

Software License

These terms and each Order Form, including all documents referenced in them, constitute a separate “**Agreement**”. The parties may deviate from these terms in a signed Order Form by identifying the provisions they wish to deviate from. Otherwise, these terms prevail over Order Forms to the extent of discrepancy. The parties to the Agreement, that is the “**Company**” and “**Scandit**”, are identified in the Order Form.

1. Term, Auto-Renewal, Termination

- 1.1. The Agreement is valid from the earlier of the last signature or the first Start Date in the Order Form. It remains valid through the last End Date and all renewals. Please see the Scope table in the Order Form for “**Start Date**” and “**End Date**”.
- 1.2. During the term, there may be various “**Subscription Periods**”, each with their own Start Date and End Date. These are e.g. for different products or for different quantities. Such Subscription Periods are set out in separate columns in the Scope table.
- 1.3. Pilots do not renew automatically. Pilots are identified as such in the Order Form Scope table. In all other cases the Agreement renews automatically on a rolling basis from the last End Date, and from each anniversary. Renewals are for the same length as the initial term (from the first Start Date through the last End Date), but not less than 12 months.
- 1.4. Either party may cancel auto-renewal by notice to the other party at least 30 days before such End Date (or its anniversary). The notice must be in the English language and received by Scandit at terminations@scandit.com. Scandit will send such notices to the Company Email.
- 1.5. The Agreement may be terminated by one party immediately upon notice to the other party (i) if the other party becomes subject of a petition in bankruptcy or other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors or analogous in applicable jurisdiction, or (ii) for material breach by the other party if the breach is not remedied within 30 days from a written notice by the non-breaching party.
- 1.6. Upon termination of the Agreement, the Company must cease using the Dashboard and Software and delete all copies and parts of it.

2. Software and License

- 2.1. Scandit offers two types of “**Software**”, “**Software Components**” (which are software development kits, SDKs) and “**Software Applications**” (which are stand-alone apps). The Software type is identified in the Order Form.
- 2.2. The Software does not function without a valid license key and will cease to function if the license key expires. A separate and valid license key must be used for each App.
- 2.3. The Software may transfer certain data to Scandit. The types of data transferred depend on the license key settings that the Company can select in the Order Form. See data description and applicable terms available at <https://ssl.scandit.com/terms/annex-to-scandit-software-license.pdf?version=2023-12-06-00-00>.
- 2.4. Scandit grants the Company a license to the Software as follows: The Company has the license to use, copy, and distribute the Software to Users for them to use the Software. If the licensed Software is a Software Component, the Company has the license to integrate the Software into the App and the licenses are limited to the Software as it is so integrated. All licenses are limited as set out in the Scope and revocable at termination and for breach. Licenses are non-exclusive, non-sublicensable, non-transferable, and non-assignable.
- 2.5. If so agreed in the Order Form, the Company can allow its Affiliates to use the Software. If the Company uses third-party developers to work on the App, the Company can allow such developers to use the Software for the sole purpose of developing and maintaining the App. Use by Affiliates and developers counts towards the Company’s use. The Company ensures that Affiliates and developers comply with the Agreement.
- 2.6. Test Licenses. Scandit may provide the Company with license keys for test purposes. The test license is the same as set out above except that under the test license the Software may only be used for testing and evaluation purposes, not for production. Test license begins upon Scandit issuing a test license key and ends at the earliest of either 2 years from start or upon termination. Test licenses are free of charge.
- 2.7. FOR TEST LICENSES: THE SOFTWARE IS PROVIDED “AS-IS”, WITHOUT WARRANTY OF ANY KIND. SCANDIT’S INDEMNIFICATION OBLIGATIONS DO NOT APPLY, AND TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, SCANDIT WILL HAVE NO LIABILITY FOR THE SOFTWARE OR LOSSES RELATED TO THE SOFTWARE OR ITS USE.

3. No Implied Licenses - Ownership

There are no implied rights or licenses under the Agreement. Each party retains the right, title and interest in its own materials and information (including new versions and derivatives). Without limiting the foregoing, Company will not sublicense, rent, lease, modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble, attempt to derive source code from or alter the Software or the Dashboard or parts thereof.

