

# EzeScan Desktop/Server License Agreement

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

- A. Standalone Named Perpetual Licence \*\*,
- B. Concurrent Annual Licence \*\*, or
- C. Subscription Licence \*\*, or
- D. Evaluation and Trial Licence \*\*.

\*\* N.B. The Customer acknowledges and agrees that unless the Customer has specifically purchased an EzeScan Standalone Named Perpetual Licence or Concurrent Annual Licence or a Subscription Licence from Outback Imaging or an Authorised EzeScan Distributor/Reseller, then this licence shall be deemed to be 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**" or "**EzeScan**").

By installing, downloading, copying, accessing, clicking on an "accept" button, or otherwise using the EzeScan Software ("Licensed 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 (7) days of receipt, to your place of purchase.

## 1. STANDALONE NAMED PERPETUAL LICENCE

- 1.1 Outback Imaging grants the Customer a non-exclusive, non-transferable Standalone Named Perpetual Licence ("SNPL") to the Licensed Product, subject to the terms of this Agreement.
- 1.2 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").
- 1.3 For medical applications (including but not limited to medical records, x-rays, reports, and the like) it is a compulsory condition of this Licence that the Customer enters into and continues to subscribe to an Annual Software Maintenance Agreement ("ASM"), 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 Licence will expire on the expiry of the ASM and must not be used thereafter.
- 1.4 In the event that the Customer does not enter into or renew an ASM it is acknowledged that the Customer will not be entitled to upgrades and modifications to the Licensed Product or Maintenance Services provided 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.

## **2. CONCURRENT ANNUAL LICENCE**

- 2.1 Outback Imaging grants the Customer a non-exclusive, non-transferable **Concurrent Annual Licence** (“CAL”) to the Licensed Product, subject to the terms of this Agreement.
- 2.2 This Licensed Product may be installed concurrently on up to three (3) separate Personal Computers (“PCs”) however only one such PC will operate at any one time.
- 2.3 For a CAL, it is a condition of this Licence that the Customer enters into and continues to subscribe to an Annual Software Maintenance and Licensing Agreement (“ASML”), and all monies payable with respect thereto are paid up to date.
- 2.4 This CAL shall be for an initial term of twelve (12) calendar months from the date of purchase and will renew annually upon payment of the then-current fee for an ASML.
- 2.5 Without renewal of the ASML the Licensed Product will cease to operate on the licence expiry date and the Customer’s access to the services listed in Outback Imaging’s ASML will also cease.

## **3. SUBSCRIPTION LICENCES**

- 3.1 Outback Imaging grants the Customer a non-exclusive, non-transferable **Subscription Licence** (“SL”) to the Licensed Product, for the subscription period.
- 3.2 This Licensed Product may be installed onto the number of separate Personal Computers (“PCs”) specified in the Customer’s Purchase Order as processed by Outback Imaging. In the event of it not being specified, it shall default to one (1) PC only.
- 3.3 As part of this SL, the Customer is granted access to the services listed in Outback Imaging’s current Annual Software Maintenance License Agreement (“ASML”) for the subscription period.
- 3.4 This SL shall terminate with immediate effect if the subscription fees are not paid.
- 3.5 At the end of the subscription, this SL shall terminate, and the Licensed Product will cease to operate. The Customer’s access to the services listed in Outback Imaging’s ASML will also cease.

## **4. EVALUATION AND TRIAL LICENCES**

- 4.1 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 thirty (30) days after supply.
  - (c) On the expiry of this Licence, Outback Imaging may remove, by any means available, the Licensed Product from the Licensee’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 to facilitate 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.

## **5. GENERAL TERMS APPLICABLE TO ALL LICENCES**

- 5.1 **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. Licences purchased as Standalone Named Perpetual Licenses (also known as a 'named workstation licenses') are not transferable to other named workstations.
- 5.2 **Intellectual Property Rights:** All Intellectual Property Rights in the Licensed Product (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 trademark 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.
- 5.3 **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 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.
- 5.4 **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.
- 5.5 **Throughput Quota:** If specified on the Order, the Licensed Product may be subject to a restriction on the number of documents per month or the 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 Licence and that updated Licence is installed onto the inoperable PC; or
  - (b) waits for the balance of the Quota Time Period to lapse and then for the Throughput Quota to restart for the following Quota Time Period.
- 5.6 **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 Licensed 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, image enhancement or output image settings.

The Customer will ensure that the Licensed Products 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 Product.

**5.7 Third-Party APIs: The Licensed Product utilises API Integration to connect third-party products.**

- (a) The use of third-party products is in the customer's sole discretion and Outback Imaging does not warrant or guarantee support for such third-party products. Customers must acknowledge and agree that Outback Imaging does not have control over the functionality, performance and ability of third-party APIs and any claims for redress presented by the Customer due, among other things, to intellectual property infringements, defects, delays, damages or any other consequences arising from the use or implementation of the third-party product is the responsibility of such third-party provider and not Outback Imaging and shall, as such be governed by such third-party term. Outback Imaging shall in no event and in no respect be liable for defects, delays, or damages, whether direct, indirect or consequential caused by third-party products.
- (b) Customers are solely responsible to oversee and validate the input and output of data associated with third-party products, as well as to perform data backups for those products. Additionally, Customers bear full responsibility for maintaining the required operating environment for third-party products.
- (c) Customers are required to acknowledge that Outback Imaging is not involved in the processing of payment transactions related to third-party products, nor does it store or handle payment card data. Any fees collected by a payment provider in relation to a third-party product are independent of Outback Imaging and do not affect or diminish the Customers' responsibility to fulfil their payment obligations.

**5.8 Warranty – Customers, 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.

**5.9 Warranty – Consumers, as defined 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.

- 5.10 **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 5.9 of this Agreement apply subject to those restrictions.
  - (b) The Warranty limitations contained in Clause 5.9 are otherwise applicable to Licensed Products issued to Customers outside Australia.
- 5.11 **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.
- 5.12 **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.
- 5.13 **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.
- 5.14 **Severability:** Should any provision of this Agreement be found to be invalid or contrary to law, then it may be severed from this Agreement and the balance of this Agreement shall remain in force and effective between the parties.
- 5.15 **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.
- 5.16 **Applicable Law:** This Agreement is governed by the laws of Queensland and the Commonwealth of Australia.
- 5.17 **Contact for Warranty Claims**
- (a) In the first instance refer all warranty claims to the person or Company from which you acquired the Licensed 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.

**Customer**

---

Signed: ..... (By an authorised representative of the Customer)

Full Name: .....

Company/Entity Name: .....

Company/Entity Address: .....

Dated: .....

**Outback Imaging Pty Ltd ACN 102 594 883**

---

Signed: ..... (By a person authorised by Outback Imaging)

Full Name: .....

Dated: .....