

Sendix's End User Software as a Service License Agreement

This End User Software as a Service License Agreement, including any supplemental terms (collectively, the "EULA"), is entered into between Consist Systems Ltd. ("Consist") and the Subscriber (as defined below) and sets out the terms and conditions under which Consist agrees to provide the Subscriber a limited License to use the Software as a Service.

By accessing and/or using and/or otherwise exploiting the Software, the Subscriber agrees to be bound by all of the terms and conditions of this EULA. Subscriber agree that the following terms and conditions will apply to the services provided under this EULA and Transaction Documents placed thereunder. If the Subscriber does not agree to all the terms and conditions of this EULA, it is prohibited from using and/or access the Software.

Prior to the first use of the Software, the Subscriber is required to accept this EULA by signing this EULA and sending it to Consist in one of the ways specified in Section 18.9 below and/or by executing the Transaction Documents (as defined below) and/or by or other electronic transmission.

1. DEFINITIONS

In addition to the definitions appearing elsewhere in the EULA, the following capitalized terms shall have the following meanings:

- 1.1. "**Subscriber**" means the individual or legal entity licensing to use the Software under this EULA.
- 1.2. "**Cloud Hosting**" means the provision of the Software and Services in a hosted, virtualized environment, accessible via the internet and over a network on a Public Cloud, at Consist's sole discretion.
- 1.3. "**Content**" means any data, text, messages, advertisement, information, documents or other materials uploaded, provided or submitted by the Subscriber or by anyone on its behalf into or in connection with the Software or in using the Software and/or Services (if and to the extent provided), all except for data and information provided to the Subscriber by Consist.
- 1.4. "**Documentation**" means Consist's documentation applicable to the Software, including technical manuals and training materials user guides, technical manuals, training materials, specifications or other information applicable to the Product.
- 1.5. "**Force Majeure Event**" means circumstances beyond Consist's reasonable control, including, for example, an act of God, flood, fire, earthquake, natural disaster, civil unrest, acts of terror, acts of war, riots, military or national emergencies, government restrictions, strikes or other labor problems, electrical disturbances, lack of power supplies, Internet or communication service provider failure or delay, virus or hacker attacks or denial of service attack.
- 1.6. "**Intellectual Property Rights**" means all right, title, and interest in and to the Software, including any and all intellectual, moral and/or industrial property and rights now or hereafter recognized under any applicable law or in equity anywhere in the world, whether registrable or unregistrable, issued or pending, registered or unregistered, including (i) all forms of patents and utility models; (ii) inventions, discoveries, (whether patentable or not); (iii) rights associated with works of authorship, including copyrights and mask works; (iv) trademarks and service marks, trade names, domain name registrations; (v) designs (whether registrable or not), design rights; (vi) database rights; (vii) trade secrets and know how; (viii) all rights to or in connection with confidential or proprietary information; and with respect to the intellectual property included in paragraphs (i) to (viii) above - any rights analogous to those mentioned herein; all derivative works and/or any improvements or modifications thereof; and any current or future applications, renewals, extensions, restorations, provisionals, continuations, continuations-in-part, divisions, reexaminations and reissues thereof; the right to apply to any of the above; any license rights with respect to the above received from third-parties; and all of the tangible embodiments thereof.
- 1.7. "**Messages Bank**" means the limited number of messages identified in the Transaction Documents.
- 1.8. "**Personal Data**" means any information relating to an identified or identifiable natural person ('data subject'), or details that identify a data subject or could be used to identify a data subject (such as name phone number, etc.), or as otherwise defined in applicable law.
- 1.9. "**Privacy Policy**" means Consist's privacy policy available at [Consist's Privacy Policy](#).
- 1.10. "**Private Cloud**" means computing services offered either over the Internet or a private internal network and only to select users instead of the general public.
- 1.11. "**Public Cloud**" mean a cloud deployment model where computing resources are owned and operated by a provider and shared across multiple tenants via the Internet. The Public Cloud supplier shall be as determined by Consist, at its sole discretion.

- 1.12. "**Services**" means the Software and infrastructure in a Cloud Hosting environment provided and maintained by Consist to which Subscriber is being granted access under this EULA via a web site or another designated IP address. Service or Services includes Support Services described in this EULA.
- 1.13. "**Software**" means a system which enabling sending messages to a distribution list through Third Party's Materials, including WhatsApp, known as Sendix, including additional related or supplementary software modules as set forth in the Transaction Documents, and the Documentation any updates, upgrades, bug fixes, error corrections, enhancements or other modifications thereto.
- 1.14. "**Third Party Materials**" means third party products, applications, components, services, software, networks, systems, directories, websites, databases, interfaces, firmware and information (including any open source code) which licensed by Consist, which the Software links to or which the Subscriber may connect to or enable in conjunction with the Software, including Third Party Materials which may be integrated or incorporated into the Software and/or the Service.
- 1.15. "**Transaction Documents**" means the applicable order form(s), a contract(s) and/or any other documents as approved by Consist which determine and detailing, *inter alia*, the License Subscription Term, quantities and other details of the license(s) granted to the Subscriber, including their respective License model(s), authorized user's type and other details or limitations applicable to the License.
- 1.16. "**WhatsApp**" means a freeware, cross-platform centralized instant messaging (IM) and voice-over-IP (VoIP) application service owned by Meta Platforms, Inc. (formerly known as Facebook, Inc.).

