

DOCUSIGN® CERTIFICATE SUBSCRIBER AGREEMENT

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PLEASE READ THIS CERTIFICATE SUBSCRIBER AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE APPLYING FOR, ACCEPTING, OR USING THE INITIAL OR RENEWED DOCUSIGN DIGITAL CERTIFICATE ISSUED TO YOU. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT DO NOT APPLY FOR, ACCEPT, OR USE THE CERTIFICATE. BY CLICKING “AGREE” OR BE ACCEPTING OR USING A CERTIFICATE, YOU AGREE TO BECOME A PARTY TO, AND BE BOUND BY, THESE TERMS.

These terms and conditions set out in this Agreement govern the relationship between DocuSign, Inc. (“DocuSign”) and the party receiving the Digital Certificate (“Subscriber”). If the Certificate Authority accepts your Certificate application, then this Agreement binds you, the Subscriber of the Certificate, and the Certificate Authority into a legal-binding contract governing your use of the Certificate.

1. TERM OF AGREEMENT. This Agreement shall remain in effect until your Certificate has expired or is earlier revoked.

2. DEFINITIONS. The following bolded terms shall have the respective meanings assigned to them below.

“CA (Certificate Authority)” means a certificate authority authorized to issue and revoke Digital Certificates.

“CP (Certificate Policy)” means a document that establishes the requirements for how a CA is to be governed, managed, and operated.

“CPS (Certification Practice Statement)” means a document that articulates specific procedures and practices that adhere to the CP-defined requirements for how a CA is to be governed, managed, and operated.

“Certificate Applicant” means a person who is applying for a digital certificate

“CPS” means the certification practice statement released by DocuSign, amended as required, and located at <https://trust.docusign.com/certificates>.

“CSI” / “CRL” means DocuSign's certificate status information relied upon to validate the digital signature generated on behalf of the Subscriber. For this DocuSign PKI, it is a CRL (Certificate Revocation List).

“Digital Certificate” / “Certificate” means an IETF (Internet Engineering Task Force) PKIX (Public Key Infrastructure X.509) RFC 5280 (Request for Comments) digitally formatted data structure that binds a public key to an identity.

“Digital Signature” means an electronic data file which is attached to or logically associated with other electronic data, and which identifies and is uniquely linked to the signatory of the electronic data. The Digital Signature is created in manner ensuring that control is limited to the signatory, and is linked in a way so as to make any subsequent changes that have been made to the electronic data detectable.

“DocuSign Service” means a SaaS (Software as a Service) offering, hosted and managed by DocuSign, which for the purposes of this document is the sole technology governing interactions between RPs (Relying Parties), SUBs (Subscribers), and CAs (Certificate Authorities).

“PMA (Policy Management Authority)” means an advisory group, comprised of DocuSign staff members, authorized by DocuSign to govern various aspects of the CA as outlined in the CP and CPS.

“Private Key” means a confidential electronic data file designed to interface with a Public Key and which may be used to create Digital Signatures.

“Public Key” means a publicly available electronic data file designed to mathematically bind with a Private Key and which may be used to verify Digital Signatures.

“RA (Registration Authority)” means a process within the DocuSign Service that ensures that the Subscriber validates Subscriber identity elements, locally determined and provided to the RA by the Relying Party.

“RP (Relying Party)” means a person or business entity that is requiring the Subscriber to digitally sign a document using the DocuSign Service.

"Repository" means a publicly available collection Digital Certificates and other information relating to Digital Certificates and which may be accessed via DocuSign’s website.

"Root CA (Root Certificate Authority)" means a certificate authority like DocuSign that issues its own certificate. All certificates chain up to a Root CA, meaning they are issued by a Root CA, or by a CA whose certificate was issued by a Root CA, or by a CA whose certificate was issued by a CA whose certificate was issued by a Root CA, or any number of layers of CA’s deep but terminating at a Root CA.

“RPA (Relying Party Agreement)” means a document, authored by DocuSign, which defines the legal relationship between DocuSign and all Relying Parties.

"SUB (Subscriber)" means a person who is issued one or more Digital Certificates signed by DocuSign and who is capable of using, and is authorized to use, the private key that corresponds to the public key listed in the Digital Certificates at issue.

“SA (Subscriber Agreement)” means the agreement entered into between DocuSign and the Subscriber for the provisioning of a Digital Certificate

"Sub-CA (Subordinate Certificate Authority)" means a subordinate certificate authority like DocuSign or any third party approved by DocuSign to act as a certification authority. It is a subordinate because it is issued by a Root CA or another Subordinate CA.

3. USE AND RESTRICTIONS. You agree: (a) to abide by the terms of this Agreement and the applicable CPS and associated policies that may be published in the Repository, which are incorporated by reference into this Agreement; (b) to accurately represent yourself and ensure the accuracy of information you are asked to validate while interacting with the DocuSign Service, the DocuSign CA, or its authorized representative; (c) protect the access to a private key and any credentials that allow for use of it; (d) not to monitor, interfere with, or reverse engineer the technical implementation of the systems; (e) to only use an issued Certificate(s) for authorized and legal purposes, consistent with this Agreement; and (f) to be an end-user Subscriber and not a CA, and therefore not use the private key corresponding to any public key listed in the Certificate for purposes of digitally signing any Certificate (or any other format of certified public key) or CRL, as a CA or otherwise.

