

# EzeScan Web App License Agreement

## This license is either

- A. Standalone Annual License, or
- B. Monthly Subscription License, or
- C. Trial License

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## **This is a legal agreement**

Between you (the "**Customer**" or "You") and Outback Imaging USA, LLC ("**Outback Imaging**" or "OI").

OI provides the software solely on the terms and conditions set forth in this agreement and on the condition that customer accepts and complies with this agreement by downloading, copying, accessing, clicking "accept", using, installing this software package or unwrapping the cd containing the software, meaning you (a) accept this agreement and agree that customer is legally bound by its terms; and (b) represent and warrant that: (i) you are of legal age to enter into a binding agreement; and (ii) if customer is a corporation, governmental organization or other legal entity, you have the right, power and authority to enter into this agreement on behalf of customer and bind it to the terms of this license. If customer does not agree to the terms of this agreement, oi will not and does not license the software to customer and you must not download or install the software or documentation.

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**DEFINITIONS.** For purposes of this Agreement, the following terms have the following meanings:

"**Authorized Users**" means the following individual persons authorized to use the Software pursuant to the license granted under this Agreement: Customer and its employees.

"**Documentation**" means user manuals, technical manuals and any other materials provided by OI, in printed, electronic or other form, that describe the installation, operation, use or technical specifications of the Software.

"**Customer**" has the meaning set forth in the preamble.

"**License Fees**" means all fees payable to OI for the licenses contained herein.

"**OI**" has the meaning set forth in the preamble.

"**Order Form**" means the order form filled out and submitted by or on behalf of Customer, and accepted by OI, for Customer's purchase of the license for the Software granted under this Agreement.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"**Software**" means the software programs for which Customer is purchasing a license, as expressly set forth in the Order Form.

"**Term**" has the meaning set forth in the section titled "Term and Termination."

"**Third Party**" means any Person other than Customer or OI.

**Standalone Annual License (SAL) Grant and Scope.**

Subject to and conditioned upon payment of the License Fees, purchase and maintenance of a current ASM, and Customer's strict compliance with all terms and conditions set forth in this Agreement, OI hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable limited license for an initial term of twelve (12) months (SAL Term) from the date of Customer's purchase that will renew annually upon payment of the then current fee for an ASM with OI to use, solely by and through its Authorized Users, the Software and Documentation, solely as set forth in this Section and subject to all conditions and limitations set forth in Section or elsewhere in this Agreement. This license grants Customer the right, exercisable solely by and through Customer's Authorized Users, to:

- (a) Install in accordance with the Documentation one (1) copy of the Software that may be installed on one (1) Windows IIS Server that is owned, leased, or controlled by, Customer. In addition to the foregoing, Customer has the right to make one (1) copy of the Software solely for archival purposes and one (1) copy of the Software solely for backup purposes. All copies of the Software made by the Customer shall: (i) be the exclusive property of the OI; (ii) be subject to the terms and conditions of this Agreement; and (iii) include all trademark, copyright, patent and other intellectual property rights notices contained in the original; and
- (b) Use and run the Software as properly installed in accordance with this Agreement and the Documentation.

This SAL shall lapse if the ASM is not renewed or paid for and the Customer shall thereupon cease using the Software. Failure to cease using the Software shall be a breach of this license agreement and OI shall suffer damages agreed at the then current new purchase price of the Software SAL plus the cost of ASM annually. Failure to renew the ASM and the resultant lapse of this SAL shall entitle OI at its option to unilaterally terminate use of the Software and to uninstall it from all relevant server PCs.

**Monthly Subscription License (MSL) Grant and Scope.**

Subject to and conditioned upon payment of the License Fees, and Customer's strict compliance with all terms and conditions set forth in this Agreement, OI hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable limited license for an initial term of one (1) month (MSL Term) from the date of Customer's purchase that will renew monthly upon payment of the then current fee for a monthly subscription license with OI to use, solely by and through its Authorized Users, the Software and Documentation, solely as set forth in this Section and subject to all conditions and limitations set forth in Section or elsewhere in this Agreement. This license grants Customer the right, exercisable solely by and through Customer's Authorized Users, to:

- (a) Install in accordance with the Documentation one (1) copy of the Software that may be installed on one (1) Windows IIS Server that is owned, leased, or controlled by, Customer. In addition to the foregoing, Customer has the right to make one (1) copy of the Software solely for archival purposes and one (1) copy of the Software solely for backup purposes. All copies of the Software made by the Customer shall: (i) be the exclusive property of the OI; (ii) be subject to the terms and conditions of this Agreement; and (iii) include all trademark, copyright, patent and other intellectual property rights notices contained in the original; and
- (b) Use and run the Software as properly installed in accordance with this Agreement and the Documentation.

This MSL shall lapse if the monthly subscription is not renewed or paid for and the Customer shall thereupon cease using the Software. Failure to cease using the Software shall be a breach of this license agreement and OI shall suffer damages agreed at the then current new purchase price of the Software MSL. Failure to renew the monthly subscription and the resultant lapse of this MSL shall entitle OI at its option to unilaterally terminate use of the Software and to uninstall it from all relevant server PCs.

**Trial License.** When the Software or Documentation has been supplied on an evaluation or trial basis the following shall apply:

- (a) Evaluation or Trial Licenses are provided by OI solely for short term evaluation of the Software and Documentation and shall remain the sole and exclusive property of OI and not the Customer.
- (b) The Trial License expires on the date specified at the time that OI supplies the Software to Customer, but if no date is specified the Trial License shall expire thirty (30) days after the Software is supplied to Customer (“Trial Period”).
- (c) Upon expiration of the Trial Period, the Trial License immediately terminates and Customer has no further rights to use the Software or Documentation for any purpose whatsoever. Customer agrees that any use after the expiration of the Trial Period shall be a material breach of this Agreement and shall be an infringement upon OI’s and its licensor’s Intellectual Property Rights as defined below. Customer shall immediately destroy all copies of the Software and Documentation and certify in writing to OI that such copies have been destroyed. OI, its employees and authorized contractors have the right to enter Customer’s premises either physically or electronically to facilitate and confirm the removal of the Software and Documentation from the Customer’s computers where the Software and Documentation was installed.

**Use Restrictions.** Customer shall not, and shall require its Authorized Users not to, directly or indirectly:

- (a) deploy the software onto more than the number of IIS Servers it has been licensed for by OI;
- (b) exceed the licensed number of activated web page app instances, or exceed the licensed number of users per activated web page app instance that it has been licensed for by OI;
- (c) exceed any document throughput quota restrictions applied in the licensed software.
- (d) use (including make any copies of) the Software or Documentation beyond the scope of the license granted herein;
- (e) modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof;
- (f) combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other programs;
- (g) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Software or any part thereof;
- (h) remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from the Software or Documentation, including any copy thereof;
- (i) except as expressly set forth in license granted herein, copy the Software or Documentation, in whole or in part;
- (j) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Software or any features or functionality of the Software, to any Third Party for any reason, whether or not over a network and whether or not on a hosted basis, including in connection with the internet, web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-sharing, service bureau, software as a service, cloud or other technology or service;
- (k) use the Software in, or in association with, the design, construction, maintenance or operation of any hazardous environments or systems, including: (1) power generation systems; (2) aircraft navigation or

communication systems, air traffic control systems or any other transport management systems; (3) safety-critical applications, including medical or life-support systems, vehicle operation applications or any police, fire or other safety response systems; and (4) military or aerospace applications, weapons systems or environments;

- (l) use the Software in violation of any federal, state or local law, regulation or rule; or
- (m) use the Software for purposes of competitive analysis of the Software, the development of a competing software product or service or any other purpose that is to the OI's commercial disadvantage.

**Responsibility for Use of Software.** Customer is responsible and liable for all uses of the Software through access thereto provided by Customer, directly or indirectly. Specifically, and without limiting the generality of the foregoing, Customer is responsible and liable for all actions and failures to take required actions with respect to the Software by its Authorized Users or by any other Person to whom Customer or an Authorized User may provide access to or use of the Software, whether such access or use is permitted by or in violation of this Agreement.

