SCANDIT

Terms and Conditions for Software and Services

These Terms and Conditions for Software and Services were last updated on April 20, 2016 and apply to all Order Forms executed by You from April 20, 2016.

THIS AGREEMENT GOVERNS YOUR ACCESS TO AND USE OF OUR SOFTWARE, SERVICES AND DOCUMENTATION. BY EXECUTING AN ORDER FORM (MANUALLY OR SUBMITTING ELECTRONICALLY THE ORDER FORM ON OUR WEBSITE) WHICH REFERENCES THIS AGREEMENT, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THAT ENTITY TO THIS AGREEMENT, IN WHICH CASE THE TERMS "YOU" AND "YOUR" SHALL REFER TO THAT ENTITY. IF YOU DO NOT HAVE THE AUTHORITY OR DO NOT AGREE TO ALL THE TERMS OF THIS AGREEMENT, YOU MAY NOT ACCESS OR USE OUR SOFTWARE, SERVICES AND DOCUMENTATION.

This Agreement is valid on the Effective Date and governs Your use of Our Software and Services and comprises the following sections:

1. Free Test Period
2. Terms for Services
3. Terms for Software
4. Generally Applicable Terms
5. Representations, Warranties and Disclaimers
6. Indemnification
7. Limitation of Liability
8. Definitions

Moreover, this Agreement comprises the Order Form and two appendices, all of which shall form an integral part of this Agreement.

If You have not ordered any Services, Section 2 does not apply to You.
If You have not ordered any Software, Section 3 does not apply to You.
If You have ordered both Software and one or more Services, the entire Agreement applies to You.

In the event of any inconsistencies or conflict among the following documents, the order of precedence is: 1. these Terms and Conditions for Software and Services, 2. the Order Form, except where any terms contained in an Order Form expressly state that such terms are to take precedence over these Terms and Conditions for Software and Services and 3. the Appendices.

1. Free Test Period

If You register on Our website for a free test period, We will give You access to one or more of Our Services or Software free of charge so You can try out the Software or Service(s) until the earlier of (a) the end of the free test period for which You registered, (b) the placement by You

of a paid order for such Software or Service, or (c) a termination by You or Us in accordance with this Agreement. Additional terms and conditions may apply and will appear on the webpage where You register for Your test period. Any such additional terms and conditions are incorporated into this Agreement and are legally binding.

NOTWITHSTANDING SECTION 5 (REPRESENTATIONS, WARRANTIES AND DISCLAIMERS), DURING THE FREE TEST PERIOD, THE SOFTWARE AND SERVICES ARE PROVIDED "AS-IS" WITHOUT
ANY WARRANTY OF ANY KIND AND THE WARRANTY PROVIDED IN SECTION 5.2 AND OUR INDEMNIFICATION OBLIGATIONS UNDER SECTION 6.1 SHALL NOT APPLY. DURING THE FREE TEST PERIOD WE DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY AND ALL LIABILITY FOR THE SOFTWARE AND SERVICES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

2. Terms for Services

This section applies only if You and We have executed an Order Form which includes Services.

2.1 Provision of Services. Pursuant to this Agreement and the applicable Order Form, We will (a) make Our Services available to You for the applicable Order Form Term, including support at the level defined in the Order Form, (b) use commercially reasonable efforts to provide You the Services 24 hours a day, 7 days a week, except for (i) planned down-time, which will be notified to You electronically at least 24 hours in advance, (ii) Force Majeure Event(s) affecting Us.

2.2 Your Responsibilities relating to Services. You will (a) be responsible for the accuracy, quality and legality of Your Data and the means by which You acquired Your Data, (b) use commercially reasonable efforts to prevent unauthorized access to or use of Services and notify Us promptly of any such unauthorized access or use, (c) not allow users of the Services to share their identification, password, or other authentication token with any other person, (d) use the Services only in accordance with the Documentation and applicable laws and government regulations, and (e) comply with terms of service or other agreements of other applications (web-based, mobilebased or offline) that interoperate with a Service.