4. REVOCATION. If you discover or have reason to believe there has been a compromise of your private key, or the information within your Certificate is, or has become, incorrect or inaccurate, or if your organization name and/or domain name registration has changed, you must immediately cease using the Certificate and its associated private key, and you must promptly request DocuSign to revoke the Certificate by sending an email to pma@docusign.com. If DocuSign discovers or has reason to believe that there has been a compromise of your private key or misuse of your Certificate, or if it is determined that the Relying Party’s locally determined identity elements for the you (Subject Name and Email) infringe upon a copyright, you must respond to DocuSign’s instructions within the time specified by DocuSign. DocuSign retains the right to revoke your Certificate at any time without notice if: (i) DocuSign discovers that the information within your Certificate is no longer valid; (ii) you violate or fail to perform your obligations under the terms of this Agreement; or (iii) DocuSign determines in its sole discretion that the continued use of your Certificate may compromise the security or integrity of the PKI or may infringe a third party intellectual property right. DocuSign may also revoke your Certificate for non-payment.

5. COMPLIANCE WITH EXPORT LAW. You agree to comply with applicable export and import and use restrictions, including the U.S. Department of Commerce, Export Administration Regulations.

6. PRIVACY. The CA will treat and process the data provided in your Certificate in accordance with the privacy/confidentiality provisions of the applicable CP or CPS. You agree and consent that the CA may: (a) place in your Certificate certain information provided, such as your name and e-mail address; and (b) process and/or transfer the aforementioned information in the United States and in other jurisdictions where the CA maintains a presence.

7. WARRANTIES

7.1 Your Representations and Warranties. You warrant that: (1) all information material to the issuance of your Certificate that you validate via your interactions with the DocuSign Service and the DocuSign CA is accurate; (2) you will inform the CA or its authorized representative if the information contained on your Certificate is no longer valid; (3) the information you provide does not infringe on the intellectual property rights of any third party; (4) you will use your Certificate exclusively for authorized and legal purposes, consistent with the applicable CPS; (5) you will not use or authorize anyone to use the private key or the credentials associated with your Certificate for signing any other certificates or CRL; and (6) you will protect your Certificate's private key and your access credentials to avoid disclosure to anyone.

7.2 DISCLAIMER OF WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DOCUSIGN DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, ACCURACY, TITLE, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. DOCUSIGN MAKES NO WARRANTY AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SOFTWARE OR AGAINST INFRINGEMENT, AND NO WARRANTY THAT THE SOFTWARE OR DOCUSIGN'S EFFORTS WILL FULFILL ANY OF SUBSCRIBER'S PARTICULAR PURPOSES OR NEEDS.

8. LIMITATION OF LIABILITY.

8.1 This Section 8 applies to liability under contract (including under any indemnity or breach of warranty), in tort (including negligence), under statute or otherwise for non-compliant usage of the certificate(s), the associated private keys, the revocation status information or any other hardware or software provided, and any consequential, incidental, special, or exemplary damages arising out of or related to this Agreement, including, but not limited to, loss of data, lost profits or loss of business.

8.2 If you initiate a claim, action, suite, arbitration, or other proceeding relating to this Agreement, to the extent permitted by applicable law, DocuSign shall not be liable for: (i) any loss profit, loss of data, business contracts, revenue or anticipated savings, (ii) any indirect, consequential loss or punitive damages arising from or in connection with the use, delivery, license, and performance or non-performance of certificates or digital signatures, or (iii) any liability incurred in any case if the error in such verified information is the result of fraud or willful misconduct of the Subscriber.

8.3 DocuSign's total aggregate liability of any kind arising out of or relating to this Agreement and sustained by Subscribers concerning Digital Signatures, transactions or Digital Certificates will not exceed five hundred dollars (\$500.00 USD). The Liability limitations provided in this subsection 8.3 shall be the same regardless of the number of Digital Signatures, transactions, or claims related to such Digital Certificate.

9. THIRD PARTY CLAIMS

9.1 You agree to indemnify DocuSign, and its employees, directors, agents, and representatives from, and defend the indemnified parties against, any and all third party claims, including Relying Parties, to the extent arising from or related to: (a) your failure to perform the any of your warranties, representations, and obligations under this Agreement; (b) any falsehoods or misrepresentations of fact you make on the Certificate; (c) any infringement of an intellectual property right of any person or entity in information or content provided by you; (d) failure to disclose a material fact on the Certificate if the misrepresentation or omission was made negligently or with intent to deceive any party; or (e) failure to protect the private key, credentials, or use a trustworthy system, or to take the precautions necessary to prevent the compromise, loss, disclosure, modification or unauthorized use of the private key under the terms of this Agreement.

