

Our Customer Terms

Cloud Services – Part B Applications - DocuSign



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Certain words are used with the specific meanings set out below or in [the General Terms section of Our Customer Terms](#).

1 ABOUT THE DOCUSIGN SECTION

The DocuSign plans in this section of Our Customer Terms are not available for purchase by new customers from 1 September 2019. Existing customers can continue to receive the DocuSign plans in this section of Our Customer Terms on their current terms until the earlier of expiry of their current plan or 28 February 2022.

- 1.1 This is the DocuSign application section of Our Customer Terms. Depending on the nature of the products and services you are receiving under this Cloud Services section, provisions in other parts of the Cloud Services section, as well as in the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm>, may apply.
- 1.2 Unless you have entered into a separate agreement with us which excludes them, the General Terms section of Our Customer Terms also applies. See section one of the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm> for more detail on how the various sections of Our Customer Terms are to be read together.
- 1.3 See section one of the General Terms of the Cloud Services section for more detail on how the various parts of the Cloud Services section are to be read together.

2 DOCUSIGN

What is the DocuSign service?

- 2.1 The DocuSign service allows users to send, sign, and track documents electronically using a compatible tablet, mobile or desktop with internet connection through a range of different plans.

Eligibility

- 2.2 To use the DocuSign service, you will need to:
 - (a) Have a valid ABN or ACN;
 - (b) have a compatible tablet or mobile device or desktop with a supported operating system and supported internet browser (**Capable Device**);
 - (c) purchase a licence from us for the DocuSign application for each eligible user;
 - (d) download and install the DocuSign application on each Capable Device, where the application is not already installed; and
 - (e) have access to the internet through a Capable Device.

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- 2.3 You acknowledge that we do not support all mobile platforms nor all browsers, and it is your responsibility to acquire and maintain supported platforms and browsers. We can provide you with details of supported platforms and browsers on request. If you do not maintain supported browsers and platforms, you may not be able to use the DocuSign service and you will still be liable for all fees and charges in relation to your DocuSign service.

Telstra Customers

- 2.4 The DocuSign service is not available to Telstra Wholesale customers or for resale.
- 2.5 You must not provide or assist with the provision of the DocuSign service to any other person.
- 2.6 You must ensure that only your Authorised Users use the DocuSign service. In the Plans described below, each "licence" corresponds to usage of the DocuSign service by one Authorised User.

3 DOCUSIGN INDIVIDUAL, PROFESSIONAL, BUSINESS AND ENTERPRISE

- 3.1 The DocuSign service was available for purchase by new customers until 1 September 2019 in 'Individual', 'Professional', Business' and 'Enterprise' Plans, with respective features set out in the tables below.
- 3.2 If you chose the 'Individual' 'Professional' or 'Business' plan on or after 1 February 2015 and until 1 September 2019 you received 30 days free use of DocuSign.
- 3.3 Towards the end of the free trial period, you will be prompted to begin a DocuSign subscription on either a month to month or 12 Month Pre-paid plan.
- 3.4 If you chose the Individual Plan, you will have access to the features set out in the table below:

DocuSign Plan	Features
Individual Plan	<ul style="list-style-type: none">• 1 licence• Signing documents<ul style="list-style-type: none">○ Unlimited• Sending documents for signature<ul style="list-style-type: none">○ Limited to 5 per month

- 3.5 If you chose the Professional Plan, you will have access to the features set out in the table below:

DocuSign Plan	Features
Professional Plan	<ul style="list-style-type: none">• 1 to 10 licences• Signing documents

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	<ul style="list-style-type: none"> ○ Unlimited • Sending documents for signature ○ Unlimited • Company branding • Shared templates
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3.6 If you chose the Business Plan, you will have access to the features set out in the table below:

DocuSign Plan	Features
Business Plan	<ul style="list-style-type: none"> • 1 to 10 licences • Signing documents ○ Unlimited • Sending documents for signature ○ Unlimited • Company branding • Shared templates • Advanced recipient permissions • Data validation

3.7 If you chose the Enterprise Plan, you must maintain a minimum of 10 licences at all times. The Enterprise Plan will give you access to the features set out in the table below:

DocuSign Plan	Features
Enterprise Plan	<ul style="list-style-type: none"> • Minimum of 10 licences • Signing documents ○ Customised • Sending documents for signature ○ Unlimited • Company branding ○ Multiple brands • Shared templates • Advanced recipient permissions • Data validation • Signing from website • Sending document in bulk • Offline sending and signing • Salesforce/CRM connectors • Custom API integrations

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	<ul style="list-style-type: none">• Document custody and retention policies• Multiple device policies
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CHARGES

3.8 For all of the Plans except the Enterprise Plan, you could choose between a Month to Month plan and a prepaid Annual plan. The Enterprise Plan is only available on a prepaid Annual plan.

