’s implementation. Defined terms not otherwise defined in this Agreement will have the meaning set forth in this Developer License.

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8. DISCLAIMER OF CONSEQUENTIAL DAMAGES; CAP ON DAMAGES.

(i) IN NO EVENT WILL DOCUSIGN BE LIABLE TO SUBSCRIBER FOR (a) REPROCUREMENT COSTS; (b) SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES; (c) ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR THE USE OR PERFORMANCE OF COSIGN SERVICE, REGARDLESS OF WHETHER THE CAUSE OF ACTION IS IN CONTRACT, TORT, INCLUDING NEGLIGENCE, OR ANY OTHER FORM.

(ii) IN NO EVENT WILL DOCUSIGN'S TOTAL AGGREGATE LIABILITY OF ANY KIND ARISING OUT OF OR RELATING TO THIS DEVELOPER LICENSE, REGARDLESS OF FORUM AND BASIS OF ACTION OR CLAIM (CONTRACT, TORT, OR OTHERWISE), WILL EXCEED FIVE THOUSAND DOLLARS (USD \$5,000.00).

9. Termination: This License will be effective upon the Effective Date, and shall automatically terminate on the earlier of: (i) the expiration or termination of Licensee's right to receive the CoSign Service(s); or (ii) DocuSign's termination of this License, as permitted herein. 9.1 Effect of Termination. Upon termination of this License, Licensee shall cease all use of the Developer Bundle and if requested by DocuSign, certify in writing to DocuSign that all copies of the Developer Bundle have been destroyed or deleted from any and all computer libraries or storage devices in Licensee's possession and/or control. DocuSign's rights and Licensee's obligations under Sections 5 through 10 will survive the termination of this License.

10. Feedback. If Licensee provide any feedback to DocuSign concerning the functionality or performance of the Developer Bundle (including identifying potential errors and improvements) ("Feedback"), Licensee hereby assign to DocuSign all right, title, and interest in and to the Feedback, and DocuSign is free to make unrestricted use of the Feedback without any necessity of payment to Licensee. Licensee represents and warrants that Licensee are the sole owner of the Feedback, or otherwise have the unfettered right or license to make the foregoing assignment.

11. Export Rules. Licensee may not export or re-export the Developer Bundle without: (a) the prior written consent of DocuSign; and (b) complying with all applicable export and import control laws and obtaining any necessary permits and licenses.

12. Notice to U.S. Government End Users. The Developer Bundle and Documentation are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions

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13. Survival. In addition to the terms that survive in the main body of the Agreement, the following Developer License Sections will survive; Sections 4, 6 through 14 and all definition of defined terms.

14. Conflict. If there is a conflict between the main body of the Agreement and this Developer License, the terms and conditions of this Developer License will govern and control as to this Developer License subject matter.

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ATTACHMENT 2 SUPPORT AND MAINTENANCE AGREEMENT for CoSign Services  
v151204

Warranty Terms:	Equipment – Term specified on applicable Order Form.
Return to Factory:	Shipping and insurance costs paid by DocuSign; 7-day turnaround (receipt to shipment).
Return to Customer:	Shipping and insurance paid by Subscriber if no defect in Equipment found.
Support & Escalation:	Support hours: 8:00 AM - 6:00 PM Monday-Friday US Central Standard Time, and 8:00 AM - 6:00 PM Sunday-Thursday Central European Time. Escalated response, via Subscriber’s DocuSign account manager: 8 hour phone and/or email response.
Installation:	No charge phone and/or email support for installation for first 30-days after receipt of Product.
Onsite Service:	Standard daily rate specified on Order Form plus actual travel and expenses.

## 1. SUPPORT AND MAINTENANCE

1.1 DocuSign agrees to provide Support and Maintenance pursuant to the following terms and conditions for CoSign Service(s) (“Agreement”). Except as provided in the Terms and Conditions for CoSign Services, no support and maintenance services are provided to Subscriber unless Subscriber purchases a support and maintenance plan. Under a CoSign Service Support and Maintenance plan, Subscriber is entitled to customer support, technical support and Equipment maintenance.

1.2 This Agreement does not cover Equipment, or versions of Equipment, which are no longer offered by DocuSign for general commercial availability (otherwise known as “End Of Life” or “EOL”). In the event any Equipment is categorized as EOL Equipment during the current Term, DocuSign will continue providing support until expiration of the then current Term. Subscribers are encouraged to contact their DocuSign sales representative to determine whether any of Subscriber’s Equipment has reached its EOL. DocuSign’s receipt of Support and Maintenance fees for Equipment that has already reached its EOL does not constitute an agreement to extend this Term of coverage. Any support offered by DocuSign for Products that have already reached their EOL will be offered at DocuSign’s sole discretion and if offered will be provided “as is” without warranty of any kind related to the service(s) and/or Product(s).

