

Terms of Service

This document was last updated on October 14th, 2020

Welcome to our products and services ("Services"). The Services are provided by ScalePad Software Inc. ("ScalePad"), headquartered in Vancouver, BC, Canada.

By using our Services, you are agreeing to these terms. Please read them carefully.

Some of our Services may have additional terms or requirements that apply. Additional terms will be available with the relevant Services, and those additional terms become part of your agreement with us if you use those Services.

Using our Services

You must follow any policies made available to you within the Services.

Our Services must not be used by individuals who are under age 18.

You must not misuse our Services. For example, do not interfere with our Services or try to access them using a method other than the interface and the instructions that we provide. You may use our Services only as permitted by law, including applicable export and re-export control laws and regulations. We may suspend or stop providing our Services to you if you do not comply with our terms or policies or if we are investigating suspected misconduct.

Using our Services does not give you ownership of any intellectual property rights in our Services or the content you access. You may not use content from our Services unless you obtain permission from its owner or are otherwise permitted by law. These terms do not grant you the right to use any branding or logos used in our Services. Do not remove, obscure, or alter any legal notices displayed in or along with our Services.

Our Services display some content that is not ScalePad's. This content is the sole responsibility of the entity that makes it available. We may review content to determine whether it is illegal or violates our policies, and we may remove or refuse to display content that we reasonably believe violates our policies or the law. But that does not necessarily mean that we review content, so please do not assume that we do.

In connection with your use of the Services, we may send you service announcements, administrative messages, and other information. You may opt out of some of those communications.

Some of our Services are available on mobile devices. Do not use such Services in a way that distracts you and prevents you from obeying traffic or safety laws.

Your ScalePad Account

You may need a ScalePad Account in order to use some of our Services. You may create your own ScalePad Account, or your ScalePad Account may be assigned to you by an administrator, such as your employer or educational institution. If you are using a ScalePad Account assigned to you by an administrator, different or additional terms may apply and your administrator may be able to access or disable your account.

To protect your ScalePad Account, keep your password confidential. You are responsible for the activity that happens on or through your ScalePad Account. Try not to reuse your ScalePad Account password on third-party applications. If you learn of any unauthorized use of your password or ScalePad Account, [contact us](#).

Payment of Fees, Refunds

Some of our Services require payment and/or incur ongoing charges.

- Billing – Currency billing for the Service is in US Dollars (USD).
- Refunds – ScalePad does not provide refunds for services for any reason whatsoever, except for administrative errors or where a representative of ScalePad has expressly offered a refund. All billed amounts will be deemed correct and payable, other than any billing errors identified and communicated to ScalePad within ninety (90) days of invoice date.
- Credit Card – A valid credit card may be required to register for and continue using an Account.
- Monthly Fees – The monthly fee is based on the pricing displayed on the Pricing page, unless a valid promotional code entered during the sign-up process permits otherwise.
- Taxes, levies, and duties – All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties, except Accounts registered with a Canadian billing address, which are billed applicable PST or GST sales tax, depending on the province specified for the Account's billing address.
- Failure to Make Payment – In the event payment is not received for the Service due to a declined attempt to charge your credit card, expired credit card, or otherwise, and payment is not received within 7 days of the initial attempt, your Account will be suspended. If a suspended Account is not reactivated and the outstanding Account balance paid in full within 30 days, it will be cancelled and all Account data may be permanently deleted.

Privacy and Copyright Protection

ScalePad's [privacy policies](#) explain how we treat your personal data and protect your privacy when you use our Services. By using our Services, you agree that ScalePad can use such data in accordance with our privacy policies.

Your Content in our Services

Some of our Services allow you to upload, submit, store, send or receive content. You retain ownership of any intellectual property rights that you hold in that content. In short, what belongs to you stays yours.

