

ESM Digital Solutions. ('ESM')

Unit 3 Chamber Buildings, North Street, Swords, Co. Dublin, Ireland

General Terms and Conditions

Version 3.2

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1.0 Scope

This document outlines the terms and conditions surrounding the provision and ongoing support of 3Shape desktop scanners and/or associated software.

2.0 The Product(s)

3Shape Desktop Scanner (for dental or orthodontic applications - 500, 700, 750, 800, 850, 900, 1000, 2000 series)

TRIOS Cart / TRIOS Pod / TRIOS Chair Integration Kit

Consumables eg TRIOS Scan Tips

Desktop, Laptop Computer - 'Scanserver PC'

Calibration kit and associated fixtures

Scanning, Analysis, Design, communication software

3.0 Order Confirmation

An order is deemed confirmed once a signed order form is provided a non-refundable deposit of no less than 20% of the total order value is paid and cleared to ESM.

4.0 Payment

Payment must be made in full prior to delivery of the product. Product will be released for dispatch within 10 working days of receipt of cleared funds. When a 3rd party financing company is engaged by the customer to provide financing for the products, the customer must notify the financing company of this condition. Exceptions to this condition may only be made with prior agreement and will be at the discretion of ESM and their suppliers. Payment shall be made via electronic fund transfer (EFT).

The customer shall be responsible for the provision of all personal and business related documents as requested by customs officials and payment all taxes and duties associated with the product

The goods remain the property of ESM until full payment of product, taxes, duties and charges are made.

In situations where the purchase is being funded by a 3rd party financing company, special arrangements may be made regarding scheduling of payment but only by prior agreement.

5.0 Delivery

Delivery lead time is usually 4-6 weeks after confirmation of order. On confirmation, ESM will provide an estimated delivery date around which payment, delivery and installation / training may be planned. Delivery is made by courier and paid for by the customer.

6.0 Order Cancellation and Product Return

The order may not be cancelled nor may the product be returned. ESM reserves the right to retain deposits paid and reschedule or cancel any order that is not paid for in full within 15 days of the first notice of the product being ready for delivery. This does not affect your statutory rights.

Under exceptional circumstances, if mutual agreement is made to return product within 3 months of delivery, the return shall be subject to a restocking fee of 25% of the value of the original purchase price or the current market value of the product in euros, less any discounts that were offered at time of purchase.

7.0 Software Licences and Annual Subscription Renewal

The customer agrees to comply with the End User Agreement (EUA) provided for all software products delivered. This includes and is not limited to the use of this software in a manner that infringes any intellectual property rights owned by ESM or any other 3rd parties.

3Shape software licences are managed and controlled via a USB dongle that is installed on an accessible local area network computer. This dongle hosts all licences both individual and multiple for the site. Multiple licences may not be shared across multiple dongles. Additional dongles may be purchased separately and individual licences charged for accordingly.

All 3Shape software products are provided with an annual software subscription fee. This fee covers software licences, upgrades, ongoing training and telephone and remote support. The licence must be paid for and updated prior to the annual renewal date. Failure to do so will result in all software (including scanning software) expiring and therefore will be unusable until all renewal fees have been paid in full.

The obligations of ESM shall be terminated and software licences cancelled by ESM if the customer fails to pay any monies that may become due.

The duration of these terms and conditions is for a minimum of 12 months and is subject to revision upon commencement of further annual subscription term.

The ownership of the software licence shall remain the property of ESM and may only be transferred to another party with the written permission of ESM and on payment of 50% of the value of the annual subscription for two years. This does not entitle the customer to any extended software licence, upgrade or support from ESM or 3Shape. No refund for the current annual subscription term shall be made to the customer by ESM or by 3Shape.

Software subscription fees do not include hardware warranty.

Non-payment of software subscription fees will constitute a termination of the licence. Reopening of the licence will be completed at the discretion of 3shape and will be subject to the following reopening terms (a) if reopened within the unpaid subscription term, the subscription fee shall be paid in full and the subscription expiry date will remain unchanged, (b) within 12 months of the expiry date of the unpaid subscription term, the subscription fee plus 50% of the software cost (i.e. RRP-subscription) shall be paid and the subscription renewal date shall be the next annual renewal date for the licence; (c) more than 12 months after the expiry date of the unpaid subscription term, the software must be paid for in full and the next expiry date set to align with the dongle.

ESM shall endeavour to maintain subscription fees at a consistent rate for a minimum of three years for any given software product. ESM shall not be held responsible for changes to licences structures and introduction of new software products which may require that end users change their licence type and licence fees. Due to unforeseen situations such as excessive currency fluctuations and excessive support demands, ESM reserves the right to alter the subscription fee at any given point.

