

## **PREVO TECHNOLOGIES INC DOCUBRAIN/TECHDOC END USER LICENSE AGREEMENT**

This End User License Agreement ("EULA") is a legal agreement between you, either an individual or a single entity ("End User"), and Prevo Technologies, Inc., a Tennessee corporation ("PTI") for the PTI software Product identified below. An amendment or addendum to this EULA may accompany the Product. BY INSTALLING, COPYING, OR OTHERWISE USING THE PRODUCT, END USER AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS EULA. If End User does not agree with such terms and conditions, End User: (a) shall not install or use the Product; (b) shall delete the Product or any portion thereof, where installed; and (c) if in conjunction with this EULA, End User received a disk, CD- ROM, or other media containing the Product or documentation related to the Product, End User shall return these materials to PTI.

### **1. DEFINITIONS**

"Client" means a device or user that accesses or otherwise utilizes the services or functionality of the Server Software and includes each Mobile Device and Remote Desktop.

"Client Software" means software that provides services or functionality on End User's Clients.

"Document Manager" (and "DM") means the Server-side portion of the Product that Clients use to manage documents and perform other document management related tasks. A Document Manager cannot be installed on a Client.

"Effective Date" means the earlier of the following: (i) the complete execution of this EULA; (ii) the applicable date of any Order Form; or (iii) the date End User first installs the Product. In the event of a license renewal, the new Effective Date will be one year after the previous Effective Date.

"Intellectual Property" means all patents, patent rights, copyrights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and any other proprietary or intellectual property right, as may now exist or hereafter come into existence worldwide, and all applications therefore and registrations, renewals and extensions thereof, recognized under any state, country, or territory's laws, or international treaty.

"Mobile Device" means a portable computing device or PDA approved by PTI and licensed for use with the Product Server.

"Named End User" means one named individual or single entity to which the PTI Product is licensed.

"Permitted Clients" means Clients used to perform work by or on behalf of the Named End User in conjunction with a Licensed Product Server. The number of Permitted Clients is determined by the level of license purchased.

"Product" means DocuBrain/TechDoc (including without limitation, Server Software and Client Software), including any computer software and Updates acquired from PTI, and any associated media, printed materials, online or electronic documentation, and Internet-based services. All references to the Product include instances of the Product.

"Production Environment" means an environment running the Product for any reason beyond development, evaluation, and acceptance testing (meaning a review of the Product before it is put into general use).

"Remote Desktop" means a remote access computer approved by PTI and licensed for use with the Product Server.

"Run an Instance" means to load the Product into memory and execute one or more of its instructions (whether or not the Product's instructions continue to execute) until it is removed from memory.

"Search Manager" (and "SM") means the Server-side portion of the Product that Clients use to search and retrieve documents located on one or more Document Managers. A Search Manager cannot be installed on a Client.

"Server" means a computer capable of running the Server Software, whether real or virtual, and identified by its unique host name and/or IP address.

"Server Software" means software that provides services or functionality on End User's Server.

"Test Environment" means an environment solely used to perform staging, testing, and analysis of changes before they are made in the Production Environment. A Test Environment does not have to use the same hardware or software configuration as its Production Environment but a Test Environment cannot exceed the number of Servers or Product Instances permitted in the Production Environment.

"Updates" means subsequent releases of PTI Software that are generally made available for supported Software at no additional charge, other than media and handling charges, to correct design faults, discrepancies or defects ("bugs") in the Product. Updates are generally designated by a version number comprised of a major, minor, and patch

number (i.e., 10.0.0). Older versions of software designated the minor portion of the version number as a lowercase letter (i.e., 7, 7a, 7b, etc.).