1.3 The services and remedies offered under this Agreement are exclusive of all other remedies for Equipment defects which may arise during the Term of coverage. All services and remedies are offered on a “reasonable commercial efforts” basis, and DocuSign does not guarantee that all Equipment defects can be remedied.

## 2. CUSTOMER SUPPORT AND TECHNICAL SUPPORT

2.1 DocuSign Customer Support provides assistance to Subscriber as specified in Section 2.2 utilizing DocuSign’s team of experienced technical support professionals online and/or by phone. DocuSign will provide prompt response and escalated support during Subscriber’s business day, with specific time coverage described below.

2.2 CoSign Support Deliverable Description:

- Support portal and Knowledge Base – Search for answers and submit Support requests
- DocuSign Community - Q&A community staffed by DocuSign employees and power users of our product
- Online Case Submission and Management – Submit cases online for assistance from our Support Team
- Phone or Email Support - Talk to our DocuSign Support Team for technical CoSign questions, billing inquiries and account support. Support hours: 8:00 AM - 6:00 PM Monday-Friday US

Central Standard Time, and 8:00 AM - 6:00 PM Sunday-Thursday Central European Time.  
Escalated response via your DocuSign account manager: 8 hour phone and/or email response.

- Escalated Tier 2 Support – Direct access to senior technical resource as part of standard support escalation process.
- CoSign Integration Support (CoSign Integration Tools)

2.3 An account manager will be assigned to Subscriber to provide support through DocuSign’s online case submission and management tools that allows Subscriber to track questions through resolution.

### 3. EQUIPMENT MAINTENANCE AND WARRANTY

3.1 Limited Warranty. DocuSign’s limited Equipment warranty is in place for the period determined by the CoSign Service Support and Maintenance plan purchased by Subscriber under an applicable Order Form (“Equipment Warranty Period”). The Equipment warranty covers Equipment purchased from DocuSign or DocuSign-authorized reseller.

Equipment warranty does not cover:

- Damage resulting from improper handling, lack of care or accidents
- Any consequential damage resulting from failure to use or maintain the Equipment in accordance with the Equipment’s documentation

3.2 DocuSign’s sole responsibility is, at DocuSign’s option, the repair, correction of error, or replacement of the defective hardware Equipment. Warranty automatically becomes void in the event of servicing or repair of the Equipment by any person not duly authorized by DocuSign.

In the event of Equipment failure, Subscriber shall first notify DocuSign’s account manager. Subscriber shall make all reasonable efforts to troubleshoot and document the Equipment failure in accordance with DocuSign’s recommendations prior to requesting replacement or repair of any Equipment covered under this Agreement. Subscriber’s failure to implement DocuSign’s recommendations may result in limited services, denial of services or additional costs incurred by the Subscriber under this Agreement.

3.3 Equipment Returns for Repair. Prior to return of Equipment, the Subscriber is obligated to first obtain a Return Material Authorization (RMA). If hardware components are deemed faulty by DocuSign, DocuSign will issue a RMA and return instructions. Subscriber will ship the faulty hardware with the RMA# to DocuSign, and upon receipt DocuSign will then ship a repaired or replacement unit to the Subscriber within ten (10) business days.

DocuSign shall arrange and pay for all costs of returning the Equipment to DocuSign. For Equipment destined outside the United States, Subscriber shall also pay for all costs incurred in returning the Equipment to Subscriber’s location, including transportation, import fees, duties and taxes, if any.

3.4 Equipment Warranty Exclusions. All the above warranties are contingent upon proper use of the Equipment in accordance with DocuSign's user documentation. These warranties will not apply (i) if adjustment, repair or parts replacement is required because of accident, unusual physical, electrical or electro-magnetic stress, negligence of Subscriber, misuse, failure of electric power environmental controls, transportation, not maintained in accordance with DocuSign specifications, or abuses other than ordinary use; (ii) if the Equipment has been modified by Subscriber or has been repaired or altered outside DocuSign's factory, unless DocuSign specifically authorizes such repairs or alterations; (iii) where DocuSign serial numbers, warranty data or quality assurance decals have been removed or altered. In no event shall DocuSign be liable for any breach of warranty in an amount exceeding the total amount payable by Subscriber to DocuSign under the Order Form to which the CoSign Service(s) relates. No person, including any dealer, agent or representative of DocuSign is authorized to assume for DocuSign any other liability on its behalf except as set forth herein.



DOCUSIGN, INC.  
CORPORATE SUBSCRIBER TERMS AND CONDITIONS  
v121008

These Terms and Conditions are incorporated by this reference into the Order Form (collectively referred to as the "Agreement") entered into by DocuSign, Inc. ("DocuSign") and the customer identified in the Order Form ("Subscriber").

