

EMBEDDED ISV TERMS AND CONDITIONS

These Embedded ISV Terms and Conditions (together with its appendices, the **'Embedded ISV Terms'**), apply to and are incorporated into the relevant Master Embedded ISV Agreement executed by the parties which reference these Embedded ISV Terms.

1. ISV Rights to Use the Software and Services

1.1 Trial / Pilots / Demonstrations. ISV may test the Software itself or request a free or paid for trial and/or pilot for an End Customer in accordance with following terms and conditions:

1.1.1 Trial, Pilot and Demonstration Rights. Upon request and acceptance by Scandit, Scandit will make the relevant Software (as applicable) available to: (a) ISV for the duration of the ISV Term for its own testing and evaluation purposes only, in accordance with this Section 1.1, (b) ISV for the duration of the ISV Term, solely for the purposes of ISV providing demonstrations itself of the Software as integrated into ISV Apps(s) to prospective customers and/or End Customer(s), and/or (c) the ISV for an End Customer's free trial and/or free or paid for (as agreed with Scandit on a case by case basis) pilot of the Software (as applicable) for up to 30 days (or such other period as expressly agreed by Scandit) solely for the purposes of the relevant End Customer's trial and evaluation and/or pilot (as applicable) of the Software as integrated into the ISV App, in accordance with this Section 1.1 and subject to Sub-Section 1.1.5. Additional terms and conditions may apply to such free testing, as notified by Scandit from time to time or on the webpage where End Customer or ISV registers for the test period. Any such additional terms and conditions are incorporated into the Agreement and are legally binding. License Keys applicable for the free test periods shall be provided and used in accordance with Section 2.12.

1.1.2 Trial Term. Any test periods granted under and for the periods specified in section 1.1.1 may be terminated earlier by: (i) in the case of part (c) only, the purchase of a paid for license for such Software by the relevant End Customer, or (ii) a termination by either party in accordance with the Agreement. Scandit may further terminate ISV's or an End Customer's right to the free trial at any time upon written notice to ISV.

1.1.3 ISV Test Period, Software. Subject to the terms of the Agreement, Scandit grants a limited, non-exclusive, non-transferable, non-sub-licensable license to ISV during the applicable period defined in Section 1.1.1 solely for the purposes of testing and evaluation of the Software, to integrate, use, copy, store and transmit the Software as part of ISV App on the maximum number of devices as specified in Section 1.1.1 (or as otherwise may be specified by Scandit).

1.1.4 End Customer Trial/Pilots. The rights and license for End Customer to use the Software for a free or paid for trial and/or Pilot shall be as set out in the "Trials" terms of the End Customer Key Terms and subject to the use limitations in Section 1.1.1.

1.1.5 EXCLUSIONS. DURING ANY FREE TEST PERIOD AND/OR PILOT PERIODS, THE SOFTWARE AND SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY OF ANY KIND AND THE WARRANTY PROVIDED IN THIS AGREEMENT SHALL NOT APPLY. DURING THE FREE TEST PERIOD SCANDIT DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY AND ALL LIABILITY FOR THE SOFTWARE AND SERVICES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. THE INDEMNITY PROVIDED HEREUNDER SHALL NOT APPLY IN RESPECT OF THE FREE TESTS OF THE SOFTWARE AND SERVICES.

1.2 Software License. Subject to the terms of the Agreement, Scandit grants ISV a limited, non-exclusive, non-transferable license for the Territory during the Term of this Agreement and in accordance with the Scope set out in Section 1 of the Master Embedded ISV Agreement to (a) integrate the Software into ISV App (i) itself, (ii) by ISV's Affiliates, and/or (iii) by ISV's Service Provider(s) (as applicable), solely for the purposes of reselling the Software only as integrated into the ISV App to the relevant End Customer(s) in accordance with the Scope.

1.3 Services Rights. Subject to the terms of this Agreement, Scandit grants ISV a limited, non-exclusive, non-transferable right to use the Services during the ISV Term and in accordance with the relevant ISV Scope and this Agreement. Pursuant to the Agreement, Scandit will (a) make the Services available to ISV for the applicable ISV Term, and (b) use commercially reasonable efforts to provide ISV the Services 24 hours a day, 7 days a week, except for (i) emergency down-time or planned down-time (which will be notified to ISV electronically at least 24 hours in advance), or (ii) Force Majeure Event(s) affecting Scandit.

1.3.1 License to Host Data. ISV grants Scandit a non-exclusive, worldwide license to store, copy, transmit and display ISV Data and shall procure the same right and license from End Customer for Scandit to store, copy, transmit and display any data of End Customers (defined as Your Data in the End Customer Key Terms) as necessary for Scandit to provide the Services in accordance with this Agreement. Subject to the limited licenses granted herein, Scandit acquires no right, title or interest from ISV or End Customers under the Agreement in or to ISV Data or any such End Customer data.

1.4 ISV Responsibilities relating to the Software and Services. ISV will (a) use the Software and Services only in accordance with the Documentation and applicable laws and government regulations, (b) be responsible for the design, functionality, look-and-feel, support, upgrade and maintenance of any and all aspects of ISV App, including without limitation the integration of the Software, according to any Scope or other usage or integration requirements provided by Scandit, (c) be responsible for the accuracy, quality and legality of ISV Data and the means by which ISV acquired ISV Data (and procure the same obligation from End Customers in respect of any End Customer data (defined as Your Data in the End Customer Key Terms)), (d) use commercially

reasonable efforts to prevent unauthorized access to or use of the Services and notify Scandit promptly of any such unauthorized access or use, (e) not allow any users of the Services to share their identification, password, or other authentication token with any other person, (f) not share the Software, or any of its parts with any third party for any reason except to its Affiliates, Service Providers and End Customers (as applicable), not share the License Key(s) with any third party for any reason except to ISV's Affiliates and Service Providers, where applicable, in accordance with Section 1.5, (g) not allow any End Customers to access and/or use the Software at any time after the date of termination or expiry of the ISV Term, (h) use a separate License Key and ISV App identified (also known as a bundle ID) for each of ISV's Apps, (i) include the most recent scan screen as provided by Scandit in all versions of ISV App and on all supported platforms at all times in accordance with Scandit's then current logo usage guidelines, and (j) integrate the latest version of the Software into ISV App with its next major release, unless there are reproducible speed, accuracy or stability issues with the latest version of the Software. If there are such issues, ISV will make Scandit aware of this promptly via email to support@scandit.com, and (k) comply with terms of service or other agreements of other third-party applications (web-based, mobile-based or offline) that may interoperate with the Service.

