

CONTRIBUTOR'S LICENCE AGREEMENT

by

Contributor to the SCRAN Database

in favour of

The SCRAN Trust

LICENCE AGREEMENT

By [INSERT CONTRIBUTOR NAME and FULL ADDRESS HERE REPLACING THIS TEXT]

The person, firm, company or other body as detailed above (hereinafter referred to as the "**Contributor**")

in favour of

The SCRAN Trust, a charity with scottish charity number SCO24961 and a company incorporated in Scotland as a company limited by guarantee with registered No. SC166833 and having its registered office at 16 Bernard Terrace, Edinburgh EH8 9NX. (hereinafter referred to as "**SCRAN**")

WHEREAS:-

- (A) The Contributor has certain digitised multi-media resources and related materials from certain archives, artefacts, literary, dramatic, musical, artistic, graphic or other works, documents, photographs and/or information owned by the Contributor or a third party;
- (B) The digitised materials to be provided include [PROVIDE DEFINITION HERE AND REMOVE THIS TEXT];
- (B) In consideration of SCRAN including such multi-media resources approved by SCRAN in the SCRAN Database (as defined below) and including reference to the fact that [the Contributor] has donated such resources to the SCRAN Database, the Contributor will grant to SCRAN a licence to enable SCRAN to use, license and otherwise deal with such multi-media resources.

NOW THEREFORE the parties agree as follows:-

1 Definitions

- 1.1 In this Agreement the following words have the following meaning:-
- 1.1.1 "Agreement" means the terms set out on the attached Contributors' Licence Agreement and the conditions set out in this document;
 - 1.1.2 "Commencement Date" means the date specified on the front page of this Agreement;
 - 1.1.3 "Commercial Purposes" means use of the Contributor's Digitised Records for any reason which generates a profit (but always excluding use for any Non Commercial Purposes);
 - 1.1.4 "Data Capture Template" means the SCRAN template to be completed in respect of each Work the current version of which is available from SCRAN;
 - 1.1.5 "Data Capture Template Guidelines" means the guidelines issued by SCRAN from time to time in respect of completion of Data Capture Templates;
 - 1.1.6 "Datasets" means the electronic records containing a digitised version of a Work, a caption and related metadata;
 - 1.1.7 "Educational Resources" means sets of learning support materials for each Work which expand the bounds of the Datasets;
 - 1.1.8 "Improvements" means all improvements, updates, amendments or additions made to any of the Contributor's Digitised Records;
 - 1.1.9 "Intellectual Property Rights" means any and all intellectual property or industrial rights of any description anywhere in the world (whether registered, unregistered, registerable or not and any applications or rights to apply for registration of any of them) including without limitation to the foregoing generality rights in computer software, rights in the nature of copyright, database rights, unregistered design rights, rights in and to trade names, business names and logos, inventions, know how, trade secrets, confidential information or any analogous or similar right in any jurisdiction;
 - 1.1.10 "Learning Objects" means a collection of records compiled inter alia from the SCRAN Database on a thematic or pre-selected basis for Non Commercial Purposes;
 - 1.1.11 "Multimedia Essays" means multiplatform educational interactives, deliverable across the web supporting major browsers;
 - 1.1.12 "Non Commercial Purposes" means use of the Contributor's Digitised Records for education, private study or research and including, without limitation, the grant of a licence to a user where such user is obliged to provide access to the Contributor's Digitised Records to end users for education, private study or research;
 - 1.1.13 "Contributor's Digitised Records" means the Datasets, the Multimedia Essays and the Educational Resources delivered in accordance with SCRAN's requirements and any associated documentation, including without limitation instruction manuals and user guides;
 - 1.1.14 "Contributor's Trade Mark" means the trade mark belonging to the Contributor.
 - 1.1.15 "Contributor's Website" means the website described as such on the front page of this Agreement.
 - 1.1.16 "SCRAN Database" means the database of images, sounds, movies and learning resources owned by or licensed to SCRAN;
 - 1.1.17 "SCRAN Group" means SCRAN Trust, SCRAN and any other companies forming part of the SCRAN group of companies from time to time;
 - 1.1.18 "SCRAN Trade Mark" means the trade mark belonging to SCRAN or SCRAN Trust;
 - 1.1.19 "SCRAN Trust" means the SCRAN Trust, a company limited by guarantee, incorporated in Scotland under the Companies Acts with registered number SC166833 and having its registered office at 12 Hope Street, Edinburgh EH2 4DB, being the parent company of SCRAN;
 - 1.1.20 "SCRAN Website" means SCRAN's website located at <http://www.scran.ac.uk>.
 - 1.1.21 "Technical Guidance" means the technical guidance issued by SCRAN from time to time in relation to delivery of the Contributor's Digitised Records;
 - 1.1.22 "Work(s)" means the archives, artefacts, literary, dramatic, musical, artistic, graphic or other works, documents and information described on the front page of this Agreement which form part of the Contributor's collection and each of which are to be included in whole or in part in the Contributor's Digitised Records; and
 - 1.1.23 "Working Day" means a day other than a Saturday or a Sunday on which the banks are open for business in Scotland.
- 1.2 In this Agreement, the singular includes the plural and vice versa.
- 1.3 Unless otherwise stated, references to sub-clauses and clauses are sub-clauses and clauses of this Agreement.
- 1.4 In this Agreement, the clause headings are for reference only and shall not affect the construction or interpretation hereof.

