

EzeScan Licence Agreement

This licence is for the Licensed Product described below as either:-

A Standalone Named Perpetual Licence **,

B Concurrent Annual Licence **, or

C Monthly Subscription Licence, or**

D Evaluation and Trial Licence **.

***** N.B. The Customer acknowledges and agrees that unless the Customer has specifically purchased a Concurrent Annual Licence or a Monthly Subscription Licence as evidenced by the Customer's purchase order and its corresponding Outback Imaging invoice, then this licence shall be deemed a Standalone Named Perpetual Licence. Where there is no evidence of the Customer's purchase order and its corresponding Outback Imaging Invoice, then this licence shall be deemed an Evaluation and Trial Licence.***

This is a legal agreement

Between:- **You** (the Licensee) (the "Customer")
And:- **Outback Imaging Pty Ltd ACN 102 594 883 ("Outback Imaging").**

By installing, downloading, copying, accessing, clicking on an "accept" button, or otherwise using the program accompanying this document ("Licenced Product") you agree to be bound by the terms of this Agreement. If you do not agree to be bound by the terms of this agreement, return the Licensed Product, and any accompanying items, within seven days of receipt, to your place of purchase for a full refund.

GRANT AND BASIS OF LICENSE –

A - STANDALONE NAMED PERPETUAL

1. In consideration of the fee, Outback Imaging grants the Customer a non-exclusive, non-transferable **Standalone Named Perpetual License** to the Licenced Product enclosed, subject to the terms of this Agreement.
2. The Customer acknowledges that for full functionality it is **recommended** by Outback Imaging (for other than medical applications) that the Customer enters into and continues to subscribe to an **Annual Software Maintenance Agreement** ("ASM") with Outback Imaging.
3. For **medical applications** (including but not limited to medical records, x-rays, reports and the like) it is a **compulsory condition** of this License that the Customer enters into and continues to subscribe to an **Annual Software Maintenance Agreement** ("ASM") with Outback Imaging, and all monies payable with respect thereto are paid up to date. Should monies payable with respect to the ASM be not up to date, this License will expire on the expiry of the ASM and must not be used thereafter.
4. For other than **medical applications**, in the event that the Customer does not enter into or renew an ASM with Outback Imaging it is acknowledged that the Customer will not be entitled to upgrades and modifications to the Licensed Product as available from time to time, nor to support and assistance by Outback Imaging regarding the use and functionality of the Licensed Product, which may result in the Licensed Product becoming obsolete or incompatible with future applications.

B- CONCURRENT ANNUAL

1. In consideration of the annual fee, Outback Imaging grants the Customer a non-exclusive, non-transferable

Concurrent Annual License (“CAL”) to the Licensed Product enclosed, subject to the terms of this Agreement.

2. This Licensed Product may be installed concurrently on up to three (3) separate Personal Computers (“PCs”) however only one such PC may be used at any given time.
3. For a **Concurrent Annual License**, it is a **condition** of this License that the Customer enters into and continues to subscribe to an **Annual Software Maintenance Agreement** (“ASM”) with Outback Imaging, and all monies payable with respect thereto are paid up to date. Without renewal of the ASM this License will expire on the expiry date and must not be used thereafter.
4. This CAL shall be for an initial term of 12 calendar months from the date of purchase, and will renew annually upon payment of the then current fee for an ASM with Outback Imaging.
5. This CAL shall lapse if the ASM is not renewed or paid for and the Customer shall thereupon cease using the Licensed Product.
6. Failure to cease using the Licensed Product shall be a breach of this License Agreement and Outback Imaging shall suffer damages agreed at the then current new purchase price of the Licensed Product CAL plus the cost of an ASM annual fee.
7. Failure to renew the ASM and the resultant lapse of this CAL shall entitle Outback Imaging, at its option to; unilaterally terminate use of the Licensed Product and to uninstall it from all relevant PCs. This Agreement authorises and allows Outback Imaging to remove, by any means available, the Licensed Product from the Customer’s hardware and the Customer grants Outback Imaging the right to enter and attend at any location, both physically and electronically, by employees or contractors, where the Licensed Product is installed for the purpose of facilitating its removal .