When you upload, submit, store, send or receive content to or through our Services, such content and any processing of such content must be in compliance with these terms and applicable law. All rights, title and interest in and to the content you submit belong to you (or the original third persons including users, persons and organizations). By uploading content to our Services, you authorize us to process the content. You are responsible for ensuring that:

- you do not create, transmit, display or make otherwise available any content that violates the terms of these terms or the rights of any other persons or organizations or is harmful (for example viruses, worms, malware and other destructive codes), offensive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, invasive of another's privacy, defamatory, hateful or otherwise unlawful;
- you have the necessary rights to use the content, including to insert it into our Service and process it; and
- unless, ScalePad has agreed otherwise in a Business Associates Agreement with you, that none of your content shall fall within the definition of Protected Health Information (as such term is defined under the HPA Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subpart E ("Privacy Rule"), the HIPAA Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C ("Security Rule"), and the HIPAA Breach Notification Regulations, 45 C.F.R. Part 164, Subpart D ("Breach Notification Rule"), all as amended from time to time). You acknowledge that it is your responsibility to determine if any of the content you desire to upload, submit, store, send or receive through our Service is Protected Health Information, and if so determined by you, to promptly notify ScalePad, obtain ScalePad's consent, and enter into a Business Associate Agreement with ScalePad prior to uploading, submitting, storing, sending or receiving any Protected Health Information through our Service. ScalePad reserves the right to refuse any request to upload, submit, store, send or receive through our Service Protected Health Information.

Some services may offer you ways to access and remove content that has been provided to that Service. Also, in some of our Services, there are terms or settings that narrow the scope of our use of the content submitted in those Services. Make sure you have the necessary rights to grant us this license for any content that you submit to our Services.

We analyze your content to provide various product features, such as enhanced reports, warranty date information or even product photos. This analysis may occur at any time.

If you have a ScalePad Account, we may display your Profile name, Profile photo, and actions you take on ScalePad or on third-party applications connected to your ScalePad Account.

You can find more information about how ScalePad uses and stores content in the privacy policy or additional terms for particular Services. If you submit feedback or suggestions about our Services, we may use your feedback or suggestions without obligation to you.

About Software in our Services

When a Service requires or includes downloadable software, this software may update automatically on your device once a new version or feature is available. Some Services may let you adjust your automatic update settings.

ScalePad gives you a personal, worldwide, royalty-free, non-assignable, and non-exclusive license to use the software provided to you by ScalePad as part of the Services. This license is for the sole purpose of enabling you to use and enjoy the benefits of the Services as provided by ScalePad, in the manner permitted by these terms. You may not copy, modify, distribute, sell, or lease any part of our Services or included software, nor may you reverse engineer or attempt to extract the source code of that software, unless laws prohibit those restrictions or you have our written permission.

Some software used in our Services may be offered under an open source license that we will make available to you. There may be provisions in the open source license that expressly override some of these terms.

Modifying and Terminating our Services

We may choose to constantly change and improve our Services. We may add or remove functionalities or features, and we may suspend or stop a Service altogether.

You can stop using our Services at any time. ScalePad may also stop providing Services to you, or add or create new limits to our Services at any time.

If we discontinue a Service, we may, at our sole discretion, try to give you reasonable advance notice where possible. We may, at our sole discretion, offer you a chance to get information out of that Service.

Warranties and Disclaimers

You represent and warrant that you will not, and will not permit others to, use our Services for any purposes beyond the scope of these terms, including that you will not, and will not permit others to: (i) to build a competitive product or service; (ii) remove any proprietary notices from the Services; or (iii) use the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

We provide our Services using a commercially reasonable level of skill and care and we hope that you will enjoy using them. But there are certain things that we do not promise about our Services.

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS OR ADDITIONAL TERMS, NEITHER SCALEPAD NOR ITS SUPPLIERS OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE DISTRIBUTIONS OF THE SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE PROVIDE THE SERVICES "AS IS".

SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL IMPLIED WARRANTIES.