## 2. GRANT OF LICENSE

Subject to the terms and conditions of this EULA, PTI grants to the Named End User: a non-exclusive; non-transferable (without right of sublicense or assignment); revocable (in accordance with section 10 herein); and limited term license for a period of one (1) year; to Run, at any one time, the Server Software and Client Software with the following limits based on the license level purchased:

### A. Enterprise License Limits

- a. 1 Server running a Single Instance of a DM and/or SM
- b. 3 additional SM(s) that can be run on other servers provided that the additional SM(s) are only populated by DM(s) running the same license level
- c. Unlimited Permitted Clients; excluding Workflow Editors
- d. Electronic Forms with unlimited Published Forms
- e. Workflow with unlimited Workflow Process Definitions; includes 5 Workflow Editor Licenses
- f. 1 Render License for Rendering Released Documents
- g. 1 Test Environment
- h. Can be used in a Production Environment

### B. Standard License Limits

- a. 1 Server running a Single Instance of a DM and/or SM
- b. 1 additional SM that can be run on other servers provided that the additional SM is only populated by DM(s) running the same or higher license level
- c. 250 Permitted Clients; excluding Workflow Editors
- d. Electronic Forms with 10 Published Forms
- e. Workflow with 10 Workflow Process Definitions; includes 1 Workflow Editor License
- f. 1 Render License for Rendering Released Documents
- g. 1 Test Environment
- h. Can be used in a Production Environment

### C. Basic License Limits

- a. 1 Server running a Single Instance of a DM and/or SM
- b. No additional SMs
- c. 100 Permitted Clients; excluding Workflow Editors
- d. No Electronic Forms included
- e. No Workflow included
- f. No Render included
- g. No Test Environment

- h. Can be used in a Production Environment
- D. Non-Production License Limits
- a. 1 Server running a Single Instance of a DM and/or SM
  - b. No additional SMs
  - c. 20 Permitted Clients; excluding Workflow Editors
  - d. No Electronic Forms included
  - e. No Workflow included
  - f. No Render included
  - g. No Test Environment included
  - h. Cannot be used in a Production Environment
- E. Client License Limits
- a. 1 Installed Instance on 1 Client Device per Client License
- F. Workflow Editor License Limits
- a. 1 Installed Instance on 1 Client Device per Workflow Editor License
- G. Render License Limits
- a. 1 Installed Instance on 1 Render Device per Render License

The term of this License (the "Term") shall be a period of one year commencing on the Effective Date. End User acknowledges that the Product includes license protection mechanisms that automatically render the Product inoperative when the Term expires. If the End User wishes to continue to use the Product after the Term expires, End User must re-license the Product for an additional one-year term in accordance with the terms and conditions of PTI's then current end-user license agreement and pricing.

All Products are licensed, not sold. All rights reserved.

### **3. RESTRICTIONS ON USE**

- A. End User shall only use the Product: (i) in machine-readable, object-code form; (ii) for End User's own internal business purposes; and (iii) with PTI-approved products.
- B. End User shall not duplicate the Product, or any portion thereof, except for a reasonable number of copies solely for archival and disaster recovery purposes. All copies shall remain the exclusive property of PTI and shall be subject to the terms of this EULA. End User shall have no other right to copy the Product, in whole or in part. All copies shall include all copyright and other Intellectual Property and proprietary notices, and include notices and legends embedded in the Product and affixed to its medium and container, as delivered by PTI. End User shall maintain a record of the location of Product copies.

- C. End User may use the Server Software on a temporary basis on a single Server used only for fail-over support.
- D. End User shall not make Product available in any form to any third party without PTI's prior express written consent.
- E. End User shall not provide service-bureau or processing services, commercial time-sharing, subscription services, rental or sharing arrangements with the Product.
- F. End User shall not reverse engineer, disassemble or decompile, or in any way derive any source code from the Product unless required by law.
- G. End User shall protect the confidentiality of the Product by using reasonable care, but in no event less than the same degree of care that End User uses to protect its own confidential and proprietary information of a like nature.
- H. End User shall not modify the Product (including without limitation, modification for use with a third party application), create, or use a derivative work of, or work based on, the Product.
- I. End User shall not remove or modify any Product markings or any notice of proprietary rights.
- J. End User shall not disclose the results of any benchmark tests on the Product to any third party without PTI's prior express written consent.