C – MONTHLY SUBSCRIPTION LICENCES

1. In consideration of the monthly fees, Outback Imaging grants the Customer a non-exclusive, non-transferable **Monthly Subscription Licence** (“MSL”) to the Licensed Product enclosed, subject to the terms of this Agreement.
2. This Licensed Product may be installed onto the number of separate Personal Computers (“PCs”) specified in the Order. However, if the Order is unclear or silent, this defaults to one (1) PC only.
3. As part of this MSL, the Customer or its End User (if applicable) is granted access to the services listed in Outback Imaging’s current **Annual Software Maintenance Agreement** (“ASM”). The monthly fees payable for this MSL is inclusive of the services listed in Outback Imaging’s current ASM and the Customer is not required to enter into a separate ASM in order for it and its End User (if applicable) to access such services.
4. This MSL shall be for the term specified in the Order and shall be operable from the commencement of the term until the last day of the term, subject to non-payment of the monthly fees.
5. This MSL shall terminate with immediate effect if the monthly fees are not paid.
6. Failure to cease using the Licensed Product shall be a breach of this Licence Agreement and Outback Imaging shall suffer damages agreed at the then current rate per month for a Licensed Product MSL.
7. At the end of the term, this MSL shall terminate and the Licensed Product will cease to operate.
8. On termination or at the end of the term, the Customer’s or its End User’s (if applicable) access to the services listed in Outback Imaging’s ASM will also cease.
9. On termination or at the end of the term, Outback Imaging may remove, by any means available, the Licensed Product from the Customer’s or its End User’s (if applicable) hardware and the Customer grants Outback Imaging the right to enter and attend at any location, both physically and electronically, by employees or contractors, where the Licensed Product is installed for the purpose of facilitating its removal. If there is an End User, the Customer must require the End User to grant Outback Imaging the right to enter and attend at any location, both physically and electronically, by employees or contractors, where the Licensed Product is installed for the purpose of facilitating its removal.
10. Provided that the Customer is a reseller disclosed to and authorized by Outback Imaging per the Order, Outback Imaging grants the Customer the right to grant a sub-licence of this MSL to the Customer’s client (“End User”) on the same terms and conditions as this MSL. The Customer agrees that it is responsible for collecting its monthly sub-licence fees from its End User and paying those fees promptly to Outback Imaging. The Customer is solely responsible for payment of the monthly fees under this MSL to Outback Imaging directly.

D – EVALUATION AND TRIAL LICENCES

1. When the Licensed Product has been supplied on an evaluation or trial basis the following conditions apply:
 - (a) Evaluation or Trial Licences are provided by Outback Imaging solely for short term evaluation of the Licensed Product and these Licences remain solely the property of Outback Imaging and not the Customer.

- (b) The License to use expires on the date specified at the time of supply however if no time is specified it shall expire 30 days after supply.
- (c) On expiry of this Licence, Outback Imaging may remove, by any means available, the Licensed Product from the Customer's hardware and the Customer grants Outback Imaging the right to enter and attend at any location, both physically and electronically, by employees or contractors, where the Licensed Product is installed for the purpose of facilitating its removal.
- (d) All other terms of this Licence shall apply in so far as they are capable of applying in the limited context of its terms.

