

Docuseek2 Digital Rights License Agreement

Docuseek, LLC, doing business as **Docuseek2** (the "LICENSOR"), of 372 Dautrich Rd, Reading Pennsylvania, and **The University of California, San Diego** (the "LICENSEE") this 3rd day of July, 2018, hereby agree together as follows:

1. Definitions

- a. **Service:** Licensor is the provider of the Docuseek2 digital service (the "Service") that permits Licensee to license and view Content under this agreement.
- b. **Educational Use:** Use in markets including, but not limited to, high schools, colleges, universities, libraries, museums and non-profit organizations, and Authorized Users' use for study through high schools, colleges, universities and Distance Learning Programs, or for their personal use.
- c. **Classroom Use:** A performance of a program in classrooms or other related venues, for audiences of more than one person, conducted without charging admission. In this context, programs may be shown by any means that do not require digitization, transfer, alteration, duplication or reproduction.
- d. **Unified Campus:** The setting(s) at which any of Licensee's programs are taught, including any branch campuses, to Authorized Users. For the purpose of this agreement, a Secure Campus Network or similar mechanism is considered part of the Unified Campus. Authorized Users accessing Licensee-licensed resources, including the Service, from a remote location, via a proxy server or similar mechanism are considered as located on the Unified Campus.
- e. **Authorized Users:** Full-time and part-time students, faculty, staff and researchers of the Licensee and individuals who are independent contractors or are employed by independent contractors of the Licensee, as well as individuals not affiliated with the Licensee who are physically present at the Licensee's site(s) ("Walk-in Users").
- f. **Distance Learning:** Coursework by Authorized Users conducted via an internet connection connected to the Unified Campus.
- g. **Server Fee:** An annual fee for the digital delivery ("streaming") of content licensed by the Licensee.
- h. **Content:** The film or video programs listed in Schedule A below and made a part hereof and any other programs added to Schedule A by the mutual consent of the parties, and/or as specified in the Subscription invoice. For Life of File licenses, Docuseek2 will make a digital file of each program (the "Master") available to the Licensee.
- i. **Institutional Streaming License:** A license to stream the Content to Authorized Users for Educational Use at the Unified Campus.
- j. **Subscription:** An Institutional Streaming License to use the Content for a specific period of time defined in the invoice for the Subscription.
- k. **Life of File:** An Institutional Streaming License to use a file of the Content for the life of the MPEG-4 (H.264) codec.

2. Grant of License

- a. Docuseek2 grants to the Licensee a limited, non-exclusive, revocable Institutional Streaming License for the Term. Nothing in this Agreement shall be interpreted to diminish the rights and privileges of the Licensee or Authorized Users with respect to any of the LicensedContent, including exceptions or limitations to the exclusive rights of copyright owners, such as fair use, under Section 107 of the U.S. Copyright Act. In the event that any content included in the Licensed Content is in the public domain or has been issued under a Creative Commons or other open license, Licensor shall not place access, use or other restrictions on that content beyond those found in the open license, where applicable.
- b. Life of File licenses permit the right to transcode the content into the streaming format of the Licensee's choice and to load the digital files onto the Licensee's digital network for streaming to Authorized Users. Life of File licensed Content may be duplicated and stored by the Licensee for the purpose of a backup copy.
- c. Not permitted under this license is the right to rent, loan, sublease or sub-license content to others. Subscription Content may not be digitized, transferred, converted to another medium or format, or altered by any means without prior, written authorization of Licensor. Life of File Content may not be digitized, transferred, converted to another medium or format, or altered by any means except as noted in section 2.b. above. Content may not be downloaded and stored to any workstation or other device by Authorized Users.
- d. For Life of File licenses, in the event the Licensee decides to switch the codec of its Master, then this agreement must be renegotiated before the Content is re-encoded or new transcodes made and streaming of the Content resumed.
- e. Institutional Streaming Licenses permit classroom use.
- f. Institutional Streaming Licenses permit screening on the Unified Campus to a group only when no admission is charged and there is no advertising outside the learning community.
- g. Institutional Streaming Licenses permit remote (off-campus) access for all Authorized Users, whether enrolled in a Distance Learning program or not, if they are connected to the Unified Campus.
- h. Institutional Streaming Licenses permit simultaneous access by any number of Authorized Users.
- i. Sharing of streamed Docuseek2 content with other institutions, or with individuals, classes or groups who are not Authorized Users, except as noted above, is not permitted without the express authorization of Docuseek2.
- j. This license is granted only upon payment by Licensee of mutually agreed fees specified by or through Docuseek2.
- k. At the commencement of this license, the Licensor will provide access to the Content.
- l. For Subscription licenses, Licensor will provide streaming access to the content for the term of the subscription. For Life of File licenses, Licensor will provide streaming services for the Content to the Licensee, renewable on an annual basis, for a Server Fee as specified in Schedule B below.