3.9 If you chose the Month to Month plan prior to 12 May 2015, we will charge you the following amount for each month of your plan:

Month to Month plan	Monthly charge (inc GST)
Individual Plan	\$10 per month
Professional Plan	\$30 per user per month
Business Plan	\$40 per user per month
Enterprise Plan	Not available

3.10 If you chose the Month to Month plan on or after 12 May 2015, we will charge you the following amount for each month of your plan:

Month to Month plan	Monthly charge (inc GST)
Individual Plan	\$15 per month
Professional Plan	\$30 per user per month
Business Plan	\$40 per user per month
Enterprise Plan	Not available

3.11 If you chose the prepaid Annual Plan, prior to 12 May 2015 we will charge you the following yearly charge:

Prepaid Annual plan	Yearly charge (inc GST)
Individual Plan	\$99 per annum
Professional Plan	\$240 per user per annum
Business Plan	\$360 per user per annum
Enterprise Plan	\$550 per user per annum (unless otherwise agreed with us)

3.12 If you chose the prepaid Annual Plan, on or after 12 May 2015 we will charge you the following yearly charge:

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Prepaid Annual plan	Yearly charge (inc GST)
Individual Plan	\$120 per annum
Professional Plan	\$240 per user per annum
Business Plan	\$360 per user per annum
Enterprise Plan	\$550 per user per annum (unless otherwise agreed with us)

3.13 We do not allow you to:

- (a) have a combination of both Month to Month and 12 Month pre-paid plans on the same account; or
- (b) have a combination of different plan types on the same account (e.g. Individual Plans and Business Plans).

3.14 Until 1 September 2019, you could choose to add the Phone Authentication and SMS Authentication if you are on the Business or Enterprise Plans. If you chose these features, additional charges apply each time you use them on an individual transaction.

Additional Features

The additional features set out in clauses 3.15 to 3.16 below are not available from 1 September 2019.

Enterprise Plan extras

3.15 If you chose the Enterprise Plan, until 1 September 2019 you could also buy an additional "Bolt On" feature for your Enterprise Plan.

3.16 The description and charges for the "Bolt On" feature are set out in the table below:

Bolt On	Description	Charge (incl GST)
Dynamic Documents	DocuSign Dynamic Documents allow you to modify content and signing locations.	\$180 per licence

Changing your plan

3.17 You can change your DocuSign service plan on the terms set out in the table below. Any changes will take effect from entry into our billing system (and except where your Plan has been cancelled as set out in the table below, it will not affect the term of your DocuSign service).

Change	Terms
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<p>If you wish to move your DocuSign Plan to a higher Plan</p>	<p>You may upgrade your Plan to a higher Plan at any time using our self-service market place.</p>
<p>If you wish to move your DocuSign Plan to a lower Plan</p>	<p>You cannot downgrade your Plan to a lower Plan.</p> <p>If you wish to downgrade your month to month Plan or if you no longer require the minimum number of licences required on your current Plan, you must cancel your current Plan and purchase a new one. You will forfeit all features and you will not receive a pro-rated refund of moneys paid in advance for the month.</p> <p>If you wish to downgrade your Annual plan or if you no longer require the minimum number of licences required on your current plan, you must cancel your Annual plan and purchase a new one. You will forfeit the product features (but you will receive a pro-rated refund for any moneys paid or payable) for the remainder of your service period.</p>
<p>If you wish to migrate from a Month to Month plan to a prepaid Annual plan</p>	<p>You may migrate from a Month to Month plan to a prepaid Annual plan on the same or on a higher Plan at any time by contacting us.</p>
<p>If you wish to migrate from a prepaid Annual plan to a Month to Month plan</p>	<p>You may migrate from a prepaid Annual plan to a Month to Month plan on the same Plan at any time by contacting us.</p> <p>If you do so, you will receive a pro-rated credit for any unused months on your prepaid Annual plan.</p> <p>If you have chosen the Enterprise Plan Month to Month plans are not available.</p>

- 3.18 If you reach the maximum number of licences allowed on your DocuSign Plan and request more licences, you will need to upgrade your DocuSign Plan, and additional charges will apply for the remainder of the term of your DocuSign service to cover the higher plan cost.

