

SCANNING AND DATA SOLUTIONS LIMITED

TERMS & CONDITIONS FOR THE SUPPLY OF SERVICES

1. DEFINITIONS

1.1 The definitions in this clause apply to these Terms:

“Charges” means any sums due to us for the supply of Services and any other charges specified in the pricing schedule set out in the Proposal Form;

“Confidential information” all confidential information (however recorded or preserved in whatever form and wherever located) disclosed or made available directly or indirectly by a party or its employees, officers, representatives or advisers (together, its “Representatives”) to the other party and that party’s Representatives in connection with:

(a) the Services;

(b) the existence and terms of the Proposal Form and these Terms;

(c) any information that would be regarded as confidential by a reasonable business person relating to:

(i) the business, affairs, customers, clients, suppliers, plans, intentions, products, services, finances, or market opportunities of the disclosing party; and

(ii) the operations, processes, product information, know-how, designs, technical data, trade secrets, data information records or software of the disclosing party or its clients, customers or suppliers including but not limited to Patients’ medical records and information of a personal nature which either party obtains in connection with the Services and whether or not such information is marked confidential.

(d) any information developed by the parties in the course of carrying out the Services;

“Contract” the agreement comprised in these Terms and the Proposal Form;

“Digital Data” means the scanning of the Source Materials scanned in various forms including but without limitation hard drives, USB drives, compact discs (“CD”) and Digital Versatile Discs (“DVD”);

“Force Majeure Event” has the meaning set out in clause 11.1 of these Terms;

“Order” means your order for the Services evidenced by the signing of the Proposal Form;

“Proposal Form” means the contract between you and us for the supply of the Services, a copy of which is attached to this document and of which these Terms form an integral part;

“Services” means the services we are providing to you from time to time as detailed in the Proposal Form, to include but without limitation, scanning, indexing, storage, shredding, processing and handling of the Source Materials;

“Source Materials” mean the materials provided by you to us in respect of which the Services will be carried out including but not limited to documents, data, drawings, images and microfilms;

“Terms” means the terms and conditions set out in this document;

“We / us” means Scanning and Data Solutions Limited;

“You” means the customer that being any person, firm, partnership or company who purchases Services from us.

1.2 A person includes a natural person, corporate or unincorporated body.

1.3 Headings do not affect the interpretation of these Terms.

1.4 A reference to writing or written includes faxes and e-mail.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment and includes any subordinate legislation for the time being in force made under it.

2. BASIS OF SALE

2.1 We consider these Terms and the Proposal Form to set out the whole agreement between you and us for the supply of the Services.

2.2 Please check that the details in these Terms and on the Proposal Form are complete and accurate before you commit yourself to the contract. If you think that there is a mistake, please make sure that you ask us to confirm any changes in writing, as we only accept responsibility for statements and representations made in writing by our authorised employees and agents.

2.3 Please ensure that you read and understand these Terms before you sign the Proposal Form, because you will be bound by the Terms once a contract comes into existence between us, in accordance with clause 2.7.

2.4 Any samples, drawings, descriptions or advertising we issue, and any descriptions or illustrations contained in our catalogues or brochures, are issued or published solely to provide you with an approximate idea of the Services they describe. They do not form part of the contract between you and us or any other contract between you and us for the supply of the Services.

2.5 If any of these Terms are inconsistent with any term of the Proposal Form, the Proposal Form shall prevail.

2.6 The Proposal Form is an offer by you to enter into a binding contract with us, which we are free to accept or decline at our absolute discretion.

2.7 These Terms shall become binding on you and us when:

(a) we issue you with written acceptance of an Order by providing you with a Proposal Form signed by us; or

(b) we notify you that we are able to provide the Services,

whichever is the earlier, at which point a contract shall come into existence between us.

2.8 You may within 5 working days of signing the Proposal Form, amend or cancel an Order by providing us with written notice. If you amend or cancel an Order, your liability to us shall be limited to payment to us of all costs we reasonably incur in fulfilling the Order until we receive your amendment or cancellation. However, where the amendment or cancellation is due to our failure to comply with these Terms you shall have no liability to us for it.

2.9 We have the right to revise and amend these Terms from time to time to reflect changes in market conditions affecting our business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in our system’s capabilities. You will be subject to the policies and terms in force at the time that you order the Services from us, unless any change to those policies or these Terms is required by law or government or regulatory authority in which case it will apply to orders you have previously placed that we have not yet fulfilled.