8.0 Installation

A representative of ESM will attend the practice for hardware installation and training as agreed at time of purchase (customers purchasing software only are entitled to on-line training only) ESM is not obliged to provide a second on-site visit if it is not possible to complete training within the timeframe allowed. The customer must provide the following to enable successful installation:

- 1) 230V AC power socket (x3) (Hardware only)
- 2) Ethernet connection (Hardware only)
- 3) Unrestricted Internet access
- 4) On-site or telephone / remote connection access to person responsible for all IT hardware and software at the practice.

As part of the installation, it may be necessary to allocate dedicated server storage space, install software on the server and workstations and provide a safe and secure location for a USB licence dongle.

The customer must ensure that all computer hardware meets the requirements specified by ESM / 3Shape. ESM shall not be held responsible for software malfunctions or underperformance occurring when hardware is provided by the customer (whether or not the hardware meets the recommended specification).

Prior to installation ESM and the customer shall ensure that persons / parties responsible for IT at the customer's site are made aware of the installation and any consideration relevant to the network.

ESM shall not be held responsible for setting up configurations specific to 3rd parties such as Implant libraries, DME files etc unless specifically agreed in writing.

Where agreed, installation may be completed by a suitably qualified and competent person / company as nominated by the customer. In these circumstances installation may only be performed under strict supervision and guidance by ESM support staff. ESM assumes no responsibility for damage to the product or other losses resulting from installation in this manner. ESM shall not be held responsible for paying any costs associated with engaging in the services of a third party to complete installation.

9.0 Training

Training will be delivered on-site and it is recommended that two members of staff are nominated to become the in-house product experts. It is encouraged that all staff are involved in the training but most focus will be given to the dedicated scanning staff members. Training will be delivered according to the following structure:

- 1) Introduction to the system, concept and overview of each element, safety
- 2) Creation of order, scanning,
- 3) Preparation of models and use of viewing / analysis / design software

The customer is responsible for providing 3rd party product as required (eg implant scan flags).

In-house training of additional staff by trained staff is encouraged. Additional training and application support shall be provided to previously trained staff by remote access as per 10.4.

For TRIOS training, it is strongly recommended that a selection of patients are present for the latter part of the training period for practical 'hands-on' scanning.

A training schedule shall be discussed and agreed prior to delivery of product. ESM shall not be liable for the provision of further on-site training in situations where the customer was not able to provide the required time/staff resources for the agreed on-site training.

Additional on-site training can be provided by request at a cost of £450 per day plus expenses.

10.0 Support

ESM provides a support desk for telephone and remote access support of all hardware and software.

10.1 Support Desk Hours

The ESM Support desk is open during normal business hours of 8.30am – 5.00pm Monday to Friday. Support requests outside of these hours may be facilitated by prior arrangement. Access to support staff may be limited during UK and IRL public holidays.

10.2 Contact Information

The ESM Support desk may be contacted by email (primary) and telephone (secondary):

Email: support@esmdigitalsolutions.com

IRL Phone: 00 353 1 808 4446

10.3 Logging a call and Response Time

All support requests shall be emailed and include as much information pertaining to the fault as possible including: The scanner serial number, dongle number, a description of the fault, how frequently has the fault occurred, what steps were taken to rectify the fault, what steps were taken to reproduce the fault. Upon submitting the case, a unique case ID shall be provided by email and a support representative will be allocated responsibility. The ESM support representative will endeavour to respond to your call within a maximum of 4 hours. Every reasonable effort will be made to close the call as quickly as possible but this may be subject to 3rd party influences (for example availability of customer IT provider, 3Shape support staff etc).

10.4 Remote Access

ESM uses the Teamviewer™ remote access product to access practice computers for the purpose of installing upgrades, diagnosing faults, training etc.

When a support call is logged to ESM, the support technician must have free, uninterrupted and unrestricted access to all necessary computers at the customer's location in order to complete the support call efficiently. It is the responsibility of the customer to ensure that this is in place with their own IT specialist prior to logging the call with ESM.

The customer must provide a suitable broadband internet connection in order for the ESM support technician to carry out their work efficiently and successfully.

10.5 Customer Computer Hardware

The customer is responsible for ensuring that the IT equipment involved in the use of products installed by ESM are of a suitable specification and configured in compliance with industry standard practices. ESM only provides support for their products installed on PCs running the Microsoft Windows Operating System.

10.6 3rd Party Software

ESM Digital Solutions shall not be held responsible for changes to 3rd Party software which may have an implication on the operation of products provided by ESM.

10.7 Data Backup

The customer is responsible for providing suitable backups of any data generated by the product. Prior to any support calls, it is advisable that the customer carries out a full backup of data.

10.8 Nominated Contact at Customer Site

ESM requests that two people are nominated at the customer site who shall be the first point of contact for ESM support staff. Where practical, all support requests shall be logged by these members of staff and either of these should be available to assist with all support calls.