2. LICENSE

- 2.1. **License.** The license granted to the Subscriber by Consist, subject to the Subscriber's full compliance with all the terms and conditions of this EULA and to the payment of all applicable Services Fee, is a personal, a revocable, non-exclusive, non-transferable, non-sublicensable, non-assignable (and not for resale, further distribution, or for providing outsourcing or service bureau services) limited right to access and use the Services during the Subscription Term and/or the applicable valid Message Bank, solely for the Subscriber's internal business operations ("**License**").
- 2.2. **Authorized Use.** Only those authorized by the Subscriber may use the Software, subject to all of the following: (a) such use is solely on the Subscriber behalf; (b) such use shall be in compliance with all of the terms and conditions of this EULA; and (c) the Subscriber shall be fully liable for any breach of this EULA.
- 2.3. **Licensing Model(s) and Base(s).**

Any License granted is defined by licensing model (as defined in Section 2.3.1 below) and licensing base (as defined in in Section 2.3.2 below).

 - 2.3.1. Consist offers the **Software as a Service (SaaS)**: a License to use the Software in which the Services is Cloud Hosting based through which the Services are available to the Subscriber. The use of the Cloud Hosting and the Subscriber's use of the Cloud Hosting shall be in accordance with and subject to the applicable supplier's terms of use.
 - 2.3.2. Consist offers two types of use of The License: (i) a limited renewable term of use, as shall be agreed upon in the Transaction Documents ("**Subscription Term**"); and/or (ii) a limited and defined message bank as shall be agreed upon in the Transaction Documents; i.e. limited by period and/or by number of messages and/or type of message ("**Messages Bank**"). The License will expire at the end of such Subscription Term or when the Message Bank fully exploit, after which the Subscriber will be prohibited from using the Software, unless the Subscription Term or the Message Bank renewed or extended, as agreed by the parties. It is hereby clarified that termination of the License shall not revoke from active Subscriber the ability to Generate a reports of it use of the Software.
- 2.4. **Trial License/POC License.** If the Subscriber is granted with a trial license or a POC license to a free (no fee) version of the Software, the Subscriber agrees that, notwithstanding anything else to the contrary under this EULA (including any Transaction Documents): (i) the Software is provided "as is", with no warranties or representations and Consist shall have no indemnification obligations nor liability of any type with respect to the Software for the free trial period; (ii) Consist has no obligation to availability, or to provide any particular service level or support services, (iii) Consist has no obligation to provide any updates or upgrades to the Software; and (iv) Consist may cease providing accesses to the Software at any time.

3. LICENSE LIMITATIONS

- 3.1. Neither the Subscriber, nor will the Subscriber allow any third party, to: (a) access or attempt to access any Consist systems, programs or data that are not available for public use or for the Subscriber use. Further, make the Software and/or Services available to any person other than those authorized users; (b) directly or indirectly, license, sublicense, sell, resell, loan, transfer, assign, distribute, rent, lend, disclose,

or otherwise commercially exploit or make available the Software to any third party in any manner and any attempt to do so is null and void; (c) alter, adapt, translate, decrypt or otherwise modify the Software or make derivative works based upon the Software; (d) copy, reproduce, republish, upload, post, transmit or distribute in any way the Software and/or the Services, or any part thereof, and/or any material from the Software; (e) fix or attempt to fix the Software and/or the Services, or work around any technical limitations in the Software and/or the Services, or crawl, decompile, disassemble or otherwise reverse engineer the Software or make any attempt to ascertain, derive or obtain the source code; (f) create Internet "links" to the Service and/or the Services or "frame" or "mirror" the Software and/or the Services on any other server or wireless or Internet-based device; (g) access, store, distribute or transmit any viruses, or any material during the course of its use of the Software and/or the Services that is unlawful, obscene or causes damage or injury to any person or property; (h) remove or otherwise alter any of Consist's trademarks, logos, copyrights or other proprietary notices or indicia, labels, tags, symbols or legends, included in and/or otherwise affixed to the Software and/or the Services; (i) use Consist's name, logo or trademarks or other identifying marks without Consist's prior written consent; and/or (j) use the Software to take any action that (A) infringes on any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy, including all Third Party Materials; (B) inconsistent with or violate any applicable law, statute, ordinance or regulation (including those regarding export control); (C) are defamatory, trade libelous, threatening, harassing, or obscene; or (D) constitute unauthorized entry to any machine accessible via the network.

- 3.2. The user name and password used to access the Software shall be unique, may not be used by anyone except for the specific person to whom they were assigned, may not be shared with others and must be kept secured and confidential at all time.
- 3.3. The License does not contingent or obligates Consist to the delivery and/or supply of any future functionality, compatibility or features of the Software, including, *inter alia*, with respect to any different, new or additional operating system, hardware, technologies and/or place of installation, either used by the User or otherwise. Further, unless explicitly stated herein, the License purchased is not dependent on any oral or written public comments made by Consist regarding future functionality or features of the Software.
- 3.4. Any right not explicitly granted to Subscriber under the EULA (including any Transaction Documents) is reserved. Consist shall be entitled to monitor Subscriber's compliance with this EULA (including any Transaction Documents).