9.2 Procedures. DocuSign will promptly notify you of any such claim, except that the failure to provide prompt notice will only limit your indemnification obligations to the extent you are prejudiced by the delay or failure; (b) you will have full and complete control over the defense and settlement of the claim; (c) DocuSign will provide assistance in connection with the defense and settlement of the claim (as long as the settlement does not include any payment of any amounts by or any admissions of liability, whether civil or criminal, on the part of DocuSign), as you may reasonably request; and (d) DocuSign's compliance with any settlement or court order made in connection with the claim. You will indemnify DocuSign against: (i) all damages, costs, and attorneys' fees finally awarded against DocuSign with respect to any claim; (ii) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by DocuSign in connection with the defense of the claim (other than attorneys' fees and costs incurred without your consent after you have accepted defense of such claim); and (iii) if any Claim arising under this Section 9 is settled by you or with your approval, then you will pay any amounts to any third party agreed to by you in the settlement of any such claims.

9.3 The terms of this Section 9 will survive any termination of this Agreement.

10. PROPRIETARY RIGHTS. You acknowledge that DocuSign and its licensors retain all intellectual property rights and title in and to all of their confidential information or other proprietary information, products, services, and the ideas, concepts, techniques, inventions, processes, software or works of authorship developed, embodied in, or practiced in connection your Certificate(s) provided by DocuSign hereunder, including without limitation all modifications, enhancements, derivative works, configurations, translations, upgrades, and interfaces thereto. Nothing in this Agreement shall create any right of ownership or license in and to the other party's intellectual property rights, and each party shall continue to independently own and maintain its Intellectual Property Rights.

11. MODIFICATIONS TO SUBSCRIBER AGREEMENT. DocuSign may (i) revise the terms of this Agreement; and/or (ii) change part of the Services provided herein at any time. Any such change will be binding and effective fourteen (14) days after publication of the change on DocuSign's website at <https://trust.docusign.com/certificates>, or upon notification to you by e-mail. By continuing to use your DocuSign Certificate(s) after the date on which the terms of this Agreement have changed, DocuSign will treat your use of the Certificate(s) as acceptance of the updated terms. Except as expressly specified herein, this Agreement may only be amended or modified by a writing signed by a DocuSign Policy Management Authority (PMA).

12. GENERAL PROVISIONS.

12.1 Entire Agreement. This Agreement is the final and complete expression of the agreement between the parties with respect to the transactions contemplated and supersedes all previous oral and written communications regarding such matters. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of this Agreement, or the Agreement, which shall remain valid and enforceable according to its terms. Except as expressly specified herein, this Agreement may only be amended or modified by a writing signed by a DocuSign Policy Management Authority (PMA).

12.2 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.

12.3 Assignability. Except as stated otherwise, your rights under this Agreement are not assignable or transferable. Any attempt by your creditors to obtain an interest in your rights herein, whether by attachment, levy, garnishment or otherwise, renders this Agreement voidable at DocuSign's option.

12.4 Notices.

To DocuSign: Any notice required or permitted to be given to DocuSign in accordance with this Agreement will be effective only if it is in writing and sent using: (a) the DocuSign Subscription Service; (b) by certified or registered mail; or (c) insured courier, to DocuSign, Inc., Attention: Policy Management Authority (pma@docusign.com, 1301 Second Avenue, Suite 2000, Seattle, WA 98101. DocuSign may change its address for receipt of notice by notice to Subscriber through a notice provided in accordance with this Section. Notices are deemed given upon receipt if delivered using the DocuSign Subscription Service, two business days following the date of mailing, or one business day following delivery to a courier.

To Subscriber: Any notice, request, instruction or other document to be given to the Subscriber under this Agreement shall be posted on DocuSign's website, situated at <https://trust.docusign.com/certificates> in the section "Repository" and shall be deemed to have been served at the time of entry of the notice on DocuSign website.

12.5 Force Majeure. Neither party will be liable for failure to perform any obligation under this Agreement to the extent such failure is caused by 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.

12.6 Mandatory Arbitration. Except for claims arising under this Agreement: (a) for breach of either party's obligations with respect to Confidential Information; (b) arising out of the indemnity obligations specified in Section 10; and (c) for injunctive relief, any dispute, claim or controversy arising out of or related to this Agreement or the performance, enforcement, breach, termination, validity or interpretation thereof, including the determination of the scope or applicability of this Agreement to arbitrate, that cannot be resolved through good faith discussions between the parties within a reasonable period of time (not to exceed 30 days), will be settled by binding arbitration conducted before one arbitrator. The arbitration shall be administered by the Judicial Arbitration and Mediation Services ("JAMS") pursuant to JAMS' Streamlined Arbitration Rules and Procedures, if applicable, or otherwise pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules (the "JAMS Rules"). Either party may submit the matter to arbitration. Such disputes will be resolved by the arbitrator as determined under the JAMS Rules. Unless otherwise agreed to by the parties, the arbitration will be held in the home jurisdiction of the party against whom arbitration is initiated. Each party will bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator may, in its discretion, award costs and fees to the prevailing party. Judgment upon the award may be entered in any court having jurisdiction over the award or over the applicable party or its assets. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

12.7 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. 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.

12.8 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.