

EzeScan + Application Suite Annual Software Maintenance Agreement

- **1.** EzeScan Licensing conditions are detailed in the separate EzeScan License Agreement, which will be sent to the Customer with the product. Please refer to that document for licensing and license use related matters.
- 2. EzeScan Maintenance Services ("Maintenance Services") are sold on an annual basis, payable up front with initial product order. The Maintenance Services apply to only those modules purchased by the Customer. This Agreement will be renewed annually by payment of the Annual Renewal Fee. Annual Renewal invoices will be delivered by Outback Imaging to the Customer Accounts Payable Department for payment at least 30 days before the Annual Renewal date has passed.
- **3.** Maintenance Services will not be delivered to clients or customers whose monies have not yet been remitted to Outback Imaging USA, LLC or its authorized distributor or agent.
- 4. All fees for Maintenance Services must be paid in full, before any Maintenance Services are provided by Outback Imaging USA, LLC.
- 5. EzeScan Maintenance Services must be applied to all EzeScan modules licensed by the customer.

6. Maintenance Service Requests:

- (a) Maintenance Services are available between the hours of 8.30am 5.00pm (EDT), Monday Friday, excluding federal holidays.
- (b) All service requests must be logged via the online service desk: <u>https://ezescan.atlassian.net/servicedesk</u>
- (c) Service requests are processed on a first in first out basis.

7. <u>Maintenance Services</u>

- 7.1 Providing the Customer has complied with the terms of this Agreement, including the payment of all fees for this Annual Software Maintenance Agreement, Outback Imaging shall provide Maintenance Services for:
 - (a) The Current Release of the Software for the term of this Agreement,
 - (b) The Preceding Release of the Software for a period ending on the shorter of the term of this Agreement or twelve (12) months after the date the Current Release is made available,
 - (c) Outback Imaging may, at its absolute discretion, refuse to provide Maintenance Services for Software that has been modified in any way.
- 7.2 The Customer shall designate a Primary Contact(s) to conduct all communication with Outback Imaging with respect to the Maintenance Services. Outback Imaging is not obligated to deal directly with any Customer representative other than the Primary Contact(s).

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- 7.3 The Customer shall ensure Outback Imaging has sufficient access to the Software, any systems in which the Software is used, and any relevant records or documentation to provide the Maintenance Services. Failure to provide complete remote access may impede the successful delivery of support and maintenance services.
- 7.4 Maintenance Services are limited to correcting program defects, correcting program nonconformance with documented features, and making minor user interface modifications to make the Graphical User Interface easier to use.
- 7.5 Maintenance Services requests will be logged by Outback Imaging as a SPAR (System Problem Action Request). Outback Imaging will assign one of the four following SPAR levels to the Customer Maintenance Service request:

(a) "Severity level 1" or "SPAR 1" - Critical Problem

Description: A feature does not work as documented and the impact of the problem is severe for the Customer, and no work around is currently available. This would normally require a rapid repair fix (commonly called a hotfix) to be provided by Outback Imaging.

(b) "Severity level 2" or "SPAR 2" - Urgent Problem

Description: A feature does not work as documented and the impact of the problem is serious but not severe. This includes situations where the Customer is able to continue using the Software but with some restrictions resulting in degradation of major services/operations. This would normally require a workaround to be provided by Outback Imaging, followed by a rapid repair fix rolled into the next product minor release update.

(c) "Severity level 3" or "SPAR 3" - Normal Problem

Description: Minor defect with work around available. This includes situations of documentation errors, which caused mistakes in the operation of the Software. The Customer is able to continue using the software without degradation of major services /operations. Documentation errors are normally corrected in the next product minor release update.

(d) "Severity level 4" or "SPAR 4" - Minor Problem

Description: The documentation contains an error or there is a trivial defect with little or no operational impact, or Customer has a general question regarding product usage, which does not require immediate attention. Documentation errors are normally corrected in the next product minor release update.

7.6 In response to Maintenance Service requests:

- (a) The customer may be asked to send to Outback Imaging relevant log-files and error message screenshots that demonstrate the problem they are experiencing with the software. Failure by the customer to provide this information in a timely manner to Outback Imaging will hinder Outback Imaging's ability to fix the problem being experienced by the Customer.
- (b) The Customer may be required to use a workaround provided by Outback Imaging. It is the Customer's responsibility to implement the workaround, as per the instructions provided by Outback Imaging.
- (c) The Customer may be required to install a rapid repair fix supplied by Outback Imaging to correct the problem. It is the Customer's responsibility to install the rapid repair fix as per the instructions provided by Outback Imaging.



8. <u>Maintenance Service Exclusions.</u>

- (a) Product training or retraining is not included as part of the maintenance services. These additional services may be purchased at additional cost.
- (b) EzeScan software installation, reinstallation, configuration or reconfiguration is not included as part of the maintenance services. These additional services may be purchased in addition to the maintenance services contained herein. If the client requires new functionality in one of the EzeScan + Application suite modules, they can raise a Software Enhancement Request (SER) with Outback Imaging. The decision to implement the changes required in response to an SER is solely at Outback Imaging's discretion. Outback Imaging will charge a service fee for implementing new functionality requested in an SER.
- (c) Onsite assistance is not included as part of the maintenance services. These additional services may however be purchased at additional cost.
- (d) Extended service hours outside of 8.30am-5.00pm (EDT) are not included as part of the maintenance services. These additional services may however be purchased at additional cost
- (e) Provision of any services whatsoever to any other products that are not specifically included within the licensed EzeScan application suite modules.
- (f) "How to Use" requests are not included as part of the maintenance services.

Please contact the Outback Imaging sales team (sales@ezescan.com) for pricing for services listed above that are excluded from Maintenance Service coverage.

9. Indemnity.

The Customer shall at all times indemnify and hold harmless Outback Imaging and its officers, employees and agents ("Indemnified Parties") from and against any loss, expenses or liability reasonably incurred or suffered by any of the Indemnified Parties arising from:

- (a) a breach by the Customer of its obligations under this Agreement; or
- (b) any willful, unlawful or negligent act or omission of the Customer.

10. Limitation of Liability.

IN NO EVENT SHALL OUTBACK IMAGING OR IT'S 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.

11. Termination

- 11.1 Outback Imaging may terminate this Agreement immediately by providing the Customer with written notice if the Customer
 - (a) is in breach of any term of this Agreement and such breach is not remedied within 14 days of receipt of written notice by Outback Imaging;
 - (b) destroys or disposes of or loses custody of the Software;
 - (c) becomes or threatens to become insolvent; or
 - (d) being a natural persons dies.

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- 11.2 In terminating the Agreement under Clause 11.1 Outback Imaging will
 - (a) cease providing the Support Services;
 - (b) be regarded as discharged from any further obligations under this Agreement; and
 - (c) pursue any additional or alternative remedies provided by law.

12. Variation, Assignment and Severability

- 12.1 Only a Director of Outback Imaging, in conjunction with the Customer, shall be entitled (in writing) to vary the terms and conditions of this Agreement.
- 12.2 The rights and obligations of the Customer as specified in this Agreement are personal. They cannot be assigned, charged or otherwise dealt with, and the Customer shall not attempt to do so without the prior written consent of Outback Imaging.
- 12.3 Where this Agreement relates to more than one item of Software these terms and conditions shall apply separately to each item of Software. Any provision of this Agreement, which is prohibited or unenforceable, will be ineffective only to the extent of that prohibition or unenforceability. The prohibition or unenforceability will not invalidate the remaining provisions of this Agreement.

13. 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 such subject matter. There are no understandings or representations, express or implied, not expressly set out herein.

14. Applicable Law

- 14.1 This Agreement shall be construed according to the laws of the State of Florida without regard to any conflict of law or comity. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the U.S. District Court, Middle District of Florida, Tampa Division, or the courts of Clearwater, Florida, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.
- 14.2 In the event that any party institutes any legal suit, action or proceeding against the other party to arising out of or relating to this Agreement, the prevailing party in the suit, action or proceeding shall be entitled to receive in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action or proceeding, including reasonable attorneys' fees and expenses and court costs.
- 14.3 Any controversy which may arise out of or relating to this Agreement is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement.



15. Limitation of warranty

OUTBACK IMAGING WARRANTS THAT IT WILL PROVIDE MAINTENANCE SERVICE IN A COMMERCIALLY REASONABLE MANNER TO RESTORE FUNCTIONALITY OF THE SOFTWARE ARISING OUT OF SEVERE OR SERIOUS DEGRADATION OF MAJOR SERVICES/OPERATIONS. OUTBACK IMAGING DOES NOT WARRANT OR REPRESENT THAT THE MAINTENANCE SERVICES WILL CORRECT ALL ERRORS IN THE SOFTWARE OR MODULES THERETO. IN THE EVENT THAT THE MAINTENANCE SERVICES PROVIDED HEREUNDER DO NOT RESOLVE THE ERRORS DESCRIBED IN THIS AGREEMENT, THEN CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE THE REPLACEMENT OF THE LICENSED SOFTWARE WITH ANOTHER COPY OF OUTBACK IMAGING'S SOFTWARE. THIS SERVICE MAINTENANCE WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY OFFERED BY OUTBACK IMAGING. THERE ARE NO OTHER WARRANTIES WITH RESPECT TO MAINTENANCE SERVICES PROVIDED HEREUNDER EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF OUTBACK IMAGING HAS BEEN INFORMED OF SUCH PURPOSE.

Outback Imaging USA LLC

Signed:	(By a person authorised by Outback Imaging)
Full Name:	
Position:	
Position:	
Dated:	
Customer	
Signed:	(By an authorised representative of the Customer)
Full Name:	
Position:	
Email:	
Company/Entity Name:	
Company/Entity Address:	
Dated:	

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