2.3 License to Host Your Applications and Data. You grant Us a worldwide license to store, copy, transmit and display Your Data and program code created and made available to a Service by or for You, as necessary for Us to provide the Services in accordance with this Agreement. The license shall be valid for as long as We provide Services to You under an Order Form. Subject to the limited licenses granted herein, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data or program code.

3. Terms for Software

This section applies only if You have executed an Order Form which includes Software.

3.1 License. Subject to the terms of this Agreement, We grant You a limited, non-exclusive, non-transferable, non-sublicensable license for the Territory during the applicable Order Form Term and in accordance with the Scope to use, copy, store and transmit the Software in order to integrate the Software into Your App as set out in the applicable Order Form(s).

3.2 Your Responsibilities relating to Software. You will (a) use the Software 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 Your App, including without limitation the integration of the Software, according to any Scope or other usage or integration requirements provided by Us, (c) You shall not share the App Keys, Software, or any of its parts with any third party for any reason except third party providers developing Your App for You, in which case You shall ensure that such third party providers are bound by the terms of this Agreement and the applicable Order Forms, (d) use a unique App Key for each of Your Apps, and (e) integrate the latest version of the Software into Your 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, You will make Us aware of this promptly via email to support@scandit.com.

3.3 Reporting Requirements for Your App. Upon Our request and no more than 4 times per year, You shall provide Us, for each channel through which Your App is distributed (including Public App Stores, Enterprise App Stores, mobile device management solutions and similar systems), within 15 working days of Our request an original report, listing by country the number of copies of Your App (i) distributed, (ii) updated and (iii) sold, covering at least the 24 (twenty four) month period prior to such request. You shall also provide Us with a description, screenshots (including the scan screen) and runtime binaries of Your App as well as hyperlinks to Your App in Public App Stores.

4. Generally Applicable Terms

4.1 Your Responsibilities. You will be responsible for compliance with this Agreement by anyone to whom You give access to the Software or Services, including, for example, Your employees, directors, contractors and consultants. You will not use the Software or Services in any manner that could damage, disable, overburden or impair the Services, Our website or the services or websites provided by a third party.

4.2 Future Functionality. You agree that Your order is not dependent on the availability of any new features or future functionality, or dependent on any comments made by Us (written or oral) regarding Our plans for future enhancements to the Software and Services.

4.3 Term of Agreement. This Agreement commences on the Effective Date and continues until all Order Form Terms hereunder have been terminated, unless earlier terminated in accordance with Section 4.5.

4.4 Renewal. Except as otherwise specified in an Order Form, each individual Order Form Term will renew automatically for additional periods of one year, at the end of its respective Order Form Term, unless either party gives the other notice of non-renewal at least 30 days prior to the end of the relevant Order Form Term. Unless We have given You written notice of a change to Our pricing at least 60 days before the end of the applicable Order Form Term, the pricing during any automatic renewal term will be the same as that of the immediately preceding Order Form Term. If We do notify You of a change in Our pricing, it will only come into effect upon commencement of the respective automatic renewal Order Form Term.

4.5 Termination. This Agreement may be terminated by 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 or any Order Form in any material respect, which breach is not remedied within thirty (30) days following written notice to the breaching party.

4.6 Refund or Payment upon Termination. Upon Termination of this Agreement You will cease using the Software and Services immediately and delete the Software and Documentation from all Your equipment and storage media. If You terminate in accordance with Section 4.5(ii), We will refund You any prepaid fees covering the remainder of all Order Form Terms after the effective date of termination. If this Agreement is terminated by Us in accordance with Section 4.5, You will promptly pay any unpaid amounts including those covering the remainder of all Order Forms Terms. In no event will termination relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.

4.7 Implied Licenses. There are no implied licenses under the terms set forth in this Agreement, and any rights not expressly granted hereunder are reserved by Us, Our suppliers or licensors. Without limiting the foregoing, You shall not sublicense, 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.