2. Grant of Licence

- 2.1 Subject to Clause 2.2 and 2.3, the Contributor hereby grants to SCRAN a non-exclusive, royalty free, perpetual worldwide licence to use, sub-licence and otherwise deal with any or all of the Contributor's Digitised Records for any purpose upon and following creation of the same from time to time.
- 2.2 In the event that SCRAN uses any of the Contributor's Digitised Records for Commercial Purposes, SCRAN shall pay to the Contributor a royalty set at a level of 50% of all net receipts. Net receipts shall be the amount remaining after Scran has deducted any cost of sale.
- 2.3 The Contributor hereby grants to SCRAN a non-exclusive royalty free worldwide licence (with the ability to sub-licence) to use the Contributor's Trade Mark for the purposes of marketing and promoting the SCRAN Database, providing any Learning Objects and for use as a hyperlink in accordance with Clause 3.4.

3. Technical Requirements

- 3.1 The Contributor will provide the Works as set out on the front page of this Agreement and shall comply with the Technical Guidance hereby provided in Appendix 1.
- 3.2 The Contributor shall complete such Data Capture Template as provided for each Work by Scran either physically or online. Data Capture Guidance is hereby provided in Appendix 2. The Contributor shall deliver the completed Data Capture Template to SCRAN online or on a medium agreed by SCRAN in writing in advance.
- 3.3 SCRAN shall inspect the Contributor's Digitised Records and the Contributor will use reasonable endeavours to make such amendments to such Contributor's Digitised Records as are reasonably required by SCRAN to ensure that the Contributor's Digitised Records are suitable for incorporation into the SCRAN Database.
- 3.4 SCRAN and The Contributor shall maintain hyperlinks, or such other links as approved in writing, between the SCRAN Website and the Contributor's Website.

4. Warranty and Indemnity

- 4.1 The Contributor hereby warrants and undertakes to SCRAN as follows:-
- 4.1.1 it is the owner or licensed user of all Intellectual Property Rights comprised in or arising from the Contributor's Digitised Records, (including, without limitation, the copyright in any computer program) it has all necessary rights and/or consents to enable it to lawfully grant the licence to SCRAN set out in Clause 2 above and the Contributor has not entered and shall not enter into any arrangement which may conflict with this Agreement;
- 4.1.2 it is the sole beneficial owner of or has obtained all the permissions or other approvals required of the beneficial owner of each of the Works in the Contributor's Digitised Records and to the granting of this licence in favour of SCRAN;
- 4.1.3 it will ensure that all subsisting moral rights of all authors of the Works and the Contributor's Digitised Records have either not been asserted, have been waived or permission has been obtained from such authors to the use of their copyright works in the manner set out in or contemplated by this Agreement;
- 4.1.4 where any Works of unknown authorship are comprised or copied in digital form into the Contributor's Digitised Records, the Contributor has made all reasonable enquiries to identify the author of such Works;
- 4.1.5 the use and publication of all or any part of the Contributor's Digitised Records or any part thereof or the use and publication of the Contributor's Trade Mark by SCRAN in accordance with this Agreement shall not infringe and is not likely to infringe the rights of any third parties;
- 4.1.6 that the Contributor shall, immediately it becomes aware of (i) any infringement by third parties of any Intellectual Property Rights in the Contributor's Digitised Records or (ii) any alleged infringement by the Contributor, the Contributor's Digitised Records, of any Intellectual Property Rights owned by third parties, inform SCRAN and the Contributor shall diligently and promptly prosecute or defend, at its expense, any proceedings brought in respect of such infringement and keep SCRAN informed at all times of the position and progress of the proceedings;
- 4.1.7 the Contributor has used all reasonable endeavours to ensure that all statements purporting to be facts in the Contributor's Digitised Records are true and correct and no advice, formula or instruction in the Contributor's Digitised Records will, if followed or implemented by any person cause loss, damage or injury to them or any other person;
- 4.1.8 the Contributor has used all reasonable endeavours to ensure that the content of the Contributor's Website and the Contributor's Digitised Records or any part or parts thereof, are not under the laws of any jurisdiction obscene or blasphemous or offensive to religion or defamatory to any person; do not contain any material which has been obtained in violation of the Electronic

