

# CYSCALE - END USER LICENSE AGREEMENT (EULA)

CYSCALE LIMITED ("COMPANY"), LICENSES THE PLATFORM (as defined below) AND OTHER LICENSED MATERIALS ONLY ON THE CONDITION THAT THE USER ("YOU" OR "CUSTOMER") ACCEPTS ALL OF THE TERMS CONTAINED OR REFERENCED IN THIS AGREEMENT.

This End User License Agreement (EULA) ("**Agreement**") is a legal contract. Company is willing to permit you to access and use the Company Platform only if you accept the terms of this Agreement. By clicking on the "I ACCEPT" button or by installing, downloading, accessing or otherwise copying or using the Platform, you accept and agree to be bound by the terms of this Agreement. By agreeing to be bound by the terms of this Agreement, you also represent that you (i) have the authority to act on behalf of and bind your company or other legal entity to these terms; and (ii) are binding your company or other legal entity to these terms, in which case the terms "Customer" and "you" in this paragraph refer to such entity. If you do not wish to be bound by the terms of this Agreement or do not have the authority to enter into this Agreement on behalf of your company or other legal entity do not accept these Terms and do not access or use the Platform.

- 1. License (Protected Asset).** Subject to the terms and conditions of this Agreement, the services offering to which you have subscribed ("**Order Form**") , Company hereby grants Customer a limited, nonexclusive, non-sublicensable, non-transferable and revocable license to remotely access (i.e. on a SaaS basis) the software ("**Platform**") and use it as well as any documentation ("**Documentation**") provided to you in connection with the Platform operation for internal purposes. You may only use the Platform in accordance with the Documentation, subject to the limitations set forth in the Order Form and applicable law.
- 2. Services.** In addition to the abovementioned licenses, we may provide services, as detailed in the Order Form (collectively with the Platform, the "**Services**"). Support and maintenance services are provided according to our Service Level Agreement attached hereto as Annex A ("**SLA**") and Annex B ("**Support Policy**").
- 3. Payment.** The Services are conditioned on Customer's upfront payment in full of the applicable fees set forth in the Order Form. Unless otherwise specified in the Order Form: (i) Customer will pay all amounts due under this Agreement in U.S. Dollars currency, (ii) all amounts invoiced hereunder are due and payable within thirty (30) days of the date of the invoice, and (iii) all fees and other amounts paid hereunder are non-refundable. Any amount not paid when required to be paid hereunder shall accrue interest on a daily basis until paid in full at the lesser of: (i) the rate of one and a half percent (1.5%) per month; or (ii) the highest amount permitted by applicable law. All amounts payable under this Agreement are exclusive of all sales, use, value-added, withholding, and other direct or indirect taxes, charges, levies and duties. This section shall not apply with respect to Customer that purchased our services through third parties.
- 4. Customer Account.** The Platform may only be used through a Customer account (the "**Account**"). Such Account may be accessed solely by Customer's employees or service providers who are explicitly authorized by Customer to use the Platform (each, a "**Permitted User**"). Customer will ensure that the Permitted Users keep the Account login details secure at all times and comply with the terms of this Agreement; and will be fully responsible for any breach of this Agreement by a Permitted User. Unauthorized access or use of the Account or the Platform must be immediately reported to the Company.
- 5. Prohibited Uses.** Except as specifically permitted herein, without the prior written consent of the Company, Customer must not, and shall not allow any Permitted User or any third party to, directly or indirectly: (i) copy, modify, create derivative works of or distribute any part of the Platform (including by incorporation into its products); (ii) sell, license (or sub-license), lease, assign, transfer, pledge, or share Customer's rights under this Agreement with any third party; (iii) use any "open source" or "copyleft software" in a manner that would require the Company to disclose the source code of the Platform to any third party; (iv) disclose the results of any testing or benchmarking of the Platform to any third party; (v) disassemble, decompile, reverse engineer or attempt to discover the Platform's source code or underlying algorithms; (vi) use the Platform in a manner that violates or infringes any rights of any third party, including but not limited to, privacy rights, publicity rights or intellectual property rights; (vii) remove or alter any trademarks or other proprietary notices related to the Platform; (viii) circumvent, disable or otherwise interfere with security-related features of the Platform or features that enforce use limitations; (ix) export, make available or use the Platform in any manner prohibited by applicable laws (including without limitation export control laws); and/or (x) transmit any malicious code (i.e., software viruses, Trojan horses, worms, malware or other computer instructions, devices, or techniques that erase data or programing, infect, disrupt, damage, disable, or shut down a computer system or any component of such computer system) or other unlawful material in connection with our Product.
- 6. Warranties.** Each Party represents and warrants that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; and that the execution and performance of this Agreement will not conflict with other agreements to which it is bound or violate applicable law.
- 7. Intellectual Property Rights.** The Platform is not for sale and is the Company's sole property. All right, title, and interest, including any intellectual property rights evidenced by or embodied in, attached, connected, and/or related to the Platform and any and all improvements and derivative works thereof are and shall remain owned solely by Company or its licensors. This Agreement does not convey to Customer any interest in or to the Platform other than a limited right to use the Platform in accordance with Section 1. Nothing herein constitutes a waiver of the Company's intellectual property rights under any law.