1.5 ISV Affiliates and Service Providers. ISV shall remain responsible and liable for the acts and omissions of any Affiliates and/or Service Provider and such party's use of the Software and/or Services and shall be liable for such party's breach of the Agreement. ISV shall defend, indemnify and hold Scandit and its affiliated companies harmless from and against any and all costs, losses, damages, liabilities and expenses resulting from the acts and/or omissions of such Affiliates and/or Service Providers.

1.6 ISV App Scanning Engines. ISV agrees to provide Scandit with at least ninety (90) days' prior written notice (which may be by email) if it intends to offer alternative scanning engines with its ISV Apps to allow Scandit to mutually agree with ISV in advance any required changes to the commercial structure and/or registration process which may be necessary in such event in order to protect Scandit's pricing confidentiality and intellectual property rights.

2 ISV Resale Rights and Obligations

2.1 Resale Rights and License. Subject to the terms of the Agreement, Scandit grants ISV a limited, non-exclusive, non-transferable right for the Territory during the Term of this Agreement to (a) resell the relevant Software to End Customer(s) for such End Customer(s)' use of the Software only as integrated into the ISV App in accordance with this Agreement (in particular in accordance with the Scope), and (b) for the purposes of such resale rights in subsection (a), sublicense the Software only as integrated into the ISV App to such End Customers in accordance with this Agreement.

2.2 Resale Limits. ISV is not permitted to resell the Software to an End Customer unless and until it has entered into an End Customer Contract with such End Customer. The Software may only be resold and distributed as integrated into ISV App. Except as permitted herein for the purposes of reselling the Software in accordance with the Agreement, ISV is not granted any other rights or license to resell or distribute the Software and in particular is not permitted to resell the Software other than as integrated into the ISV App.

2.3 Resale Price. ISV is at all times free to determine the price at which ISV sublicenses and resells the Software to End Customers.

2.4 Territory. Subject to, and except where prohibited by, applicable laws and regulations, upon prior written consent by Scandit (which may be by email), ISV may resell to End Customer(s) in a country outside of the Territory, provided that the parties agree that the pricing for such resales to such End Customer(s) outside of the Territory may be different to the pricing in the Scope. For the avoidance of any doubt, the definition of Territory shall not be expanded to include such additional countries except where required by applicable law.

2.5 Support. Support for the Software will be provided by Scandit in accordance with the relevant support level purchased for the End Customer. To the extent ISV assists with the Support process, it shall do so (i) with due skill and care, (ii) in accordance with good industry practice and all applicable laws and regulations, and (iii) in accordance with Scandit's then current support policies and procedures and instructions from Scandit.

2.6 End Customer Contracts. ISV shall require and ensure that End Customer executes a written agreement ("End Customer Contract") with ISV that includes at a minimum: (i) terms and conditions which are the same as or substantially and materially similar to the End Customer Key Terms, (ii) the Scope and limitations set out in section 1 of the Master Embedded ISV Agreement, (iii) the term of the license granted to use the Software as integrated into the ISV App which shall be no longer than the ISV Term, (iv) provisions designating Scandit as a third party beneficiary of such End Customer Contract to enable Scandit to enforce the terms directly against End Customer as may be required by Scandit acting in its sole discretion, and (v) provisions limiting Scandit's aggregate liability for any claims which may be brought directly by the End Customer against Scandit to no more than \$5,000 USD (collectively, the "End Customer Key Terms"). Scandit reserves the right to require ISV to provide evidence of the End Customer Contract.

2.7 End Customer Contract Commitments. ISV shall in no event agree to any license or other rights for any End Customer which are in excess of or which differ from those granted/provided in the End Customer Key Terms. Any commitments entered into by ISV with the End Customer that are in excess of or differ from the rights granted/provided in the End Customer Key Terms and/or this Agreement are invalid as they apply to Scandit unless ISV has received prior written approval from Scandit to include such variances. ISV shall be solely responsible and liable for any warranties, representations and/or other commitments made by ISV which differ from the End Customer Key Terms and Support policies of Scandit. ISV shall indemnify Scandit and its Affiliate(s)

against any and all liabilities, damages, costs and losses suffered or incurred by Scandit as a result of or in connection with (a) ISV's breach of this Agreement, (b) any commitments made by ISV in excess of or which differ from those rights granted/provided in the End Customer Key Terms or this Agreement.

2.8 Act or Omissions of End Customer. ISV will be liable for any acts or omissions of all End Customers to the extent these also constitute breaches of this Agreement, including any breaches of the End Customer Contract.

2.9 End Customer Usage Limits. Use of the Software is subject to the usage limitations set out in the Scope. If ISV and/or End Customers use and/or allow use of the Software beyond the Scope, Scandit may work with ISV to seek to reduce the usage by ISV and/or the relevant End Customers so that it is within the Scope or to expand the Scope to cover such additional use, subject to payment of the relevant fees for such expanded Scope (as applicable). In the event the ISV's or End Customers' usage exceeds the number of Active Devices agreed in the Scope, and unless both parties work to agree within 30 days to an amended Scope that covers such excess usage, Scandit will invoice ISV the applicable fees for such excess usage in accordance with the following order of precedence: (i) as set out in Section 2.1 of the Master Embedded ISV Agreement, or (ii) where no additional pricing for the relevant tier is set out in Section 2.1, according to the number of Active Devices of the next larger tier at the per Active Device rate of the tier applied in Section 2.1. ISV will pay such invoices in accordance with the terms of this Agreement.

2.10 ISV Records and Reports. ISV shall keep complete and accurate records to permit an accurate assessment of ISV's compliance with the terms of this Agreement. ISV shall provide a report and all relevant information to evidence such compliance upon request by Scandit (which shall be no more than twice per year) and in such format as reasonably requested by Scandit and shall permit Scandit or its appointed third party auditor to audit ISV (not more than once per year). In particular, upon Scandit's request and no more than twice per year, ISV shall provide Scandit, for each country in which ISV App is distributed, within thirty (30) working days of Scandit's request an original and verifiable (in Scandit's reasonable opinion) report (which may be provided, for example, via a mobile management system), listing the ISV's App and the corresponding number of Active Devices per Platform for each End Customer, covering at least the twelve (12)-month period prior to such request, including a description and screenshots of the scan screen of ISV App.