Communications Act 2000, Regulation of Investigatory Powers Act 2000 and the regulations made thereunder, the Official Secrets Act 1989 or any similar law in any other jurisdiction; and nothing contained in the Contributor's Digitised Records would, if published constitute a contempt of court; and

- 4.1.9 that it shall take all necessary measures to comply with the Data Protection Act 1998 (as amended, varied or replaced from time to time) including making the necessary notification(s) to the Information Commissioner.
- 4.2 SCRAM warrants that it has used all reasonable endeavours in the compilation of the SCRAM Database to ensure that each Contributor warrants that their contributions are not under the laws of any jurisdiction obscene or blasphemous or offensive to religion or defamatory to any person; do not contain any material which has been obtained in violation of the Electronic Communications Act 2000, Regulation of Investigatory Powers Act 2000 and the regulations made thereunder nor the Official Secrets Act 1989, but SCRAM has not carried out and does not carry out any review, checking or verification of contributions to verify the position.
- 4.3 SCRAM hereby warrants and undertakes to the Contributor that it shall take all necessary measures to comply with the Data Protection Act 1998 (as amended, varied or replaced from time to time) including making the necessary notification(s) to the Information Commissioner.
- 4.4 The Contributor indemnifies and shall keep SCRAM fully and effectively indemnified from and against all liability, costs, losses, claims and expenses suffered or incurred by SCRAM directly or indirectly as a result of any breach of any of the warranties in clause 4.1 or of any obligation of the Contributor under this Agreement.
- 4.5 Each of the warranties and undertakings contained in this clause 4.1 is deemed to be repeated as at the date of delivery of each part of the Contributor's Digitised Records to SCRAM.

5. Information

- 5.1 The Contributor shall promptly upon the request of SCRAM, provide free of charge to SCRAM all such information in its possession and such other assistance including training as is necessary to enable SCRAM to incorporate the Contributor's Digitised Records (or any part thereof) into the SCRAM Database and to use, sub-license and otherwise deal with the Contributor's Digitised Records in accordance with this Agreement.
- 5.2 SCRAM shall from time to time keep the Contributor informed of usage of the Contributor's Digitised Records by providing the Contributor with such reports at such intervals and in such form as SCRAM may from time to time determine.

6. Amendments to Works and Improvements

- 6.1 The Contributor's Digitised Records may be amended or updated from time to time upon agreement between SCRAM and the Contributor in writing.
- 6.2 SCRAM may update the captions or metadata associated with the Contributor's Digitised Records if additional information or corrections come to light and will provide such information to the Contributor on request.
- 6.3 When Improvements have been completed, they will be deemed to form part of the Contributor's Digitised Records and shall accordingly be subject to all of the terms and conditions of this Agreement.