3. QUALITY OF SERVICES

3.1 Unless we are prevented from doing so by a Force Majeure Event, we will provide Services which:

(a) conform in all material respects with their description as set out in the Proposal Form;

(b) are carried out with reasonable care and skill; and

(c) are fit for any purpose we say the Services are fit for, or for any purpose for which you use the Services and about which you have informed us, or we could reasonably expect you to use the Services.

4. PROVISION OF SERVICES

4.1 You shall at your own expense and within sufficient time to enable us to provide the Services, deliver to us the Source Materials, and all other materials, data, instructions relating to the Services or information that is or are necessary to enable us to provide the Services in accordance with these Terms and the Proposal Form.

4.2 You shall at your own expense retain any required duplicate copies of Source Material and take out adequate insurance against its accidental loss or damage. We shall have no liability for any such loss or damage however caused.

4.3 If you provide us with incomplete, incorrect or inaccurate information or instructions, we may cancel the Order by giving you written notice, or we may make an additional charge of a reasonable sum to cover any extra work that is required.

4.4 The Company may at any time without notifying the Customer make any changes to the Services which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Services.

5. SUPPLY OF SERVICES

5.1 We will supply the Services to you from the date set out in the Proposal Form.

5.2 The Services will be supplied for the period set out in the Proposal Form (the “Duration”) or until completion of the Services (unless otherwise terminated in accordance with these Terms).

5.3 We will make every effort to complete the Services on time but there may be delays due to circumstances beyond our control. In this case we will complete the Services as soon as reasonably possible.

5.4 We may have to suspend the Services if we have to deal with technical problems, or to make improvements to the Service. We will let you know in advance where this occurs, unless the problem is urgent or an emergency.

6. PRICING AND PAYMENT

6.1 The pricing of the Services is set out in our price list in force at the time we confirm your Order contained the Proposal Form. Our prices are liable to change at any time, but price changes will not affect Orders which have already been accepted unless we notify you in advance of the changes.

6.2 All prices and charges referred to in these Terms shall be exclusive of Value Added Tax (“VAT”) which, where applicable, shall be charged.

6.3 We shall invoice you for the Services upon completion. In the event the Services are ongoing, we shall invoice you at regular intervals during the course of providing the Services.

6.4 On production of our invoice, you shall pay us in full for the Services provided all sums due to us within Thirty (30) calendar days of the date of the invoice. Payment shall be made by electronic transfer to our nominated bank account, the details of which are set out on the invoice.

6.5 We shall be entitled to be paid additional charges and costs if the quality or quantity of the Source Material provided by you differs substantially from that on which the agreement set out on the Proposal Form was based.

6.6 If you do not make any payment due to us by the due date for payment (as set out in clause 6.4), we may charge interest to you on the overdue amount at the rate of four percent (4%) a year above the base lending rate of the Bank of England from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with the overdue amount.

6.7 Without limiting any other remedies or rights that we may have, if you do not pay us on time, we may cancel or suspend our performance of the Services or any other outstanding Order until you have paid the outstanding amounts.

6.8 In the event that your costs are payable by a third party and an undertaking to settle your fees is received, but not honoured, you remain liable for payment of our invoice. In addition, if you are instructed by a third party in the absence of an undertaking, then similarly you will remain responsible for the payment of our invoice.

7. WARRANTIES AND LIABILITY

- 7.1 If either party fails to comply with these Terms, neither party shall be responsible for any losses that the other suffers as a result, except for those losses which we or you could reasonably foresee would result from the failure to comply with these Terms.
- 7.2 We shall have no liability to you for any loss, damage, costs, expenses or other claims for compensation arising from any Source Material or instructions supplied by you which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault by you.
- 7.3 We shall not be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our negligence or otherwise) which arise out of or in connection with the provision of the Services to you.
- 7.4 Save for clause 7.5, our entire liability owed under or in connection with the agreement shall not exceed the amount of our charges for the provision of the Services except as expressly provided in these Terms.
- 7.5 Where we have agreed with you to provide a box storage facility, in the unlikely event your box(es) and the contents therein become damaged howsoever caused whilst in storage, or transport to and from, to the extent that the damage is caused by our negligent acts or omissions, our total liability in respect of each box shall not exceed £5.00 (five pounds sterling).
- 7.6 This clause does not include or limit in any way our liability for:
- (a) death or personal injury caused by our negligence; or
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Services and Services Act 1982; or
 - (d) losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
 - (e) any other matter for which it would be illegal or unlawful for us to exclude or attempt to exclude our liability.