2.11 ISV General Obligations. ISV warrants to Scandit that it shall (i) carry out its rights and obligation under this Agreement with due skill, care and attention and in accordance with good industry practices and Scandit's applicable policies as notified by Scandit to ISV from time to time, (ii) comply with all applicable laws and regulations, including without limitation, any applicable anti-bribery, export laws and data protection laws and regulations, (ii) not alter or limit Scandit's Intellectual Property Rights nor take any action or inaction which would adversely affect Scandit's brand and reputation and/or jeopardize Scandit's right and title to the Software, Services and/or any other Scandit IP, (iii) not sublicense (except as otherwise permitted herein), rent, lease, modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble, attempt to derive source code from or otherwise alter the Software or the Services or parts thereof, and (iv) not substantially or materially alter Scandit's rights to audit End Customer's use of the Software.

2.12 License Keys

2.12.1 Test Keys. Scandit will provide to the ISV following the Start Date of this Agreement, a test/development License Key for ISV's internal use of the Software only.

2.12.2 Production Keys. Scandit will provide ISV one License Key per ISV App which will apply for all End Customers. As applicable, ISV must update the License Key for the Software integrated into the relevant ISV App and End Customer(s) must update such ISV App before or upon the date of expiry of the then current Initial ISV Term or Renewal ISV Term for End Customer's continued use of the Software Scandit shall not have any liability to ISV or any End Customer for any delay or failure by ISV to update the Software and/or the ISV App with such new License Key or any End Customers' failure to update the ISV App to give effect to such new License Key and for ISV and/or End Customers' (as applicable) continued use of the relevant Software and ISV App.

3 Term and Termination

3.1 Agreement Term. The term of this Agreement commences on the Start Date and, unless terminated earlier in accordance with this Agreement, shall continue for the Initial ISV Term. Thereafter this Agreement will automatically renew for additional periods equal to the Initial ISV Term but no less than 12 months ("**ISV Renewal Term**") at the end of its respective Initial ISV Term or ISV Renewal Term, as applicable, unless either party gives the other party notice of non-renewal in writing at least thirty (30) days prior to the expiry of the Initial Term or then current ISV Renewal Term (as applicable). The Initial ISV Term, together with any ISV Renewal Terms, constitute the "**ISV Term**".

3.2 Termination. This Agreement may be terminated by (a) either party immediately upon notice to the other party if the other party (i) becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors or analogous event or proceeding in any applicable jurisdiction, or (ii) breaches any of its obligations under this Agreement in any material respect, which breach is not remedied within thirty (30) days following written notice to the breaching party and/or (b) Scandit pursuant to Section 3.4.3.

3.3 Refund or Payment upon Termination. If ISV terminates the Agreement in accordance with Section 3, Scandit will refund ISV any prepaid fees covering the remainder of the then current Initial ISV Term or ISV Renewal Term (as applicable) after the

effective date of termination. If this Agreement is terminated by Scandit in accordance with Section 3, ISV will promptly pay any unpaid amounts including those covering the remainder of the then current Initial ISV Term or Renewal Term, as applicable. In no event will termination relieve ISV of its obligation to pay any fees payable to Scandit for the period prior to the effective date of termination.

3.4 Effect of Termination of Agreement and End Customer Contracts. Upon the expiration or termination of this Agreement and/or any part thereof:

3.4.1 Termination Obligations. Each party shall promptly (a) comply with its relevant payment obligations herein, and (b) return (or, with the other party's consent, destroy) all Confidential Information of the other party (including any copies thereof) that was provided to such party hereunder or is otherwise in its possession.

3.4.2 Termination of Rights. ISV's rights granted hereunder, including its right to use the Software and Services and its rights to resell and sublicense the Software hereunder shall immediately terminate and it shall procure that all End Customers immediately cease using the Software.

3.4.3 Termination of Individual End Customer. In the event (i) the End Customer Contract is terminated in accordance with its terms and/or pursuant to the Agreement, and/or (ii) any individual End Customer is in breach of the terms of the End Customer Key Terms and such breach is either incapable of remedy or not remedied within 30 days of the notice of such breach, notwithstanding any other rights and remedies of Scandit, Scandit may terminate ISV's right to sublicense to such End Customer and require ISV to ensure such End Customer ceases use of the Software immediately on such termination.

3.5 Survival. Together with any provision which by their nature are intended to survive expiration or termination of this Agreement, the provisions of Section 3.4, 3.5, 6.1, 8, 10 and 11 of this Agreement and all payment obligations under this Agreement (together with the applicable pricing and payment terms), shall survive the expiration or termination of this Agreement for any reason. The obligations under Section 6.1 and 6.2 shall continue in effect for a period of three (3) years following the expiration or termination of this Agreement, except for any information of a party which is deemed a trade secret where the obligations under Section 6.1 and 6.2 shall continue for as long as such information remains a trade secret.

3.6 Direct agreement with End Customer. In the event (i) either party terminates this Agreement in accordance with Section 3.2; and/or (ii) any End Customer requests to contract with Scandit directly at any time, Scandit reserves the right to enter into a direct contractual relationship with End Customers for the license of the Software and related Support to such End Customers.

4 Fee and Payment Terms

4.1 Fees. The Fees payable, invoicing schedules and periods within which such fees must be paid by ISV (and other payment terms in addition to those set out below) are set out in the Master Embedded ISV Agreement.

4.2 Price Updates. Scandit may update any of the prices stated in Section 2 of the Master Embedded ISV Agreement for any ISV Renewal Term by giving ISV at least sixty (60) days' written notice of any such changes prior to the commencement of the relevant ISV Renewal Term. Without prejudice to the foregoing, fees will automatically increase at the start of each Renewal Term by the higher of either the CPI or 5%. Such increases will be automatically applied to invoices from the beginning of each Renewal Term. If Scandit decides to not increase the fees, Scandit will notify ISV.

4.3 No withholding Payment. ISV may not withhold payment of any sums due to Scandit under this Agreement by reason of any delay in payment from any End Customers to ISV.

4.4 Overdue Charges. If any invoiced amount (which is not the subject of a bona fide dispute) is not received by Scandit by the due date, notwithstanding any other rights or remedies available to Scandit, Scandit reserves the right to (a) charge interest on the overdue amount at the maximum rate permitted by applicable law, but not exceeding 4% p.a., and/or (b) upon written notice to ISV if such overdue payment is more than thirty (30) days overdue, suspend (i) the relevant End Customer's license to use the Software for which the fees are overdue and/or (ii) ISV's right to use the Software and/or Services hereunder and/or its rights to sublicense.

4.5 Taxes. All pricing and the fees payable by ISV do not include any applicable taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, withholding or use taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). ISV is responsible for paying all Taxes associated with its purchases hereunder. For clarity, Scandit is solely responsible for taxes assessable against itself based on its income, property and employees.