4. **FEES AND TAXES**

- 4.1. The Subscriber shall pay Consist for the use of the Software the fees detailed in the Transaction Documents ("**License Fees**") which are not refundable.
- 4.2. The Subscriber shall have no right to withhold or reduce License Fees under this EULA (including any Transaction Documents) or set off any amount against amounts owed for alleged defects in the Software or any other demand or claim against Consist.
- 4.3. License Fees shall be due and payable within thirty (30) days of the issue date of Consist's invoice. Late payments shall be subject to Linkage differences and interest at a rate of 0.1% per day or the highest rate allowed by law, whichever is higher, calculated from the date the applicable amounts became due.
- 4.4. Any breach of Subscriber's payment obligations which was not cured within 7 days upon the receipt of a written notice, will be deemed a material breach of the EULA and shall entitle Consist, to suspend or stop or the Subscriber's use of the Software and terminate its engagement with the Subscriber, at Consist's sole discretion, without derogating from any other remedy Consist is entitled to under the EULA, Transaction Documents or applicable law.
- 4.5. The License Fees are exclusive of any applicable sales, use and other taxes or duties, however designated, including without limitation, privilege, excise, value-added and property taxes except however withholding taxes ("**Taxes**"). Accordingly, Subscriber will be solely responsible for payment of any Taxes, except those Taxes based on the income of Consist. Except as required by applicable law, Subscriber will not withhold any taxes from any amounts due to Consist.

5. **SUBSCRIBER RESPONSIBILITIES**

Without derogating from any other Subscriber's obligations and responsibilities under this EULA, Subscriber shall be responsible for the following:

- 5.1. Subscriber shall be responsible for all activity occurring under its License and shall abide by all applicable laws and regulations, local or foreign, in connection with Subscriber's use of the Software or the output thereof, including those related to sending advertisement messages to a distribution list (including in

relation to "Spam"), Consumer Protection Law (including in relation to "Don't Call Me" or any other prohibited marketing inquiry), data privacy, international communications and the transmission of technical or Personal Data. Subscriber acknowledges that Consist exercises no control over the content of the information transmitted by Subscriber or its users through the Software and/or Services.

- 5.2. In addition to the aforementioned in Section 5.1 above, The Software allows the Subscriber to enter certain phone number into a blocked list (i.e "BLACKLIST") through a link sent to it from its users and/or customers either by a message through the Software and/or manually. Any such phone number registered in this BLACKLIST will not receive future messages sent to it, both marketing messages and informational messages. The Subscriber can release a certain phone number from the BLACKLIST and to enable such number to receive messages from it again. The managing and operation of the BLACKLIST shall be solely by the Subscriber and Consist shall have no liability and/or responsibility towards the Subscriber and/or its user and/or customer in case of any error, malfunctions or operation difficulties caused as a result of the Subscriber's managing and/or operating the BLACKLIST, including wrong information inserted.
- 5.3. Subscriber shall not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights. Further, if so required, Subscriber shall not send any message through the Software and/or Services without obtaining required permission from recipient.
- 5.4. Subscriber shall be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Software, and all problems, conditions, delays, delivery failures and for all other loss or damage arising from, or relating to the Subscriber's network connections or telecommunications links or caused by the Internet.
- 5.5. Subscriber is solely responsible for adequate protection and for maintaining appropriate security on its systems and equipment used in connection with the Software (including, without limitation, the security of the communication channels with its users and/or customers).
- 5.6. Subscriber shall be responsible for the acts and omissions of its users as if they were the acts and omissions of Subscriber. Subscriber shall be responsible for ensuring that its users comply with the provisions of this EULA. Subscriber shall: (a) notify Consist immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (b) report to Consist immediately and use reasonable efforts to stop any unauthorized use of the Software and/or Services that is known or suspected by Subscriber or by any user, and (c) not provide false identity information to gain access to or use the Software and/or Services.
- 5.7. There is no direct legal or other relationship between Consist and the Subscriber's users and/or customers, and nothing in this EULA shall impose any obligation whatsoever on Consist, with respect to the Subscriber's users and/or customers. In the event of any claim and/or demand brought against Consist due to and/or in connection with the Software by any third party, Subscriber will indemnify Consist, its affiliates and their respective employee, directors and officers from and against any liability, loss, cost or expense incurred by any of them, arising from such claim and/or demand.

