

## **TERMS AND CONDITIONS OF INTUIT'S MIGRATION SERVICES**

### **1 Migration Services**

1.1 These Terms and Conditions (Terms) apply to migrating services provided on behalf of Intuit Ltd. and its Enterprise Members, which includes, for each country, the applicable Intuit entity ("Intuit" or "Us" or "Our" or "We") concerning all historical, financial, personal and/or other data ("Migration Data") that you ("You" or "Your") provide to Us, which are currently hosted by a third party online accounting platform. Your Migration Data will be migrated to Your existing account in Quickbooks online accounting and management tools, Quickbooks ("Migration Services").

1.2 By using the Migration Services, You confirm that You acquainted yourself with and accepted these Terms and Our Privacy Policy as set forth at Our website (<https://security.intuit.com/index.php/privacy>).

### **2 Overview of the Migration Services**

2.1 Intuit has contracted with Dataswitcher B.V. ('Dataswitcher', [www.dataswitcher.com](http://www.dataswitcher.com)), which specialises in migration services, to provide the Migration Services on Intuit's behalf. You will place a Migration Data order at Intuit via the wizard provided by Dataswitcher.

2.2 You agree that Dataswitcher and its sub-contractors, which have been approved by Us, will render the Migration Services after You placed the Migration Services order at Intuit. Intuit's Support Centre will be Your primary contact in case You have any questions during Your efforts to place the Migration Services order, or if the Migration Services have not been finalised successfully. In the latter case, at any time, Intuit has the right to involve Dataswitcher, and have Dataswitcher contact You directly; Your consent in this case to involve Dataswitcher is deemed to be given by means of placing the Migration Services order with Intuit.

### **3 Our Responsibilities**

3.1 Intuit will perform the Migration Services using reasonable care and skill.

3.2 If any amendment of the Migration Services is required by any applicable statutory or regulatory requirement or if any amendment desired by Us or Dataswitcher for technical and/or efficiency reasons does not materially affect the nature or quality of the Migration Services, Intuit has the right to have this amendment implemented by Dataswitcher.

3.3 Dataswitcher will perform the Migration Services at the instruction, on behalf and for the account of Intuit. Intuit's instructions to Dataswitcher as its subcontractor will take place on Your behalf, and for Your account.

3.4 Intuit will take all reasonable endeavours to meet any processing or migration times, but any times are estimates only, and failure to perform the Migration Services by such times will not give You the right to terminate the Migration Services, unless the reasonable term to realise a successful migration as yet mentioned in Your required notice of default addressed to Intuit will have lapsed.

3.5 Intuit will take all reasonable endeavours to keep Your Migration Data confidential.

3.6 In performing the Migration Services, Intuit shall:

(i) comply with all applicable laws, statutes and regulations from time to time, including but not limited to antibribery laws; and

(ii) promptly report to You any request or demand for any undue financial or other advantage of any kind received by Us in connection with the performance of the Migration Services.

3.7 Intuit shall ensure that any employee and/or third party associated with Us who is performing any part of the Migration Services (e.g. Dataswitcher) does so only on the basis of a written contract which imposes on and secures from such employee and/or third party terms equivalent to those imposed on Us in the above Sections 3.5 and 3.6. We shall be responsible for the observance and performance by such employee and/or third party of the provisions of Sections 3.5 and 3.6.

#### **4 Your Responsibilities**

4.1 Without prejudice to any of Your other responsibilities or obligations towards Us, the following will apply:

4.1.1 You are responsible for the timely and correct supply of Your Migration Data to Dataswitcher, i.e. the manner of delivery of the Migration Data by You according to the predefined method and instructions from Dataswitcher;

4.1.2 You are responsible for the content of Your Migration Data, such as but not limited to its legality, reliability, integrity, accuracy and quality;

4.1.3 The Migration Data may contain personal data from You as well as of Your customers, suppliers, employees, individuals of authorities and/or other companies and other individuals ('Personal Data'). As regards any possible Personal Data which may be part of the Migration Data, Intuit will accept Your Migration Services order under the assumption that any third party (either a company or a private individual) will not object to the execution of Our Migration Services, and You will indemnify Intuit against any privacy related claims by third parties filed against Intuit based on the execution of Your Migration Services order; and

4.1.4 In case You are an accountant, tax consultant or other advisor of one or more companies and intend to place a Migration Services order with Intuit on behalf of one or more of Your clients, Intuit will accept Your Migration Services order under the assumption that Your clients already agreed to Our execution of the Migration Services, and You will indemnify Intuit against any claims by Your clients (and of other individuals whose Personal Data may be part of the Migration Data) filed against Intuit based on the execution of the Migration Services.