5 Ownership

5.1 Ownership and Reservation of Rights. All Intellectual Property Rights, title and interest in Scandit's Confidential Information and trademarks and logos, the Software, Services (and any related software), and any related Documentation, and any updates thereto ("**Scandit IP**") are owned by Scandit and/or its licensors and shall remain with Scandit and/or its licensors. ISV shall not take any action inconsistent with the rights granted herein and no rights are granted to ISV except as expressly set forth in this Agreement. ISV owns all Intellectual Property Rights in the ISV App except for any Scandit IP contained in such ISV App or

otherwise provided to or accessed or used by ISV or End Customers in connection with such ISV App, this Agreement and/or an End Customer Contract.

5.2 Requisite Power and Authority. Each party represents that it has the requisite power and authority to enter into this Agreement and to perform its obligations under it.

6 Confidential Information and Data Protection

6.1 Confidentiality

6.1.1 Confidentiality Obligations. Each party undertakes that it shall (i) take all reasonable measures to protect the secrecy of, and avoid disclosure or use of, Confidential Information of the other party except as permitted herein, (ii) notify the other party in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of Confidential Information of the disclosing party which may come to the receiving party's attention, (iii) not at any time disclose to any person any Confidential Information of the other party except (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement and then in each case shall ensure any such person to whom it discloses the other party's Confidential Information complies with this clause, and (b) as may be required by law, court order or any governmental or regulatory authority.

6.1.2 Exclusions. Notwithstanding the foregoing, the receiving party shall have no liability to the disclosing party with regard to any Confidential Information which the receiving party can prove: (i) was in or has entered the public domain at the time it was disclosed through no fault of the receiving party, (ii) was known to the receiving party, without restriction, at the time of disclosure, (iii) is disclosed with the prior written approval of the disclosing party, (iv) was independently developed by the receiving party without any use of the Confidential Information of the other party, (v) becomes known to the receiving party, without restriction, from a source other than the disclosing party, without breach of this Agreement by the receiving party and otherwise not in violation of the disclosing party's rights, or (vi) is disclosed pursuant to an order of a court or other governmental or regulatory body; provided that the receiving party shall, to the extent permitted by law, provide the disclosing party with prompt notice of such court order to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure.

6.2 Pricing Confidentiality. ISV acknowledges and agrees that any and all pricing and quotations provided by Scandit (whether directly or indirectly) are Confidential Information of Scandit and ISV shall treat such pricing and quotations as strictly confidential. ISV shall not share any such pricing and/or quotations (whether directly or indirectly) with any third parties, and in particular, (i) not share (whether directly or indirectly) such pricing and/or quotation with or otherwise disclose to any of its partners or prospective partners, any competitors of Scandit, nor any End Customers or prospective customers and (ii) not present its pricing to End Customers (nor any prospective customers) in any manner which would allow or enable any End Customers to determine the pricing of the Software.

6.3 Usage Data and Data Protection. ISV acknowledges and agrees that certain Usage Data will be transmitted to Scandit from End Customers' use of the Software and warrants to Scandit that it has (or will have at the start of each End Customer Contract) all necessary and appropriate consents and notices in place to enable the lawful transfer to Scandit of any such Usage Data of End Customers and in particular for any personal data contained in the Usage Data for the Permitted Purposes (as defined in the Usage Data and Data Protection Terms and Conditions at Appendix C of these Embedded ISV Terms) and for the duration of such processing (as also defined in such Appendix C). In respect of the processing of any personal data of End Customer contained in the Usage Data collected by Scandit, each party will comply with its respective obligations set out in Part B of such Appendix C hereto. The Terms "personal data", "Usage Data", "processor", "sub-processor" and "processing" shall have the meanings set out in such Appendix C.

7 Warranty

7.1 Warranty. Scandit warrants that during the applicable ISV Term (a) the Software will operate materially in accordance with the relevant Specifications, and (b) Scandit will not materially reduce the functionality or security of the Software.

7.2 Remedy. Should a breach of a warranty provided in this Section 7.1 occur and ISV notifies Scandit within the applicable ISV Term and provides all the information that may be reasonably necessary to assist Scandit in resolving the defect or fault, Scandit will, at its sole option and expense either repair or replace the affected Software or Services. If Scandit cannot reasonably repair or replace the affected Software or Services, Scandit may terminate the Agreement (or part thereof), in which case Scandit will refund to ISV any prepaid fees covering the remainder of the Initial ISV Term or then current Renewal ISV Term (as applicable) after the date of termination for the affected Software or Services. ISV shall be responsible and liable for passing on any such remedy to the End Customers, as applicable.

7.3 Exclusions

7.3.1 THE WARRANTIES SET OUT IN SECTION 7.1 SHALL NOT APPLY TO THE EXTENT THE BREACH IS CAUSED BY OR AS A RESULT OF (I) ISV'S AND/OR END CUSTOMER'S USE OF THE SOFTWARE AND/OR SERVICES CONTRARY TO SCANDIT'S WRITTEN INSTRUCTIONS OR THE DOCUMENTATION, (II) ISV'S BREACH OF THE AGREEMENT AND/OR END CUSTOMER'S BREACH OF THE END CUSTOMER KEY TERMS, AND/OR (III) ANY MODIFICATIONS

OR ALTERATIONS OF THE SOFTWARE AND/OR SERVICES BY ANY PARTY OTHER THAN SCANDIT OR ITS DULY AUTHORIZED CONTRACTORS OR AGENTS.

7.3.2 SCANDIT CANNOT GUARANTEE THAT 100% OF ALL BARCODE READS WILL BE ACCURATE. NOTWITHSTANDING SECTION 7.1, SCANDIT SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO ISV OR ANY END CUSTOMER FOR THE CONTENTS OR RESULTS OBTAINED FROM ISV'S AND/OR ANY END CUSTOMERS' USE OF THE SOFTWARE OR ISV APP.

7.3.3 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES AND REMEDIES PROVIDED IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, TERMS AND CONDITIONS, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR TERMS AND CONDITIONS OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE OR SATISFACTORY QUALITY AND NON-INFRINGEMENT, ALL OF WHICH ARE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXPRESSLY DISCLAIMED BY SCANDIT.

8 Limitation of Liability

8.1 LIABILITY CAPS. SUBJECT TO SECTIONS 8.2 AND 8.3, EACH PARTY'S AGGREGATE LIABILITY FOR OR IN RESPECT OF ANY LOSS OR DAMAGE SUFFERED BY THE OTHER PARTY (WHETHER DUE TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT AND/OR END CUSTOMER CONTRACT(S) SHALL NOT EXCEED THE FEES PAID BY ISV TO SCANDIT UNDER THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE DATE THE CLAIM AROSE.