## 1. DEFINITIONS

**"Account"** means a unique account established by Subscriber to enable its Authorized Users to access and use the Subscription Service and, where applicable, other DocuSign Products.

**"Authorized User"** means any employee of Subscriber, identified by a unique email address and user name, who is registered under the Account; provided that no two persons may register or use the Subscription Service as the same Authorized User.

**"Consulting Services"** means any additional professional services to be delivered by DocuSign, such as integration consulting or assistance, custom development, training, and transition services, that are set forth in an Order Form or Work Order as described in Section 15.

**"DocuSign API"** means the application programming interface that supports interoperability of applications with the Subscription Service.

**"DocuSign Products"** means the products and services identified on an Order Form, which may include the Subscription Service, the Repository Services, the Consulting Services and any other DocuSign offerings.

**"eContract"** refers to a contract, notice, disclosure, or other record or document deposited into the System by Subscriber for Processing using the Subscription Service.

**"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.

**"Order Form"** means a standard DocuSign order form or any other document separately and specifically approved by DocuSign that describes the DocuSign Products to be purchased by Subscriber and is signed by both parties.

**"Personal Data"** means any of the following: (a) nonpublic 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, or (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; (c) personally identifiable medical or health-related information.

**"Process"** means any operation or set of operations performed upon Subscriber's data, 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.

**"Repository Services"** means the Contract Repository or eVaulting Services, each as defined in the Terms and Conditions for Repository Services (available at <http://www.docusign.com/company/terms-and-conditions/eoriginal/v121005>), that are made the subject of an Order Form.

**"Specifications"** means the technical specifications set forth in the "Subscription Service Specifications" available at <http://docusign.com/company/specifications>.

**"Subscription Service"** means DocuSign's on-demand electronic signature service, which provides online 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 Service.

**"Term"** means the period of effectiveness of this Agreement, as described in more detail in Section 9 below.

**"Transaction Data"** means the metadata associated with an Envelope and maintained by DocuSign for the purpose of establishing a digital audit trail, such as transaction history, image hash value, method and time of Envelope deletion, sender and recipient names, email addresses and signature IDs.

## 2. THE SUBSCRIPTION SERVICE

2.1 During the Term and subject to these Terms and Conditions, DocuSign will provide the Subscription Service in accordance with the Specifications, and Subscriber will have the right to obtain an Account and register its Authorized Users, who may access and use the Subscription Service. The right to use the Subscription Service is: (a) limited to its Authorized Users (accordingly, Subscriber may not resell or otherwise provide or assist with the provision of the Subscription Service to any third party); and (b) conditioned on Subscriber's acknowledgement and agreement with the following:

i) Nothing in this Agreement 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;

ii) DocuSign maintains no control of 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 Subscriber;

iii) 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;

iv) Certain types of agreements and documents are excepted 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, or whether it can be legally formed by electronic signatures;

v) Subscriber is solely responsible for making available to third parties (including all 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;

vi) Certain laws or regulations impose special requirements with respect to electronic transactions involving one or more "consumers," such as (among others) 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: (A) determine whether any particular transaction involves a consumer; (B) furnish or obtain any such consents or to determine if any such consents have been withdrawn; (C) provide any information or disclosures in connection with any attempt to obtain any such consents; (D) provide legal review of, or to update or correct any information or disclosures currently or previously given; (E) provide any such copies or access except as expressly provided in the Specifications for all transactions, consumer or otherwise; or (F) otherwise to comply with any such special requirements; and

vii) Subscriber expressly undertakes to determine whether any consumer is involved in any eContract presented by its Authorized Users for Processing, and, if so, to comply with all requirements imposed by law on such eContracts or their formation.

## 3. SUBSCRIPTION PLANS AND USAGE PRICING

3.1 The pricing, features and options of the DocuSign Products selected by Subscriber are set forth in the Order Form. The Subscription Service is sold on a subscription basis and may be limited by usage ("Envelope Allowance"), or by the number of Authorized Users ("Seats"), or both. Optional features, such as Authentication Measures or fax-back services, may be purchased on a periodic or per-use basis.

3.2 If Subscriber selects an **Envelope Allowance Subscription**, then Subscriber is allowed to send the number of Envelopes in the Envelope Allowance specified in the Order Form during the Term. All Envelopes sent in excess of the Envelope Allowance will incur a per-Envelope charge that will be invoiced within 30 days of the date first incurred. The total number of Envelopes used is based on the sum of all Envelopes that have been sent for signature or for certified delivery from the Account. An Envelope will be deemed consumed at the time it is sent by an Authorized User, whether or not it has been received by the recipients or the recipients have performed any actions upon any eContract in the Envelope.

