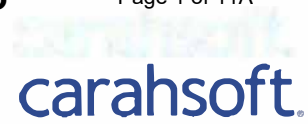


Attachment A to Agenda File No. 2020-0405



DocuSign Government at Carahsoft

11493 SUNSET HILLS ROAD | Suite 100 | Reston, Virginia 20190
 Phone (703) 871-8500 | Fax (703) 871-8505 | Toll Free (888) 662-2724
 www.carahsoft.com | sales@carahsoft.com



TO: Catherine Nazal
 Port of San Diego
 3165 Pacific Hwy
 San Diego, CA 92101 USA

FROM: JoAnn Fiorenza
 DocuSign Government at Carahsoft
 11493 Sunset Hills Road
 Suite 100
 Reston, Virginia 20190

EMAIL: cnazal@portofsandiego.org

EMAIL: JoAnn.Fiorenza@carahsoft.com

PHONE: (619) 686-6216

PHONE: (703) 921-4174

FAX: (703) 871-8505

TERMS: FTIN: 52-2189693
 Shipping Point: FOB Destination
 Remit To: Same as Above
 Payment Terms: Net 30 (On Approved Credit)
 Cage Code: 1P3C5
 DUNS No: 088365767
 Credit Cards: VISA/MasterCard/AMEX
 Sales Tax May Apply

QUOTE NO: 24471983
QUOTE DATE: 11/10/2020
QUOTE EXPIRES: 02/01/2021
RFQ NO:
SHIPPING: ESD
TOTAL PRICE: \$114,872.74

TOTAL QUOTE: \$114,872.74

LINE NO.	PART NO.	DESCRIPTION	QUOTE PRICE	QTY	EXTENDED PRICE
1	APT-0528	DocuSign Gen for SFDC Addon – Seat Subs. DocuSign, Inc. Start Date: 02/01/2021 End Date: 01/31/2022	\$240.00 OM	20	\$4,800.00
2	APT-0210	DocuSign Connector - Salesforce - Per Seat DocuSign, Inc. Start Date: 02/01/2021 End Date: 01/31/2022	\$0.00 OM	1	\$0.00
3	APT-0391	DocuSign Enterprise Pro for Gov - Seats DocuSign, Inc. Start Date: 02/01/2021 End Date: 01/31/2022	\$744.65 OM	120	\$89,358.00
4	APT-0148	Enterprise Premier DocuSign, Inc. Start Date: 02/01/2021 End Date: 01/31/2022	\$20,714.74 OM	1	\$20,714.74
SUBTOTAL:					\$114,872.74
TOTAL PRICE:					\$114,872.74
TOTAL QUOTE:					\$114,872.74



Government - Price Quotation

DocuSign Government at Carahsoft



11493 SUNSET HILLS ROAD | Suite 100 | Reston, Virginia 20190
Phone (703) 871-8500 | Fax (703) 871-8505 | Toll Free (888) 662-2724
www.carahsoft.com | sales@carahsoft.com

LINE NO.	PART NO.	DESCRIPTION	-	QUOTE PRICE	QTY	EXTENDED PRICE
eSignature Seat Allowance: 120						
eSignature Envelope Allowance: 12,000						

PLEASE INCLUDE LANG. ON PO TO AVOID TAX FEES:

"All Products Purchased under this agreement are available via Electronic Distribution only. No tangible media or documentation will be available or shipped under this agreement. Access to the products purchased under this agreement is in no way dependent upon any tangible media that may have been received prior to, or separately from, this agreement.

To support the California sales and use tax exempt status of electronically downloaded software allowed under California regulation 1502 (F) (1) (D), vendor invoices for all purchases made under this agreement must accurately state that software distribution is solely via electronic download and that no tangible media or documentation will be shipped to or received by our agency."

Terms & Conditions

This Order Form covers the DocuSign Products and Services described herein and is governed by DocuSign's Corporate Subscriber Terms and Conditions available online at: <https://www.carahsoft.com/Eula/DocuSign>

SAN DIEGO UNIFIED PORT DISTRICT**CARAHSOFT TECHNOLOGY CORPORATION**

Tracey L. Sandberg
Director, Information Technology

JoAnn Fiorenza

JoAnn Fiorenza
Renewal Account Representative

Approved as to form and legality:
GENERAL COUNSEL

By: Assistant/Deputy

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 E-SIGN 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 E-SIGN Act to support the validity of such formation, to the extent provided in the E-SIGN 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.

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.