If a Party ("**Receiving Party**") receives any feedback (e.g., questions, comments, suggestions or the like) regarding any of its products, assets and services (collectively, "**Feedback**"), all rights, including intellectual property rights in such Feedback shall belong exclusively to the Receiving Party and that such shall be considered Receiving Party's Confidential Information and the other Party hereby irrevocably and unconditionally transfers and assigns to the Receiving Party all intellectual property rights it has in such Feedback and waives any and all moral rights that it may have in respect thereto. It is further understood that use of Feedback, if any, may be made by the Receiving Party at its sole discretion, and that the Receiving Party is in no way shall be obliged to make use of any kind of the Feedback or part thereof.

8. **Third Party Components.** The Platform may use or include third party software, files, libraries or components that are subject to third party open source license terms ("**Open Source Licenses**"). The respective licenses or notices of such Open Source Licenses are available on request and may be updated from time to time. In the event of any inconsistencies or conflicting provisions between the provisions of the Open Source Licenses and the provisions of this Agreement, the provisions of the Open Source Licenses shall prevail. Without derogating from the generality of the foregoing, it is clarified that any Open Source Software is provided on an "AS IS" basis, without indemnity or warranty of any kind, whether express or implied.
9. **Confidentiality.** Each Party may have access to certain nonpublic and/or proprietary information of the other Party, in any form or media, including without limitation trade secrets and other information related to the products, software, technology, data, know-how, or business of the other Party, and any other information that a reasonable person should have reason to believe is proprietary, confidential, or competitively sensitive (the "**Confidential Information**"). The Documentation shall be considered as Confidential Information hereunder. Each Party shall 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 other Party's Confidential Information from disclosure to a third party. The receiving party's obligations under this Section, with respect to any Confidential Information of the disclosing party, shall not apply to and/or shall terminate if such information: (a) was already lawfully known to the receiving party at the time of disclosure by the disclosing party; (b) was disclosed to the receiving party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the receiving party has become, generally available to the public; or (d) was independently developed by the receiving party without access to, or use of, the disclosing party's Confidential Information. Neither Party shall use or disclose the Confidential Information of the other Party except for performance of its obligations under this Agreement ("**Permitted Use**"). The receiving party shall only permit access to the disclosing party's Confidential Information to its respective employees, consultants, affiliates, agents and subcontractors having a need to know such information in connection with the Permitted Use, who either (i) have signed a non-disclosure agreement with the receiving party containing terms at least as restrictive as those contained herein or (ii) are otherwise bound by a duty of confidentiality to the receiving party at least as restrictive as the terms set forth herein. The receiving party will be allowed to disclose Confidential Information to the extent that such disclosure is required by law or by the order or a court of similar judicial or administrative body, provided that it notifies the disclosing Party of such required disclosure to enable disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. All right, title and interest in and to Confidential Information are and shall remain the sole and exclusive property of the disclosing Party.