8.2 EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. SUBJECT TO SECTION 8.3, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND WHICH MAY BE SUFFERED BY SUCH PARTY (OR ANY PERSON CLAIMING UNDER OR THROUGH THE OTHER PARTY) IN CONNECTION WITH THIS AGREEMENT OR FOR LOSS OF PROFITS, ANTICIPATED SAVINGS, BUSINESS OPPORTUNITY, GOODWILL, OR DATA (INCLUDING CORRUPTION OF OR DAMAGE TO DATA), WHETHER OR NOT SUCH LOSSES OR DAMAGES ARE FORESEEABLE; AND WHETHER THE SAME ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

8.3 LIABILITIES THAT ARE NOT EXCLUDED. THE EXCLUSIONS IN THIS SECTION 8 SHALL APPLY TO THE FULLEST EXTENT PERMISSIBLE AT LAW BUT (A) NEITHER PARTY EXCLUDES OR LIMITS ITS LIABILITY FOR: (I) ITS BREACH OF THE CONFIDENTIALITY OBLIGATIONS UNDER SECTIONS 6.1 AND 6.2, (II) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, OR OF ITS OFFICERS, EMPLOYEES, CONTRACTORS OR AGENTS; (III) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (IV) ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW, AND (B) ISV'S LIABILITY SHALL NOT BE EXCLUDED OR LIMITED FOR (I) ITS, ITS AFFILIATES AND/OR ITS SERVICE PROVIDER'S INFRINGEMENT OF SCANDIT'S INTELLECTUAL PROPERTY RIGHTS, (II) ITS INDEMNITY OBLIGATIONS HEREUNDER, AND/OR (III) ITS PAYMENT OBLIGATIONS HEREUNDER.

8.4 FORCE MAJEURE. SCANDIT SHALL NOT HAVE ANY LIABILITY TO ISV OR ANY END CUSTOMER UNDER THIS AGREEMENT AND/OR THE END CUSTOMER CONTRACT IF IT IS PREVENTED FROM, OR DELAYED IN, PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT AND/OR THE END CUSTOMER KEY TERMS AND/OR FROM CARRYING ON ITS BUSINESS BY A FORCE MAJEURE EVENT.

9 Indemnification by Scandit

9.1 If a claim or action is brought against ISV or End Customer by a third party alleging that the Software provided by Scandit under this Agreement when used in accordance with this Agreement and the End Customer Key Terms (as applicable) infringes or misappropriates such third party's copyright or patent (a "**Claim Against ISV**"), Scandit shall, at its own expense, defend ISV or End Customer against (or at its option settle) any such Claim Against ISV and indemnify ISV or End Customer for any damages finally awarded against ISV and/or End Customer by a court of competent jurisdiction or agreed upon in a court-approved settlement or a settlement of such Claim Against ISV by Scandit, provided that ISV:

- a. provides Scandit with prompt written notice of the Claim Against ISV,
- b. grants Scandit sole control of the defense and settlement of the Claim Against ISV,
- c. does not enter into any settlement or compromise of any such Claim Against ISV without Scandit's prior written consent,
- d. provides Scandit all reasonable information and assistance for the Claim Against ISV, at Scandit's expense, and
- e. uses all commercially reasonable efforts to mitigate any loss, damage or costs related to the Claim Against ISV.

9.2 If ISV notifies Scandit of a Claim Against ISV and ISV complies with Sections 9.1 (a)-(e) above or Scandit receives information about an infringement or misappropriation claim related to the Software, Scandit may at its option and expense:

- a. replace or modify the Software so that it no longer infringes or misappropriates;
- b. procure a license allowing ISV and End Customer to continue using the Software in accordance with the Agreement and the End Customer Key Terms; or
- c. terminate ISV's and relevant End Customers right and license to use and to sublicense the affected Software (and this Agreement, as applicable), reimburse ISV any prepaid fees covering the remainder of the Initial ISV Term or the current Renewal ISV Term for the affected Software for the period after the date of termination, and either take back the infringing Software to the extent possible or require ISV to remove/delete the infringing Software (and ISV shall ensure all End Customers do the same).

9.3 Scandit's defense and indemnification obligations set out in this Section 9 do not apply to the extent a Claim against ISV arises from:

- a. ISV Data or any data of End Customers,
- b. ISV App(s) or any other program code created by or for ISV or End Customer and/or ISV's integration of the Software and/or the combination of the Software with any third party products and/or services,
- c. ISV and/or End Customer's use of Software otherwise than in accordance with this Agreement, End Customer Key Terms and/or Specifications, or
- d. ISV use of the Software and/or Services after the end of the ISV Terms and/or End Customer's use of the Software after the end of the ISV Term, or ISV's and/or End Customer's use of a version of the Software that is no longer current and the alleged infringement would have been avoided by using the latest version which Scandit has made available to ISV.

9.4 SECTION 9 STATES SCANDIT'S ENTIRE LIABILITY AND ISV'S AND THE RELEVANT END CUSTOMER'S EXCLUSIVE REMEDY IN RESPECT OF ANY ACTUAL OR ALLEGED INDEMNITY CLAIMS AND IS SUBJECT TO THE LIMITATION OF LIABILITY IN SECTION 8.

10 Indemnification by ISV

10.1 If a claim or action is brought against Scandit by a third party alleging that any ISV App, ISV Data, End Customer data, program code created by or for ISV or ISV's or any End Customers use of the Software and/or Services in breach of this Agreement infringes or misappropriates such third party's Intellectual Property Rights or violates applicable law (a "**Claim Against Scandit**"), ISV will defend and indemnify Scandit from any damages finally awarded against Scandit by a court of competent jurisdiction or agreed upon in a court-approved settlement or a settlement of such Claim Against Scandit by ISV, provided Scandit:

- a. provides ISV with prompt written notice of the Claim Against Scandit,
- b. grants ISV sole control of the defense and settlement of the Claim Against Scandit,
- c. does not enter into any settlement or compromise of any such Claim Against Scandit without ISV's prior written consent,
- d. provides ISV all reasonable information and assistance for the Claim Against Scandit, at ISV's expense, and
- e. uses all commercially reasonable efforts to mitigate any loss, damage or costs related to the Claim Against Scandit.