3. Copyright

a. All materials licensed from Licensor including, but not limited to, the Content, and other video, audio, graphics, text, images, and interactive media are the property of the Licensor or have been licensed to the Licensor and are protected by international copyright and trademark laws. Licensee has no ownership of the Content. Licensor warrants that it has all necessary legal and equitable rights, permissions, and clearances to license the Content to the Licensee for the purposes outlined in this Agreement, and that use of the Content by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright or other rights of any third party.

b. In addition, the contents of docuseek2.com, including but not limited to design, "look and feel," software code, text, images, audio, and Content, are copyrighted, with all rights reserved by Docuseek, LLC ©2017.

4. Term

The term of this License Agreement shall be for the period defined in the Subscription invoice, or, in the case of Life of File licenses, for the Life of File as defined above. Upon expiration, non-renewal, or any termination of the license, all Licensee's rights to use the Content shall cease.

5. User Account and Security

a. Account and Password. As a registered user of the Service, Licensee may receive or establish an administration account ("Account"). Licensee shall use best efforts to maintain the confidentiality and security of the Account. Licensee should not reveal Account information to anyone else or use anyone else's Account. Licensee is responsible for all activities that occur on or through the Account, and Licensee agrees to immediately notify Docuseek2 of any unauthorized use of the Account or any other breach of security. Docuseek2 shall not be responsible for any losses arising out of the unauthorized use of Licensee's Account. Licensee shall not be liable for costs associated with unauthorized use of Licensee's Account provided that Licensee did not cause, knowingly assist or condone the continuation of such use after becoming aware of an actual breach having occurred.

b. Security. Licensee understands that the Service, and products purchased through the Service, include a security framework using technology that protects digital information and limits Licensee's usage of the Content to certain usage rules established by Docuseek2 and its licensors. Licensee agrees not to violate or attempt to violate any security components. Licensee agrees not to attempt to, or assist another person to, circumvent, reverse-engineer, decompile, disassemble, or otherwise tamper with any of the security components for any reason whatsoever. Licensee shall not access or attempt to access an Account that Licensee is not authorized to access. Licensee will not attempt to, or encourage or assist any other person to make use of Licensee's user name and password to stream a film Licensee has licensed. Violations of system or network security may result in civil or criminal liability.

6. Objectionable Material

Licensee understands that by using the Service, it may encounter content that may be deemed offensive, indecent, or objectionable, which content may or may not be identified as having explicit language. Nevertheless, Licensee agrees to use the Service at its sole risk and that Docuseek2 shall have no liability to Licensee for content that may be found to be offensive, indecent, or objectionable. Content types and descriptions are provided for

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7. Representations and Warranties of the Licensor

All information, products and other content (including third party information, products and content) included in or accessible from Docuseek2 Content are provided "as is" and without warranties of any kind (express, implied and statutory, including but not limited to the warranties of title and noninfringement and the implied warranties of merchantability and fitness for a particular purpose), all of which Docuseek2 disclaims to the fullest extent permitted by law. Licensee's use of the Content is at licensee's sole risk.

Licensor warrants that the Licensed Content and Service comply with California and federal disabilities law and regulations, and conform to the accessibility requirements of Web Accessibility Initiative, Web Content Accessibility Guidelines (WCAG) 2.0 at level AA.¹ Licensor agrees to promptly respond to and resolve any complaint regarding accessibility of Licensed Content.

8. Representations and Warranties of the Licensee

Licensee warrants that all information provided is true and accurate. Docuseek2 may terminate Licensee's rights to any or all service if any information Licensee provides is false or inaccurate.