TERM AND TERMINATION

- 3.19 Month to Month plans start on the date your plan is activated and continue until you elect to cancel your plan by notifying us in writing. You can also cancel your plan using our self-service marketplace.
- 3.20 12 Month pre-paid plans start on the date your Plan is activated and continue for a period of 12 months. At the end of your last 12 month period, your plan will renew on a month to month basis.

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- 3.21 Until 1 September 2019, if you did not renew your 12 Month pre-paid plan at the expiry of your plan period, your account was automatically converted into a 'free' account. A 'free' account allows you to sign documents but does not allow you to send any envelopes to recipients. You have to comply with the "Additional terms" below while using your 'free' account.

Cancelling your service

- 3.22 You may cancel your DocuSign service at any time by using our self-service marketplace.
- 3.23 If you cancel your Annual plan, you will receive a credit for any unused months remaining in the current 12 months period. If you cancel a Month to Month plan, you will not receive a pro-rated refund for any unused portion of the remaining month.

4 DOCUSIGN STARTER AND ENTREPRENEUR

- 4.1 On and from 25 July 2017 and until 1 September 2019, new you were able to take up the DocuSign Starter and Entrepreneur Editions. These plans were only available to purchase from Telstra.
- 4.2 If you chose the 'Starter' Plan, you will have access to the features set out in the table below:

DocuSign Plan	Features
Starter Plan	<ul style="list-style-type: none">• 1 user licence• Free Concierge Service• Signing documents (unlimited)• Sending documents for signature (5 envelopes per month per licence)

- 4.3 If you chose the Entrepreneur Plan, you will have access to the features set out in the table below:

DocuSign Plan	Features
Entrepreneur Plan	<ul style="list-style-type: none">• 1 to 10 user licences• Free Concierge Service• Signing documents (unlimited)• Sending documents for signature (100 envelopes per licence per year)• Company branding• Shared templates

- 4.4 You could only take up DocuSign Starter or Entrepreneur Editions – not both.
- 4.5 DocuSign Starter or Entrepreneur cannot be combined with other DocuSign plans including DocuSign Advanced, DocuSign for Salesforce or the

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DocuSign Not for Profit. For example, you cannot take up DocuSign Starter and DocuSign Advanced Business Pro.

- 4.6 The DocuSign Starter Edition is limited to 1 licence. If you require more licences, you can upgrade to DocuSign Entrepreneur Edition at any time. Each licence contains 5 envelopes per month. If you use up your monthly allocation of signing envelopes, you will not be able to send any further signing envelopes until the following month.
- 4.7 The DocuSign Entrepreneur Edition is limited to 10 licences. If you require additional licences, you will need to cancel your DocuSign Service and instead purchase one of the DocuSign Advanced Editions. Each Entrepreneur licence includes 100 envelopes per year. These envelopes share at an account level and can be used by any other active DocuSign Entrepreneur plan user licence holder on the same account.
- 4.8 For Month to Month Plan Editions, the 100 envelopes are pro-rated over each month of the 12 months ie 8.33 envelopes each month.

Concierge Service

- 4.9 A concierge service is available to all customers free of charge who take up the Starter or Entrepreneur plans.
- 4.10 You must book into the Concierge service via the booking form link that you will be sent to you via email shortly after activating your DocuSign Trial.

30 Day Free Trial

- 4.11 The DocuSign Starter and Entrepreneur Editions include a 30 day free trial (**Trial**). Your Trial will include the features and benefits of either the Starter or Entrepreneur Editions.
- 4.12 Towards the end of your Trial, you will need to 'opt in' to a paid subscription on either a Month to Month or 12 Month Pre-paid in advance payment plan.
- 4.13 You can 'opt in' to a paid subscription at any time during your Trial. You will not be charged for your paid plan until your Trial Plan has expired.
- 4.14 Each new account can only receive the Trial once.