4.8 Ownership and Reservation of Rights. All intellectual property rights, title and interest in the Software, Services, Documentation, Specifications and Our Confidential Information are owned by Us or Our licensors and shall remain with Us or Our licensors, subject to the limited rights We expressly provide to You under this Agreement. You shall not take any action inconsistent with the rights granted herein and no rights are granted to You except as expressly set forth in this Agreement.

4.9 Fees. You will pay all fees set out in the applicable Order Form(s). Except as otherwise specified herein or in an Order Form, (i) payment obligations are noncancelable and fees paid are non-refundable, and (ii) quantities ordered cannot be decreased during the relevant Order Form Term.

4.10 Usage Limits. Software and Services are subject to the usage limitations set out in the Scope. If You use the Software

or Services beyond the Scope, We may work with You to seek to reduce Your usage so that it is within the Scope. If You do not comply with the limitations of the Scope, You will execute an additional Order Form promptly upon Our request and pay any invoice for excess usage in accordance with Section 4.11.

4.11 Invoicing and Payment. All payments shall be made upfront and via the methods offered on Our website or as specified in the Order Form. Any invoices will be issued and sent to You and are payable by You as specified in the Order Form.

4.12 Overdue Charges. If any invoiced amount is not received by Us by the due date, We reserve the right to charge interest on the overdue amount at the maximum rate permitted by applicable law, but not exceeding 5% p.a., and pursue any other rights or remedies available to Us.

4.13 Suspension and Acceleration. We reserve the right to suspend Your access to and use of the Software and Services if any amount owed by You under this or any other agreement for Our services is 30 or more days overdue or if You exceed the Scope and have not paid for Your exceeded use of the Software or Services. Furthermore, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under all agreements and Order Forms You have with Us so that all such amounts become immediately due and payable. We will notify You at least 10 days prior to any suspension, in accordance with Section 4.22.

4.14 Payment Disputes. If You are disputing the applicable charges in good faith and are cooperating with Us to resolve the dispute swiftly, We will not exercise Our rights under Section 4.12 or 4.13 above whilst good faith discussions are ongoing.

4.15 Confidential Information. 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 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. 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 (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.

4.16 No Malicious Code. We will use commercially reasonable efforts to ensure that Our Software and Services do not introduce any Malicious Code into Your systems. However, We are not responsible for any Malicious Code which may be introduced by Your Data, Your App or program code created by or for You.

4.17 Marketing. Except as provided below, neither party may make any public announcement or press release about the terms of this Agreement without the other party's prior written approval and consent, not to be unreasonably withheld. We may, however, mention You as Our customer and include Your logo in Our marketing collateral.

4.18 Taxes. Our fees do not include any applicable taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible, We will invoice You and You will pay that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

4.19 License Management, Billing and Analytics. In order for Us to keep track of the usage of Our Software and Services, to bill You correctly and, where applicable, to provide You with analytics reports, We need to collect certain data as listed in Appendix 2 ("**Usage Data**"). Unless required by law, We will not share any of the Usage Data with any third party. You acknowledge that Our Software will continue to transmit the Usage Data to Us for as long as it is used, which may even be after termination of the applicable Order Form. Therefore, You grant Us the right to collect the Usage Data beyond the end of the applicable Order Form Term. You will take all measures towards Your users of Your App and the Services in order to ensure compliance with applicable data protection laws.

4.20 Branding. You agree to use commercially reasonable efforts to include, within ninety (90) days of being provided, Our most recent text and logo ("**Branding**") in the scan screen of all versions of Your App and on all supported platforms at all times in accordance with logo usage guidelines provided by Us. The Branding must be visible in the scan screen at all times and must not be covered with any other graphical elements or information.

4.21 No waiver. No waiver by either party of any breach or default under this Agreement shall be deemed to be a waiver of any preceding or subsequent breach or default.

4.22 Manner of Giving Notice. Except as otherwise specified in the Agreement, all notices, permissions, and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) two business days after sending by e-mail (provided e-mail shall not be sufficient for notices of termination or an indemnifiable claim). E-mails to Us shall be directed to legal@scandit.com, and e-mails to You shall be addressed to the administrative contact designated by You in Your scandit.com account at http://account.scandit .com.