9. Docuseek2's Privacy Policy

Except as otherwise expressly provided for in this Agreement, our Service is subject to Docuseek2's Privacy Policy, which is expressly made a part of this Agreement as Appendix A.

10. Governing Law

These Terms of Use are governed by the laws of the United States and, where no other state law is applicable, the State of California, without giving effect to any principles of conflicts of laws. However, with respect to a State or Public institution Licensee that is restricted by laws governing contracts solely to those of its applicable state, Licensor will agree that these Terms of Use be governed by the laws of such states.

11. Trademarks

Docuseek2 and its logo belong to Docuseek2 and other marks belong to third party trademark owners. Except as permitted by applicable laws, Licensee is prohibited from using any of the marks appearing on this site without express written consent from their respective trademark owners.

12. Miscellaneous

a. Licensor reserves the right to refuse service and terminate accounts at its sole discretion, with or without cause, including, but not limited to, if Licensor believes Licensee's conduct violates applicable law or is harmful to Licensor. Notification will precede any suspension of access, and the breaching party shall have sixty (60) days from the receipt of notice to use all reasonable means to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected.

b. Licensor's rights, including but not limited to all rights of remedy for Licensee's breaches under this Agreement, shall continue in perpetuity.

¹ <http://www.w3.org/WAI/guid-tech.html>

c. Licensor reserves the right to change, modify, add, or remove portions of the Service at any time with prior written notice to Licensee. Licensor may add, delete, or modify features, titles, as well as the scope of service and support provided, with prior written notice to Licensee. Pricing, product features and specifications, and product title library are all subject to change with written notice. Any variations to this License are only valid if they are recorded in writing and signed by both parties.

Licensor reserve the right to withdraw from the Licensed Content or Service any item or part of an item for which it no longer retains the right to publish or distribute, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful, or otherwise objectionable. Licensor shall give written notice of the withdrawal to the Licensee as soon as is practicable, but in no event less than thirty (30) days in advance of withdrawal, specifying the item or items to be withdrawn.

If any such withdrawal renders the Licensed Content or Service materially less useful to Licensee or its Authorized Users, Licensor shall reimburse Licensee for the withdrawal in an amount proportional to the total Fees owed by Licensee for the Licensed Content under this Agreement. If any such withdrawal renders the Licensed Content substantially less useful to Licensee or its Authorized Users, Licensee may seek to terminate this Agreement for breach.

d. The Licensor agrees that no personally identifiable information, including but not limited to log-ins recorded in system logs, IP addresses of patrons accessing the system, saved searches, usernames and passwords, will be shared with third parties, except in response to a subpoena, court order, or other legal requirement. If Licensor is compelled by law or court order to disclose personally identifiable information of Authorized Users or patterns of use, Licensor shall provide the Licensee with adequate prior written notice as soon as is practicable, so that Licensee or Authorized Users may seek protective orders or other remedies. Licensor will notify Licensee and Authorized Users as soon as is practicable if the Licensor's systems are breached and the confidentiality of personally identifiable information is compromised.

e. In the event that Licensor requires Authorized Users to agree to additional terms relating to the use of the Licensed Content (commonly referred to as "click-through" or "clickwrap" licenses), or otherwise attempts to impose terms on Authorized Users through online terms and conditions invoked by the mere use or viewing of the Licensed Materials, such terms shall not materially differ from the provisions of this Agreement. In the event of any conflict between the click-through terms or online terms and conditions and this Agreement, the terms of this Agreement shall prevail. For the avoidance of doubt, Authorized Users are not a party to this Agreement.

f. Usage Statistics. Licensor must provide use data on a monthly basis. Licensee prefers statistics that meet or exceed the most recent project Counting Online Usage of NeTworked Electronic Resources (COUNTER) Code of Practice Release,² including but not limited to its provisions on customer confidentiality. When a release of a new COUNTER Codes of Practice is issued, Licensor shall comply with the implementation time frame specified by COUNTER to provide use statistics in the new standard format.