Charges

- 4.15 If you chose the DocuSign Starter or Entrepreneur editions on a Month to Month payment plan, we will charge you the following monthly payments:

Month to Month plan	Plan Edition	Monthly Fee (inc GST)
DocuSign	Starter	\$23
	Entrepreneur	\$56

- 4.16 If you chose a DocuSign Starter or Entrepreneur Edition on a 12 month pre-paid plan, we will charge you the following annual payments pre-paid in advance:

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Annual Plan	Plan Edition	Annual Fee (inc GST)
DocuSign	Starter	\$198
	Entrepreneur	\$449

4.17 We do not allow you to:

- (a) have a combination of both Month to Month and 12 month pre-paid plans on the same account; or
- (b) have a combination of different plans or editions on the same account (e.g. DocuSign Starter and DocuSign Entrepreneur).
- (c) Combine different DocuSign products on the same account (e.g DocuSign and DocuSign for Salesforce)

Changing your plan

4.18 You can change your DocuSign Standard or Entrepreneur Editions on the terms set out in the table below. Any changes will take effect on and from the day on which your entry is made into our billing system.

Change	Terms
If you wish to upgrade your current pre-paid Edition to a higher Edition	You may upgrade your pre-paid Edition to a higher Edition at any time for which you will receive a pro-rated credit for the unused portion of your existing Edition which will be applied to your new Edition.
If you wish to move your Edition to a lower Edition	You can downgrade your Edition to a lower Edition but you will forfeit all Edition inclusions immediately.
If you wish to migrate from a Month to Month Edition to a prepaid Annual Edition	You may migrate from a Month to Month Edition to a prepaid Annual Edition on the same or on a higher Plan at any time by contacting us.
If you wish to migrate from a prepaid Annual Edition to a Month to Month Edition	You may migrate from a prepaid Annual Edition to a Month to Month Edition of the same Edition at any time but you will forfeit any remaining months not yet realised from your 12 Month pre-paid subscription

4.19 If you have selected a DocuSign Starter or Entrepreneur 12 Month Pre-paid subscription, you are pre-paying the 12 month annual fee in advance.



Term and Termination

- 4.20 Month to Month Editions start on the date your plan is activated and continue until you elect to cancel your Edition by notifying us in writing. You can also cancel your Edition in the Telstra Apps Marketplace if you have an account.
- 4.21 Twelve Month Pre-paid Annual Editions start on the date your Plan is activated and continue for a period of 12 months. Unless you notify us in writing at least 14 days prior to the expiry date that you wish to cancel your Annual Edition, your licences will continue on a month to month basis.

Cancelling your service

- 4.22 You may cancel your DocuSign Starter and Entrepreneur Editions at any time by the Telstra Apps Marketplace or by contacting us.
- 4.23 If you cancel your 12 Month Pre-paid Edition, you will forfeit any unused remaining months of your 12 month term. If you cancel a Month to Month edition, you will not receive a pro-rated refund for any unused portion of the remaining month.

5 ADDITIONAL TERMS

- 5.1 You acknowledge that we rely on a third party service provider in order to supply the DocuSign service to you. You must comply with the following terms, which we are required by our third party service provider to impose on you.
- 5.2 We will provide the DocuSign service for the period set out in your application form or separate agreement with us. Except for terms which by their nature survive termination, and except to the extent required to maintain any 'free' account pursuant to section 3.18, on the termination or expiry of your service, these terms automatically expire along with your right to use the DocuSign service.
- 5.3 Payment of the charges is a material term of our agreement.

Your acknowledgements

- 5.4 You acknowledge and agree that:
 - (a) neither we nor our third party service provider are a party to any agreement executed using the DocuSign service, and we make no representation or warranty regarding the transactions sought to be effected using the DocuSign service;
 - (b) neither we nor our third party service provider control over, nor can we access, the contents of any contract executed using the DocuSign service (eContract), and so the content, quality, and format of any eContract is at all times in your exclusive control and your exclusive responsibility;
 - (c) if you choose to use optional features designed to verify the identity of the intended recipient of an eContract (Authentication Measures), we and our third party service provider will apply only those Authentication Measures, but, to the extent permitted by law, neither



of us makes any representations or warranties about the appropriateness of any Authentication Measure and further, neither of us assumes any liability for the inability or failure by the intended recipient or other party to satisfy the Authentication Measure or to circumvent it;