11 General

11.1 NO REPRESENTATIONS. EACH PARTY AGREES THAT, IN ENTERING INTO THE AGREEMENT, EITHER IT DID NOT RELY ON ANY REPRESENTATIONS (WHETHER WRITTEN OR ORAL) OF ANY KIND OR OF ANY PERSON OTHER THAN THOSE EXPRESSLY SET OUT IN THIS THE AGREEMENT OR IF IT DID RELY ON ANY REPRESENTATIONS, (WHETHER WRITTEN OR ORAL), NOT EXPRESSLY SET OUT IN THE AGREEMENT, THAT SUCH PARTY SHALL HAVE NO REMEDY IN RESPECT OF SUCH REPRESENTATIONS AND (IN EITHER CASE) NEITHER PARTY SHALL HAVE ANY LIABILITY OTHERWISE THAN IN ACCORDANCE WITH THE EXPRESS TERMS OF THE AGREEMENT.

11.2 Export. Each party acknowledges and agrees that the Software and Services provided under this Agreement may be subject to the export and import control laws of various countries, including, without limitation, the laws of the UK and the United States. Each party agrees to comply fully with such applicable export laws and regulations which apply to it. ISV will not transfer, export or re-export any Software licensed, or data or information provided under this Agreement into any country, or to any person or entity (including its own employees and consultants), in violation of such export restrictions and controls. ISV further agrees that it will not submit the Software, Services or Documentation to any government agency for licensing consideration or other regulatory approval without Scandit's prior written consent.

11.3 Assignment. Except as provided herein, neither party may assign the Agreement, in whole or in part, without the prior written consent of the other party, not to be unreasonably withheld, and any attempt by either party to assign or transfer the Agreement without the prior written consent of the other party will be null and void. Scandit may assign this Agreement to any of its associated companies, successors or assigns without ISV's consent. Scandit may further use subcontractors under the Agreement and shall be liable for any breach of the Agreement by its subcontractors.

11.4 No Third Party Rights. A person who is not a party to this Agreement has no rights to enforce, or to enjoy the benefit of, any term of the Agreement, but this does not affect any right or remedy of a third party that is expressly provided for under the Agreement.

11.5 Manner of Giving Notice. Except as otherwise specified in this Agreement or below, all notices, permissions, and approvals hereunder shall be in writing and shall be deemed to have been given upon the date: (i) of personal delivery, (ii) of receipt of registered mail, (iii) of sending by e-mail (provided that e-mail shall not be sufficient for notices of termination for cause or an indemnifiable claim). E-mail notices to Scandit shall be directed to terminations@scandit.com for termination without cause notices and to legal@scandit.com for indemnification claims, termination for cause notices and any other notices, such as related to assignment. E-mail notices to ISV shall be addressed to ISV's nominated contact as set out in the table at the start of this Agreement (and ISV shall keep Scandit informed of any changes to such contact). Notices from ISV relating to the termination of the Agreement or Order Form for cause or to an indemnification claim under Section 10 must be sent by registered mail to Scandit with email copy to legal@scandit.com.

11.6 Severability. If any provision or part of a provision in the Agreement is held to be illegal, invalid, or unenforceable by a court or other decision-making authority or competent jurisdiction, then the remainder of the provision will be enforced so as to effect the intention of the parties, and the validity and enforceability of all other provisions in the Agreement will not be affected or impaired.

11.7 Waiver. The failure of either party to exercise any right granted herein or to require any performance of any term of the Agreement or the waiver by either party of any breach of the Agreement shall not prevent a subsequent exercise or enforcement of, or be deemed a waiver of any subsequent breach of, the same or any other term of the Agreement.

11.8 Entire Agreement. The Agreement sets out the entire agreement and understanding between ISV and Scandit relating to its subject matter. Unless otherwise expressly agreed in writing, the Agreement applies in place of and prevails over any terms or conditions contained in or referred to in any correspondence or elsewhere or implied by trade custom or course of dealing. Any general terms of business or other terms and conditions of any order or other document issued by ISV in connection with this Agreement shall not be binding on Scandit.

11.9 Modifications. No modification, addition or deletion, or waiver of any of the terms and conditions of the Agreement shall be binding on either party unless made in an agreement clearly understood by both parties to be a modification or waiver and signed by a duly authorized representative of each party.

11.10 Relationship between ISV and Scandit. The relationship between ISV and Scandit is that of independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, employment or any such similar relationship between ISV and Scandit.

11.11 Governing Law and Jurisdiction. This Agreement shall be governed by the applicable laws and subject to the applicable jurisdiction as set out in Appendix A to the Agreement.

11.12 Counterparts. This Agreement may be executed in one or more counterparts, each in the English language and each of which shall be deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

12 Definitions:

Active Device: a device on which the Software was initialized at least once in any given month during the first twelve (12) month period of the Initial ISV Term following the Start Date or in any subsequent twelve (12) month period of the ISV Term.

Agreement: these Embedded ISV Terms including any appendices, together with the terms and conditions of the corresponding Master Embedded ISV Agreement.

Affiliate(s): an entity that directly or indirectly controls, is controlled by, or is under common control with, a party to the Agreement. For the purposes of the foregoing, "control" means the ownership of (i) greater than fifty (50) percent of the voting power to elect directors of the entity, or (ii) greater than fifty (50) percent of the ownership interest in the entity.

Confidential Information: all confidential or sensitive information or data, whether obtained before or after the Start Date of this Agreement in respect of the products, services, software, developments, trade secrets, customers and suppliers of either party and/or any other information (whether commercial, financial, technical or otherwise) which is identified as confidential or proprietary information at the time of disclosure or is otherwise reasonably known to be confidential or proprietary given the nature of the information disclosed. For the avoidance of any doubt, the parties acknowledge and agree that all pricing in this Agreement and/or otherwise provided by Scandit, whether directly or indirectly, and any quotations provided to ISV are deemed the Confidential Information of Scandit.

CPI: the latest monthly year-on-year Consumer Price Index published at minimum 60 days before the applicable Renewal Order Form Term by the source listed below for the currency in which the fees are denominated

- US Dollar: "CPI-U All Items" metric as published by US Bureau of Labor Statistics
- Pound Sterling: "CPIH Annual Rate All Items" metric as published by United Kingdom Office for National Statistics
- Swiss Franc: "CPI Total" metric as published by the Swiss Federal Statistical Office
- Euro: "Harmonised Index of Consumer Prices - Overall Index" metric as published by the European Central Bank
- Japanese Yen: "Consumer Price Index - All Japan" metric as published by Statistics Bureau of Japan

Dashboard: Scandit's web-based customer dashboard, or such other system, which it makes available to ISV during the ISV Term, where ISV may download the Software and any Maintenance Releases as made available by Scandit and where ISV may access and view Usage Data analytics reports.

Documentation: Scandit's online user manuals, tutorials, documentation and help and training materials as made available by Scandit for the relevant Software and Services.

Embedded ISV Terms: these Embedded ISV Terms and Conditions.