4.1.5 If applicable: Your payment obligations to Intuit for the Migration Services are discharged when You pay Dataswitcher for such Migration Services.

#### **5 Data Protection**

5.1 All capitalized terms used in this Section have the meaning as defined in the relevant Data Protection Laws.

5.2 As regards any Personal Data which may be part of the Migration Data, You are Data Controller of those Personal Data, Intuit is the Data Processor and Dataswitcher is sub-Processor. Based on the

Migration order that you placed with Intuit, You agreed that the sole objective of the Migration Services is to migrate the Migration Data from a third party online accounting platform to Your account in Intuit Quickbooks. You will comply with the applicable obligations under the relevant Data Protections Laws. Intuit and the sub-Processor will do likewise.

5.3 As regards any Personal Data which may be part of the Migration Data, You confirm that You have the right:

5.3.1 to have any Personal Data migrated by Intuit (via Dataswitcher) from a third party online accounting platform to Your account in Quickbooks within the framework of Your Migration Services order;

5.3.2 to disclose any Personal Data and any other portion of the Migration Data to Intuit and Dataswitcher, within the framework of the Migration Services order, or in the event You require technical assistance from Intuit or Dataswitcher; and

5.3.3 to allow Intuit and Dataswitcher (and the sub-contractors of the latter) to disclose any Personal Data to (i) any privacy law enforcement agency and (ii) any other party that has a right, according to applicable Data Protection Laws, to require the disclosure of its Personal Data.

5.4 Intuit and Dataswitcher will ensure that their respective employees and the individuals authorised thereby to migrate any Personal Data which may be part of the Migration Data have confirmed their confidentiality obligations towards their respective employers.

5.5 Once the Migration Services have been successfully completed, any Personal Data and other data of the Migration Data will be deleted by Intuit and Dataswitcher with no later than 72 hours, provided that such deletion will in no way affect any data that was migrated into Your Quickbooks account.

## **6 DISCLAIMER OF WARRANTIES**

6.1 YOUR USE OF THE MIGRATION SERVICES IS ENTIRELY AT YOUR OWN RISK. EXCEPT AS DESCRIBED IN THESE TERMS, THE MIGRATION SERVICES ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, INTUIT, ITS AFFILIATES, AND ITS THIRD PARTY PROVIDERS, LICENSORS, DISTRIBUTORS OR SUPPLIERS (COLLECTIVELY,"SUPPLIERS") DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT THE SERVICES ARE FIT FOR A PARTICULAR PURPOSE, TITLE, MERCHANTABILITY, DATA LOSS, NON-INTERFERENCE WITH OR NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, OR THE ACCURACY, RELIABILITY, QUALITY OR CONTENT IN OR LINKED TO THE SERVICES. INTUIT AND ITS AFFILIATES AND SUPPLIERS DO NOT WARRANT THAT THE SERVICES ARE SECURE, FREE FROM BUGS, VIRUSES, INTERRUPTION, ERRORS, THEFT OR DESTRUCTION. IF THE EXCLUSIONS FOR IMPLIED WARRANTIES DO NOT APPLY TO YOU, ANY IMPLIED WARRANTIES ARE LIMITED TO 60 DAYS FROM THE DATE OF DELIVERY OF THE SERVICES.

6.2 INTUIT, ITS AFFILIATES AND SUPPLIERS DISCLAIM ANY REPRESENTATIONS OR WARRANTIES THAT THE RENDERING OF THE SERVICES TO YOU, OR THE RESULTS THEREFROM WILL SATISFY OR ENSURE COMPLIANCE WITH ANY LEGAL OBLIGATIONS OR LAWS OR REGULATIONS.