#### **4. OWNERSHIP RIGHTS**

End User acknowledges that the license granted under this EULA shall only provide the End User with a right of limited use. End User further acknowledges that PTI owns or licenses from third parties all right, title, and interest in the Product and End User will not contest those rights or engage in any conduct contrary to those rights. PTI shall retain full ownership of all Intellectual Property rights in the Product. Any copy, modification, revision, enhancement, adaptation, translation, or derivative work of or created from the Product, or documentation relating thereto, shall belong exclusively to PTI.

#### **5. VERIFICATION**

PTI shall have the right to audit, all of End User's supporting records, detail and information, and to verify End User's use of the Product in order to satisfy PTI that End

User is in compliance with the terms and conditions of this EULA. End User shall immediately pay any applicable adjustments to the license fee revealed by the audit.

## **6. LIMITED WARRANTY**

PTI warrants to End User, that for a period of ninety (90) days from receipt of Product, the Product will substantially comply with the functional specifications set forth in PTI's documentation. PTI does not warrant that the Product will: (a) meet End User's requirements; (b) operate in combination with other software (including without limitation, unsupported platforms, operating systems, or databases); (c) that operation of Product will be uninterrupted or error-free; or (d) that PTI will correct all Product errors. PTI's entire liability and End User's sole and exclusive remedy for breach of this limited warranty shall be, in PTI's sole discretion: (i) correction of the defect, or replacement of non-conforming Product with conforming Product; or (ii) a refund of the price paid to PTI for the non-conforming Product or portion thereof. End User must notify PTI in writing of any nonconformity within the limited warranty period. The limited warranty shall be void if Product has been: (1) altered or modified by any party other than PTI; (2) subjected to accident, abuse, misuse, abnormal or negligent use; or (3) used, adjusted or installed other than in accordance with PTI's instructions.

ANY AND ALL THIRD PARTY SOFTWARE NOT EMBEDDED IN THE PRODUCT IS PROVIDED ON A PASS- THROUGH, "AS IS" BASIS.

THIS LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY MADE BY PTI. EXCEPT FOR THE LIMITED WARRANTY STATED HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, PTI DISCLAIMS ANY OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE PROGRAM AND RELATED INFORMATION. PTI SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

## **7. INDEMNIFICATION**

End User shall indemnify, defend and hold harmless PTI and its directors, officers, agents, employees, subsidiaries, and affiliates from and against any and all claims, actions, proceedings, liabilities, losses, damages, costs or expenses (including attorneys' fees), (collectively "Claims") made by third parties, except to the extent caused by PTI, for: (a) infringement or misappropriation of any Intellectual Property rights arising out of or related to End User's use of the Product; or (b) breach of any applicable software license agreement.

## **8. LIMITATION OF LIABILITY**

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, PTI'S TOTAL LIABILITY AND END USER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER ARISING UNDER THIS EULA SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY PTI IN AN AMOUNT NOT TO EXCEED THE PRICE PAID BY END USER TO PTI FOR THE PROGRAM GIVING RISE TO THE CLAIM.

IN NO EVENT SHALL PTI BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, LOSS OF DATA USE OR BUSINESS INTERRUPTION) WHETHER AN ACTION IN CONTRACT, TORT, OR BASED ON ANY OTHER LEGAL THEORY, EVEN WHERE PTI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE RESULTING FROM ANY LIMITED REMEDY AND TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## **9. NO FAIL-SAFE USES**

The Product has been created using technologies that are not fault tolerant and thus the Product is not designed, manufactured, or intended for use or resale in on-line control equipment in hazardous environments requiring fail-safe performance, including, but without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the technologies employed in the Product could lead directly to death, personal injury, or severe physical or environmental damage.

## **10. TERM & TERMINATION**

This EULA and the license granted hereunder shall remain in effect unless terminated or expired, as provided herein. Where End User breaches any covenant, obligation, representation, or warranty under this EULA, it being agreed that all breaches shall be deemed material, PTI may in its sole discretion: (a) immediately terminate this EULA; or (b) terminate this EULA where End User fails to cure said breach within a period of time defined by PTI. PTI may suspend, lock, or otherwise disable operation of the Product in order to exercise the rights set forth herein. The exercise of PTI's right to termination shall not prejudice any other available remedy whether legal, equitable, or otherwise.

