

Exclaimer Cloud – Signatures For Office 365 Terms and Conditions

The following terms of service (collectively, the “Terms”) govern the use of the Exclaimer hosted email signature services (the “Services”) and any associated use of the Exclaimer technology offered by Exclaimer Ltd (below referred to as “we,” “our” or “us”).

BY USING THE SERVICES OR SOFTWARE, OR EXECUTING THROUGH ECHOSIGN, OR BY CLICKING ON THE “I AGREE” BUTTON BELOW (IF ANY), YOU CONSENT TO BE LEGALLY BOUND BY ALL THESE TERMS. IF YOU ARE ENTERING INTO THESE TERMS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MUST NOT ACCEPT THESE TERMS AND MAY NOT USE THE SERVICES.

1. SUBSCRIPTION TO AND USE OF THE SERVICES

- i. By subscribing to the Services, you have a non-exclusive, non-transferable right to use the Services solely for your internal business operations during your subscription period.
- ii. You are prohibited from allowing access to the Services to third parties. However, you may choose to offer access to and use of the Services to other companies within your group, your appointed reseller or marketing company provided that (a) such use complies with these Terms; (b) you shall remain the contracting party with us with respect to the payment of all subscription fees; and (c) you shall retain full responsibility for all such access to the Services and all compliance with these Terms.
- iii. You agree that neither you nor your affiliates shall take any action intended to interfere with or disrupt the Services or any other user’s use of the Services.

2. SUBSCRIPTION DURATION, FEES, BILLING AND RENEWAL

- i. The standard minimum subscription period for the Services is twelve months from start of use of the Services. If you wish to stop use of the Services please give at least 90 days' notice in writing to us at any time after the twelve month subscription period has expired (i.e. the earliest point you can stop use of the Services is 15 months after you start to use the Services).
- ii. By subscribing to the Services, you agree to pay the applicable subscription fees plus any applicable taxes and duties, if any.
- iii. We offer a 14 day free trial of our Services subject to eligibility. To view specific details of or eligibility for a free trial, visit our website or communicate with our Sales Representative. We may require you to register and designate a payment method even for the free trial.
- iv. Our standard subscription fee is payable monthly in advance based on the actual number of users of the Services during the previous month. During your 14 day free trial period we will collect data from you in relation to the number of users and their email account details. If you continue use of the Services at the end of the free trial period, your subscription shall be deemed to have commenced and we will bill you the following day in advance for a month's Services. Each month we will verify the number of users in your Office 365 tenancy and bill you in advance for the next monthly fees based on that number of users. If you give us notice to stop using the

Services, your monthly subscription fee during the notice period will be calculated on the basis of the average number of users during the twelve months prior to your giving notice.

- v. We may agree annual fee payment for larger customers on a case by case basis.

3. PAYMENT

- i. During the registration process, we will ask you to choose one of the payment methods accepted by us for your subscription fees being either credit or debit card or direct debit or a credit account for larger customers.
- ii. You authorize us to charge your payment method automatically for the subscription fees until your subscription ends.
- iii. If you choose to cancel your subscription there are no refunds or credits for partial subscription periods. If you would like to change your payment method or details, such as your credit card validity or expiration date, you may access and edit your account information through our portal on our website.
- iv. We use a third-party intermediary to manage credit card processing and this intermediary is not permitted to store, retain or use your billing information except to process your credit card information for us.
- v. All payments shall be made within fourteen (14) days of the month end (the “due date”).
- vi. You are responsible for paying any taxes (including without limitation any sales, use or withholding taxes now or hereafter enacted), and any duties, excises or tariffs (together “duties”), that are applicable to receipt of the Service. All payments hereunder shall be made without deduction for taxes or duties of any kind or nature.
- vii. Late payments will be subject to late fees at the rate of one per cent (1%) per month, or, if lower, the maximum rate allowed by law. If you fail to pay any subscription fees within fourteen (14) days following the payment due date, we have the right to suspend performance of the Service and seek all remedies available, and you agree to reimburse our reasonable expenses, including legal and other fees incurred in collecting amounts due. The Services will be reinstated at our discretion after all current and overdue amounts and accumulated late fees and expenses are paid.

4. TERM AND TERMINATION

- i. This agreement will remain in force for the duration of the usage of the Services through any trial and subscription period.
- ii. We may terminate this agreement by notice to you if you breach its terms or if you enter any form of insolvency.