4. Certain Company Responsibilities

- 4.1. On Scandit’s reasonable request and no more often than twice per contract year, the Company will report usage in accordance with the Scope. The report must cover at least the immediately preceding 12 months, be sufficient to confirm the Company’s compliance with the Scope and be reasonably verifiable to Scandit.
- 4.2. Company shall use the Software and the Dashboard only in accordance with the documentation (available at: scandit.com/developers) and laws and regulations applicable to the App, and not share the license keys, Dashboard access, the Software or any parts with any third party except as expressly permitted herein. The Company shall include Scandit’s scan screen in the App at all times in accordance with Scandit’s guidelines and integrate the latest stable version of the Software into the App within reasonable time from the Software’s release.

5. Fees and Related Provisions

- 5.1. Fees and payment terms are set out in the Order Form. Except as otherwise specified, (i) payment obligations are non-cancelable, (ii) fees paid are non-refundable (subject to clause 5.4), and (iii) quantities ordered cannot be decreased during the Subscription Period.
- 5.2. Fees will automatically increase at the start of each renewal by the higher of either the CPI or 5%. Such increases will be automatically applied to invoices as of each renewal. Scandit will notify other fee changes to the Company Email at least 60 days before each renewal. Such changes are effective as of the applicable renewal.

- 5.3. If the Company disputes fees in good faith and cooperates with Scandit to resolve the dispute swiftly, Scandit will not exercise its right to suspend during good faith discussions. Otherwise, Scandit has the right to suspend the Company's use of and rights and licenses to the Software and the Dashboard if any amount is 30 or more days overdue. Scandit will notify the Company at least 10 days before suspension.
- 5.4. If the Company terminates for breach, Scandit will refund prepaid fees for unused Subscription Periods from termination effective date. If Scandit terminates for breach, the Company will promptly pay unpaid amounts, including for the remainder of the Subscription Period.
- 5.5. Taxes. Each party is responsible for taxes assessable against it in its jurisdiction. Taxes (for example, value-added, sales and/or use taxes) for the rights and licenses granted are not factored in the pricing. The Company is responsible for paying such taxes.

6. Representations and Warranties

- 6.1. Each party represents that it has the requisite authority to enter into and perform the Agreement.
- 6.2. Scandit warrants that (i) the Software operates materially in accordance with the relevant specifications (available at: ssl.scandit.com/terms/specifications.pdf) during the support period set out in the Order Form, (ii) the Software and related support are developed and provided with reasonable skill and care and in accordance with good industry standards, and (iii) Scandit will not materially reduce the functionality or security of the Software during the Subscription Period.
- 6.3. If the Company believes Scandit is in breach of a warranty provided above, the Company must promptly notify Scandit after it becomes aware of the breach. The company will provide information necessary to assist Scandit in identifying and resolving the breach. Scandit will, at Scandit's sole option and expense, either repair or replace the affected Software. If Scandit cannot reasonably repair or replace the affected Software, Scandit will refund prepaid unused fees for the affected Software and terminate the related license.
- 6.4. The software warranties set out above do not apply to the extent the breach results from the Company's non-compliance with the Agreement or any alterations of the Software by anyone other than Scandit. The Company acknowledges that not all scans can be accurate. Scandit has no responsibility for results obtained from the Company's use of the Software.
- 6.5. TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, THE WARRANTIES AND REMEDIES PROVIDED IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, TERMS AND CONDITIONS, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING IMPLIED WARRANTY OR TERMS AND CONDITIONS OF MERCHANTABILITY, ACCURACY, OR FITNESS FOR A PARTICULAR PURPOSE.

7. Liability Exclusions and Limitations

- 7.1. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR ANY LOSS OF REVENUE, PROFITS, SALES, DATA, DATA USE, GOODWILL, OR REPUTATION, WHETHER OR NOT THEY ARE FORESEEABLE.
- 7.2. TO THE EXTENT NOT PROHIBITED BY LAW, EACH PARTY'S AGGREGATE LIABILITY RELATED TO THE AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE TOTAL AMOUNTS PAID IN THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.
- 7.3. TO THE EXTENT NOT PROHIBITED BY LAW, THE LIABILITY LIMITS SET OUT ABOVE SHALL NOT APPLY TO (i) THE INTELLECTUAL PROPERTY INDEMNITIES PROVIDED IN SECTION 8, (ii) THE COMPANY'S INFRINGEMENT OF SCANDIT'S INTELLECTUAL PROPERTY RIGHTS, OR (iii) ANY AMOUNTS PAYABLE BY THE COMPANY.
- 7.4. This section is not intended to affect liabilities which by law cannot be limited or excluded.