3.3 If Subscriber selects a **Seat Subscription**, then Subscriber is allowed to manually send Envelopes from the number of Seats specified in the Order Form during the Term. A Seat is defined as a natural person manually preparing and sending Envelopes, and excludes the Processing of Envelopes using automated batch or bulk sending operations, or the use of the

DocuSign API for sending Envelopes. If the number of Envelopes sent from a particular Seat or a group of Seats is abusive and/or unduly burdensome (indicating automated Processing), DocuSign will promptly notify Subscriber and the parties will review the use-case scenario as well as any continued monitoring and additional Seats that may be required to be purchased. The number of Seats is determined by the total number of active Authorized Users listed in the membership of an Account at any one time. No two individuals may log onto or use the Subscription Service as the same Authorized User, but Subscriber may unregister or deactivate Authorized Users and replace them with other Authorized Users without penalty, so long as the number of active Authorized Users registered at any one time is equal to or less than the number of Seats purchased. The addition by Subscriber of more Authorized Users than the number of Seats purchased in an Order Form will result in an additional charge for one Seat per additional Authorized User for the remainder of the Term, to be invoiced immediately.

#### **4. ADDITIONAL SUBSCRIBER RESPONSIBILITIES**

4.1 Subscriber agrees that it will not use or permit the use of the Subscription Service 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 Subscriber agrees that it is solely responsible for 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 its Account.

4.3 Subscriber further agrees not to use or permit the use of the Subscription Service: (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 Service); (c) in any manner that is likely to damage, disable, overburden, or impair the System or the Subscription Service or interfere in any way with the use or enjoyment of the Subscription Service by others; or (d) in any way that constitutes or encourages conduct that could constitute a criminal offense.

4.4 Although DocuSign does not monitor the content Processed through the Subscription Service, DocuSign may at any time suspend any use of the Subscription Service and/or remove or disable any content as to which DocuSign reasonably and in good faith believes is in violation of this Agreement. DocuSign agrees to provide Subscriber with notice of any such suspension or disablement before its implementation unless such suspension or disablement is necessary to comply with legal process or prevent imminent harm to DocuSign's System, the Subscription Service or any third party, in which case DocuSign will notify Subscriber of such suspension or disablement as soon as reasonably practicable thereafter.

#### **5. INTELLECTUAL PROPERTY AND TRADEMARK LICENSE**

5.1 DocuSign is the owner of various intellectual property and technology rights associated with the Subscription Service, 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 this Agreement, DocuSign does not license or transfer to Subscriber 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. Subscriber 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 Subscriber under this Agreement shall remain, as between Subscriber and DocuSign, owned by Subscriber.

5.2 DocuSign hereby grants to users and licensees of its products and services a limited, revocable, 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: <http://www.docusign.com/trademark-license>.

#### **6. CUSTOMER SUPPORT**

DocuSign will provide customer support to Subscriber in accordance with the package that is identified on the Order Form, as further detailed at <http://www.docusign.com/products/support-plans>.

#### **7. eCONTRACT STORAGE AND DELETION**

7.1 DocuSign will store in accordance with the Specifications all completed eContracts sent by Subscriber until the termination or expiration of the Agreement, unless otherwise directed by Subscriber. Copies of stored eContracts may be retrieved by Subscriber at any time during that period, provided that following the expiration or termination of the Agreement, Subscriber may

request DocuSign's assistance in retrieving completed eContracts still remaining on the System pursuant to the transition services terms described in Section 9.4.

7.2 Prior to the expiration or termination of this Agreement, Subscriber may elect to purchase post-expiration or post-termination storage services for their completed eContracts. Where Subscriber opts not to purchase storage services, all copies of eContracts may be deleted by DocuSign without prior notice after the period available for transition services has expired pursuant to the terms described in Section 9.4. Subscriber may, at its option and wholly at Subscriber's risk, direct that any eContract be deleted at a time stated by Subscriber and prior to the end of the Term.

7.3 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 (where Subscriber has established an expiration for such Envelope, not to exceed 365 days); or b) expiration of the Term.

7.4 DocuSign will retain the Transaction Data permanently, provided that any Transaction Data that constitutes Confidential Information of Subscriber will at all times maintain that status and DocuSign will comply with its obligations in Section 13.

## **8. FEES AND PAYMENT TERMS**

8.1 Subscriber will pay DocuSign the amounts set forth in each Order Form. An Order Form is not binding until it is executed by both DocuSign and Subscriber, at which point it will be deemed to be incorporated into this Agreement. Unless otherwise specified in an applicable Order Form, the first invoice will be submitted to Subscriber within 30 days after the Order Start Date, and Subscriber will pay all amounts due within 30 days of the date of the applicable invoice.