7. Term and Termination

- 7.1 This Agreement shall commence on the last date of signing hereof and shall remain in perpetuity, unless terminated pursuant to this Clause 7.
- 7.2 SCRAM shall be entitled to terminate this Agreement forthwith by notice on the happening of any of the following:-
- 7.2.1 on breach by the Contributor of any obligation on it hereunder which is not capable of remedy or, in the case of a breach capable of remedy, shall not have been remedied by the Contributor within 28 days of written notice from SCRAM specifying the breach and requiring its remedy;
- 7.2.2 on the insolvency of the Contributor on the appointment of a receiver over the whole or any part of its assets, on the entry of the Contributor into any voluntary arrangement or on the Contributor compounding with creditors or having an order made or a resolution passed for it to be wound up (otherwise than in furtherance of a scheme for amalgamation or reconstruction on terms previously approved by SCRAM) or on an administration order being made in respect of the Contributor or the Contributor ceases to trade or if any analogous event occurs in respect of the Contributor;
- 7.2.3 on the ownership or control of the Contributor passing into the hands of any person which SCRAM in its reasonable discretion considers unsuitable for any reason; or
- 7.2.4 the Contributor acts in a manner which SCRAM reasonably considers could have a detrimental effect on SCRAM, SCRAM Trust and/or the SCRAM Database.
- 7.3 The Contributor shall be entitled to terminate this Agreement forthwith by notice on breach by SCRAM of any material obligation on it hereunder which, in the case of a breach capable of remedy, shall not have been

remedied by SCRAN within 28 days of written notice from the Contributor specifying the breach and requiring its remedy.

- 7.4 In the event that SCRAN becomes insolvent or a receiver is appointed over the whole or any part of its assets, or SCRAN enters into any voluntary arrangement or otherwise compounds with its creditors or an order is made or a resolution is passed for SCRAN to be wound up (otherwise than in furtherance of a scheme for amalgamation or reconstruction) or an administration order is made in respect of SCRAN then this Agreement shall automatically terminate without any requirement to give notice and the Contributor shall be deemed to have granted a licence in favour of SCRAN Trust to use the Contributor's Digitised Records, and the Contributor's Trade Mark on terms and conditions identical to the terms and conditions of this Agreement. On request by SCRAN Trust, the Contributor shall execute a licence in favour of SCRAN Trust on such terms and conditions.
- 7.5 On termination of this Agreement, SCRAN shall remain licensed in perpetuity to use the Contributor's Digitised Records as held by SCRAN at the date of termination on the terms set out in Clause 2 of this Agreement.

8. Force Majeure

- 8.1 If either party to this Agreement is prevented or delayed in the performance of any of its obligations under this Agreement by Force Majeure then the party in question shall be excused the performance as from the date of such notice for so long as such cause of prevention or delay shall continue.
- 8.2 "Force Majeure" shall be deemed to be any cause affecting the performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of the party concerned.

9. General

- 9.1 The terms and conditions contained in this Agreement may be amended by SCRAN following consultation with the Contributor and other existing contributors. No amendment or variation to the terms of this Agreement shall be effective unless agreed in writing on behalf of SCRAN.
- 9.2 Failure by either party hereto to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.
- 9.3 Nothing in this Agreement shall create or be deemed to create any employment or agency relationship or any partnership.

10. Notices

- 10.1 Any notice required to be given hereunder by either party to the other shall be in writing and shall be served by sending the same by first class registered or recorded delivery post to the address of the other party as given herein or to such other address as that party may have previously notified to the party giving notice as its address for such service. Such notice will be deemed to be received two (2) days after posting.

11. Assignment

- 11.1 Subject to clause 11.2 and clause 11.3, neither party shall be entitled to assign the benefit or burden of this Agreement, whether in whole or in part, without obtaining the prior written consent of the other party.
- 11.2 SCRAN shall be entitled to assign all or any part of the benefit or burden of this Agreement to SCRAN Trust or any other member of the SCRAN Group.
- 11.3 SCRAN shall be entitled to assign all or any part of the benefit or burden of this Agreement to any other charitable institution or institutions having objects similar to the objects of SCRAN Trust and which prohibit the distribution of its or their income and property to its or their members to an extent at least as great as are imposed on SCRAN Trust by virtue of the terms of its Memorandum of Association with the written consent of the Contributor (such consent not to be unreasonably withheld or delayed).