Upon termination of this EULA, End User shall immediately discontinue all use of the Product and shall, at PTI's option, promptly return to PTI, or certify destruction of, any and all copies of the Product and related information, and deliver to PTI a written certification that End User has complied with the foregoing requirements.

The following provisions shall survive termination of this EULA: section 4 (Ownership Rights); section 7 (Indemnification); section 8 (Limitation of Liability); section 11 (Import/Export Laws); and any other obligation that is intended to survive termination of this EULA.

## 11. IMPORT/EXPORT LAWS

End User shall comply with all applicable import, export and customs laws and regulations (including without limitation, the United States Export Administration Act). End User shall be responsible for any and all documentation or permits related to the Product as required by applicable law. End User agrees to indemnify, defend, and hold PTI harmless from any breach of End User's obligations under this section 11.

## 12. MISCELLANEOUS

A. NEW EULA VERSIONS. PTI reserves the right to modify this EULA at any time by providing a revised EULA to End User, or by publishing the revised EULA on PTI's DocuBrain website (<http://docubrain.com/>). The revised EULA shall become effective within thirty (30) days of such publication or provision to End User. End User's express acceptance of the revised EULA, or End User's continued use of the Product after expiration of the thirty (30) day notice period, shall constitute acceptance of the revised EULA.

B. THIRD PARTY SOFTWARE. The Product may contain non-embedded third party software (including without limitation, commercial and open source software). All such third party software is licensed according to separate license terms and conditions, the applicable license agreement governing said software is incorporated herein by reference. By installing or using third party software, End User agrees to be bound by all terms, conditions and restrictions contained in any and all applicable third party software license agreements. PTI makes no claim of ownership in or to third party software. For the avoidance of doubt, the End User indemnification obligations set forth in section 7 (Indemnification) apply to third party software.

C. ENTIRE AGREEMENT. If Licensee and PTI have signed a separate written agreement covering the licensing and use of the Product, the terms and conditions of such signed agreement shall take precedence over any conflicting terms and conditions of this EULA. Otherwise, this EULA constitutes the entire agreement between the parties relating to the licensing and use of the Product and supersede any other oral or written communications, agreements or representations with respect to the Product, except for any oral or written communications, agreements or representations made fraudulently.

D. WAIVER. All waivers under this EULA must be made in writing to be effective. No delay on the part of either party in exercising any of their respective rights under or the



failure to exercise the same, nor the acquiescence in or waiver of a breach of any term, covenant or condition of this EULA shall be deemed or construed to operate as a waiver of such rights or acquiescence thereto except in the specific instance for which given.

E. AMENDMENT. Except as provided in section 12(0), none of the terms, conditions, or provisions of this EULA shall be deemed modified or altered by any act, course of conduct, or knowledge of either party, their respective agents, servants, or employees. The terms of this EULA may not be amended, changed, waived, varied, or modified except by a statement in writing signed by duly authorized representatives of the parties expressly assenting to the amendment.

F. SEVERANCE. The invalidity or unenforceability of any provision of this EULA pursuant to any applicable statute, law or regulation shall not affect the validity or enforceability of the remaining provisions hereof. However, this EULA shall be construed as if not containing the provision held invalid or unenforceable in the jurisdiction in which so held, and remaining provisions shall remain in full force and effect.

G. COMMUNICATIONS. All notices, requests and other communications provided for in writing in this EULA shall be deemed to have been duly given: (i) on the date of delivery when delivered in person, including by courier service; (ii) upon receipt if delivered by mail, including by certified mail, return receipt, or postage prepaid; or (iii) upon receipt if delivered electronically.

H. HEADINGS. Paragraph headings used herein are for the convenience of the parties only. They do not form a part of this EULA and shall not be deemed or construed in any way to define or limit the meaning of such paragraphs.