Notices relating to the termination of this Agreement or Order Form or to an indemnification claim under Section 6 must be sent by registered mail.

4.23 Assignment. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other, not to be unreasonably withheld. Any attempt by either party to assign or transfer this Agreement without the prior written consent of the other will be null and void. We may at any time involve any of Our associated companies, successors or assigns as subcontractors under this Agreement.

4.24 Severability. If any provision or part of a provision in this 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 this Agreement will not be affected or impaired.

4.25 Entire Agreement. This Agreement together with its Appendices and applicable Order Form(s) sets out the entire agreement and understanding between You and Us relating to its subject matter. Unless otherwise expressly agreed in writing this 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 You in connection with this Agreement shall not be binding on Us unless specifically agreed by Us in writing.

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

4.27 Governing Law and Jurisdiction. The applicable governing law and the jurisdiction are set out in Appendix 1.

4.28 Surviving Provisions. The terms which by their nature are intended to survive termination or expiration of this Agreement shall survive any such termination and expiration including without limitation the following sections: Sections 4, 6, 7 and 8.

5. Representations, Warranties and Disclaimers

5.1 Representations. Each party represents that it has the requisite power and authority to enter into this Agreement and to perform its obligations under it.

5.2 Warranties. We warrant that during the applicable Order Form Term (a) the Software and Services will operate materially in accordance with the relevant Specifications, (b) the Services will be performed with due care, skill and ability and in accordance with good industry standards, and (c) We will not materially reduce the functionality or security of the Software and Services.

5.3 Remedy. Should a breach of a warranty provided in Section 5.2 occur and You notify Us within the applicable Order Form Term and provide all the information that may be necessary to assist Us in resolving the defect or fault, We will, at Our sole option and expense either repair or replace the affected Software or Services; and if We cannot reasonably repair or replace the affected Software or Services, then We will refund You any prepaid fees covering the remainder of the Order Form Term(s) for the affected Software or Services and terminate Your right and license to use the Software or Services for which You have received the refund.

5.4 Disclaimers. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES AND REMEDIES PROVIDED IN THIS SECTION 5 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 MERCHANTIBILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE OR SATISFACTORY QUALITY AND NON-INFRINGEMENT (EXCEPT AS PROVIDED BELOW), ALL OF WHICH ARE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXPRESSLY DISCLIAMED BY US.

5.5 Safe Usage. IT IS YOUR RESPONSIBILITY TO TAKE WHATEVER STEPS YOU NEED TO ENSURE THAT THE USE OF YOUR APP OR YOUR USE OF ANY SCANDIT APP IS SAFE AND DOES NOT HARM ANYONE IN ANY WAY, KNOWING THAT WE CANNOT GUARANTEE THAT 100% OF ALL BARCODE READS WILL BE ACCURATE. WE SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR THE CONTENTS OR RESULTS OBTAINED FROM YOUR USE OF THE SOFTWARE, SERVICES OR THE SCANDIT APP OR YOUR APP.

5.6 No Representations. YOU AGREE THAT, IN ENTERING INTO THIS AGREEMENT, EITHER YOU 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 AGREEMENT OR IF YOU DID RELY ON ANY REPRESENTATIONS, (WHETHER WRITTEN OR ORAL), NOT EXPRESSLY SET OUT IN THIS AGREEMENT, THAT YOU 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 THIS AGREEMENT.

6. Indemnification

6.1 Indemnification by Us. Except during the free test period in Section 1 and subject to the conditions set out below, We undertake to defend You or, at Our option, settle any claim or action brought against You by a third party alleging that Your use of the Software or Services in compliance with this Agreement and the Order Form infringes or misappropriates such third party's copyright or patent (a "**Claim Against You**"), and will indemnify You for any damages finally awarded against You by a court of competent jurisdiction, or for amounts paid by You under a court-approved settlement or a settlement of a Claim Against You by Us, provided You:
   a. provide Us with prompt written notice of the Claim Against You,

b. grant Us sole control of the defense and settlement of the Claim Against You,

c. do not enter into any settlement or compromise of any such Claim Against You without Our prior written consent,

d. provide Us all reasonable information and assistance for the Claim Against You, at Our expense, and

e. use all commercially reasonable efforts to mitigate any loss, damage or costs related to the Claim Against You.