- (d) you are solely responsible for ensuring that any eContracts processed through the DocuSign service meet the requirements of applicable Electronic Transactions Laws;
- (e) certain types of agreements and documents may be excepted from Electronic Transactions Laws (e.g. court documents, wills and agreements pertaining to family law), or may be subject to specific regulations promulgated by various government agencies or regulators regarding electronic signatures and electronic records, and neither we nor our third party service provider are responsible or liable to determine whether any particular eContract is subject to an exception to applicable Electronic Transactions Laws, or whether it is subject to any particular agency or regulator promulgations, or whether it complies with Electronic Transactions laws and can be legally formed by electronic signatures;
- (f) neither we nor our third party service provider are responsible for determining how long any contracts, documents, and other records are required to be retained or stored under any applicable laws, regulations, or legal or administrative agency processes; and
- (g) neither we nor our third party service provider are responsible for or liable to produce any eContracts or other documents to any third parties.

Confidentiality

5.5 The obligations in this section relate to your use of any 'Confidential Information' as defined in this clause and are in addition to any other obligations of confidentiality you owe to us, whether under the General Terms of Our Customer Terms, your separate agreement with us or at law.

5.6 For the purposes of this clause, "Confidential Information" means any trade secrets or other information of our third party service provider, DocuSign, whether of a technical, business, or other nature (including, without limitation, DocuSign software) that is disclosed to you. However, "Confidential Information" does not include any information that:

- (a) you knew prior to receiving it from us or our supplier;
- (h) you independently develop without use of or reference to any Confidential Information;
- (i) you acquire from another source that did not receive it in confidence from DocuSign;
- (j) is or becomes part of the public domain through no fault or action of you.

5.7 During and after the term of your DocuSign service, you must;



- (b) use the Confidential Information solely for the purpose for which it is provided;
 - (k) not disclose such Confidential Information to a third party; and
 - (l) protect the Confidential Information from unauthorised use and disclosure to the same extent (but using no less than a reasonable degree of care) that you protect your own Confidential Information of a similar nature.
- 5.8 If you are required by law to disclose Confidential Information, you must give prompt written notice of such requirement, and use reasonable efforts to provide notice before such disclosure occurs, and to assist DocuSign to obtain an order protecting the Confidential Information from public disclosure.
- 5.9 You acknowledge that any actual or threatened violation of these confidentiality provisions may cause irreparable, non-monetary injury to DocuSign, the extent of which may be difficult to ascertain, and you agree that DocuSign shall be entitled to seek injunctive relief in addition to all remedies available to DocuSign at law and/or in equity. Absent written consent of the disclosing party, the burden of proving that DocuSign's Confidential Information is not, or is no longer, confidential or a trade secret shall be on you.

Additional responsibilities

- 5.10 You must not use or permit the use of the DocuSign service to send unsolicited "commercial electronic messages", as defined in the Spam Act 2003 (Cth) outside your organisation.
- 5.11 You are solely responsible for, and indemnify each of us and our third party service provider with respect to, the nature and content of all materials, works, data, statements, and other visual, graphical, video, written or audible communications of any nature submitted by any Authorized User or otherwise Processed through your Account.
- 5.12 You must not use or permit the use of the DocuSign service:
- (c) to communicate any message or material that is defamatory, harassing, libelous, threatening, or obscene;
 - (m) 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 DocuSign service);
 - (n) in any manner that is likely to damage, disable, overburden, or impair the System or the DocuSign service or interfere in any way with the use or enjoyment of the DocuSign service by others; or
 - (a) in any way that constitutes or encourages conduct that could constitute a criminal offence.
- 5.13 You acknowledge that even though we do not monitor the content Processed through the DocuSign service, we or our third party service provider may at



any time and without prior notice suspend any use of the DocuSign service and/or remove or disable any content. We will use reasonable commercial efforts to provide you with notice of any such suspension or disablement before its implementation, or promptly thereafter.