## **7 LIMITATION OF LIABILITY AND INDEMNITY**

7.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE ENTIRE LIABILITY OF INTUIT, ITS AFFILIATES AND SUPPLIERS FOR ALL CLAIMS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT YOU PAID FOR THE SERVICES. YOU ACKNOWLEDGE THAT THE ALLOCATION OF RISKS IN THESE TERMS REFLECTS THE ABSENCE OF ANY COMPENSATION FOR THE MIGRATION SERVICES. SUBJECT TO APPLICABLE LAW, INTUIT, ITS AFFILIATES AND SUPPLIERS ARE NOT LIABLE FOR ANY OF THE FOLLOWING: (A) LOST PROFITS, LOST SAVINGS, LOSS OF REPUTATION, LOSS OF GOODWILL ANY OTHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES; (B) DAMAGES RELATING TO FAILURES OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, CORRUPTION, SECURITY, LOSS OR THEFT OF DATA, VIRUSES, SPYWARE, LOSS OF BUSINESS, REVENUE, PROFITS OR INVESTMENT, OR USE OF SOFTWARE OR HARDWARE THAT DOES NOT MEET INTUIT SYSTEMS REQUIREMENTS. THE ABOVE LIMITATIONS APPLY EVEN IF INTUIT AND ITS AFFILIATES AND SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS AGREEMENT SETS FORTH THE ENTIRE LIABILITY OF INTUIT, ITS AFFILIATES AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE SERVICES AND ITS USE; ALL WHETHER OR NOT ANY DAMAGE CLAIM ARE BASED ON TORT, WARRANTY, CONTRACT OR ANY OTHER LEGAL THEORY.

7.2 Any of Your claims must be submitted at Intuit within ninety (90) days of the date of the event giving rise to any such claim, and any lawsuit relative to such claim must be filed within six (6) months of the date You submitted Your claim at Intuit.

7.3 You agree to indemnify and hold Intuit and its Affiliates and Suppliers harmless from any and all direct and third party claims, liability and expenses, including reasonable attorneys' fees and costs, arising out of Your use of the Migration Services or breach of these Terms (collectively referred to as "Claims"). Intuit reserves the right, in its sole discretion and at its own expense, to assume the exclusive defence and control of any Claims. You agree to reasonably cooperate as requested by Intuit in the defence of any Claims.

## **8 Intellectual property rights**

8.1 You will not own any intellectual property rights arising out of or in connection with the Migration Services, other than any possible intellectual property and/or other ownership rights regarding the content of the Migration Data itself.

## **9 Entire Agreement / Severance**

9.1 These Terms constitute the entire agreement between You and Intuit regarding the Migration Services as well as any support by Intuit and Dataswitcher during Your efforts to have the Migration Services order placed and any support by Intuit and Dataswitcher in the event that the Migration Services have not (yet) been finalised successfully, and therefore supersede all possible and/or existing previous oral and/or written agreements between You and Intuit regarding the Migration Services.

9.2 You acknowledge that You have not relied on and shall have no rights or remedies in respect of any statements, promise, written or oral representations, understandings, assurance or warranty other than expressly set out in these Terms.

9.3 If any part of these Terms is held by a court of competent jurisdiction to be unreasonable for any reason whatsoever, the validity of the remainder of these Terms will not be affected.

## **10. Governing law and jurisdiction**

10.1 If You reside in the UK, these Terms and Our legal relationship with You is governed by English law, without regard to its conflicts of laws principles. We each irrevocably agree to submit all disputes arising out of, and in connection with, the Migration Services, these Terms and/or Our legal relationship with You to the exclusive jurisdiction of the English courts.

10.2 If You reside in Australia, these Terms and Our legal relationship with You are governed by and construed in accordance with the laws of New South Wales, without regard to its conflicts of laws principles. We each irrevocably agree to submit all disputes arising out of, and in connection with, the Migration Services, these Terms and/or Our legal relationship with You to the exclusive jurisdiction and venue in any of the Commonwealth or state courts of competent jurisdiction located in New South Wales. To that end, We each irrevocably consent to the exclusive jurisdiction of, and venue in, such courts, and waive any: (i) right to object (with respect to any proceedings) that such court does not have jurisdiction over (a) the substance of claims or disputes, or (b) a party, and (ii) claim that the proceedings have been brought in an inconvenient forum.

10.3 If You reside in Canada, these Terms and Our legal relationship with You is governed by and construed in accordance with the laws of the Province of Ontario, Canada, without regard to its conflicts of laws principles. We each irrevocably agree to submit all disputes arising out of, and in connection with, the Migration Services, these Terms and/or Our legal relationship with You to the exclusive jurisdiction and venue in Toronto, in the Province of Ontario, Canada.

10.4. If You reside in the US, these Terms and Our legal relationship with You is governed by and construed in accordance with the laws of the State of California, US, without regard to its conflict of laws principles. We each irrevocably agree to submit all disputes arising out of, and connection with, the Migration Services, these Terms and/or Our legal relationship with You to the exclusive jurisdiction and venue in state or federal courts located in Santa Clara County, California, US

## **11. Miscellaneous**

11.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any obligations pursuant to the Migration Services order which is caused by any act or event beyond Our reasonable control.

11.2 Any variation of the provisions of these Terms will only apply if this has been confirmed in writing by You and Intuit.