E - GENERAL TERMS APPLICABLE TO ALL LICENCES

- 1. Suitability:** Outback Imaging makes no representation as to the suitability of the Licensed Product for the Customer's needs, nor does it accept any responsibility for the accuracy, quality or type of image produced by the Customer using this Licensed Product. The Customer is responsible for selection of the Licensed Product as suitable for its need. Licensing is on the basis of the number of users ordered on the applicable Outback Imaging Licensed Product Order form. Licenses purchased as **Standalone Named Perpetual Licenses** (also known as a 'named workstation licenses') are not transferable to other named workstations. Licensing is valid only when the Customer's monies requested by Outback Imaging have been deposited as cleared funds in Outback Imaging's nominated bank account. .
- 2. Intellectual Property Rights:** All Intellectual Property Rights in the licensed program (Intellectual Property Rights), are the property of Outback Imaging IP Pty Ltd (ACN 120 605 389) under license to Outback Imaging and no title is transferred to the Customer by this Agreement. Intellectual Property Rights includes copyrights in the licensed program, including any copyright embodied in the source code of the licensed program; all trade mark rights, including the words "ezescan", the "ezescan" logo or in the words "transforming paper into knowledge", whether registered or unregistered; moral rights; trade secrets; patents, including the right to apply, prosecute and obtain patent protection over any patentable subject matter. The Customer is to retain the copyright notice and other legends on all copies, both full and partial, of the Licensed Product. The Customer agrees not to distribute the Licensed Product or any part of it to any third party, or to copy, modify, reverse engineer, disassemble or de-compile the Licensed Product, or to use the Licensed Product in any unauthorised manner except as expressly permitted in writing by Outback Imaging.
- 3. Acceptance of Terms of Agreement:** This Agreement is accepted by the Customer by installing, downloading, copying, accessing, clicking on an "accept" button, or otherwise using the Licensed Product. The Customer may terminate this Agreement without notice. Outback Imaging may terminate this Agreement by notice in writing to the Customer should the Customer be in default under the terms of this Agreement and fail to rectify that default within 30 days of receiving written notice, or in the event that the breach is incapable of remedy Outback Imaging may be terminate this Agreement forthwith by written notice. The Customer agrees to cease using the Licensed Product and destroy all material upon termination. The Customer must not sub-licence, sell, rent, lease, assign, distribute, disclose or otherwise commercially exploit or otherwise make available the Licensed Product to any third party unless otherwise permitted under this Agreement.
- 4. Permission to Copy:** The Customer may produce sufficient copies of the program for safe usage of it, but may not produce or distribute copies for any other purpose.
- 5. Throughput Quota:** If specified on the Order or on the Outback Imaging invoice, the Licensed Product may be subject to a restriction on for the number of documents per month or number of documents per year that the Program can process ('Throughput Quota' per 'Quota Time Period'). When a Throughput Quota is exceeded within its Quota Time Period, the Program is rendered inoperable until the Customer either:
 - (a) purchases a higher Throughput Quota for the inoperable License and that updated Licence is installed onto the inoperable PC; or
 - (b) waits for the balance of the Quota Time Period to lapse then for the Throughput Quota to restart for the following Quota Time Period.If not specified on the Order or on the Outback Imaging invoice, no Throughput Quota restrictions apply.
- 6. Customer/ User Obligations:** Scanned image quality may be affected by user controlled hardware and software settings. Accordingly, the Customer agrees that it is solely responsible to ensure that all users are properly trained in the use of the Licenced Product, and specifically acknowledges that lower image quality, lost image information, cropped and lost images may result from incorrect settings of:-

- (a) Image orientation or paper size settings.
- (b) Image compression level (uncompressed, lossless or lossy – being decreasing degrees of quality with some resultant reduction in image detail)).
- (c) Black and white, grayscale or colour image type.
- (d) Brightness, contrast or threshold settings.
- (e) Any other scanner settings.
- (f) Any other image enhancement settings.
- (g) Any other output image settings.

The Customer will ensure that the Licensed Program is at all times protected from access, use or misuse and damage and destruction by any person not authorised by either Outback Imaging or the Customer and the Customer will notify Outback Imaging immediately if it becomes aware of any unauthorised use of the Licensed Program.

7. Warranty - Customers who are *not* “Consumers” as defined in the Australian Consumer Law:

- (a) Outback Imaging warrants that the product as supplied by Outback Imaging complies with its published specifications and is free from defects for 90 days from the commencement of this Agreement. Outback Imaging will undertake its best efforts to correct any defects advised to it during this period. Support and other services after expiration of the warranty period are provided under the provisions of Outback Imaging's Standard Software Maintenance Agreement.
- (b) To the maximum extent permitted by law, Outback Imaging disclaims all further or other warranties, including but not limited to warranties of merchantability, fitness for a particular purpose, and non-infringement
- (c) Outback Imaging's entire liability and the Customer's entire remedy shall be, at Outback Imaging's discretion, either return of the price paid to Outback Imaging, or repair or replacement of the Licensed Product which does not meet Outback Imaging's warranty, and which is returned to Outback Imaging with a copy of the Customer's receipt within the warranty period.
- (d) The Customer indemnifies Outback Imaging from and against all damages, liability, losses and expenses, including reasonable legal fees and expenses, resulting from the Customer's breach of this Agreement or resulting from any third party claim or proceeding arising from the Customer's use of the Licensed Product.