Privacy and personal information

- 5.14 Except as required by law, you have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Personal Information you provide to us using the DocuSign service.
- 5.15 Both we and our service provider will treat your Personal Information in accordance with our respective Privacy Policies. You acknowledge that the DocuSign service uses data transmissions over the public internet and except as required by law, neither we nor our third party service provider will be responsible for any loss, destruction, alteration or disclosure of Personal Information caused by any third party whose services are used only incidentally and without our direct involvement (for instance, third party network providers over whose networks internet traffic is transported).
- 5.16 To the extent we are required to process Personal Information in connection with the DocuSign service, and in addition to the matters set out in our Privacy Policy:
- (d) you acknowledge that the Personal Information may be disclosed or stored outside Australia or the country where your Authorised Users are located;
 - (e) you consent to us and our third party service provider to receive, share and disclose Personal Information arising from use of the DocuSign service with telecommunications or other third party service providers used in conjunction with the DocuSign service;
 - (f) you confirm you are entitled to disclose the relevant Personal Information to us and our third party service provider so that we may lawfully use, process and disclose the Personal Information to perform the DocuSign service;
 - (g) you must ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and disclosure by us and our third party service provider as required under the Privacy Act;
 - (h) you must comply with your obligations under our Privacy Policy, the Privacy Act and any other applicable law in relation to the Personal Information disclosed to us in connection with your use of the DocuSign service.

Intellectual Property

- 5.17 Our third party service provider owns various intellectual property and technology rights associated with the DocuSign service, its document management, digital signature, and notary system.
- 5.18 Your rights with respect to the foregoing are limited to the rights to use the DocuSign service that are granted by these terms for the purposes contemplated by this section of Our Customer Terms, and no other.

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- 5.19 Except for the rights expressly granted in this section of Our Customer Terms, neither you nor your Authorised Users nor any other person receive a licence to, or assignment of, DocuSign's technology or other intellectual property or technology rights.
- 5.20 All right, title, and interest in and to DocuSign's technology and intellectual property, whether patent, copyright, trade secret, trademark, service mark, design, database or moral rights, will remain solely with DocuSign at all times. You must 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 service or DocuSign's technology, except to the extent permitted by law.
- 5.21 You receive a limited, nonexclusive and nontransferable right to use DocuSign's regular trade names, trademarks, titles and logos (Licensed Marks) solely for purposes of identifying DocuSign's products and services. Details of this trademark license are available at: <http://www.docusign.com/trademark-license>.
- 5.22 DocuSign has exclusive ownership of and title to the Licensed Marks and the goodwill related thereto and you agree that any goodwill that accrues because of your use of the Licensed Marks is the property of DocuSign. You must not contest or take any action in opposition to any DocuSign intellectual property right or the Licensed Marks or to use, employ or attempt to register any intellectual property right that is the same as or similar to any DocuSign intellectual property rights or the Licensed Marks.
- 5.23 Data and information that you own that is processed using the DocuSign service remains your property, but we have a right to use it to provide the DocuSign service and our other internal business purposes.

Storage

- 5.24 We will store all completed eContracts sent by you until the end of your agreement with us, in accordance with the Specifications, unless you configure your DocuSign service settings so that eContracts are not stored. You can retrieve copies of stored eContracts during the Term. You can, at your option at risk, tell us to delete or purge one or more stored eContracts before to the end of the term, and we will comply with that direction.
- 5.25 We may in our sole direction delete an uncompleted eContract immediately and without notice on the earlier of the expiration of the Envelope (where you have established an expiration for such Envelope, not to exceed 365 days) and the end of the term.
- 5.26 We may retain Transaction Data indefinitely, but will keep it confidential.

Warranties, disclaimers and indemnification

- 5.27 We warrant that:
 - (i) the DocuSign service as used in accordance with the Specifications will not infringe on any United States patent, copyright or trade secret;
 - (o) the DocuSign service will be performed in accordance with the then-current Specifications; and

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- (p) the DocuSign service will be free of all known (based upon best practice screening techniques deployed by us or our third party supplier) harmful or illicit code, trapdoors, viruses, or other harmful features.

5.28 Subject to section 5.34, and to the maximum extent permitted by law:

- (j) we make no additional representation, warranty, guarantee or condition of any kind, whether express, implied in fact or by operation of law, or statutory as to any matter whatsoever;
- (q) we expressly disclaim all implied conditions and warranties and statutory guarantees; and
- (r) do not warrant that the DocuSign service are or will be error-free or meet your requirements or be timely or secure or fit for any purpose. You have no right to pass on any representation, condition or warranty on behalf of us or our third party supplier to any third party.

5.29 If you are a consumer as defined in the Australian Consumer Law, our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

5.30 You warrant that:

- (k) you have all requisite rights and authority to use the DocuSign service and to grant all applicable rights herein;
- (s) the performance of your obligations will not violate, conflict with, or result in a default under any other agreement, including confidentiality agreements between you and third parties
- (t) you will use the DocuSign service for lawful purposes only and in accordance with Our Customer Terms;
- (u) you are responsible for all use of the DocuSign service in your Account;
- (v) you are solely responsible for maintaining the confidentiality of your Account names and password(s);
- (w) agree that we are not liable for any losses incurred as a result of a third party's use of your Account, regardless of whether such use is with or without your knowledge and consent; and
- (x) you will not attempt to gain unauthorised access to the System or the DocuSign service, other accounts, computer systems, or networks under the control or responsibility of DocuSign or us through hacking, cracking, password mining, or any other unauthorised means.



- 5.31 You will defend, indemnify, and hold us, our third party supplier and the affiliates, officers, directors, employees, suppliers, consultants, and agents of each of us harmless from any and all third party claims, liability, damages, and costs (including, but not limited to, attorneys' fees) arising from or related to:
- (l) your use of the DocuSign service;
 - (y) your breach of this section of Our Customer Terms;
 - (z) your infringement, or infringement by any other user of its Account, of any intellectual property or other right of any person or entity; or
 - (aa) the nature and content of all materials, works, data, statements, and other visual, graphical, written, or audible communications of any nature submitted or otherwise Processed through your Account.

Limitations of Liability

- 5.32 Subject to section 5.34 and to the maximum extent permitted by law:
- (bb) we and our third party supplier will not under any circumstances be liable to you for any consequential, incidental, special or exemplary damages, lost profits, loss of business, loss of opportunity or loss of data even if we were made aware of the likelihood of such damages occurring; and
 - (cc) under no circumstances will our total liability of all kinds arising out of or related to the DocuSign service (including warranty claims) regardless of the forum and regardless of whether any action or claim is based on contract, tort (including negligence) or otherwise exceed the amount paid by you for the DocuSign service in the three months preceding the date of the action or claim.
- 5.33 Each provision of this section of Our Customer Terms that provides for a limitation of liability, disclaimer of warranties or exclusion of damages is to allocate the risks of the service between us. This allocation is reflected in the pricing offered to you for the DocuSign service and is an essential element of the basis of the bargain between us. Each of these provisions is severable and independent of all other provisions of these terms, and each of these provisions will apply even if the warranties and remedies in these terms have failed of their essential purpose.
- 5.34 IN CERTAIN CIRCUMSTANCES, THE AUSTRALIAN CONSUMER LAW IMPOSES LIABILITY ON THE SUPPLY OF SERVICES, WHICH CANNOT BE EXCLUDED. WHERE TELSTRA CANNOT EXCLUDE ITS LIABILITY FOR THE DOCUSIGN SERVICES, THE LIMITATION IN THE FOREGOING PARAGRAPH DOES NOT APPLY. WHERE TELSTRA CANNOT EXCLUDE LIABILITY BUT CAN LIMIT IT, THE LIMITATION IN THE FOREGOING PARAGRAPH DOES NOT APPLY AND TELSTRA LIMITS ITS LIABILITY TO THE RESUPPLY OF THE RELEVANT SERVICE, OR PAYMENT OF THE COST OF HAVING THE SERVICE RESUPPLIED.

Definitions

Our Customer Terms

Cloud Services – Part B Applications - DocuSign



“**Account**” means a unique account established by you in order to gain access for your Authorised Users to the DocuSign service and, where applicable, other Telstra Products.

“**Authorised User**” means an individual employee or your third party agent, as identified by a unique email address and user name, who is registered as a member of your Account. No two persons may register, access or use the DocuSign services as the same Authorised User.

“**eContract**” refers to a contract, notice, disclosure, or other record or document deposited into the System by an Authorised User for Processing under the DocuSign services.

“**Electronic Transactions Laws**” means the Electronic Transactions Act 1999 (Cth) and equivalent State and Territory legislation.

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

“**Personal Information**” has the meaning set out in section 6(1) of the Privacy Act.

“**Privacy Act**” means the Privacy Act 1988 (Cth).

“**Process**” and means to perform any operation or set of operations on your eContracts, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

“**Specifications**” means the DocuSign services Specifications available at <http://docusign.com/support/specifications.php>.

“**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 DocuSign services.

“**Term**” means the term of your DocuSign service with us.

“**Transaction Data**” means the metadata (such as transaction history, image hash value, method and time of Envelope deletion, sender and recipient names, email addresses and signature IDs) associated with an Envelope and maintained by us or our third party service provider in order to establish the digital audit trail required by the DocuSign service.