End Customer: ISV's customer to which the Software is being sublicensed as integrated into the ISV App in accordance with the Scope and this Agreement.

End Customer Contract: has the meaning given in Section 2.6 of these Embedded ISV Terms.

End Customer Key Terms: has the meaning set out in Section 2.6 of these Embedded ISV Terms.

End Customer Terms and Conditions for Software: means the Scandit End User Terms and Conditions for Software found at <https://ssl.scandit.com/terms/endcustomerterms.pdf>.

Force Majeure Event: any acts, events, omissions or accidents beyond Scandit's reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, act of terror, Internet service provider failure or delay, denial of service attack, fire, flood or storm.

Initial Active Devices: means the initial number of permitted Active Devices per year as set out in the Scope.

Initial ISV Term: means the initial term, beginning on the Start Date, of ISV's rights to use the Software and Services and to resell the Software as integrated into the ISV App (and to receive related Support) hereunder, as set out in the Scope table in Section 2 of the Master Embedded ISV Agreement.

Intellectual Property Rights: any and all now known or hereafter existing (i) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (ii) trademark or service mark rights (iii) trade secret rights; (iv) patents, patent rights, and industrial property rights; (v) layout rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (vi) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

ISV: the independent software vendor contracting entity, as identified in the first table above.

ISV App: the application (which may be mobile or web-based as permitted in the Scope) that ISV (or ISV's Affiliate and/or Service Provider on ISV's behalf) has developed and/or licensed from a third party and will distribute to End Customer(s) and integrates the Software Component.

ISV Data: any data and information submitted electronically by ISV or collected by or for ISV in connection with its use of the Software and/or Services.

ISV Term: has the meaning given in Section 3.1 of these Embedded ISV Terms.

ISV Renewal Term: has the meaning given in Section 3.1 of these Embedded ISV Terms.

License Key: a license key Scandit provides ISV to activate and use the Software.

Maintenance Release: a release of the Software which provides compatibility updates and maintenance and updates to special features that have been explicitly licensed.

Scandit: the relevant Scandit entity entering into this Agreement as identified in Appendix A to this Agreement.

Scope: the limits within which the Software and/or Services (as applicable) may be accessed and used by ISV and the End Customers, as set out in Section 2 of the Master Embedded ISV Agreement.

Services: the access to and use of the Dashboard by ISV as made available by Scandit in accordance with this Agreement.

Service Provider(s): the third-party providers used by ISV to develop the ISV App(s) and/or provide other services in connection with the ISV App(s).

Specifications: the specifications of the Software and/or Services as set out at: <https://ssl.scandit.com/terms/specifications.pdf>.

Software: the software that ISV is licensing under this Agreement as detailed in the Scope table in Section 2 of the Master Embedded ISV Agreement and that Scandit licenses to ISV for integration into the ISV App and sublicense to End Customer(s) only as integrated into the ISV App.

Start Date: means the 'Start Date' specified in the Scope table in Section 2 of the Master Embedded ISV Agreement which shall be the start date of the Initial ISV Term and the effective date of this Agreement.

Support: the level of support Scandit provides for the Software which will be provided as of the Start Date in accordance with the level of Support ordered (as identified in the Scope table in section 2 of the Master Embedded ISV Agreement). The levels of support offered are detailed in Appendix B herein.

Taxes: has the meaning given in Section 4.5 of these Embedded ISV Terms.

Territory: means the geographic region listed in the Scope.

Usage Data: means the data transmitted to Scandit from ISV's and/or an End Customer's (and their users of the ISV App) use of the Software as detailed in Appendix C herein.

Appendix A – Scandit Entity, Governing law and Jurisdiction.

This table outlines the relevant Scandit contracting entity, governing law and jurisdiction for this Agreement

If ISV is domiciled in:	Applicable Scandit Entity entering into this Agreement	The law governing of this Agreement and the applicable jurisdiction is:
Americas	Scandit Inc. 711 Atlantic Avenue Boston MA 02111 USA	The laws of the State of New York, excluding its conflicts of law rules. The parties agree that all disputes arising out of this Agreement shall be subject to the exclusive jurisdiction and venue in the federal and state courts within New York County, New York. The parties hereby consent to and waive defenses of the personal and exclusive jurisdiction and venue of these courts. The United Nations Convention on the International Sale of Goods (CISG) shall not apply.
Anywhere other than the Americas	Scandit AG. Hardturmstrasse 181 8005 Zürich Switzerland	Substantive Swiss law excluding the conflict of law rules and the Laws in treaties including but not limited to the Uniform Law on Purchases (Vienna treaty). The courts of Zurich, Switzerland shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement. The United Nations Convention on the International Sale of Goods (CISG) shall not apply.

Appendix B - Support Levels

Support	Basic	Medium	Premium
Performance Improvements as available	Yes	Yes	Yes
Maintenance updates as available	Yes	Yes	Yes
On-line documentation as available	Yes	Yes	Yes
E-Mail support	Yes	Yes	Yes
Phone support	No	No	Yes
Support times	9:00 am – 5:00 pm CET	9:00 am – 5:00 pm CET	24/5 (weekdays only)
Response times	3 business days	2 business days	1 business day
Support old releases	3 months	6 months	12 months

Appendix C – Usage Data and Data Protection Terms and Conditions

Part A – Usage Data and Purposes for which Scandit Inc. collects it.

<p>If Analytics are not used with the Software/Services:</p>	<p>The following types of data are collected on Software and/or Services up to one time per month for debugging, statistical analysis, performance monitoring and improvements, and/or license compliance purposes:</p> <ul style="list-style-type: none"> ● Installation Identifier - an identifier that identifies the individual installation of Our Software or Your App that integrates Our Software Component on a particular device ● License Key identifier - an identifier that uniquely identifies the license key used by Our Software Application or Your App that integrates Our Software Component ● IP address - the communication address that is used for data transmission purposes ● Device model - the model name that identifies the device type on which Our Software Application or Your App that integrates Our Software Component is used ● Application identifier - the identifier that is used to identify Our Software Application or Your App that integrates Our Software Component ● Version and use of Scandit product - the version number of Our Software used and the scan count ● Operating system and version - the operating system name and its version of the device on which Our Software Application or Your App that integrates Our Software Component is used
<p>If Analytics are used with the Software/Services:</p>	<p>All of the above data and the following additional data is collected with each scan for debugging, performance monitoring and improvement, analytics and license compliance purposes:</p> <ul style="list-style-type: none"> ● Scan engine and device status information - parameters of the decoding process (for customers using OCR the above also includes pixel data) ● Scan engine results - the data decoded by Our Software (e.g. data encoded in a barcode or text field) ● Location coordinates (if collected by Your App)

Part B – Data Protection Terms and Conditions

These Data Protection Terms and Conditions (“**DP Terms**”) apply to each party in respect of the provision, collection and processing of any of ISV’s data or the personal data of users of the ISV App.