8. Warranty - Customers who are defined as “Consumers” in the Australian Consumer Law.

- (a) All Licensed Products supplied by *Outback Imaging* to a person defined as a “*Consumer*” under the *Australian Consumer Law* come with guarantees that cannot be excluded by this Agreement. If you meet the definition of “Consumer” under that Law you are entitled to a replacement of the Licensed Product or refund of the purchase price for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Licensed Product repaired or replaced if the Licensed Product fails to be of acceptable quality and the failure does not amount to a major failure.
- (b) The Australian Consumer Law Warranty does not apply where the Customer intends to use the Licensed Product as part of a business to manufacture or produce something else.

9. Warranty-International: Licensed Products to Customers outside the Commonwealth of Australia are granted subject to the following conditions:

- (a) If the Laws in the country in which the Licensed Products are to be used restrict the warranty exclusions that may be legally imposed on any class of customer, then the terms of the warranties contained in Clause 14 of this Agreement apply subject to those restrictions.
- (b) The Warranty limitations contained in Clause 14 are otherwise applicable to Licensed Products issued to Customers outside Australia.

10. Special conditions “Critical Applications”

- (a) For the purpose of this Agreement “Critical Applications” are defined as meaning life-support systems, medical applications, connections to medical devices, commercial transportation, nuclear or energy facilities or systems or any other applications where product failure could lead to injury to persons or loss of life or catastrophic property damage.
- (b) The Licensed Product is not designed as being suitable for Critical Applications and is not held out as being suitable in such applications.
- (c) Customers who use the Licensed Product for Critical Applications do so at their own risk and after their own independent evaluation of the Licensed Product, and Outback Imaging will not be liable for the consequences of such use.

11. Export Control: The Licensed Product may be subject to export control legislation in certain countries. The Customer shall not export or re-export the Licensed Product from the country in which the Licensed Product is granted in contravention of any such export control legislation applying at the time and hereby agrees to indemnify Outback Imaging from and against all claims that may be made against it as a consequence of a breach of this condition.

12. No Liability for Damages: In no event shall Outback Imaging or its licensors or its suppliers be liable for any consequential, incidental, direct, indirect, special, punitive or other damages whatsoever (including but not limited to damages for loss of business profits, loss of business information, business interruption, or any other pecuniary loss) arising out of the use of, or inability to use, this product, even if Outback Imaging has been advised of the possibility of such damages.

13. Severability: Should any provision of this Agreement be found to be invalid or contrary to law, then it may be severed from this Agreement / document and the balance of this Agreement shall remain in force and effective between the parties.

14. Entire Agreement: These terms and conditions supersede all prior written and oral understandings between the parties on the subject matter of this Agreement and constitute the entire agreement between them relating to the license of the material covered by this Agreement. There are no understandings or representations, express or implied, not expressly set out herein.

15. Applicable Law: This Agreement is governed by the laws of Queensland and the Commonwealth of Australia.

16. Contact for Warranty Claims

- (a) In the first instance refer all warranty claims to the person or Company from which you acquired the Licenced Product
- (b) If satisfaction is not achieved then refer the Warranty claim to Outback Imaging by contacting it as follows: email to support@ezescan.com.au, with the words 'WARRANTY CLAIM ENQUIRY' in the email heading.

Outback Imaging Pty Ltd ACN 102 594 883, 2002 - 2020.

Signed: (By an authorised representative of the Customer)

Full Name:

Company Name:

Company Address:

Dated:

Signed: (By a person authorised by Outback Imaging)

Full Name:

Dated: