

**ISAAC DIGILAB
TERMS AND CONDITIONS**

INTRODUCTION

These are the Terms and Conditions which apply to the Services which we will conduct for you. References to “we”, “us” or “our” in these Terms and Conditions shall be read as Nottingham Trent University at 50 Shakespeare Street, Nottingham, NG1 4FQ, UNITED KINGDOM.

By submitting your proposal or using the ISAAC DigiLab Services you are agreeing to the following terms and conditions on behalf of yourself and the organisation you represent, and you warrant that you are duly authorised to do so on behalf of that organisation.

We reserve the right to reject any proposal you submit where we deem that the proposal does not meet the objectives and/or aims of the ISAAC DigiLab.

1. MEANINGS IN THESE TERMS AND CONDITIONS

1.1. In these Terms and Conditions, the following words have the following meanings:

“**Background Intellectual Property**” means any Intellectual Property excluding Arising Intellectual Property owned or controlled by any party prior to commencement of or independently from the Services and which the owner party contributes or uses in the course of performing the Services;

“**Conditions**” means the standard terms and conditions set out in this document and any special terms and conditions agreed in writing between you and us;

“**Contract**” means these terms and conditions and any schedules or appendices to these terms;

“**Input Material**” means any documents or other materials, and any data or other information provided by one Party to the other in the course of us performing the Services;

“**Intellectual Property**” means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country, and all applications for and rights to apply for or register those rights;

“**Results**” means any documents or other materials and any data or other information and any Intellectual Property rights other than our Input Material which is generated by us directly as a result of the Services;

“**Services**” means the services as described on the ISAAC DigiLab Webpage, available here at: <https://www.isaac-lab.com/isaac-digilab>;

2. BASIS OF THE CONTRACT

2.1. Unless there is a variation under Condition 2.2, the Contract will be on the Conditions to the exclusion of any other terms and conditions (including any terms and conditions which you may purport to apply under any purchase order, confirmation of order, specification or other document). In the event of a conflict between these Conditions and your proposal, these Conditions will prevail.

2.2. We shall have the right at any time, at our sole discretion, to make modifications, additions and deletions to the Conditions where reasonably necessary or to respond to any change in the law or regulation. It is your responsibility periodically to review these terms and conditions for updates which shall come into effect once posted at <https://www.isaac-lab.com/DigiLab-Policy-Documents>. Your continued use of the ISAAC DigiLab Services will be deemed acceptance of these terms and conditions.

2.3. We do not accept liability for any representations that are not expressly incorporated into the Contract. You acknowledge that you do not rely on, and waive any claim for breach of, any such representations.

2.4. We are entitled to correct any typographical, clerical or other error or omission in any of our literature or other document or information issued by us relating to the Services without any liability and such documents do not constitute offers made by us.

3. INTELLECTUAL PROPERTY RIGHTS

3.1. All Background Intellectual Property used in connection with the Services shall remain the property of the party introducing the same. Any improvements or modifications to a party's Background Intellectual Property arising from the Services which are not severable from the Background

Intellectual Property will be deemed to form part of that party's Background Intellectual Property.

3.2. All Results in the Services will be owned by you.

3.3. Subject to Condition 3.2, you grant to us a non-transferable, perpetual, royalty-free licence for us, or any employee or agent of ours to use the Results in the Services for non-commercial use such as teaching and research.

3.4. Notwithstanding Condition 3.2 you must not misrepresent any views or conclusions reached by us and expressed in any written report and/or other written information supplied as part of the Services; and no such misrepresented views or conclusions or any such written information may be used in any legal proceedings as evidence of the facts or opinions stated by us.

3.5. You warrant that, except as specifically disclosed in writing to us by you any of your Input Material and its use by us for the purpose of delivering the Services will not infringe the copyright or other rights of any third party, and you shall indemnify us against any loss, damages, costs, expenses or other claims from any such infringement.

4. PUBLICATION

4.1. You confirm your intention to publish the Results of the Services and undertake to do so in peer reviewed journals and on open access basis that provides for unrestricted free of charge online public access.

4.2. The parties agree to work together on any publication based on the Results of the Services. Where both parties have made genuine scientific and/or technical contributions towards the Results, the Parties shall follow the principle of co-creation of knowledge and provide co-authorship in any resulting publications in accordance with good scientific practices.

4.3. You will acknowledge our support in all published material (including but not limited to conference proceedings, scientific publications or papers) arising from the Results of the Services. The following acknowledgement statement is to be used in all cases:

“We acknowledge the support of AHRC (AI for DIGILAB: A New Concept in Digital Infrastructure for Heritage Materials Research AH/T013184/1) and Nottingham Trent University for the ISAAC DigiLab Platform”

4.4. You will also acknowledge any significant contribution or support from a member of our personnel in generating the Results of the Services.

4.5. Within 30 (thirty) days of publication you will notify us of the title, authors and date of any scientific publications or papers published based on the Results of the Services.

4.6. You will not use our logo or name in connection with any publicity or publication arising from the Services without our written permission.

4.7. You accept that the future provision of Services may be affected if you do not comply with clause 4.

5. QUALITY

5.1. In relation to the Services we warrant to you that they will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with your instructions (as modified by the Contract).

5.2. You accept that any results of the Services provided to you by us is provided on an ‘as is’ basis and we give no warranty and make no representation as to its fitness for any purpose or that it will solve any problem put by you.

5.3. Any complaint by you which is based on the quality of the Services shall be immediately notified to us.

5.4. To the fullest extent permitted by law, all conditions and warranties whether express or implied by statute, common law, trade usage or otherwise are excluded, except as set out expressly in these Conditions.