Licensor shall not provide Licensee's usage statistics in any form to any third party without the Licensee's written authorization, unless the third party owns rights in the Licensed Materials. In all cases, the disclosure of such data shall fully protect the anonymity of individual users and the confidentiality of their searches, and will comply with all applicable privacy laws. The Licensor shall not disclose or sell to other parties usage data or information

² <http://www.projectcounter.org/code-of-practice-sections/general-information/>

about the Licensee or its Authorized Users without the Licensee's written permission or as required by law.

g. No delay or failure of Licensor to take action under these Terms and Conditions will constitute a waiver by Licensor, unless expressly waived in writing by Licensor.

h. These Terms of Use constitute the complete agreement of the parties and contain the entire understanding of the parties hereto relating to the Content, supersede any prior written or oral agreement or understandings between the parties with respect to the Content, and cannot be changed or terminated orally. Only a writing specifically referencing these Terms of Use and signed by the parties hereto may amend them.

Docuseek2's TERMS OF SALE

LICENSE PERIOD

User license period commences at the time the license is purchased.

Docuseek2 does not provide products for resale.

REFUND POLICY

All sales are final.

PAYMENT METHODS

Docuseek2 accepts credit cards as forms of payment. Docuseek2 accepts Visa and MasterCard for orders under \$1000. For institutional licenses, we accept Purchase Orders, but at our discretion. Licenses may not be activated until payment is made. PLEASE NOTE: If a purchase has been declined online due to credit card issues, please ensure all data is correct and resubmit. If the transaction is not accepted online, Licensee will be unable to use that card for Licensee's purchase and should use another credit card.

BILLING

Each individual transaction authorizes and bills as a single purchase.

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Docuseek2 reserves the right to enhance Products purchased from Docuseek2, including Products purchased but not yet accessed. If an enhancement inadvertently alters the length of a purchased license, the purchaser may contact us for a reinstatement of that license to its original length, or for an acceptable substitute.

FOR ASSISTANCE WITH ORDERS - DOCUSEEK2 CUSTOMER SERVICE

For assistance with billing questions or other order inquiries, please refer to our online Contact Us page. We will respond as soon as possible, usually within one business day.

OTHER TERMS AND CONDITIONS

Docuseek2 is not responsible for misunderstandings resulting from typographic errors.

I have read, and on behalf of my institution, I accept the above Terms of Use.

Martha Hruska
Name (print)

For Docuseek2
James I Davis / President
Name (print)

[text deleted]

15/18
Date

July 3, 2018
Date

Schedule A - Licensed Content

Title / License fee(s):

- 1) Subscriptions for streaming licenses of 1-5 years as invoiced.
- 2) Purchases for Life of File shall be recorded here and amended as purchased.

Schedule B - Annual Server Fee

The annual server fee varies according to the number of titles licensed or made available for streaming using the Docuseek2 Service. The annual server fee is calculated according the table below:

Annual server fee (life of file only)	
0-249 titles	[text deleted]
250 - 499 titles	
500+	

The Annual Server Fee is due at the commencement of this License, and on the anniversary date of the license thereafter.

Appendix A - Privacy Policy

We take privacy very seriously. While we do log information on visits, queries and other site activity, this information is for evaluating the effectiveness and usefulness Docuseek2 only. All specific visit information is treated confidentially and anonymously, and is never shared with any other party, including the participating distributors. Aggregated data is shared with distributors. We do use cookies to record login state and other state information. The cookies serve no other purpose than this. If you have any questions concerning your privacy and your activity on Docuseek2, please contact us.

Institution admins and users

Docuseek2 supports two kinds of registered users. Administrators can see who else at their university has registered with Docuseek2. Administrators also have the ability to control the access of users from the institution to certain features on Docuseek2 related to licensing and viewing content. See the User Administration page for details on what rights institution administrators can grant or revoke. Administrators cannot see what a registered user has previewed, or what searches that user has done. Administrators may receive copies of emails when content is licensed by a registered user, or when a registered user asks that a title be made for streaming. These features exist to assist institutional media librarians in managing the institution's collections and helping their colleagues find an use media. The admin versus user access rights is a feature of the institutional licensing site only.

Shopping privacy and security

You can shop at Docuseek2 with confidence. We have partnered with Stripe, a leading payment processor, to accept credit card payments safely and securely. Stripe is certified as a PCI Level 1 Service Provider, the most stringent level of certification available.