8.2 If Subscriber's usage under an Envelope Allowance Subscription exceeds the Envelope Allowance prior to the end of the Term, the unpaid balance of the Order Form for such Envelope Allowance Subscription shall become immediately due and payable.

8.3 Any undisputed amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Subscriber will reimburse any costs or expenses (including reasonable attorneys' fees) incurred by DocuSign to collect any undisputed amount that is not paid when due. DocuSign may accept any check or payment in any amount without prejudice to DocuSign's right to recover the balance of the amount due or to pursue any other right or remedy. Amounts due to DocuSign under this Agreement may not be withheld or offset by Subscriber for any reason against amounts due or asserted to be due to Subscriber from DocuSign. All amounts payable under this Agreement are denominated in United States dollars, and Subscriber will pay all such amounts in United States dollars.

8.4 **Taxes.** Other than federal and state net income taxes imposed on DocuSign by the United States, Subscriber will bear all taxes, duties, and other governmental charges (collectively, "taxes") resulting from this Agreement or transactions conducted in relation to this Agreement or the DocuSign Products. If a tax is imposed on DocuSign by a jurisdiction outside the United States, Subscriber will not be obligated to bear that tax to the extent: (a) the tax is allowable as a credit against the United States federal income taxes of DocuSign; (b) Subscriber reduces such tax to the extent possible, giving effect to the applicable Income Tax Convention between the United States and other jurisdictions; and (c) Subscriber furnishes DocuSign with such evidence as the United States taxing authorities may require to claim the credit. Subscriber will pay any additional taxes as are necessary to ensure that the net amounts received and retained by DocuSign after all such taxes are paid are equal to the amounts that DocuSign would have been entitled to in accordance with this Agreement as if the taxes did not exist.

## **9. TERM AND TERMINATION**

9.1 **Term.** Unless sooner terminated as stated below, and subject to Section 17 with respect to Work Orders (as defined below), the effectiveness of this Agreement will commence upon the Order Start Date and will continue for the term specified on the Order Form (the "Term").

9.2 **Termination for Cause.** If either party commits a material breach or default in the performance of any of its obligations under this Agreement, then the other party may terminate this Agreement by giving the defaulting party written notice of termination if the material breach or default in performance is not cured within 30 days after the defaulting party receives notice thereof. Without limiting the foregoing, any failure by Subscriber to timely pay to DocuSign any amounts owing under this Agreement will constitute a material breach of this Agreement. If Subscriber fails to timely pay any amounts due for services to be performed by DocuSign, then without limitation to any of its other rights or remedies, DocuSign may suspend performance of such services until it receives all amounts due.

9.3 **Post-Termination Obligations.** If this Agreement expires or is terminated for any reason: (a) Subscriber will pay to DocuSign any amounts required to be paid under this Agreement that have accrued prior to, and remain unpaid as of, the date of

termination or expiration (including Subscription fees, which become due upon termination of this Agreement as set forth in an Order Form, and any one-time or recurring fees through the end of the billing cycle in which termination occurs); (b) any and all liabilities accrued prior to the effective date of the termination will survive; (c) Subscriber will destroy all copies of DocuSign software, documentation, and materials within five business days of such termination, and immediately thereafter, if requested by DocuSign, provide DocuSign with a written certification signed by an authorized Subscriber representative certifying that all copies of software, documentation, and materials have been destroyed; (d) licenses to use DocuSign software and the provision of DocuSign services will immediately end; and (e) the parties' rights and obligations under Sections 1, 7.4, 9.3, 9.4, 10.3, and 11 through 14 will survive.

**9.4 Transition Services.** Upon expiration or termination of this Agreement for any reason, at Subscriber's request and at DocuSign's then-current standard professional services rates plus expenses, DocuSign shall provide reasonable transition services for a period not to exceed 90 days to assist Subscriber in moving Subscriber's data to another provider or exporting eContracts to external media. As part of such transition services, DocuSign shall at a minimum transfer, and cause any of its independent contractors to transfer, all data and electronic files associated with the Subscription Service. At its then-current standard professional services rates, DocuSign shall at Subscriber's request further cooperate with Subscriber in the development of a transition plan and shall use reasonable efforts to assist Subscriber and/or another service provider in the transition. DocuSign may at its discretion require advance payment or other adequate security for payment as DocuSign may consider appropriate in connection with or as a condition to the provision of services described in this section.

## **10. WARRANTIES AND DISCLAIMERS**

**10.1 DocuSign Warranties.** DocuSign represents and warrants that: (a) the Subscription Service as delivered to Subscriber and used in accordance with the Specifications will not infringe on any United States patent, copyright or trade secret; (b) the Subscription Service shall be performed in accordance with the Specifications 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 Subscriber in accordance with the Specifications and 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 Subscriber in accordance with the Specifications and 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 Subscriber complies with all special requirements for consumer eContracts, including and subject to those referenced in Section 2.1(vi) and (vii) 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.