I. SINGULAR INCLUDES PLURAL. In this EULA, unless there is something in a subject matter or context inconsistent therewith, the singular shall include the plural and the plural shall include the singular.

J. ASSIGNMENT. Neither this EULA nor any interest in this EULA may be assigned by End User without the prior express written consent of PTI. End User may not assign, pledge, mortgage, sell to a third party, or otherwise dispose of all or a portion of this EULA or the license granted hereunder.

K. LIMITATION OF ACTIONS. End User may not bring any action, suit, claim, or other legal proceeding against PTI arising out of, or related to this EULA or the subject matter hereof more than one (1) year after the occurrence of the event that gave rise to said action.

L. LEGAL COSTS. The parties endeavor to resolve disputes under this EULA by mutual consultation. Where legal action is pursued to enforce any provision of this

EULA, the prevailing party shall be entitled to recover all associated fees, including reasonable attorney fees, and costs.

M. **GOVERNING LAW.** This EULA shall be governed by the laws of the state of Tennessee and the United States, without regard to conflict of laws principles, as set forth in section 12(N) below. The rights and obligations of the parties to this EULA shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods (1980), but instead shall be governing by the laws of the State of Tennessee and the United States, as set forth in section 12(N) below.

N. **JURISDICTION.** The parties irrevocably and unconditionally agree that the exclusive place of jurisdiction for any action relating to this EULA shall be in the federal or state courts of Tennessee. Each party irrevocably and unconditionally waives any objection it may have to the venue of any action brought in such courts or to the convenience of such forum. Final judgment in any action shall be conclusive and may be enforced in other jurisdictions by suit on the judgment, a certified or true copy of which shall be conclusive evidence of the fact and the amount of any indebtedness or liability of any party therein described.

O. **LANGUAGE.** To the extent that this document or any subsequent agreements arising out of this EULA are translated into another language, the English version of said documents shall be the sole authoritative version.

### **13. NOTICE TO U.S. GOVERNMENT END USERS**

A. The Licensed Software is provided to the United States Government with RESTRICTED RIGHTS and its supporting documentation is provided with LIMITED RIGHTS. Use, duplication, or disclosure by the United States Government is subject to the restrictions as set forth in FAR52.227-14 and DFAR252.227-7013 et seq. or the successor as appropriate. Manufacturer is Prevo Technologies, Inc., 1111 Keener Rd, Seymour, TN 37865 as or on behalf of Licensor.

B. PTI acknowledges that statutes and regulations of the U.S. Government, including procurement laws and regulations, and/or terms within a contract purchasing the Product from PTI may sometimes require that aspects of commercial EULAs are limited and may become ineffective and inoperative. PTI acknowledges that such aspects of commercial EULAs may include indemnities, commitments of funds from future appropriation years, dispute resolution, jurisdiction, and the right to stop work. In all such instances, PTI acknowledges that the provisions of this License Agreement yield and are superseded where, and to the extent, required by applicable U.S. law and regulation.

- a. PTI acknowledges Federal Acquisition Regulation ("FAR") 52.232-39 Unenforceability of Unauthorized Obligations, and FAR 52.212-4(u) Contract

Terms and Conditions—Commercial Items/Unauthorized Obligations, as well as equivalent provisions of agencies that are exempt from the FAR or that are state or local U.S. governments.

b. PTI specifically acknowledges that provisions of this License Agreement that may be limited in part, or superseded in part or in whole, by said laws and regulations and/or terms of a contract purchasing the Product from PTI include:

- i. Clause 5 pertaining to verification;
- ii. Clause 7 pertaining to indemnification;
- iii. Clause 10 pertaining to terms and termination;
- iv. Clause 11 pertaining to import/export laws;
- v. Clause 12(B) pertaining to third party software;
- v. Clause 12(C) pertaining to the entire agreement;
- vi. Clause 12(K) pertaining to limitation of actions;
- vii. Clause 12(L) pertaining to legal costs;
- viii. Clause 12(M) pertaining to governing laws; and
- ix. Clause 12(N) pertaining to jurisdiction.