6. **CONTENT; PERSONAL DATA**

- 6.1. By using the Software and/or the Services, the Subscriber hereby warrant and represent as follows:
 - 6.1.1. it has duly notified its users and/or customers about the provisions herein, and obtained all the required consents, permission and approvals from them, as dully required under applicable law: (a) Subscriber's users and/or customers is not obligated by law to provide any Content and/or Personal Data, and any provision of it is based on its free will; (b) Content and/or Personal Data provided by each Subscriber's users and/or customers is accurate and complete.; (c) any information provided by a Subscriber's users and/or customers when it interacts with the Subscriber via the Subscriber's communication channels and/or otherwise collected by Consist in the scope of this EULA will be used by Consist and/or by third party service providers which are working on Consist's behalf, all - for the purposes set forth in the Privacy Policy.
 - 6.1.2. the Subscriber's users and/or customers' Personal Data is lawfully obtained by the Subscriber in compliance with applicable law, the Subscriber have a lawful basis for processing such Personal Data (including, without limitations, any process activity executed by Consist or third party's acting on its behalf), and if such lawful basis is Consent - such consent was dully obtained according to the requirements under the applicable law.
 - 6.1.3. Consist does not claim ownership of Content and/or Personal Data. However, by using the Software (including when the Subscriber interacts with its users and/or customers, and when the

Subscriber users and/or customers provide Information through such communication channels with them), the Subscriber hereby warrant that it has the lawful rights to grant us an irrevocable, royalty-free, non-exclusive, unlimited license and specific informed consent to process the Content and/or Personal Data, use it, share it with and transfer it to third parties in accordance with the terms of the Privacy Policy.

- 6.2. The Subscriber hereby acknowledge and aware that Consist does not check the validity of the Subscriber use of the Software, i.e any use of the Software with the Subscriber name will be considered as a legitimate use of the Software by the Subscriber, for all intents and purposes, including (without limitation) for billing purposes.
- 6.3. The Subscriber shall be solely responsible for all Content and/or Personal Data, including with respect to the accuracy, quality, reliability and legality. Consist does not claim ownership over the Content and/or Personal Data and shall not be responsible to the Content and/or Personal Data in any manner. The Subscriber hereby grants to Consist a nonexclusive, worldwide, royalty-free, fully-paid, transferable license to host, cache, record, copy, view, and display Content for the purpose of providing the Software to Subscriber: (a) internal use by Consist and its affiliates; (b) any purpose related to the billing, activation, provision, maintenance, upgrades, updates, deactivation and/or use of the Software and/or related products and/or services; (c) any purposes permitted by any applicable law.
- 6.4. Notwithstanding anything to the contrary express or implied, if at any time Consist becomes aware that any Content and/or Personal Data (i) may be obscene, defamatory or fraudulent, violate any applicable law (ii) infringe any third party intellectual property rights or (iii) exposes Consist to any civil, regulatory or criminal liability, Consist shall be entitled to (a) notify the Subscriber accordingly, and the Subscriber shall immediately remove such Content; or (b) with respect to SaaS Licensing Model - remove such Content and notify the Subscriber of its removal.
- 6.5. With respect to SaaS Model - upon termination or expiration of this License, the Subscriber will lose all access to the Content and/or Personal Data, provided however that (i) for a period of thirty (30) days from the effective date of termination of the License, Consist will provide the Subscriber, upon Subscriber written request, with a reasonable opportunity to download Subscriber's Content and/or Personal Data (at the Subscriber cost and expense); (ii) Consist reserves the right to permanently delete any Content at any time following said thirty (30) day period, and the Subscriber hereby waive any rights and/or remedies with respect to such deletion of Content and/or Personal Data.
- 6.6. The Subscriber shall indemnify, defend, and hold harmless Consist and its respective directors, officers, employees and agents, from and against any loss, damage, cost, expense or liability, resulting from or arising out of any third party claim based on a claim that any Content and/or Personal Data infringes upon the rights of a third party, including such third party's Intellectual Property Rights, and/or is otherwise unlawful and/or contrary to any contractual obligation made by the Subscriber towards such third party with respect to the Content and/or Personal Data.

7. **SUPPORT SERVICES**

- 7.1. During the Subscription Period Consist will provide the Subscriber with support services with respect to problems or performance deficiencies of the Software, as well as Error correction ("**Support Services**"). "**Error**" means a problem with the Software failing to comply with the then-current Documentation. All and any results, deliverables and outcomes of the Support Services and anything Consist provides in connection therewith will be deemed part of the Software.
- 7.2. The Support Services will be provided from Sunday to Thursday between 9:00am through 17:00 Israel time, excluding holidays, holidays evenings and other sabbatical days ("**Regular Hours**"). Support requests shall be submitted by Subscriber by e-mail to the following e-mail: helpdesk@consist.co.il or by phone number 972-3-9204111 to Consist's support center. Support request submitted not during Regular hours shall be directed to designated call center that will forward the request to the relevant on-call personal. The Support Services will be provided by telephone support, by sending relevant information, data, software or documents and/or by computer communication that will allow Consist remote access to the Software. Arrival at the Subscriber premises shall occur only if the Error is originated solely with the Software (and not related to the infrastructure) and after all remote attempts to resolve the Error were drained. Arrival at the Subscriber premises shall be with additional charges at the then current Consist's hourly rate.
- 7.3. Consist shall make reasonable commercial efforts to address each service request within 4 hours of its submission ("**Response Time**"). Respond to a support request shall include telephone support and/or computer communication.
- 7.4. Consist will designate the initial severity level of the Error and implement diagnosis of the Error. The

Subscriber shall collect all relevant information and data and act solely with Consist's instructions. The Subscriber will provide Consist with free access to the Software at all times, that will be coordinated with the Subscriber. The Subscriber will provide Consist with all its information, data and resources for the restoration of the Error and correction of it. The License details and all Subscriber's information and data may be required for the purpose of providing Support Services.