8. Indemnification

- 8.1. If an unrelated third party makes a claim against either the Company or Scandit (each an "indemnified party") that any material or information (collectively, "material") of the other party ("indemnifier") related to the Agreement infringes the third party's intellectual property rights, the indemnifier will, at its expense and option, defend the indemnified party against or settle the claim. The indemnifier will also, at its expense, indemnify the indemnified party from damages, costs and expenses either awarded by a court to the third party or agreed in a settlement by the indemnifier.
- 8.2. If a claim is brought, the indemnified party shall (i) notify the indemnifier promptly in writing, (ii) give the indemnifier sole control of defense and settlement, and (iii) give the indemnifier the information, authority and assistance needed to defend against or settle the claim.
- 8.3. In case of a claim or if the indemnifier believes or it is determined that any material may violate a third party's intellectual property rights, the indemnifier may choose to modify or replace the material to be non-infringing (while substantially preserving its functionality) or obtain a license for continued use. If these alternatives are not commercially reasonable, the indemnifier may terminate the license or rights for the affected material and/or the applicable order. In such a case the indemnifier will refund unused, prepaid fees and the indemnified party will return the material to the indemnifier.
- 8.4. The indemnifier will have no liability or obligations under this section to the extent the claim relates to (i) use or combination of the material with other material not from the indemnifier, (ii) modification of the material by anyone other than the indemnifier, (iii) indemnified party using an old version of the material if the claim could have been avoided by using the latest available version, (iv) the indemnified party continuing any allegedly infringing activity after being informed of it and provided with an alternative that would have avoided the alleged infringement, or (v) the indemnified party's non-compliance with the Agreement.
- 8.5. THIS SECTION STATES THE INDEMNIFIED PARTY'S EXCLUSIVE REMEDY AGAINST THE INDEMNIFIER AND THE INDEMNIFIER'S ENTIRE LIABILITY TO THE INDEMNIFIED PARTY IN RESPECT OF ANY ACTUAL OR ALLEGED INDEMNIFIED CLAIMS.

9. Confidentiality

Each party undertakes that it shall (i) take all reasonable measures to protect the confidentiality of the disclosing party's Confidential Information, (ii) notify the other in writing of any unauthorized disclosure of the disclosing party's Confidential Information, (iii) not at any time disclose to any person any of the disclosing party's Confidential Information. Each party may, however, disclose the disclosing party's Confidential Information to its Affiliates, employees, officers, representatives or advisers who need to know such information for such party to perform the Agreement. Such disclosures must be under confidentiality obligations substantially similar to those herein. The foregoing confidentiality obligations do not apply if the receiving party can prove that the disclosing party's Confidential Information: (i) was in the public domain through no fault of the receiving party, (ii) was known to the receiving party, without restriction, (iii) is disclosed with the disclosing party's prior written approval, (iv) was independently developed by the receiving party without use of the disclosing party's

Confidential Information, or (v) is required to be disclosed pursuant to law, an order from a court or 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 requirement.