1. DEFINITIONS

- 1.1 Unless otherwise defined below, defined terms used in these DP Terms shall have the meaning given to them in the Agreement:
 - 1.1.1 **Applicable Data Protection Laws:** all applicable statutory and regulatory requirements regarding privacy and the protection of “personal data” or “personally identifiable information” (as defined by such laws) and as amended from time to time, including without limitation, Regulation (EU) 2016/679 of the European Parliament and any applicable acts and regulations which bring it into force, and the California Consumer Privacy Act of 2018 (CCPA).
 - 1.1.2 **Controller, personal data, processor, data subject, process and processing:** have the meaning set out in Applicable Data Protection Laws.
 - 1.1.3 **Permitted Purposes:** has the meaning given in clause 2.1 of these DP Terms.

- 1.1.4 **Process Duration:** has the meaning given in clause 2.2 of these DP Terms.
- 1.1.5 **Sub-processor:** Scandit Inc. and any third party it appoints (including any of Scandit Inc.'s group companies) to process personal data for it or on its behalf in connection with the Agreement.

2. DATA PROTECTION OBLIGATIONS

- 2.1 **Permitted Purpose.** Some of the Usage Data Submitted to Scandit and our Sub-processors in ISV or End Customers' use of the Software and/or Services may be considered as personal data under Applicable Data Protection Laws. Scandit and its Sub-processors use such Usage Data for the Permitted Purposes (as defined in this clause). To the extent such Usage Data contains any of ISV's or End Users' personal data, ISV is the controller of such personal data and appoint Scandit as a processor and permits Scandit to appoint our Sub-processors to process any such personal data on behalf of ISV as necessary for Scandit to provide Scandit's Services and/or licensing the Software to ISV (including, without limitation, the use purposes set out in part A of this Appendix 3) and/or as Scandit may otherwise agree with ISV in writing and in accordance with (i) these DP Terms, (ii) the Agreement, and (iii) any particular written instructions ISV may provide to Scandit ("Permitted Purposes"). ISV will ensure that ISV has all necessary appropriate consents and notices in place to enable lawful transfer to Scandit and Scandit's Sub-processors of the personal data contained in the Usage Data for the Permitted Purposes and for the Process Duration. Scandit agrees not to access or use personal data ISV provides, except for the Permitted Purpose, or as necessary to comply with applicable laws.
- 2.2 **Process Duration.** Our Software and/or Services will transmit Usage Data to Us and our Sub-processors and We will process Your personal data which is part of that Usage Data for (i) the Order Form Term and for as long as Our Software and/or Services (as applicable) are used by You and/or Users of Your App, which may be after the date of expiration or earlier termination of the Agreement, plus (ii) the period required to delete or otherwise dispose of Your personal data after You and/or Your Users cease such use in accordance with clause 2.6 of these DP Terms ("Process Duration"). We and our Sub-processors may retain anonymised data after expiry or termination of the Agreement for purposes of improving the software and/or services.
- 2.3 **Technical and Organisational Measures.** Scandit will ensure that Scandit and its Sub-processors have in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, anonymising, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, and regularly assessing and evaluating the effectiveness of the technical and organisational measures Scandit and its Sub-processors adopt).
- 2.4 **Assistance with Compliance.** Scandit will and will procure that its Sub-processors assist ISV and End Users, at your cost, in responding to any request from a data subject in relation to the Agreement and these DP Terms and in ensuring compliance with your obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.
- 2.5 **Confidentiality Obligations.** Scandit will ensure that any person Scandit authorises to process ISV or End User personal data (including Scandit's Sub-processors) protects the personal data in accordance with Scandit's confidentiality obligations under the Agreement.
- 2.6 **Deletion of Personal Data.** When ISV and End Users cease using Scandit's Services and/or Software (as applicable), Usage Data will no longer be transmitted to Scandit or Scandit's Sub-processors. Once ISV and End Users cease to use Scandit's Services and/or Software (as applicable), Scandit and its Sub-processors will, within a reasonable period after such use ceases, destroy, or otherwise dispose of any or all ISV or End User personal data in Scandit's possession or Scandit's Sub-processor's possession (except where Scandit is required by law to keep a copy).
- 2.7 **Security Incident Reporting.** If Scandit or its Sub-processors become aware of any accidental, unauthorised or unlawful destruction, loss, alteration, or disclosure of, or access to personal data ISV or End User have provided (a "**Security Incident**"), Scandit will notify ISV promptly and provide ISV promptly with a detailed description of the Security Incident and the identity of each affected data subject, with periodic updates, and any other information ISV may reasonably request in relation to such Security Incident.
- 2.8 **Subcontracting.** ISV consents to Scandit engaging the Sub-processors and other sub-processors to process personal data for Permitted Purposes, provided that:
 - 2.8.1 Scandit imposes data protection terms on any sub-processor Scandit appoints that require it to protect the personal data to the standard required by Applicable Data Protection Law; and
 - 2.8.2 Scandit remains liable for any breach of these DP Terms that is caused by an act, error or omission of Scandit's Sub-processors and other sub-processors; and
 - 2.8.3 Scandit will provide ISV with the then current list of any such sub-processors upon ISV's request.

- 2.9 **Transfer of Data Outside the EEA.** Scandit will only transfer personal data outside the EEA (including to its Sub-processors) where Scandia has complied with its obligations under Applicable Data Protection Laws in ensuring adequate safeguards in relation to such transfer.
- 2.10 **Audit.** Scandit will maintain complete and accurate records and information to demonstrate its compliance with these DP Terms and, subject to the following (sentence), allow for audits of such records and information by ISV or ISV's designated auditor solely for the purpose of checking Scandit's compliance with these DP Terms, provided that (i) such audit is at ISV's expense and no more than once per year (except where required by a relevant regulatory authority), (ii) reasonable prior written notice is given to Scandit, (iii) such audit shall not materially interfere with Scandit's day to day business operations, and (iv) ISV shall use best endeavours to comply with Scandit's security policies. As a first step prior to any such audit, Scandit may, at its option, initially provide ISV with a report verifying Scandit's compliance with its obligations under the Applicable Data Protection Laws (which shall constitute Scandit Confidential Information) and ISV shall only request a further audit if ISV has reasonable grounds for believing the measures described in the report to be insufficient.