- 7.5. The Support Services and Consist's obligations will exclude services required due to: (i) misuse or improper use of the Software, or any part thereof, or use of the Software not in accordance with Consist's operating and use instructions and/or Documentation and/or the EULA; (ii) configurations, changes and/or modifications to the Software and/or any part thereof that were performed by any other party other than Consist; (iii) the use of the Software in combination with any equipment, software, process or product not approved or provided by Consist; (iv) wilful misconduct, accident, negligence, water or fire damages, electricity failure, lightning or high voltage, disturbances in the communication network and/or Force Majeure Event; (v) installation in environmental conditions which are not compatible with the Software Documentation (in case the Software is provided not in means of cloud basis). Consist may provide services with respect to any of the above pursuant to the Consist's then current hourly rate.
- 7.6. The Support Services will be provided at Consist's sole discretion, without any warranty or representations. It is the Subscriber responsibility to maintain adequate backup to all its data, software and information. Consist may elect, at its sole discretion, to change the fees charged for the Support Services. Consist reserve the right to decline, suspend or terminate the Support Services.

8. **CHANGE OR MODIFICATION**

- 8.1. Consist may, from time to time, at its sole discretion, update, upgrade, change or modify the Software, or any part thereof (including bug fixes, error corrections, enhancements) due to regulation requirements, technological needs, industry practices etc.) ("**Change**"). Consist will make reasonable efforts to notify the Subscriber when a Change is available. Change(s) to the Software in SaaS model shall be conducted and implemented automatically.
- 8.2. Subscriber acknowledges and agrees that such Change(s) may be implemented at any time and without any notice to Subscriber. Subscriber shall comply with such Change(s) by implementing and using the most current version of the Software and making any changes that may be required as a result of such Change(s). Subscriber acknowledges that a Change may have an adverse effect on the Software and that Consist shall have no liability of any kind to Subscriber or any of its user and/customers with respect to such Change or any adverse effects resulting from such Change. Subscriber's continued access to or use of the Software shall constitute binding acceptance of the Change(s) at issue.
- 8.3. Subscriber acknowledges and agrees that the installation and implementation of a Change and/or for maintenance purposes and/or any other purposes may require Consist to downtime the Software, suspend the Subscriber's use of the Software or to effect the Software availability in other ways. Consist make reasonable efforts to notify the Subscriber of any of such.

9. **PROPRIETARY RIGHTS AND LICENSES**

- 9.1. **Reservation of Rights.** The ownership and all rights, title and interest in and to the Service, including without limitations: (i) all related Intellectual Property Rights, whether patentable or not and whether registered or not, (ii) any of Consist's logos, trade dress, designs or trademarks, service marks, (iii) all modifications, updates, developments, customizations and enhancements to the Software , and (iv) any other documents or materials that Consist provides to Subscriber under or in connection with this EULA or License - are now and shall remain always the exclusive property of Consist. Subscriber hereby expressly and irrevocably waives any such rights, and only granted with the limited right to use the Software, as expressly set forth herein, for the Subscription Term. All rights not expressly granted to the Subscriber in this EULA are retained by Consist.
- 9.2. **License by Subscriber to Use Feedback.** The Subscriber hereby grants Consist a worldwide, perpetual, irrevocable, royalty-free, fully paid-up, transferable, non-exclusive license to use, copy, modify, distribute and incorporate into the Software any suggestion, enhancement request, recommendation, correction or other feedback provided by Subscriber relating to the Software ("**Suggestions**"). Consist may utilize the information concerning Subscriber's use of the Software to improve Consist's products and services. Consist will solely own products and services developed by or for Consist from such Suggestions.
- 9.3. **Use of Subscriber name and Logo.** The Subscriber agrees to enable Consist to use its name, logo and reference that the Subscriber is a subscriber of the Software in our publications.
- 9.4. The Subscriber shall promptly notify Consist in writing of any infringement or other violation of Consist's Intellectual Property Rights to which the Subscriber become aware. The Subscriber shall reasonably

cooperate with Consist in the defense and protection of such Intellectual Property Rights.

9.5. The provisions of section 9 shall survive termination or expiration of the Agreement, for any reason.

10. **THIRD PARTY MATERIALS**

10.1. The Software and/or Services may contain certain Third Party Materials that may be subject to additional specific license terms and the Subscriber's use of the Third Party Materials are governed solely by the terms and conditions. In accepting this EULA, the Subscriber also agrees to be bound by these license terms with respect to the aforementioned specific Third Party Materials, as may be amended from time to time. The Subscriber hereby warrants that it shall use such Third Party Materials in compliance with the applicable terms of use related to all applicable Third Party Materials. Without derogating the generality of the aforementioned, the use of WhatsApp is subject to WhatsApp Business terms of service available at <https://www.whatsapp.com/legal/business-terms/?lang=he>.