10. Miscellaneous Provisions

- 10.1. "Legal notices" are notices that one party sends to the other for breach or alleged breach of contract, termination for cause or an indemnifiable claim. Such legal notices must be delivered by personal delivery, by registered mail, or by reputable commercial courier. Legal notices are deemed delivered upon personal delivery or the date of receipt of registered mail or courier. All legal notices to Scandit must be sent to the attention of the Legal Department at the address given in the Order Form. Such notices must be accompanied by a copy to legal@scandit.com. Scandit will send legal notices to the Company to the address given in the Order Form. Notices to cancel auto-renewal must be sent in accordance with clause 1.4. Each party may change the address for any notices by informing the other party by the same means that is required for the actual notice. All notices must be in the English language. Day-to-day operational communications may be carried out by any conventional means and are not affected by this clause.
- 10.2. The relationship between the Company 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. The Agreement does not create any exclusive relationship.
- 10.3. Neither party may transfer the Agreement or any rights or obligations without the prior written consent of the other party. However, either party may transfer the Agreement as a whole to a successor in business, provided that in such a case (i) if a party transfers to the other party's competitor the other party has the right to terminate the Agreement, and (ii) if the Company was granted unlimited or flat-rate licenses Scandit has the right to terminate the Agreement, in each case with immediate effect on written notice.
- 10.4. Neither party has liability to the other to the extent it is prevented from or delayed in performing its obligations due to force majeure. The affected party must inform the other party as soon as practicable. If such a situation continues for more than 30 days, the non-affected party may terminate the Agreement. Force majeure means events beyond a party's reasonable control, including industrial disputes, failure of a utility service or transport network, war, terror, civil commotion, accident, breakdown of plant or machinery, denial of service attack, compliance with any law or governmental order, rule or regulation, fire, flood or storm.
- 10.5. If any provision (or a part) is held to be illegal, invalid, or unenforceable by a court or other decision-making authority, then the remainder of the Agreement or provision will be enforced to give effect to the intention of the parties, and the validity and enforceability of all other provisions will not be affected.
- 10.6. Upon termination all rights and obligations immediately terminate except that any terms or conditions that by their nature should survive such termination will survive, including those relating to proprietary rights, confidentiality, disclaimers, and liability.
- 10.7. The Agreement sets out the entire agreement between the parties relating to its subject matter. The Agreement applies in place of any terms or conditions contained or referenced in any correspondence or implied by trade custom or course of dealing. Any additional terms or conditions set out by one party in a purchase order or similar (whether issued directly or via automated systems or otherwise) and whether such order is accepted by the other party or not, shall not be binding on such party. The Agreement may only be varied in writing executed by authorized representatives of both parties.
- 10.8. If Scandit AG is the Scandit contracting party, then Swiss law applies and the public courts in Zurich have exclusive jurisdiction. If Scandit Inc. is the Scandit contracting party, then the laws of the state of New York apply and the federal and state courts within New York County, New York, have exclusive jurisdiction. 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) and rules concerning conflict of laws do not apply.

11. Definitions

Capitalized terms not otherwise defined in the Agreement shall have the below meaning. Where context so requires, singular shall include plural and vice versa. Expressions such as "including", "for example" indicate a non-exclusive list.

- Affiliate: An entity that directly or indirectly controls, is controlled by, or is under common control with, a party. "Control" means ownership of a majority of the voting stock or the power to direct the management and policies of the entity.
- App: Each application developed by or for the Company and identified in the Order Form.
- Company Email: The email address given in the Order Form. If there is no email address in the Order Form, then the email address the Company has inserted in the Dashboard.
- Confidential Information: All information or data of a party (or its Affiliates) obtained in connection with the Agreement by the other party (or its Affiliates) that relates to, for example, products, services, software, developments, customers and suppliers, or any other information (whether commercial, financial, technical or otherwise) which is identified as confidential at the time of disclosure or which may reasonably be regarded as confidential.
- CPI: the latest monthly year-on-year Consumer Price Index published at minimum 60 days before the applicable renewal (see clause 5.2) by the source listed below for the currency in which fees are denominated (i) US Dollar: "CPI-U All Items" by US Bureau of Labor Statistics; (ii) Pound Sterling: "CPIH Annual Rate All Items" by United Kingdom Office for National Statistics; (iii) Swiss Franc: "CPI Total" by the Swiss Federal Statistical Office; (iv) Euro: "Harmonised Index of Consumer Prices - Overall Index" by the European Central Bank; (v) Japanese Yen: "Consumer Price Index - All Japan" by Statistics Bureau of Japan.
- Dashboard: Scandit's web-based customer dashboard where the Company may download the Software, request license keys and, subject to license key settings, view license metrics (e.g. number of installations and scans).
- Order Form: An order referring to these terms that is either signed by the Company and Scandit or issued by the Company (e.g. on Scandit ordering website or against a pre-agreed catalog), detailing the Software, the fees, and the Scope.
- Scope: Set out in a table in the Order Form, specifying the scope within which the Software will be used, including the permitted number of active devices, Users, operating platform, use cases, licensed Software features, and the App.
- User: The permitted types of users of the App (e.g. employees or consumers) set out in the Scope.