Liability for our Services

TO THE MAXIMUM EXTENT PERMITTED BY LAW, SCALEPAD, AND SCALEPAD'S SUPPLIERS AND DISTRIBUTORS, WILL NOT BE RESPONSIBLE TO YOU OR TO ANY THIRD PARTY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, LIQUIDATED OR PUNITIVE DAMAGES, OR FOR ANY LOSS OF PROFITS, LOSS OF REVENUES, LOSS OF BUSINESS, LOSS OF USE OF ANY EQUIPMENT, LOSS OF DATA COST OF CAPITAL, COST OF SUBSTITUTED FACILITIES OR SERVICE DOWNTIME COSTS ARISING IN WHOLE OR IN PART FROM YOUR USE OR ACCESS TO ANY SERVICE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY TO THESE TERMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE THAT THE TOTAL LIABILITY OF SCALEPAD, AND ITS SUPPLIERS AND DISTRIBUTORS THAT YOU MAY RECOVER IN THE AGGREGATE FOR ANY AND ALL CLAIMS UNDER THESE TERMS AND ANY OTHER AGREEMENT BETWEEN YOU AND SCALEPAD, INCLUDING ANY BUSINESS ASSOCIATE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT OF FEES YOU ACTUALLY PAID US TO USE THE AFFECTED SERVICE DURING THE ONE YEAR PERIOD PRECEDING THE DATE OF LIABILITY. ALL CLAIMS THAT YOU MAY HAVE AGAINST SCALEPAD (AND ITS SUPPLIERS AND DISTRIBUTORS) WILL BE AGGREGATED TO SATISFY THIS LIMIT AND MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMIT.

THIS LIMIT OF LIABILITY SHALL ALSO EXTEND TO YOUR CUSTOMERS, NO MATTER HOW SUCH DAMAGES OCCURRED, WHETHER OR NOT DUE TO NEGLIGENCE, STRICT LIABILITY, FAULT, OR DELAY OF SCALEPAD, OR BREACH OR FAILURE TO PERFORM.

IN ALL CASES, SCALEPAD, AND ITS SUPPLIERS AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE.

YOU HEREBY WAIVE ANY RIGHT TO PARTICIPATE IN ANY CLASS ACTION OR HAVE A TRIAL BY JURY FOR ANY MATTER, DISPUTE, PROCEEDING OR ACTION ARISING OUT OF, OR RELATED TO, THESE TERMS.

Business uses of our Services

If you are using our Services on behalf of a business, you are accepting these terms on behalf of your business and represent and warrant that you have full legal authority to bind your business. In such cases, all use of the term "you" in these terms refers to your business.

Indemnification.

You will hold harmless and indemnify ScalePad and its affiliates, officers, agents, and employees from any claim, suit or action arising from or related to the use of the Services or violation of these terms, including any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and attorneys' fees.

About these Terms

We may modify these terms or any additional terms that apply to a Service to, for example, reflect changes to the law or changes to our Services. You should look at the terms regularly. We'll post notice of modifications to these terms on this page. We'll post notice of modified additional terms in the applicable Service. Changes will not apply retroactively and will become effective no sooner than fourteen days after they are posted. However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. If you do not agree to the modified terms for a Service, you should discontinue your use of that Service.

If there is a conflict between these terms and the additional terms, the additional terms will control for that conflict.

These terms control the relationship between ScalePad and you. They do not create any third party beneficiary rights.

If you do not comply with these terms, and we do not take action right away, this doesn't mean that we are giving up any rights that we may have (such as taking action in the future).

If it turns out that a particular term is not enforceable, this will not affect any other terms.

The laws of the province of British Columbia, Canada, excluding its conflict of laws provisions, will apply to any disputes arising out of or relating to these terms or the Services. All claims arising out of or relating to these terms or the Services will be litigated exclusively in the provincial and federal courts located in Vancouver, British Columbia, and you and ScalePad consent to personal jurisdiction in those courts.

For information about how to contact ScalePad, please visit our [contact page](#).

Data Processing Addendum

To the extent that we process any personal data that is subject to the General Data Protection Regulation (or GDPR) on your behalf, in the provision of the Services, the following Data Processing Addendum shall apply.

This Data Processing Addendum (the "Addendum") is made by and between ScalePad Software Inc. ("ScalePad"), with a registered office in Vancouver, BC, Canada, and you ("Customer").

This Addendum is incorporated into our Terms of Service ("Agreement") and applies in respect of the provision of the Services to the Customer if the Processing of Customer Personal Data (as defined below) is subject to the GDPR, only to the extent the Customer is a Controller of Customer Personal Data and ScalePad is a Processor. The Addendum is intended to satisfy the requirements of Article 28(3) of the GDPR. This Addendum shall be effective for the term of the Agreement.