6. LIMITATIONS ON LIABILITY

6.1. The following provisions set out our entire financial liability (including any liability for the acts or omissions of our employees, agents and sub-contractors to you in respect of:

6.1.1. any breach of the Conditions; and

6.1.2. any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

6.2. Nothing in the Conditions excludes or limits the liability of us for death or personal injury caused by our negligence or fraudulent misrepresentation or any other liability that may not be excluded as a matter of law.

YOUR ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITION 6.3

6.3. Subject to Condition 6.2

- 6.3.1. we shall have no liability to you whether in contract tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract; and
- 6.3.2. We shall not be liable to you for any loss of profit and/or, loss of business and/or depletion of goodwill and/or indirect and/or consequential loss suffered by any person and/or, costs, expenses which arise out of or in connection with the Services. You are responsible for making your own arrangements for the insurance of any loss.
- 6.4. Except in respect of any loss or damage caused by our negligence, you undertake to indemnify us, against any loss, costs, claims, expenses or fees we may incur relating to your breach of the Contract and/or any of the Conditions.
- 6.5. We shall have no liability to you for any loss, damage, costs, expenses or other claims for compensation arising from any of your Input Material or instructions that are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form or arising from their late arrival or non-arrival, or any other fault of yours.
- 7. FORCE MAJEURE**
- 7.1. We reserve the right to suspend the provision of the Services to you (without liability to you) if we are prevented from or delayed in the carrying on of our business due to circumstances beyond our reasonable control of including, without limitation, strikes, lock-outs or other industrial disputes (whether involving our workforce or the workforce of any other party), act of god, government actions, war, riot, hostilities (whether war be declared or not), armed conflict, terrorist attack, terrorist activity, nuclear, chemical or biological contamination, illness, sonic boom, civil commotion, invasion, revolution, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, power failure, breakdown of plant or machinery, fire, flood, storm, disease, epidemic, default of suppliers or subcontractors, difficulties or increased expense in obtaining raw materials, labour, fuel, parts of machinery, or import or export regulations or embargoes; provided that if the event in question continues for a continuous period in excess of 20 days you shall be entitled to give notice in writing to us to terminate the contract.
- 8. CONFIDENTIALITY**
- 8.1. During the Contract, the parties may exchange information which is of a secret or confidential nature which shall not (i) already be known to the recipient or; (ii) have entered into the public domain either (a) at the time of disclosure to the recipient or (b) subsequently through no fault of the recipient ("Confidential Information").
- 8.2. During the Contract and for a period of five years after its termination, the recipient of Confidential Information shall use reasonable endeavours to keep such information confidential and to that end shall not, without specific prior written consent of the other party permit that information to:
- 8.2.1. be disclosed except to those who may need to have such information in connection with the Services; or
- 8.2.2. pass outside the receiving party's control unless required to do so by law or regulatory authority.
- 8.3. The obligations of confidentiality shall supersede in its entirety with effect from the date of the Contract, any confidentiality agreement that the parties may have previously entered into relating to the same subject matter as the Contract.
- 9. TERMINATION**
- 9.1. Either party may on four (4) weeks written notice terminate this Contract with no liability if there is a material breach of any of the obligations under this Contract.
- 10. GENERAL PROVISIONS**
- 10.1. Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and may be delivered personally or by first class recorded delivery. Any notice to us must be in writing. A notice shall be deemed to have been served (if personally delivered) at the time of delivery or (if sent by first class recorded delivery post) forty-eight hours after posting, but if deemed receipt under this Condition would occur outside business hours, receipt shall instead be deemed to occur when business hours resume. For the purpose of this Condition, "business hours" means between the hours of 9am and 5pm Monday to Friday, excluding any day that is a public holiday in England.
- 10.2. You may not assign, transfer, charge or deal in any other manner with the Contract or any of its rights under it, nor purport to do any of the same, nor subcontract any or all of its obligations under the Contract without having obtained our prior written consent, which is not to be unreasonably withheld in the case of a proposed assignment to a subsidiary where you agree to guarantee the performance of the Contract by the subsidiary.
- 10.3. We shall be entitled to assign our rights under the Contract and sub contract any or all of our obligations under the Contract to any third party
- 10.4. No person who is not a party to the Contract has any rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any terms of the Contract but this does not affect any right or remedy of a third party which exists or is available apart from the Act.
- 10.5. No waiver by us of any breach of the Contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.6. Any failure on our part to exercise, or any delay on our part in exercising, any right or remedy under the Contract shall not constitute a waiver of that right or remedy.
- 10.7. Each of the provisions of the Conditions is severable. If any provision is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or unenforceability in that jurisdiction of the remaining provisions of the Conditions shall not in any way be affected or impaired by it.
- 10.8. We and you accept our legal obligation to comply with all statutory requirements, legislation and regulations relating to the outlawing of discrimination on the grounds of age or disability, race, sex, sexual orientation, religion and belief and the promotion of racial equality.
- 10.9. The parties shall attempt to resolve in good faith any dispute arising between them out of the operation of this Contract. If the matter is not resolved through negotiation either party may refer the matter to mediation and the parties will attempt in good faith to resolve the dispute through mediation in accordance with the model procedure of the Centre for Effective Dispute Resolution.
- 10.10. These Conditions and the Contract shall be governed by and construed in accordance with English Law and the courts of England shall have jurisdiction over any claim or matter to settle any dispute which may arise out of or in connection with the Contract.