10.2. Consist does not endorse, is not responsible or liable for, and makes no representations as to any aspect of such Third Party Materials, including, without limitation, their content or the manner in which they handle data (including Content and Personal Data) or any interaction between the Subscriber and the provider of such third party services, including in case such third party will terminate or otherwise block the Subscriber use of its services.

10.3. The Subscriber hereby irrevocably waives any claim or demand against Consist and/or anyone on its behalf with respect to such Third Party Materials. Consist is not, and shall not be, liable for any damage or loss caused or alleged to be caused by or in connection with the Subscriber's enablement, access or use of any such Third Party Materials, or its reliance on the privacy practices, data security processes or other policies of such Third Party Materials specifications. The Subscriber is expressly permitting Consist to disclose its Content as necessary to facilitate the use or enablement of such Third Party Materials.

10.4. The Subscriber shall be solely responsible towards Consist and any third party for its usage of the Software and/or the Third Party Materials by its clients and/or any individual or other entity who communicates with of the Subscriber through the Software and their compliant with this EULA and such Third Party Material's license terms.

11. **DISCLAIMER AND LIMITED WARRANTY**

11.1. The Software and the Support Services shall not apply to the extent any Software performance or availability and Error is due to: (i) planned downtime; (ii) interruption of the Software in order to protect the integrity of the Software, inter alia, due to security issues, virus attacks, spam issues or other unforeseen circumstances; and (iii) a Force Majeure Event; (iv) circumstances attributable to the Subscriber (including any actions or inactions of Subscriber in violation of this EULA) and/or Subscriber's systems, equipment, and/or your third party's service providers (including the Cloud Services provider) and/or Third Party Materials; (v) failure of the external internet beyond Consist's network, electrical or internet access disruptions; (vi) attacks (i.e. hacks, denial of service attacks, malicious introduction of viruses and disabling devices) caused by third parties; (vii) any use of the Software not in accordance with the Documentation.

11.2. For the avoidance of doubt, it is hereby clarified that Consist disclaims any and all liability or responsibility for any combination and/or connectivity of the Software to any of the Subscriber's software, hardware, communication component or any other product or service ("**Subscriber's Equipment**") which results the failure or any other damage to such Subscriber's Equipment, and Subscriber shall bear any and all responsibility for any such damages.

11.3. THE SOFTWARE IS PROVIDED ON A "AS-IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES, CONDITIONS OR REPRESENTATIONS, OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES IMPLIED IN LAW WHICH THE LAW PERMITS TO BE DISCLAIMED, AND EXPRESSLY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, RELIABILITY, SUITABILITY, AVAILABILITY, QUALITY, COMPLETENESS OF THE SOFTWARE, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. WITHOUT DEROGATING FROM THE FOREGOING, CONSIST DOES NOT REPRESENT OR WARRANT THAT: (A) THE USE OF THE SOFTWARE WILL BE TIMELY, UNINTERRUPTED, FAULTLESS, ERROR-FREE, FREE FROM BUGS OR OPERATE IN COMBINATION WITH OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (B) THE SOFTWARE OR ANY EQUIPMENT OR SYSTEM ON WHICH THE SOFTWARE IS USED WILL BE SECURE, FREE OF VULNERABILITY TO INTRUSION OR ATTACK; (C) THE SOFTWARE WILL MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE COMPATIBLE WITH ANY OTHER SOFTWARE OR SYSTEM; AND/OR (D) THE SOFTWARE WILL MEET THE USER REQUIREMENTS OR EXPECTATIONS. THE SUBSCRIBER ASSUME SOLE RESPONSIBILITY AND LIABILITY AND ALL RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOFTWARE.

12. LIMITATION OF LIABILITY

- 12.1. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA (INCLUDING ANY TRANSACTION DOCUMENT) OR APPLICABLE LAW, IN NO EVENT SHALL CONSIST, ITS AFFILIATES AND/OR ITS VENDORS, DISTRIBUTORS AND SUBCONTRACTORS, THEIR RESPECTIVE EMPLOYEES, OFFICERS AND DIRECTORS AND/OR ANYONE ACTING ON THEIR BEHALF (COLLECTIVELY, "**CONSIST INDEMNITIES**") BE LIABLE TO SUBSCRIBER, ITS AFFILIATES, AGENTS, ANYONE ACTING ON THEIR BEHALF, USERS OR ANY OTHER THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DOWNTIME COSTS, LOSS OF INCOME, PROFITS, REVENUE, BUSINESS, REPUTATION OR BUSINESS INTERRUPTION, LOSS OF GOODWILL, LOSS OF DATA AND/OR UNDERTAKING THE RESTORATION OF DATA OR COST OF SUBSTITUTE SOFTWARE OR SERVICES, OR OTHER ECONOMIC LOSS, ARISING OUT OF THIS EULA OR THE SOFTWARE. CONSIST'S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS EULA OR ANY TRANSACTION DOCUMENT OR THE SOFTWARE, EXCEED THE TOTAL SERVICES FEES ACTUALLY PAID TO CONSIST BY SUBSCRIBER IN THE SIX (6) MONTH PERIOD PRECEDING THE EVENTS THAT GAVE RISE TO SUCH LIABILITY. THE FOREGOING LIMITATION OF LIABILITIES WILL APPLY REGARDLESS OF THE FORM OR THEORY OF THE CLAIM OR ACTION AND WHETHER ANY CLAIM FOR RECOVERY IS BASED ON THEORIES OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE.
- 12.2. Subscriber understands and agrees that, to the extent permitted by applicable law, the foregoing exclusions and limitations of liability represent the Subscriber's agreement as to allocation of risk between Subscriber and Consist in connection with Consist's obligations under this EULA. The License Fees payable to Consist as set forth in the Transaction Documents reflect, and are set in reliance upon, this allocation of risk and the exclusions and limitations of liability set forth in this EULA.