Definitions

For the purposes of the Addendum:

- "Customer Personal Data" means the Personal Data described under [Details of the Processing Activities](#) of this Addendum, in respect of which the Customer is the Controller;
- "Data Protection Legislation" means all applicable legislation relating to data protection and privacy including without limitation the EU Data Protection Directive 95/46/EC and Directive 2002/58/EC and all local laws and regulations which amend or replace any of them, including the GDPR, together with any national implementing laws in any Member State of the European Union or, to the extent applicable, in any other country, as amended, repealed, consolidated or replaced from time to time;
- "GDPR" means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data; and
- "Personal Data", "Data Subject", "Personal Data Breach", "Process", "Processor" and "Controller" will each have the meaning given to them in the GDPR.

Capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement.

Processing of Customer Personal Data

The parties acknowledge and agree that Customer is the Controller of Customer Personal Data and we are the Processor of that data. ScalePad will only Process Customer Personal Data as a Processor on behalf of and in accordance with the Customer's prior written instructions and for no other purpose. ScalePad is hereby instructed to Process Customer Personal Data to the extent necessary to enable ScalePad to provide the Services in accordance with the Agreement.

ScalePad is largely unaware of what Customer Personal Data is actually being stored or made available by the Customer or user of the Service and does not directly access such data except as authorized by the Customer, or as necessary to provide Services to the Customer and its users.

If ScalePad cannot process Customer Personal Data in accordance with Customer's instructions due to a legal requirement under any applicable European Union or Member State law, ScalePad will (i) promptly notify the Customer of such inability, providing a reasonable level of detail as to the instructions with which it cannot comply and the reasons why it cannot comply, to the greatest extent permitted by applicable law; and (ii) cease all Processing of the affected Customer Personal Data (other than merely storing and maintaining the security of the affected Customer Personal Data) until such time as the Customer issues new instructions with which ScalePad is able to comply. If this provision is invoked, ScalePad will not be liable to the Customer under the Agreement for failure to perform the Services until such time as the Customer issues new instructions. ScalePad will immediately inform Customer if, in its opinion, an instruction from Customer infringes the Data Protection Legislation.

Each of the Customer and ScalePad will comply with their respective obligations under the Data Protection Legislation. Customer shall ensure that Customer has informed its data subjects and obtained (or will obtain) all rights and consents (if required by the applicable Data Protection Legislation) to allow ScalePad to Process Customer Personal Data to provide the Services in accordance with this Addendum and the Agreement.

In connection with the performance of the Agreement, Customer authorizes ScalePad to transfer Customer Personal Data from the European Economic Area ("EEA") to the United States and Canada. ScalePad commits to comply with its obligations for the Customer Personal Data transferred under the Privacy Shield throughout the term of this Addendum.

Confidentiality

All parties agree to protect the other party's information in confidence and exercise due care, and to not use any information for any purpose other than the purposes under this agreement. The terms of this agreement in addition to (but not limited to) any service contracts also constitute confidential information.

ScalePad will ensure that any person whom ScalePad authorizes to Process Customer Personal Data on its behalf is subject to confidentiality obligations in respect of that Customer Personal Data.

Security Measures

ScalePad will implement appropriate technical and organizational measures to protect against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Personal Data.

ScalePad will, at the Customer's request and subject to the Customer paying all of ScalePad's fees at prevailing rates, and all expenses, provide the Customer with reasonable assistance as necessary for the fulfillment of the Customer's obligation to keep Customer Personal Data secure.

Device-Specific Information

Device information created by the manufacturer does not constitute Customer Personal Data as this information is generated and maintained by the manufacturer independently of the end user. Examples of such data include the device model, serial number, MAC addresses and lifecycle dates.

Sub-Processing

Customer authorizes ScalePad to appoint sub-Processors to perform specific services on ScalePad's behalf which may require such sub-Processors to Process Customer Personal Data.

Data Subject Rights

ScalePad will, at the Customer's request and subject to the Customer paying all of ScalePad's fees at prevailing rates, and all expenses, provide the Customer with assistance necessary for the fulfillment of the Customer's obligation to respond to requests for the exercise of Data Subjects' rights. ScalePad shall not respond to such requests without Customer's prior written consent and written instructions. Customer shall be solely responsible for responding to such requests.