5. INTELLECTUAL PROPERTY RIGHTS

- i. You acknowledge that we own all rights, title and interest in and to all intellectual property rights in the Services.
- ii. You agree not to remove any copyright or proprietary notices in the Services. Certain marks, words and logos displayed on the Services, which may or may not be designated by a “TM” “®” “SM” or other similar designation, constitute trademarks, trade names, or service marks belonging to us or our suppliers. You are not

authorized to use any such marks. Ownership of all such marks and the goodwill associated with them remains with us or our suppliers.

6. CONFIDENTIALITY

- i. We may disclose to you information relating to the Services which is marked as “Confidential” or which relates to the technology we use to provide the Services (the “Confidential Information”).
- ii. You agree not to use our Confidential Information for any purpose other than your use of the Services in accordance with these Terms. You agree not to disclose the Confidential Information to third parties and you will restrict its disclosure to your employees who need to have the information in order to carry out their employment duties.

7. USE OF YOUR DATA

- i. We may use aggregate information to measure general Service usage patterns and characteristics of its user base, and may include such aggregate information about its customers in promotional materials or reports to third parties. This aggregate information will not reference names, phone numbers, email addresses, or other personally identifiable information, and shall not be traceable to a specific party.
- ii. To the extent that any data we hold about your users is personal data regulated by the UK Data Protection Act 1998, we will process that data in compliance with that Act.

8. SERVICE LEVELS AND WARRANTY

- i. The availability of the Services is dependent on the availability of Microsoft Azure services and the service levels offered by Microsoft for those services. If the Microsoft Azure services relevant to the Services are unavailable Exclaimer shall exercise its rights under such service levels but the Services may be unavailable as a result.
- ii. We will use reasonable skill and care in providing the Services.
- iii. If the Services are unavailable or defective in any way we will, at our expense, use reasonable endeavours to correct any such unavailability or defect promptly. Such correction is your sole and exclusive remedy for any breach of the undertaking set out in clause 8(ii).
- iv. Notwithstanding the foregoing, we:
 - a) do not warrant that use of the Services will be uninterrupted or error-free; and
 - b) are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- v. All warranties or conditions of any kind either express or implied including but not limited to the implied warranties or conditions of satisfactory quality, fitness for a particular purpose are excluded.
- vi. You are expected to access the Services and to thoroughly evaluate their usefulness and functionality before purchasing the Services. This "try before you buy" approach is the ultimate guarantee that the Services will perform to your satisfaction;

therefore, you understand and agree that there is no refund policy for any purchase of the Services.

- vii. We may create new versions of the Services ("upgrades") which may correct errors although we have no obligation to notify you of such upgrades.

9. OUR LIABILITY

- i. We shall not be liable to you or to any other party for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the Services except to the extent that such liability may not be lawfully excluded under the applicable law.
- ii. We exclude liability for indirect, incidental or consequential loss or damage which may arise in respect of the Services howsoever caused, including, without limitation, for:
 - a) loss of profits, anticipated savings, business opportunity or goodwill; and
 - b) loss of data or use.
- iii. Our aggregate liability to you whether in contract, tort or otherwise shall be limited to the total subscription fees paid by you for the Services in the last 12 months.
- iv. These terms shall not exclude or limit our liability for death or personal injury arising from its negligence or its fraudulent misrepresentation.
- v. The disclaimer texts provided are purely for example purposes and we do not warrant the legality or accuracy of these examples.
- vi. We shall not be liable for any delay or non-performance of our obligations under these terms arising from any cause beyond our control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion.

10. GENERAL

- i. No forbearance or delay by us in enforcing our rights shall prejudice or restrict any rights, and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.
- ii. If any provision of these terms is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions shall not be prejudiced.
- iii. All notices under these terms shall be in writing and shall be addressed to the most recent address notified to the other party. Notices shall be deemed to have been duly given:
 - a) When delivered, if delivered by hand or registered mail; or
 - b) On the fifth business day following mailing, if posted by first class mail.
- iv. These terms contain the whole agreement between you and us relating to the Services and supersede all prior agreements, arrangements and understandings between you and us relating to that subject matter.
- v. The parties hereby agree that these terms shall be construed in accordance with the laws of England and the courts of England shall have exclusive jurisdiction.