13. INDEMNIFICATION

- 13.1. Subscriber shall defend and hold Consist Indemnities harmless from and against any and all claims, damages, liabilities, costs and expenses (including reasonably attorney's fees) arising out of or in connection with: (i) a breach or alleged breach of Consist's intellectual property rights (including any intellectual property right incorporated in the Service); (ii) any kind of claim, suit or action brought against Consist by any User; (iii) Subscriber's violation of any applicable law, including but not limited to any data protection and privacy laws and regulations (including, without limitations, Subscriber's warranties herein), or (iv) any other breach of this EULA. Consist shall provide Subscriber with a written notice of any such claim and allow Subscriber to handle the defense and/or settlement of such claim (provided that Subscriber makes no admission or compromise relating to any claim).
- 13.2. Subject to a conclusive ruling of a competent court, Consist shall defend and hold Subscriber harmless from and against any claim brought by a third party against the Subscriber that alleges that the Software or the use of it in accordance with this EULA infringes third party's intellectual property (an "**Infringement Claim**"). As a condition of Consist's indemnity obligations, Subscriber shall (a) promptly give written notice of the Infringement Claim to Consist; (b) give Consist sole control of the defense and settlement of the Infringement Claim; and (c) provide to Consist all reasonable assistance as required by Consist. Subscriber shall not compromise with such Infringement Claim and/or admit any liability or responsibility without Consist's prior approval.
- 13.3. Consist will, at its sole option and expense: (i) obtain a license to allow for continued use of the Software under the terms of this EULA; (ii) replace or modify the relevant part of the Software to be non-infringing without material decrease in functionality; or (iii) if the foregoing options are not commercially reasonable according to Consist's sole discretion, terminate the License for the infringing part of the Software (to the extent applicable).
- 13.4. Notwithstanding the foregoing, Consist shall have no liability for any Infringement Claim to the extent the Infringement Claim is based on (i) the use of the Software in conjunction, operation or combination with any other product, software, service or device not furnished by Consist, if such Infringement Claim would have been avoided by the use of the Software without such product, service or device; (ii) Subscriber's use of the Software in an unlawful manner or other than in accordance with this EULA; (iii) a modification or alteration to the Software not provided or performed by Consist; (iv) Subscriber Content and/or Personal Data or; (v) any act or omission of the Subscriber; or (v) use of an infringing Software after Consist has provided a non-infringing alternative or terminated the License or subscription for it.
- 13.5. The provisions of this section 13 set forth Consist's sole and exclusive liability and obligations, and Subscriber's sole and exclusive remedies, with respect to infringement or misappropriation of third party intellectual property rights of any kind.

14. CONFIDENTIALITY

- 14.1. Subscriber acknowledges that the Software is commercially valuable and proprietary to Consist. Subscriber, its employees, and/or anyone acting on its behalf, will hold the Confidential Information in confidence and shall not, directly or indirectly, copy, disclose or otherwise transfer any of the Confidential Information (whether in written, oral, electronic or other form), which is obtained from Consist or otherwise prepared or discovered in the performance of this EULA.
- 14.2. As used herein, the term “**Confidential Information**” mean all information or data, in any form or media, concerning or related to (without limitations) Consist and/or the Service, trade secrets, processes, products, software, technology, data or general business operations, that a reasonable person or entity would understand it to be confidential or proprietary given the nature of the information and the circumstances of disclosure. Confidential Information shall not include: (i) information which is in the public domain at the time of disclosure, through no fault of the Subscriber; (ii) information which is required to be disclosed by law or by regulatory authority.
- 14.3. Subscriber will take reasonable measures, at least as protective as those taken to protect its own confidential information, but in no event less than reasonable care, to protect the Confidential Information from disclosure to a third party. Subscriber shall not use or disclose the Confidential Information to any third party, except as expressly permitted under this EULA or by applicable law. All right, title and interest in and to Confidential Information are and shall remain the sole and exclusive property of Consist.

15. **PRIVACY**

Consist will not monitor Content and/or Personal Data, except: (i) as needed to provide, support or improve the provision of the Software, (ii) investigate potential or suspected fraud, (iii) where instructed or permitted by the Subscriber, or (iv) as otherwise required by law or to exercise or protect Consist's legal rights.