Personal Data Breaches

ScalePad will notify the Customer as soon as practicable after it becomes aware of any of any Personal Data Breach affecting any Customer Personal Data. At the Customer's request and subject to the Customer paying all of ScalePad's fees at prevailing rates, and all expenses, ScalePad will promptly provide the Customer with all reasonable assistance necessary to enable the Customer to notify relevant security breaches to the competent data protection authorities and/or affected Data Subjects, if Customer is required to do so under the GDPR. Customer is solely responsible for complying with data incident notification requirements applicable to Customer and fulfilling any third-party notification obligations related to any data incidents.

Data Protection Impact Assessment; Prior Consultation

ScalePad will, at the Customer's request and subject to the Customer paying all of ScalePad's fees at prevailing rates, and all expenses, provide the Customer with reasonable assistance to facilitate:

- conduction of data protection impact assessments if the Customer is required to do so under the GDPR; and
- consultation with data protection authorities, if the Customer is required to engage in consultation under the GDPR.

In each case solely to the extent that such assistance is necessary and relates to the Processing by ScalePad of the Customer Personal Data, taking into account the nature of the Processing and the information available to ScalePad.

Deletion of Customer Personal Data

At the Customer's request, ScalePad will return or delete Customer Personal Data to the Customer after the end of the provision of Services relating to the Processing, and delete existing copies unless the applicable European Union or member state law requires storage of the data.

Information

ScalePad will, at Customer's request and subject to the Customer paying all of ScalePad's fees at prevailing rates, and all expenses, provide the Customer with all information necessary to enable the Customer to demonstrate compliance with its obligations under the GDPR, and allow for and contribute to audits, including inspections, conducted by the Customer or an auditor mandated by the Customer, to the extent that such information is within ScalePad's control and ScalePad is not precluded from disclosing it by applicable law, a duty of confidentiality, or any other obligation owed to a third party, and provided that such audits shall be carried out with reasonable notice during regular business hours not more often than once per year.

Liability

Each party's liability towards the other party or in connection with this Addendum will be limited in accordance with the provisions of the Agreement.

The Customer acknowledges that ScalePad is reliant on the Customer for direction as to the extent to which ScalePad is entitled to provide Customer Personal Data on behalf of Customer in performance of the Services. Consequently, ScalePad will not be liable under the Agreement for any claim brought by a Data Subject arising from any action or omission by ScalePad, to the extent that such action or omission resulted directly from the Customer's instructions or from Customer's failure to comply with its obligations under the applicable data protection law.

General Provisions

With regard to the subject matter of this Addendum, in the event of inconsistencies between the provisions of this Addendum and the Agreement, the provisions of this Addendum shall prevail.

Details of the Processing Activities

- Categories of Data Subjects
 - Prospects and customers of the Customer;
 - Customer's Users authorized by Customer to use the Services;
 - Employees or contact persons of Customer's prospects, customers, business partners and vendors; and
 - End users: individuals who interact with the Customer by way of various synced platforms.
- Type of Personal Data
 - Customer may submit Personal Data to the Services either manually or by following applications to our Service, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:
 - First and last name
 - Title
 - Job Title
 - Employer
 - Contact information (company, email, phone)
 - IP address
 - Location data
 - Signature
 - Picture
 - Interactions with end users via the communication platform (messages, calendar invites, attached files, pictures, videos)
 - Web application usage data
 - Data relating to data subjects' interactions with email communications in connection with the ScalePad's email tracking feature
 - Subject-Matter and Nature of the Processing
- The subject-matter of Processing of Customer Personal Data is the performance of the Services pursuant to the Agreement. Customer Personal Data will be stored by ScalePad and subject to those Processing activities which are necessary for the performance of the Services pursuant to the Agreement.
- Purpose of the Processing
 - Customer Personal Data will be Processed by ScalePad for purposes of providing the Services set out into the Agreement and any applicable statement of work.
- Duration of the Processing
 - Customer Personal Data will be Processed for the duration of the Agreement, subject to the [Deletion of Customer Personal Data](#) section of this Addendum.