**10.2 Mutual Warranties.** Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms; (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement; and (c) the execution, delivery, and performance of this Agreement does not violate the laws of any jurisdiction or the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

**10.3 Disclaimer.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN SECTIONS 10.1 AND 10.2 ABOVE (WHICH ARE NOT APPLICABLE TO CONSULTING SERVICES), 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 (INCLUDING CONSULTING SERVICES OR RELATED DELIVERABLES, IF ANY), ARE OR WILL BE ERROR-FREE, WILL MEET SUBSCRIBER'S REQUIREMENTS, OR BE TIMELY OR SECURE. SUBSCRIBER WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY.

## **11. INDEMNIFICATION**

**11.1 By DocuSign.** DocuSign will defend Subscriber, and its employees, directors, agents, and representatives ("Indemnified Party") from any actual or threatened third party claim arising from: (a) any breach by DocuSign of its confidentiality obligations in Section 13, and/or (b) alleged infringement by DocuSign of any third party intellectual property rights (each a "Subscriber Claim").

11.2 **By Subscriber.** Subscriber will defend DocuSign, and its employees, directors, agents, and representatives (“Indemnified Party”) from any actual or threatened third party claim arising from: (a) any breach by Subscriber of its confidentiality obligations in Section 13, and/or (b) alleged infringement by Subscriber of any third party intellectual property rights, and/or (c) the content submitted by any Authorized User or otherwise Processed through Subscriber’s Account (each a “DocuSign Claim”).

11.3 **Procedures.** The parties’ respective indemnification obligations above are conditioned on: (a) the Indemnified Party gives the Indemnifying Party prompt written notice of the Subscriber Claim or DocuSign Claim (as the case may be, a “Claim”); (b) the Indemnifying Party has full and complete control over the defense and settlement of the Claim; (c) the Indemnified Party provides assistance in connection with the defense and settlement of the Claim as the Indemnifying Party may reasonably request; and (d) the Indemnified Party complies with any settlement or court order made in connection with the Claim. The Indemnifying Party will indemnify the Indemnified Party against: (i) all damages, costs, and attorneys’ fees finally awarded against any of them in any Claim under this Section 11; (ii) all out-of-pocket costs (including reasonable attorneys’ fees) reasonably incurred by any of them in connection with the defense of the Claim (other than attorneys’ fees and costs incurred without the Indemnifying Party’s consent after it has accepted defense of such Claim); and (iii) if any Claim arising under this Section 11 is settled by the Indemnifying Party or with its approval, then the Indemnifying Party will pay any amounts to any third party agreed to by the Indemnifying Party in settlement of any such Claims.

## 12. LIMITATIONS OF LIABILITY

12.1 **Disclaimer of Consequential Damages.** EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS OF SECTION 11, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, NEITHER PARTY WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THIS AGREEMENT (INCLUDING WITH RESPECT TO CONSULTING SERVICES, IF ANY), INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF BUSINESS, EVEN IF APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

12.2 **Cap on Liability.** EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS OF SECTION 11, UNDER NO CIRCUMSTANCES WILL EITHER PARTY’S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, WARRANTY CLAIMS AND WITH RESPECT TO CONSULTING SERVICES, IF ANY), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO DOCUSIGN UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE OF THE ACTION OR CLAIM.

12.3 **Independent Allocations of Risk.** EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES REPRESENTS AN AGREED ALLOCATION OF THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY DOCUSIGN TO SUBSCRIBER 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 THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE WARRANTIES IN THIS AGREEMENT HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

## 13. CONFIDENTIALITY

13.1 **“Confidential Information”** means any trade secrets or other information of DocuSign or Subscriber, 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 Subscriber, 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 this Agreement; or (d) is or becomes part of the public domain through no fault or action of Recipient.

13.2 **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.

13.3 **Required Disclosure.** If Recipient is required by law to disclose Confidential Information of the other party or the terms of this Agreement, Recipient must give prompt written notice of such requirement before such disclosure and assist the disclosing party to obtain where reasonably available an order protecting the Confidential Information from public disclosure.

13.4 **Return of Materials.** Except for as provided in Section 7.4, upon written request by the disclosing party, Recipient will destroy or deliver to the disclosing party all of the disclosing party's Confidential Information that Recipient may have in its possession or control.

13.5 **Ownership.** Recipient acknowledges that, as between the parties, all Confidential Information it receives from the disclosing party, including all copies thereof in Recipient's possession or control, in any media, is proprietary to and exclusively owned by the disclosing party. Nothing in this Agreement grants Recipient any right, title or interest in or to any of the disclosing party's Confidential Information. Recipient's incorporation of the disclosing party's Confidential Information into any of its own materials shall not render Confidential Information non-confidential.