10.9 Malfunction or Underperformance due to 3rd Party Interference

ESM shall not be held responsible for correcting any damage, reinstalling software or correcting any installation or configuration errors resulting from actions taken by the customer or 3rd party acting on behalf of the customer.

10.10 Conflicts with 3rd Party Data / Software / Version Cross Compatibility

ESM shall not be responsible for providing support relating to issues arising from 3rd party data being imported into software provided by ESM, issues arising from 3Shape data not being accessible through 3rd party software or 3Shape data not being accessible across different versions of 3shape software unless the specific cross-compatibility is explicitly stated in writing.

10.11 Provision of support to 3rd Party

Unless explicitly stated, ESM is not obliged to provide any support to 3rd parties who may be provided with access to data or unlicensed software (for example Digital Study Model customers). This condition also applies to situations where the 3rd party may be using 3Shape products delivered by another party.

10.12 Fair Usage

It is the intention of ESM Digital Solutions to offer unrestricted availability of support staff during the normal working hours listed above. However it is requested from the customer that, only staff with prior training and experience with the hardware and software provided by ESM are involved in support requests. Support requests outside of what can be reasonably deemed as fair usage shall be charged at a rate of €70/hr.

11.0 Hardware Warranty

3Shape warrants that the Scanner(s) hardware is/are free from defects in material and labour and will perform according to specifications for a period of one year (the Warranty Period) from date of delivery. Thus, during the warranty period 3Shape will at its option replace or repair itself or through subcontractors any Scanner, which fails to perform to its specifications provided that the scanner was used, calibrated and maintained in accordance with the applicable operator maintenance instructions.

The General Limited Warranty does not cover failures due to misuse, abuse, negligence, accidents, repairs or alterations by Customer or by third parties other than 3Shape or 3Shape's subcontractors.

The General Limited Warranty coverage does not include:

- 1) Damage caused by customer error, inexperience, untrained operators or neglect
- 2) Shipping costs for parts/machines returned for repair or replacement outside the first 90 days
- 3) Technician's travel and accommodation expenses

During the first 90 days following delivery of the scanner, a replacement scanner will be sent to the customer site upon determination by 3Shape's Customer Support or 3Shape's subcontractor of product failure. Between 90 days and 12 months the Scanner can be repaired at a 3Shape repair facility. The customer will cover shipping cost to the 3Shape repair facility and 3shape covers the cost of shipping the scanner back to the customer.

After the initial 1 year warranty period the scanner can be repaired at a 3Shape repair facility. Prior to returning the scanner, 3Shape will diagnose the fault, offer an estimated repair price and based on customer

acceptance, a 'Return Materials Authorisation' (RMA) will be issued. If after initial inspection, the repair price is estimated to be higher than originally quoted, the customer will be advised. The customer will pay shipping costs to and from the 3Shape repair facility and all labour and parts cost.

The warranty for PCs and other IT hardware delivered by ESM is provided by the equipment manufacturer. Following an initial diagnosis by ESM / 3Shape, the customer will then be required to contact the manufacturer for further support / repair / warranty claims.

Where add-in components are provided, (eg graphics cards, USB expansion cards etc), these will be replaced by 3Shape as deemed necessary and the customer is responsible for removing and replacing the faulty component.

Peripherals such as monitors that are delivered with the scanner are covered by the manufacturers 1yr warranty.

12.0 Extended Warranty / Hot Swap / Temporary Replacement

The customer has the option to purchase an extended warranty for their system. The warranty may be extended for 1 or 2 years and the extension of the warranty must be requested and paid for prior to the conclusion of the first 1yr warranty.

ESM is not liable for the provision of a replacement product should there be a need to take a faulty product offsite for repair.

ESM does not offer a guaranteed hotswap facility. When resources allow, ESM may be able to provide a temporary replacement scanner, and charge accordingly for the duration of repairs.

13.0 Routine Calibration, Maintenance and Cross Infection Control

The customer is responsible for routine maintenance of the product and ensuring that current best practice protocols are employed with regards to cross infection control. Such procedures include but are not limited to: surface wiping of all surfaces with suitable disinfectant, regular calibration of hand-held unit, sterilisation and appropriate storage of scanner tips, replacement of 'worn' scanner tips as necessary.

Routine calibration shall be conducted by the customer to ensure optimal accuracy and performance of the scanning hardware.

14.0 Limitation of Liability

Under no circumstances shall ESM be liable to the Customer by reason of any misrepresentation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any direct, indirect, special, or consequential loss or damage (whether for loss of profit or otherwise, expenses caused in the ordinary course of business, data or otherwise), costs, expenses or other claims for compensation whatsoever (and whether caused by the negligence of ESM, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods, except as otherwise expressly provided in these Conditions.

ESM shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control.