If You notify Us of a Claim Against You and comply with Sections a-e above or We receive information about an infringement or misappropriation claim related to the Software or Services, We may at Our option and expense:

f. replace or modify the Software or Services so that they no longer infringe or misappropriate, without breaching Our warranties under Section 5.2 (Warranties),

g. procure a license allowing You to continue using the Software or Service in accordance with this Agreement, or

h. terminate Your Order Form for that Software or Service, reimburse You any prepaid fees covering the remainder of the applicable Order Form Term(s) of the terminated Order Form, and either take back the infringing Software to the extent possible or require You to remove/delete the infringing Software.

Our defense and indemnification obligations set out in Section 6.1 do not apply to the extent a Claim against You arises from:

i. Your Data or program code created by or for You,

j. Your use of Software or Services otherwise than in accordance with the Agreement, Order Form and/or Specifications, or

k. Your use of the Software or a Service after the end of the applicable Order Form Term, or Your 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 we have made available to You.

6.2 Indemnification by You. If a claim or action is brought against Us by a third party alleging that Your App, Your Data, program code created by or for You or Your use of the Software or any Services in breach of this Agreement infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "**Claim against Us**"), You will defend and indemnify Us from any damages finally awarded against Us by a court of competent jurisdiction or agreed upon in a courtapproved settlement or a settlement of such Claim against Us by You, provided We:

a. provide You with prompt written notice of the Claim Against Us,

b. grant You sole control of the defense and settlement of the Claim Against Us,

c. do not enter into any settlement or compromise of any such Claim Against Us without Your prior written consent,

d. provide You all reasonable information and assistance for the Claim Against Us, at Your expense, and

e. use all commercially reasonable efforts to mitigate any loss, damage or costs related to the Claim Against Us.

6.3 EXCLUSIVE REMEDY. THIS SECTION 6 STATES OUR AND YOUR, AS THE 'INDEMNIFIED PARTIES', EXCLUSIVE REMEDY AGAINST AND
THE APPLICABLE INDEMNIFYING PARTY'S ENTIRE LIABILITY TO THE OTHER IN RESPECT OF ANY ACTUAL OR ALLEGED INDEMNITY CLAIMS AND IS SUBJECT TO THE LIMITATION OF LIABILITY IN SECTION 7 BELOW.

7. Limitation of Liability

7.1 Limitation of Liability. SUBJECT TO SECTION 7.3, EACH PARTY'S AGGREGATE LIABILITY FOR
OR IN RESPECT OF ANY LOSS OR DAMAGE SUFFERED BY THE OTHER (WHETHER DUE TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT PAID BY YOU IN THE 12 MONTHS PRECEDING THE DATE OF THE EVENT FOR WHICH THE LIABILITY ARISES.

7.2 Exclusion of Consequential and Related Damages.
SUBJECT TO SECTION 7.3, 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 THE OTHER 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.

7.3 Liabilities that are not Excluded. THE EXCLUSIONS IN THIS CLAUSE 7 SHALL APPLY TO THE FULLEST EXTENT PERMISSIBLE AT LAW BUT NEITHER PARTY EXCLUDES LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, OR OF ITS OFFICERS, EMPLOYEES,
CONTRACTORS OR AGENTS; FRAUD OR FRAUDULENT MISREPRESENTATION; OR ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED BY LAW.

7.4 Force Majeure. WE SHALL HAVE NO LIABILITY TO YOU UNDER THIS AGREEMENT IF WE
ARE PREVENTED FROM, OR DELAYED IN, PERFORMING OUR OBLIGATIONS UNDER THIS AGREEMENT OR FROM CARRYING ON OUR BUSINESS BY A FORCE MAJEURE EVENT.

8. Definitions

Agreement: these Terms and Conditions for Software and Services, including all appendices and the respective Order Form entered into under them.