8. DEFECTIVE SERVICES

- 8.1 Any defect in the Digital Data or Services must be reported in writing to us within 5 working days of receipt of the Digital Data with a full description of the fault. Failing that you shall be deemed to have accepted as satisfactory the Digital Data or Service provided.
- 8.2 Any fault arising from the misuse of the Digital Data or Services by you shall not be covered by this warranty.
- 8.3 The cost of any test or transport arising from a claim for defective Digital Data or Services for which we do not accept liability will be met by you.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 The copyright, design right and all other intellectual property rights in any materials and other documents or items that we prepare or produce for you in connection with the Services will belong to us absolutely.
- 9.2 You may not use the materials, documents or other items detailed in Clause 9.1 for any commercial purpose.

10. CONFIDENTIALITY

- 10.1 Both parties agree to maintain secret and confidential all information obtained from each other in the course of providing the Services.
- 10.2 Confidential Information shall not be disclosed to any third party save to those of its employees, agents and subcontractors necessary to perform the Services and save to any extent required by law.
- 10.3 You warrant that you have the authority to instruct us to process the Source materials in connection with providing the Services without infringing the copyright or other intellectual property of any third party.
- 10.4 You warrant that you are lawfully in possession of the Source Materials and in disclosing such information to us to carry out the Services you are not bound by any confidentiality agreements with any third party, or otherwise prohibited from disclosing such information.
- 10.5 You further warrant that you have obtained all the relevant required consents from the relevant parties to whom the information relates before disclosing the information to us and you confirm that you are entitled to pass on such information to third parties on a non-confidentiality basis.

11. EVENTS OUTSIDE OUR CONTROL

- 11.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by events, acts, non-occurrence, omission or accident outside or beyond our reasonable control (Force Majeure Event).
- 11.2 Our obligations under these Terms are suspended for the period that the Force Majeure Event continues, and we will extend the time to perform these obligations for the duration of that period. We will take reasonable steps to bring the Force Majeure Event to a close or to find a solution by which our obligations under these Terms can be performed despite the Force Majeure Event.

12. TERMINATION

- 12.1 We may give notice in writing to you to terminate this agreement immediately if any of the following events occur:
- (a) you are in breach of any obligation or provision under this agreement or as required by law, including but not limited to non-payment;
 - (b) if you are a body corporate and present a petition or have a petition presented by a creditor for winding-up, or convene a meeting to pass a resolution for voluntary winding-up, or shall enter into any liquidation whether compulsory or voluntary, or shall call a meeting of its creditors, or shall have a receiver or administrator appointed over all or any of its undertaking or assets or shall be deemed by insolvent and unable to pay its debts or shall cease to carry on business; or

(c) if you are an individual and you die or shall become bankrupt or have a receiving order made against you, or negotiate any arrangement with or for the benefit of creditors; or

(d) the Source Material delivered to us at any time is of such quality as to make it (in our reasonable opinion) impractical to provide the Services in respect of such Source Material.

- 12.2 On termination howsoever or whenever occurring, you shall pay to us all costs and expenses including legal and other fees incurred, interest and all arrears of charges or other payments arising in respect providing the Services or otherwise in addition to any rights and remedies we may have under this agreement or in law.

13. NOTICES

- 13.1 All notices sent by you to us must be sent to Scanning and Data Solutions Limited situated at 1 Vicarage Road, Potten End, Berkhamstead, Hertfordshire HP4 2QZ
Fax number 01442 877440 and email sales@scansolutions.co.uk
- 13.2 We may give notice to you at either the e-mail, or fax number or postal address you provide to us in the Proposal Form.
- 13.3 Notice will be deemed received and properly served twenty-four (24) hours after an e-mail is sent or two (2) business days after the date of posting of any letter or if by fax, at the time of transmission.
- 13.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post and, in the case of an e-mail that the e-mail was sent to the specified e-mail address of the addressee and in the case of a fax that it was properly sent.

14. DATA PROTECTION

- 14.1 We will only use the personal information you provide to us to provide the Services, or to inform you about similar services which we provide, unless you tell us that you do not want to receive this information.
- 14.2 You warrant that you have obtained all the relevant required consents from the relevant parties to whom the information relates before disclosing the information to us and you confirm that you are entitled to pass on such information to third parties on a non-confidentiality basis and / or permit third parties to process or otherwise deal with such information.

15. ASSIGNMENT

You may not transfer any of your rights or obligations under these Terms to another person without our prior written consent, which we will not withhold unreasonably. We can transfer all or any of our rights and obligations under these Terms to other persons, but this will not affect your rights under these Terms.

16. SEVERANCE

If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

17. RIGHTS OF THIRD PARTIES

A person who is not a party to these Terms or the Proposal Form shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.

18. GOVERNING LAW AND JURISDICTION

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales