

DIMENSIONAL IMAGING LIMITED
TERMS AND CONDITIONS OF SERVICE

1. INTRODUCTION

- 1.1 These terms and conditions of service will apply to the Contract and all work the Supplier undertakes for the Customer to the exclusion of all other terms and conditions including the Customer's, unless otherwise agreed in writing.

2. BASIS OF CONTRACT

- 2.1 The Quotation constitutes an offer by the Supplier to provide the Services to the Customer. The Customer is responsible for ensuring that the terms of the Quotation are complete and accurate.
- 2.2 A binding contract shall not arise unless and until the Customer has issued a written acceptance, including by e-mail, of the Quotation to the Supplier and such acceptance shall be deemed to be made subject to these Terms and Conditions and no qualification or term or condition in any offer or purported acceptance by the Customer shall form any term or condition, excepted as agreed in writing by the parties.
- 2.3 Any Quotation given shall be, and shall be deemed to be withdrawn, unless accepted by the Customer within the period intimated on the Quotation.
- 2.4 The Supplier shall provide the Services to the Customer on these Terms and Conditions.
- 2.5 The Services supplied under these Terms and Conditions shall continue to be supplied until the Deliverables are supplied to the Customer.

3. SUPPLIER'S OBLIGATIONS

- 3.1 The Supplier shall use reasonable endeavours to provide the Services, and to deliver the Deliverables to the Customer.
- 3.2 The Supplier shall use reasonable endeavours to meet any performance dates specified, but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this Contract.
- 3.3 The Supplier shall appoint the Supplier's Manager who shall have authority contractually to bind the Supplier on all matters relating to the Services. The Supplier shall use reasonable endeavours to ensure that the same person acts as the Supplier's Manager throughout the term of this Contract, but may replace him from time to time where reasonably necessary in the interests of the Supplier's business.
- 3.4 The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Location and that have been communicated to it under condition 4.1.5, provided that it shall not be liable under this Contract if, as a result of such observation, it is in breach of any of its obligations under this Contract.
- 3.5 The Supplier may retain copies of the Deliverables but shall not be obliged to do so.

4. CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall:
- 4.1.1 co-operate with the Supplier in all matters relating to the Services and appoint the Customer's Manager in relation to the Services, who shall have the authority contractually to bind the Customer on matters relating to the Services;

- 4.1.2 provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Location and the Customer's data and other facilities as required by the Supplier;
 - 4.1.3 provide, in a timely manner, such information as the Supplier may require, and ensure that it is accurate in all material respects;
 - 4.1.4 be responsible (at its own cost) for preparing and maintaining the Location for the supply of the Services;
 - 4.1.5 inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Location; and
 - 4.1.6 obtain and maintain all In-put Permissions and all necessary licences and consents and comply with all relevant legislation in relation to the Services.
 - 4.1.7 The Customer acknowledges and agrees that:
 - 4.1.8 use of any material provided by the Customer is subject to the Supplier's written acceptance by the Supplier;
 - 4.1.9 in providing the Services the Supplier may be providing the Customer with performance data of items selected by the Customer including, without limitation, images, video sequences, 3D meshes and vertex caches;
 - 4.1.10 the Customer shall be responsible for the selection of those items and the original image, model, actor, celebrity or other subject from which such performance data will be generated.
- 4.2 If the Supplier's performance of its obligations under this Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay.
- 4.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Contract, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

5. CHANGE CONTROL

- 5.1 If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.
- 5.2 If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
- 5.2.1 the likely time required to implement the change;
 - 5.2.2 any necessary variations to the Supplier's charges arising from the change; and
 - 5.2.3 any other impact of the change on this Contract.
- 5.3 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services and any other relevant terms of this Contract to take account of the change and this Contract has been varied in accordance with condition 12.

5.4 Notwithstanding condition 5.3, the Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.

5.5 The Supplier may charge for the time it spends assessing a request for change from the Customer.

6. CHARGES AND PAYMENT

6.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges as set out in the Quotation.

6.2 The Customer and Supplier agree that:

6.2.1 the charges payable for the Services shall be calculated in accordance with the Supplier's prices and daily fee rates set out in the Quotation;

6.2.2 the Supplier's standard daily fee rates for each individual person are calculated on the basis of an eight hour day; and

6.2.3 the Supplier shall be entitled to charge an overtime rate as set out in the Quotation for any time worked by individuals whom it engages on the Services outside the hours referred to in condition 6.2.2.

6.3 The prices and daily and overtime rates contained in the Quotation shall exclude:

6.3.1 the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the Supplier for the supply of the Services. Such expenses, materials and third party services shall be invoiced by the Supplier at cost or, in the case of mileage, at 45 pence per mile; and

6.3.2 VAT or any other applicable taxes, which the Supplier shall add to its invoices at the appropriate rate.

6.4 The Customer shall pay each invoice submitted to it by the Supplier, in full and in cleared funds, within 30 calendar days of receipt to a bank account nominated in writing by the Supplier.

6.5 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:

6.5.1 charge interest on such sum from the due date for payment at the annual rate of 4% above the base rate from time to time of the Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand; and

6.5.2 suspend all Services until payment has been made in full.

6.6 All sums payable to the Supplier under this Contract shall become due immediately on its termination, despite any other provision. This condition 6.6 is without prejudice to any right to claim for interest under the law, or any such right under this Contract.

6.7 Each party may, without limiting any other rights or remedies it may have, set off any amounts owed to it by the other party under this Contract against any amounts payable by it to the other party under this Contract.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 As between the Customer and the Supplier, all Intellectual Property Rights and all other rights in the Pre-existing Materials shall be owned by the Supplier. Subject to condition 7.2, the Supplier licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables. If the Supplier terminates this Contract under condition 9.1, this licence will automatically terminate.
- 7.2 Following payment of all charges due by the Customer under this Contract, the Supplier will assign to the Customer the Intellectual Property Rights in the Deliverables, excluding Intellectual Property Rights in the Pre-existing Materials, and the Customer hereby irrevocably agrees that the Supplier may use the Deliverables for publicity and demonstration purposes and the Customer shall obtain all permissions required for such use.
- 7.3 The Customer hereby grants to the Supplier free of charge and on a non-exclusive, worldwide basis a licence of materials, data and information provided by the Customer to the Supplier to such extent as is necessary to enable the Supplier to carry out the Services and produce and use the Deliverables in accordance with this Contract.
- 7.4 Confidentiality
- 7.5 Each party shall keep in strict confidence all technical or commercial know-how and information (including mesh topology), specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by the other party, its employees, agents, consultants or subcontractors and any other confidential information concerning the other party's business or its products which a party may obtain.
- 7.6 The receiving party may disclose such information:
- 7.6.1 to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the receiving party's obligations under this Contract and for no other purpose; and
- 7.6.2 as may be required by law, court order or any governmental or regulatory authority.
- 7.7 The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 7.4.

8. LIMITATION OF LIABILITY

- 8.1 Nothing in this Contract limits or excludes the Supplier's liability for:
- 8.1.1 death or personal injury caused by its negligence; or
- 8.1.2 fraud or fraudulent misrepresentation.
- 8.2 Subject to condition 8.1, the Supplier shall not be liable to the Customer, whether in contract, delict (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Contract for:
- 8.2.1 loss of profits;
- 8.2.2 loss of sales or business;
- 8.2.3 loss of agreements or contracts;
- 8.2.4 loss of anticipated savings;
- 8.2.5 loss of or damage to goodwill;
- 8.2.6 loss of use or corruption of software, data or information;

8.2.7 any indirect or consequential loss.

8.3 Subject to conditions 8.1 and 8.2, the Supplier's total liability to the Customer, whether in contract, delict (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Contract shall be limited in respect of all claims (connected or unconnected) in any consecutive 12 (twelve) month period, the equivalent of the total charges paid by the Customer in that period.

9. TERMINATION

9.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate this Contract without liability to the other immediately on giving notice to the other if:

9.1.1 the other party fails to pay any amount due under this Contract on the due date for payment and remains in default not less than twenty days after being notified in writing to make such payment; or

9.1.2 the other party commits a material breach of any of the material terms of this Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

9.1.3 the other party repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract; or

9.1.4 the other party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or

9.1.5 the other party commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other party; or

9.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other party; or

9.1.7 an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other party; or

9.1.8 a floating charge holder over the assets of that other party has become entitled to appoint, or has appointed, an administrative receiver; or

9.1.9 a person becomes entitled to appoint a receiver over the assets of the other party, or a receiver is appointed over the assets of the other party; or

9.1.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or

- 9.1.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 9.1.4 to condition 9.1.10 (inclusive); or
- 9.1.12 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 9.2 The parties acknowledge and agree that any breach of conditions 4 or 5 or any sub-condition within condition 4 or condition 5 shall constitute a material breach for the purposes of this condition 9.
- 9.3 On termination of this Contract for any reason:
 - 9.3.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
 - 9.3.2 the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
 - 9.3.3 conditions which expressly or by implication have effect after termination shall continue in full force and effect, including the following conditions: condition 7 (Intellectual property rights), condition 7.4 (Confidentiality and the Supplier's property), condition 8 (Limitation of liability), condition 9.3, condition 19 (Notices), condition 20 (Dispute resolution), condition 21 (Governing law and jurisdiction).

10. FORCE MAJEURE

- 10.1 The Supplier shall not be in breach of this Contract, nor liable for any failure or delay in performance of the Services or any obligations under this Contract (and the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control, including any of the following:
 - 10.1.1 acts of God, including but not limited to fire, flood, earthquake, windstorm or other natural disaster;
 - 10.1.2 war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
 - 10.1.3 terrorist attack, civil war, civil commotion or riots;
 - 10.1.4 nuclear, chemical or biological contamination or sonic boom;
 - 10.1.5 compliance with any law;
 - 10.1.6 fire, explosion or accidental damage;
 - 10.1.7 loss at sea;
 - 10.1.8 adverse weather conditions;
 - 10.1.9 collapse of building structures, failure of plant machinery, machinery, computers or vehicles;
 - 10.1.10 any labour dispute, including but not limited to strikes, industrial action or lockouts;
 - 10.1.11 non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this condition); and

10.1.12 interruption or failure of utility service, including but not limited to electric power, gas or water.

11. VARIATION

Subject to condition 5, no variation of this Contract shall be valid unless it is in writing and signed by or on behalf of each of the parties.

12. WAIVER

12.1 A waiver of any right or remedy under this Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

12.2 No single or partial exercise of any right or remedy provided under this Contract or by law shall preclude or restrict the further exercise of any such right or remedy.

13. CUMULATIVE REMEDIES

Unless specifically provided otherwise, rights arising under this Contract are cumulative and do not exclude rights provided by law.

14. SEVERANCE

14.1 If any court or competent authority finds that any provision of this Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Contract shall not be affected.

14.2 If any invalid, unenforceable or illegal provision of this Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15. ENTIRE AGREEMENT

15.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of this Contract.

15.2 Each party acknowledges that, in entering into this Contract, it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that its only liability in respect of those representations and warranties that are set out in this Contract (whether made innocently or negligently) shall be for breach of contract.

15.3 Nothing in this condition shall limit or exclude any liability for fraud.

16. ASSIGNATION

16.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this Contract.

16.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this Contract.

17. NO PARTNERSHIP OR AGENCY

Nothing in this Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any

representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

18. RIGHTS OF THIRD PARTIES

A person who is not a party to this Contract shall not have any rights under or in connection with it.

19. NOTICES

19.1 A notice given to a party under this Contract:

19.1.1 shall be in writing in English (or accompanied by a properly prepared translation into English);

19.1.2 shall be signed by or on behalf of the party giving it;

19.1.3 shall be sent for the attention of the person, at the address of the relevant party as set out in the order, or quotation or confirmation of order (or to such other address, fax number or person as that party may notify to the other, in accordance with the provisions of this condition); and

19.1.4 shall be:

- (i) delivered personally; or
- (ii) sent by commercial courier; or
- (iii) sent by pre-paid first-class post or recorded delivery; or
- (iv) sent by airmail requiring signature on delivery.

19.2 If a notice has been properly sent or delivered in accordance with this condition, it will be deemed to have been received as follows:

19.2.1 if delivered personally, at the time of delivery; or

19.2.2 if delivered by commercial courier, at the time of signature of the courier's receipt; or

19.2.3 if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second day after posting; or

19.2.4 if sent by airmail, five days from the date of posting.

19.3 For the purposes of this condition:

19.3.1 all times are to be read as local time in the place of deemed receipt; and

19.3.2 if deemed receipt under this condition is not within business hours (meaning 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of receipt), the notice is deemed to have been received when business next starts in the place of receipt.

20. DISPUTE RESOLUTION

20.1 If any dispute arises in connection with this Contract, the Supplier's Manager and the Customer's Manager shall, within ten days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

20.2 If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation, a party must give notice in writing (ADR notice) to the other party requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than thirty days after the date of the ADR notice.

20.3 The commencement of a mediation will not prevent the parties commencing or continuing court proceedings.

21. GOVERNING LAW AND JURISDICTION

21.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of Scotland.

21.2 The parties irrevocably agree that the Scottish courts shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

22. INTERPRETATION

22.1 The definitions and rules of interpretation in this condition apply in this Contract.

"Contract"	means the contract between the Supplier and the Customer for the supply of Services in accordance with these Terms and Conditions.
"Customer"	means the person or firm ordering the Services from the Supplier.
"Customer's Manager"	the Customer's manager for the Services, appointed in accordance with condition 4.1.
"Deliverables"	all animations and performance data generated by the Supplier or its agents, subcontractors, consultants and employees in the course of providing the Services and delivered to the Customer.
"In-put Permissions"	all rights, clearances, grants of image rights, grants of rights in performances and all Intellectual Property Rights and other rights and permissions required to allow the Supplier to carry out the Services and provide the Deliverables to the Customer.
"Intellectual Property Rights"	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
"Location"	the location specified in the Quotation.
"Pre-existing Materials"	all Intellectual Property Rights, information and materials provided by the Supplier relating to the Services which existed prior to the commencement of this Contract, including computer programs, data and specifications and any and all improvements and amendments to the foregoing whether provided as part of the Services or otherwise.
"Quotation"	means the quote or estimate provided by the Supplier to the Customer for the provision of Services.
"Services"	the services to be provided by the Supplier under this Contract, together with any other services which the Supplier provides or agrees to provide to the Customer.

"Supplier"	means Dimensional Imaging Limited, incorporated and registered in Scotland with company number SC241791 whose registered office is at Hillington Park Innovation Centre, 1 Ainslie Road, Glasgow, G52 4RU.
"Supplier's Equipment"	any equipment, including filming equipment, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services.
"Supplier's Manager"	the Supplier's manager for the Services appointed under condition 3.3.
"VAT"	value added tax chargeable under Scots law for the time being and any similar sales tax or additional tax.

22.2 Condition headings shall not affect the interpretation of this Contract.

22.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

22.4 Words in the singular shall include the plural and vice versa.

22.5 Where the words include(s), including or in particular are used in this Contract, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.

22.6 Any obligation in this Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

22.7 References to conditions are to the conditions of this Contract.