13.6 **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.

13.7 **Existing Obligations.** The obligations in this Section 13 are in addition to, and supplement, each party's obligations of confidentiality under applicable law and/or under any nondisclosure or other agreement between the parties.

## 14. GENERAL

14.1 **Relationship.** At all times, the parties are independent actors, and are not the agent or representative of the other. This Agreement is not intended to create a joint venture, partnership, or franchise relationship, or give rise to any third party beneficiary. Subscriber must not represent to anyone that Subscriber is an agent of DocuSign or is otherwise authorized to bind or commit DocuSign in any way without DocuSign's prior authorization.

14.2 **Assignability.** Subscriber may not assign its rights, duties, or obligations under this Agreement without DocuSign's prior written consent. If consent is given, this Agreement will bind Subscriber's successors and assigns. Any attempt by Subscriber to transfer its rights, duties, or obligations under this Agreement except as expressly provided in this Agreement is void. Notwithstanding the foregoing, either party may assign this Agreement to a successor of its business without the other party's consent.

14.3 **Nonsolicitation.** During the Term of this Agreement and for a period of one year thereafter, Subscriber will not, directly or indirectly, employ or solicit the employment or services of a DocuSign employee or independent contractor without the prior written consent of DocuSign.

14.4 **Notices.** Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent using: (a) the "acknowledge receipt" function of the Subscription Service; (b) by certified or registered mail; or (c) insured courier, to the appropriate party at the address set forth on the Order Form. Either party may change its address for receipt of notice by notice to the other party in accordance with this Section. Notices are deemed given upon receipt if delivered using the Subscription Service, two business days following the date of mailing, or one business day following delivery to a courier.

14.5 **Force Majeure.** Except for any payment obligations, neither party will be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond such party's reasonable control, so long as such party uses all commercially reasonable efforts to avoid or remove such causes of non-performance or delay.

14.6 **Dispute Resolution.** In the event of any dispute regarding any right or obligation under this Agreement, the aggrieved party shall notify the other party in a writing describing the dispute ("Notice of Dispute"). Upon receipt of the Notice of Dispute, the parties shall arrange a meeting between their representatives. Over a period not to exceed 10 business days after receipt of Notice of Dispute ("Period"), the parties shall engage in good faith negotiations to resolve such dispute. If the parties' representatives are unable to resolve the dispute at such meetings during the Period, then each party may seek any remedies available to it in law or equity. Notwithstanding the foregoing, either party may seek injunctive relief at any time. Each party hereby irrevocably waives, to the fullest extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement.

14.7 **Governing Law.** This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Washington, U.S.A., without reference to its choice of law rules to the contrary. The provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods are expressly excluded and do not apply to this Agreement. Any legal action by Subscriber arising under this Agreement must be initiated within two years after the cause of action arises.

14.8 **Waiver.** The waiver by either party of any breach of any provision of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.

14.9 **Severability.** If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the grant of any license to Subscriber under this Agreement is found to be illegal, unenforceable, or invalid, the license will immediately terminate.

14.10 **Counterparts.** This Agreement may be executed in any number of identical counterparts, notwithstanding that the parties have not signed the same counterpart, with the same effect as if the parties had signed the same document. All counterparts will be construed as and constitute the same agreement.

14.11 **Entire Agreement.** This Agreement is the final and complete expression of the agreement between these parties regarding the DocuSign Products. This Agreement supersedes, and the terms of this Agreement govern, all previous oral and written communications regarding these matters. This Agreement may be changed only by a written agreement signed by an authorized agent of both parties.

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#### ADDITIONAL TERMS AND CONDITIONS FOR CONSULTING SERVICES

The following additional terms and conditions apply to Consulting Services, if any, that are made the subject of an Order Form.

#### 15. SERVICES, WORK ORDERS, AND CHANGE ORDERS

15.1 **Services.** Subject to the terms and conditions of this Agreement, DocuSign will, if ordered as provided hereunder, perform for Subscriber certain Consulting Services.

15.2 **Work Orders.** The specific details of the Consulting Services to be performed will be determined on a per-project basis, and the details for each project will be described in a Work Order that is executed by both parties (called the "Work Order" for purposes of the Consulting Services). An Order Form that lists a DocuSign standard training or consulting package as a DocuSign Product constitutes a Work Order. Once executed by both parties, each Work Order will be a unique agreement that incorporates the terms of this Agreement and stands alone with respect to all other Order Forms. If there is a conflict between the terms of this Agreement and the terms of a Work Order, the terms of this Agreement will control unless the Work Order states that a specific provision of this Agreement will be superseded by a specific provision of the Work Order.