12. Confidentiality

- 12.1 The Contributor undertakes not to disclose to any third party any Confidential Information nor use any such Confidential Information without the prior written consent of SCRAN. This shall not extend to any Confidential Information which the Contributor is required to disclose by any competent court or authority or which enters the public domain other than through a breach of a duty of confidentiality by the Contributor or which the Contributor requires to disclose to its agents or advisers in connection with the administration of this Agreement. "Confidential Information" means all information received from SCRAN and/or SCRAN Trust

relative to the business, operations, property, financial affairs, projects, customers, clients and employees of SCRAN and SCRAN Trust.

13. Governing Law

13.1 This Agreement shall be governed by and construed in accordance with Scots law and the parties hereby submit to the exclusive jurisdiction of the Scottish courts.

Signed for and on behalf of *The SCRAN Trust* by
Graham Turnbull [Head of Enterprises] at 16
Bernard Terrace, Edinburgh
on the day of
200[7]

..... Witness
..... Name
..... Address
.....

.....
Scran Signatory

Signed for and on behalf of [Insert full name of
Contributor]

by
[Director/Authorised Signatory] at

on the day of
200[]

..... Witness
..... Name
..... Address
.....

.....
Director/Authorised Signatory

APPENDIX 1: Technical Guidance

Specification for Resource Images

Scanned or Digitally created Images as uncompressed sRGB TIFF [TIF] files where the resolution should exceed 3,072 by 2,048 pixels for a standard 35mm format image. Typically a black and white image should be 8Mb as a minimum and a colour image 18Mb as a minimum

OR Digital Camera JPEG [JPG] images preferably saved at 100% setting ie no compression or as RAW images. The digital camera should take images of 6 Megapixels or more.

Other aspect ratios are possible. To give the required pixel area a scan for example, of a long, thin bookmark may require a file of around 1023 x 6144 pixels.

Moving Images

Moving images should be digitised and submitted to SCRAN in the following format:

H.264 video encoding at High Quality at 25 frames per second with accompanying sound sampled at no lower than 128 kbits/sec. A typical full screen letterbox image will have a pixel ratio of 1280x800. We will accept good illustrative material from 640x400 upwards.

Three Dimensional Information

Contributors should discuss the delivery format with SCRAN before commencing digitisation. Formats SCRAN expects to accept include: Quicktime VR and VRML.

Sound

The current standard accepted by SCRAN is in WAV, AU or AIFF format 44.1KHz, 16 bit stereo, ie CD Audio standard, supplied as a digital file on a data CD or DAT tape.

APPENDIX 2: Data Capture Template

You need to provide us with helpful details. These are entered directly into a pre-prepared form in Contribute. Standard descriptor types [shown in brackets below] can be selected from menus in the form.

There is additional guidance and help in Contribute. This information is to ensure you understand what research you may need to do.

Item	Example
NAME descriptive short name for image	Wallace Monument
CAPTION describing what can be seen and any historical background or significance and further background detail:	<p>The National Wallace Monument is a 67 metre tall Gothic sandstone tower. This stands on Abbey Craig, a volcanic crag, about 2 miles north of Stirling. A spiral staircase of 246 steps leads to the crown. From there, it commands views of the Forth valley and the Ochil Hills.</p> <p>The tower commemorates William Wallace - who became the principal force in the uprisings against the English with his most famous success being the Battle of Stirling Bridge on 11 May 1297.</p> <p>The 220ft high stone structure had a difficult construction, with money being the major problem (the monument was funded completely by public subscription). The foundation stone was laid in 1861, on Bannockburn Day, but the rest of the building took 8 years to complete, until it was finally opened in 1869 on the 11th September.</p>
PLACES [WHERE] where the image comes from expressed in the form furthest to nearest & a descriptor,. There may be more than one of these:	<p>Scotland, Stirlingshire, Stirling, Abbey Craig [Depicted]</p> <p>Scotland, Stirlingshire, Stirling, Stirling Bridge [Associated]</p>
DATES [WHEN] related to when the image was taken or related to items depicted in the image expressed as date and descriptor	<p>1970 [Taken]</p> <p>1869 [Opened]</p>
NAMES [WHO] describing who is associated with image and descriptor [include name of photographer if known]	<p>William Wallace [subject]</p> <p>John Smith [photographer]</p>
WHAT brief additional description	Monument in stone
REFERENCES Books or websites that are useful [if any]	King, Elspeth Introducing William Wallace. Fort William, Fir Tree 1997