App Key: a key We provide You to activate the Software.

Branding: has the meaning given in Section 4.20.

Claim Against Us: has the meaning given in Section 6.2.

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Claim Against You: has the meaning given in Section 6.1.

Confidential Information: all confidential or sensitive information or data, whether obtained before or after the Effective Date in respect of products, services, software, developments, trade secrets, customers and suppliers of either party or any other information (whether commercial, financial, technical or otherwise) which is identified as confidential or proprietary information at the time of disclosure or which may reasonably be regarded as the confidential or proprietary information of that party and shall include Your Data and Usage Data and Our Software, Services and App Keys.

Documentation: Our online user manuals, tutorials, documentation and help and training materials.

Effective Date: the date on which You execute an Order Form (manually or submitting electronically the Order Form on our website) and the terms of this Agreement.

Enterprise App Store: a private app store used by You for distributing Your App to Your staff, employees, consultants or other related parties for internal, non-public use.

Force Majeure Event: acts, events, omissions or accidents beyond Our 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.

Installation Identifier: a unique identifier for each installation of Your App or a Scandit App.

Malicious Code: software, agent, code, script, file or program intended to disrupt or damage a computer system, including for example, software viruses, Trojan horses, worms and time bombs, excluding license enforcement mechanisms designed to disable the Services or the Software in the event of termination of the Agreement or an associated Order Form or the suspension of access to the Software and Services in accordance with Section 4.13.

Order Form: an order form entered into between You and Us manually or by confirming Your order on Our website, detailing the Software or Services you have ordered and are to be provided hereunder and the fees You will pay and any additional terms.

Order Form Term: the term of Your use of the Software and/or Services, which You have ordered as set out in the applicable Order Form.

Public App Store: the public Google Play Store, Apple iTunes Store, Windows Phone Store or the Amazon Appstore.

Scandit App: a mobile application made available by Us to You.

Scope: the limits, as specified in the Order Form, within which the Software and Services may be accessed and used.

Services: the services that You have ordered in an Order Form and that are made available online by Us.

Specifications: the specifications of the Software as set out at https://ssl.scandit.com/account/terms/specifications .pdf.

Software: the software that You have ordered in an Order Form and that We own and license to You in consideration of the payment by You to Us according to this Agreement and the applicable Order Form(s). Software includes updates, if provided by Us to You through our Support and according to the applicable Order Form.

Support: the standard support we provide for Our Software and Services, (including the provision of any standard maintenance updates we release for Our Software), which will be provided to You after You execute an Order Form that specifies the Support and level of Support ordered.

Taxes: has the meaning given in Section 4.18.

Territory: the geography where You may use the Software or the Services and as specified in the Order Form.

Usage Data: has the meaning given in Section 4.19.

We, Us or Our: the Scandit entity You are contracting with, as outlined in Appendix 1.

You or Your: the contracting person or entity.

Your App: a mobile device-based application that is developed by You and distributed as specified in the Order Form and integrates the Software.

Your Data: data and information submitted electronically by or for You to the Services or collected and processed by or for You using the Services.

Appendix 1 – Legal Entity, Governing Law and Jurisdiction

This table outlines which Scandit entity You are contracting with and the relevant governing law for this Agreement and associated Order Forms.

If You are domiciled in:	You are contracting with:	The law governing this Agreement and associated Order Forms as well as the jurisdiction is:
USA	Scandit Inc. 25 Taylor Street San Francisco, CA 94102 USA	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 USA	Scandit AG Limmatstrasse 73 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.

Appendix 2 – Information Collected

Product(s)	Data We collect
Barcode Scanner SDK, Barcode Scanner for Business	Collected on product use and no more than once per month: • Installation Identifier • App Key • IP address • mobile device model • Your App's identifier (if applicable) • mobile operating system • version of Scandit product Collected on scan: • barcode information • location coordinates (if collected by Your App)
Barcode Scanner SDK without Analytics	Same as Barcode Scanner SDK (above), except without barcode information and location coordinates.