15.3 **Change Orders.** Unless otherwise specified in a Work Order, Subscriber may reasonably request in writing that revisions be made with respect to the Consulting Services or deliverables set forth in that Work Order ("Change Order"). If a Change Order recites revisions that materially increase the scope of the Consulting Services or the effort required to deliver deliverables under the applicable Work Order, then within 10 business days after DocuSign's receipt of the Change Order, DocuSign will deliver to Subscriber a written, revised Work Order reflecting DocuSign's reasonable determination of the revised Consulting Services, deliverables, delivery schedule, payment schedule, and adjusted fees or fee estimates, if any, that will apply to the implementation of the revisions. If Subscriber approves the revised Work Order, then the parties will execute it, and upon execution, the revised Work Order will supersede the then-existing Work Order. If Subscriber does not approve the revised Work Order within 10 business days after its receipt by Subscriber, the then-existing Work Order will remain in full force and effect, and DocuSign will have no further obligation with respect to the applicable Change Order.

#### 16. PERFORMANCE OF CONSULTING SERVICES

16.1 **Project Management.** For each project described in a Work Order, each party will designate a single point of contact within its organization to manage the project ("Project Leader"). The Project Leaders will meet as necessary to manage the Consulting Services to be performed under a Work Order. Disputes will be escalated to more senior executives if the Project Leaders are unable to resolve a problem. DocuSign's Project Leader will provide Subscriber's Project Leader with regular reports on the status of the Consulting Services at least once per month.

16.2 **Performance Standard.** DocuSign warrants to Subscriber that the Consulting Services will be performed in a good and workmanlike manner in accordance with standard industry practice and the applicable Work Order, including any specifications



in such Work Order. DocuSign will complete the Consulting Services, including the delivery of any deliverables, in accordance with the schedule of times and milestones specified in the Work Order.

16.3 **Fees.** Unless otherwise specified in a Work Order, Subscriber will pay DocuSign for Consulting Services on a time-and-materials basis at DocuSign's then-current rates and under payment terms described in this Agreement ("Consulting Fees").

16.4 **Disclaimer.** EXCEPT FOR WARRANTIES PROVIDED HEREIN OR EXPRESSLY IDENTIFIED AS SUCH IN A WORK ORDER, THE CONSULTING SERVICES AND ANY RELATED DELIVERABLES WILL BE PROVIDED AS-IS AND WITHOUT WARRANTY OF ANY KIND. DOCUSIGN EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT AS TO ANY AND ALL CONSULTING SERVICES AND RELATED DELIVERABLES.

## 17. TERM AND TERMINATION OF WORK ORDERS

17.1 **Term.** Each Work Order is non-cancellable except pursuant to a Change Order, and will commence on the specified effective date and will continue until each party's obligations under the Work Order have been fulfilled or the Work Order is terminated as provided in the Work Order.

17.2 **Effect of Termination.** If any Work Order is terminated in accordance with this Section 17, then Subscriber will pay to DocuSign any Consulting Fees and all other payment obligations accrued and payable for the Consulting Services performed under the terminated Work Order through the effective date of the termination. If a Work Order is terminated for any reason other than for material breach by DocuSign, Subscriber will pay to DocuSign all Consulting Fees due under the Work Order had the Work Order not been terminated and had the Consulting Services been fully performed in accordance with the schedule then in effect, which amount owing will be evidenced in a final termination invoice to be provided by DocuSign to Subscriber. The amount of Consulting Services Fees specified in such termination invoice from DocuSign will be final and binding on the parties, absent manifest error.

## 18. PROPRIETARY RIGHTS

18.1 **Subscriber Materials.** Any materials provided by Subscriber to DocuSign specifically for use by DocuSign in the course of the Consulting Services ("Subscriber Materials") will be used and disclosed solely as required to perform the Consulting Services. As between the parties, Subscriber will continue to own the Subscriber Materials.

18.2 **Inventions.** Except as expressly set forth to the contrary in a Work Order, all works of authorship, inventions, discoveries, improvements, methods, processes, formulas, designs, techniques, and information: (a) conceived, discovered, developed or otherwise made by DocuSign, solely or in collaboration with others, in the course of performing the Consulting Services; or (b) that form all or part of a deliverable provided as part of the Consulting Services, whether developed as part of the Consulting Services or separately, but excluding Subscriber Materials (as defined in Section 18.1) (collectively, "Inventions"), will be the sole property of DocuSign. Upon and subject to final payment by Subscriber of all amounts owing to DocuSign, DocuSign hereby grants to Subscriber a nonexclusive, perpetual, worldwide, royalty-free license to use, copy, modify, and prepare derivative works of the Inventions solely for purposes of Subscriber's internal business operations only.