**Compliance Measures.** The Software may contain technological copy protection or other security features designed to prevent unauthorized use of the Software. Customer shall not, and shall not attempt to, remove, disable, circumvent or otherwise create or implement any workaround to, any such copy protection or security features.

**Intellectual Property Rights.** Customer acknowledges and agrees that the Software and Documentation are provided under license, and not sold, to Customer. Customer does not acquire any ownership interest in the Software or Documentation under this Agreement, or any other rights thereto other than to use the same in accordance with the license granted, and subject to all terms, conditions and restrictions, under this Agreement. Outback Imaging IP Pty, Ltd. (ACN 120 605 389) is the sole and exclusive owner of all intellectual property, whether registered or unregistered, in and arising from the Software and Documentation, including but not limited to source code, object code, copyright, algorithms, libraries, trade secrets, moral rights, patent rights (including but not limited to the right to apply, prosecute and obtain patent protection over any patentable subject matter), all trademarks including the words and logos associated with the terms “ezeScan”, “transforming paper into knowledge” or any derivative thereof (“Intellectual Property Rights”). Outback Imaging IP Pty, Ltd. has licensed the Intellectual Property Rights to OI and OI is permitted to sublicense such rights to Customer. Customer shall safeguard all Software and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse, damage, unauthorized use, and unauthorized access (“Unauthorized Use”). Customer shall immediately notify OI in writing once it becomes aware of any Unauthorized Use.

**Third-Party APIs:** The Software licensed utilizes API Integration to connect third-party products. 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.

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. 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.

**Payment.** All License Fees and Support Fees are payable in advance in the manner set forth in the Order Form and are non-refundable, except as may be expressly set forth herein.

**Suitability.** Outback Imaging and its licensor make no representation as to the suitability of the software for the Customer's needs, nor does it accept any responsibility for the accuracy, quality or type of output produced by the Customer using this software. The Customer is responsible for selection of the software as suitable for its need. Licensing is on the basis of the maximum number of web client users ordered on the applicable Outback Imaging Licensed Product Order form. The customer agrees to notify Outback Imaging if their web client user count has exceeded their ordered licensed web client user maximum count threshold. In such an event the customer agrees to either reduce their active web client user count to below the maximum threshold, or to purchase an increased user count licence from Outback Imaging. Where no maximum web client user count has been specified it shall default to 50. Licenses purchased as named server licenses are not transferable to other named servers. 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. Evaluation or Trial licenses are provided by Outback Imaging solely for short term evaluation of the software and these licenses remain solely the property of Outback Imaging and not the Customer.

**Termination:** This agreement is accepted by the Customer on removing the CD from its package, or by installing the software from the media provided. The Customer may terminate this Agreement without notice, Outback Imaging may terminate this Agreement and license by notice in writing to the Customer should the Customer be in default under the term of this Agreement and fail to cure the default within 30 days of receiving written notice, or in the event that the breach is incapable of remedy that may be terminated forthwith by written notice. The Customer shall cease using the Software and Documentation and destroy all licensed material upon termination.

#### **LIMITED WARRANTY AND DISCLAIMER**

**Limited Warranty.** Solely with respect to Software for which OI receives a License Fee, OI warrants that, for a period of ninety (90) days following the purchase of the Software (Warranty Period): (I) any media on which the Software is provided will be free of material damage and defects in materials and workmanship under normal use; and (ii) the Software will substantially contain the functionality described in the Documentation, and when properly installed on a computer meeting the specifications set forth in, and operated in accordance with the Documentation, will substantially perform in accordance therewith. Support and other services after expiration of the Warranty Period are provided under OI's Standard Software Maintenance Agreement if purchased by Customer. THE FOREGOING WARRANTIES DO NOT APPLY TO, AND OI STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY MATERIALS.