Consist may also collect, store, process or transfer certain information and data, including for identification purposes of Named Users, as well as Content and/or Personal Data received through the Software in accordance with Consist's Privacy Policy and to the extent reasonably required to provide services in relation to the Software. The Subscriber is responsible for obtaining consent from its users and/or customers to this collection, use, processing and transfer of Content and Personal Data.

Consist will common industry technical, procedural and physical means to protect against unauthorized access, use or disclosure of the Content and Personal Data.

16. **AUDIT**

- 16.1. During the Subscription Term and for a period of three (3) years after its expiration or termination, the Subscriber will take reasonable steps to maintain complete and accurate records of the Subscriber use of the Software sufficient to verify compliance with this EULA.
- 16.2. The Subscriber will allow Consist and its auditors the right to examine such records and any applicable books, systems (including the Software or other equipment), and accounts, upon reasonable advanced notice, during Subscriber normal business hours. The Subscriber will cooperate with any such audit.
- 16.3. if an audit reveals incompliance with the EULA and/or License and/or any use of the Software which is not covered by the License, then without derogating from any rights and/or remedies available to Consist under agreement or at law, the Subscriber will promptly cease all unauthorized use of the Software; pay Consist the underpaid License Fees and any other related underpaid fees (e.g. Support Services fees) and reimburse Priority for the cost of the Audit.

17. **TERM AND TERMINATION**

- 17.1. This EULA term commences on the date the Software is available for the use of the Subscriber and shall continue for the duration of the Subscription Term.
- 17.2. Either party may terminate this EULA (i) in the event of a material breach by the other party of the provisions herein, to the extent such breach was not cured within thirty (30) days from the offended party's written notice, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 17.3. Any incompliance by Subscriber with this EULA and any failure by Subscriber to pay, for any reason, the applicable License Fees or other applicable fees within thirty (30) days from the due date for payment, shall entitle Consist to forthwith terminate this EULA and/or suspend the Subscriber right to use the Software, without thereby derogating from other rights and/or remedies afforded to Consist under any agreement or at law.
- 17.4. **Effects of Termination.** Upon termination or expiration of the EULA at any time and for any reason all

rights granted to Subscriber herein shall immediately terminate and expire. Upon termination or expiry of this Agreement at any time and for any reason, Subscriber will: (i) discontinue any and all use of the Service; and (ii) return to Consist all copy's of Consist's Confidential Information under its possession, and deliver to Consist written certification that Subscriber has complied with the termination obligations included herein.

17.5. The provisions of this EULA which expressly or by their nature are required to survive termination of this EULA shall survive the expiration or termination of this EULA for whatever reason.

18. **GENERAL**

18.1. The EULA (together with the Transaction Documents) and all matters arising out of or relating to the EULA shall be governed exclusively by the laws of the State of Israel, without regard to its conflict of law provisions. Any legal action or proceeding relating to the Agreement shall be brought exclusively in the competent courts of Tel Aviv, Israel and the parties hereby irrevocably agree to submit to the exclusive jurisdiction of such courts.

18.2. The waiver of any default or breach of the EULA shall not constitute a waiver of any other or subsequent default or breach.

18.3. In the event any provision of the EULA is held to be invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of the EULA shall remain in full force and effect, but such provision shall be deemed modified to the extent necessary to render such term or provision enforceable, preserving to the fullest extent permissible the intent and agreements of the parties herein set forth.

18.4. The EULA is intended for the sole and exclusive benefit of the parties thereto (and Consist's licensors and/or suppliers) and is not intended to the benefit of any third party on Subscriber's behalf.

18.5. The EULA, together with the Transaction Documents constitutes the complete and exclusive agreement between the parties concerning its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, concerning such subject matter. In the event of any conflict or inconsistency between the EULA and the Transaction Documents, the Transaction Documents shall prevail. The parties agree that any term or condition stated in a Subscriber purchase order or in any other Subscriber order documentation (excluding Transaction Documents) is void.

18.6. Titles and headings of sections of this EULA are for convenience of reference only and shall not affect the construction of any provision of this EULA and have no legal effect.

18.7. Subscriber may not assign or transfer the EULA, in whole or in part, without Consist's prior written consent. Consist may, without Subscriber's consent, assign this EULA, provided that any such successor agrees to fulfill Consist's obligations pursuant to this EULA. Subject to the foregoing restrictions, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns.

18.8. Consist reserves the right to modify the terms and conditions of this EULA and its policies relating to the Software at any time, in its sole discretion by providing notice to the Subscriber. Continuing to use the Software constitutes acceptance of the revised terms and conditions of the EULA. The EULA may not be modified or amended by Subscriber, except to the extent such amendment was authorized and approved in writing by Consist.

18.9. Except as otherwise specified in this EULA, all notices related to this EULA will be in writing and will be effective upon (a) personal delivery, (b) 72 hours after mailing by first class mail, or (c) except for notices relating to legal dispute, the day of sending by email.

Last updated: December 2023