**Warranty Void.** The warranties set forth above shall not apply and shall become null and void if Customer breaches any provision of this Agreement, or if Customer, any Authorized User: (i) installs or uses the Software on or in connection with any hardware or software not specified in the Documentation; (ii) modifies or damages the Software, or the media on which it is provided, including abnormal physical or electrical stress; or (iii) misuses the Software, including any use of the Software other than as specified in the Documentation .

**Warranty Claims.** If, during Warranty Period any Software covered by the warranty fails to perform substantially in accordance with the Documentation, and such failure is not excluded from warranty OI shall, subject to Customer's promptly notifying OI in writing of such failure to [m.kirkby@outbackimaging.com.au](mailto:m.kirkby@outbackimaging.com.au), at its sole

option, either: (i) repair or replace the Software, provided that Customer provides OI with all information OI reasonably requests to resolve the reported failure, including sufficient information to enable the OI to recreate such failure; or (ii) refund the License Fees paid for such Software, subject to Customer's ceasing all use of and, if requested by OI, returning to OI all copies of the Software. If OI repairs or replaces the Software, the warranty will continue to run from the initial purchase date, and not from Customer's receipt of the repair or replacement. The remedies set forth herein are the Customer's sole remedies and OI's sole liability under this limited warranty.

**WARRANTY DISCLAIMER. EXCEPT FOR THE LIMITED WARRANTY SET FORTH HEREIN, THE SOFTWARE AND DOCUMENTATION ARE PROVIDED TO CUSTOMER "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, OI, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES, ITS LICENSOR, ITS DISTRIBUTORS AND ITS RESELLERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, NEITHER OI OR ITS LICENSOR PROVIDES A WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE LICENSED SOFTWARE WILL MEET THE CUSTOMER'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.**

**LIMITATION OF LIABILITY.**

**TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW:**

**IN NO EVENT SHALL OI, ITS AFFILIATES, ITS LICENSOR, ITS DISTRIBUTORS AND ITS RESELLERS BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY OR INABILITY TO USE THE SOFTWARE, LOST REVENUES OR PROFITS, DELAYS, INTERRUPTION OR LOSS OF SERVICES, BUSINESS OR GOODWILL, LOSS OR CORRUPTION OF DATA, LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION OR SHUTDOWN, FAILURE TO ACCURATELY TRANSFER, READ OR TRANSMIT INFORMATION, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION OR BREACHES IN SYSTEM SECURITY, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT OI WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**IN NO EVENT SHALL OI, ITS AFFILIATES, ITS LICENSOR, ITS DISTRIBUTORS AND ITS RESELLERS COLLECTIVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID TO OI, ITS AFFILIATES, ITS LICENSOR, ITS DISTRIBUTORS OR ITS RESELLERS, PURSUANT TO THIS AGREEMENT.**

**THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY EVEN IF THE CUSTOMER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.**

**Export Regulation.** The Software and Documentation may be subject to US export control laws, including the US Export Administration Act and its associated regulations. The Customer shall not, directly or indirectly, export, re-export or release the Software or Documentation to, or make the Software or Documentation accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. The Customer shall comply with all applicable federal laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Software or Documentation available outside the US.

**US Government Rights.** The Software is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if the Customer is the US Government or any contractor therefor, Customer shall receive only those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government Customers and their contractors.

### **MISCELLANEOUS**

**Force Majeure.** OI shall not be in default hereunder by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning or Customer equipment, loss and destruction of property or any other circumstances or causes beyond OI's reasonable control.

**Notice.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile [or e-mail of a PDF document] (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the [third] day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on the Order Form.

**Non-Assignment.** Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without OI's prior written consent, which consent OI may give or withhold in its sole discretion. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Customer (regardless of whether Customer is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement for which OI's prior written consent is required. No delegation or other transfer will relieve Customer of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this Section is void. OI may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Customer's consent. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

**No Third Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.



**Modification.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**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.

**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.

**Applicable Law/Venue/Waiver of Jury Trial:**

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. In the event that any party institutes any legal suit, action or proceeding against the other party 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.

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.