10. **Limited Warranties.** The Company represents and warrants that, under normal authorized use, the Platform shall substantially perform in conformance with its Documentation. As the Customer's sole and exclusive remedy and the Company's sole liability for breach of this warranty, the Company shall use commercially reasonable efforts repair the Platform in accordance with the SLA. The warranty set forth shall not apply if the failure of the Platform results from or is otherwise attributable to: (i) repair, maintenance or modification of the Platform by persons other than the Company or its authorized contractors; (ii) accident, negligence, abuse or misuse of the Platform; (iii) use of the Platform other than in accordance with the Documentation; (iv) Customer's failure to implement software updates provided by the Company specifically to avoid such failure; or (v) the combination of the Platform with equipment or software not authorized or provided by the Company. Other than as explicitly stated in this agreement, to the extent permitted by applicable law, the platform, any reports or other output (the "**Reports**") and services are provided on an "as is" basis. The company does not warrant that the platform, the reports and/or the services will meet customer's requirements. Except as set forth in section 6 and this section 10, the company expressly disclaims all express warranties and all implied warranties, including merchantability, title, non- infringement, non-interference, fitness for a particular purpose.
11. **Limitation of Liability.** Except for any damages resulting from customer's misappropriation or otherwise violation of company's intellectual property rights (including misuse of the license by customer pursuant to section 1); neither party shall be liable for any indirect, incidental, special, punitive, or consequential damages, or any loss of revenue, reputation, or profits, data, or data use.
- Except for the company indemnification obligation under section 12, any damages resulting from the customer's misappropriation or otherwise violation of company's intellectual property rights (including misuse of the license by customer pursuant to section 1); either party's maximum liability for any damages arising out of or related to this agreement, including without limitation the DPA (defined below), whether in contract or tort, or otherwise, shall in no event exceed, in the aggregate, the total amounts actually paid to company in the twelve (12) month period immediately preceding the event giving rise to such claim. This limitation of liability is cumulative and not per incident. For clarity, the limitations in this section do not apply to payments due to company under this agreement (including the Order Form).
12. **Indemnification.** Company acknowledges and agrees to defend, at its expense, any third party action or suit brought against the Customer alleging that the Platform, when used as permitted under this Agreement, infringes intellectual property rights of a third party ("**IP Infringement Claim**"); and the Company will pay any damages awarded in a final judgment against the Customer that are attributable to any such claim, provided that (i) the Customer promptly notifies the Company in writing of such claim; and (ii) the Customer grants the Company the sole authority to handle the defense or settlement of any such claim and provides the Company with all reasonable information and assistance, at Company's expense. The Company will not be bound by any settlement that the Customer enters into without the Company's prior written consent.
- If the Platform becomes, or in the Company's opinion is likely to become, the subject of an IP Infringement Claim, then the Company may, at its sole discretion: (a) procure for the Customer the right to continue using the Platform; (b) replace or modify the Platform to avoid the IP Infringement Claim; or (c) if options (a) and (b) cannot be accomplished despite the Company's reasonable efforts, then the Company may terminate this Agreement and in such event accept return of the affected Platform and provide a refund for any amount pre-paid by Customer for such returned Platform for the remaining unused period of the license.
- Notwithstanding the foregoing, the Company shall have no responsibility for IP Infringement Claims resulting from or based on: (i) modifications to the Platform made by a party other than the Company or its designee; (ii) the Customer's failure to implement

software updates provided by the Company specifically to avoid infringement; or (iii) combination or use of the Platform with equipment, devices or software not supplied by the Company or not in accordance with the Documentation.

### 13. Privacy.

A) Customer hereby warrants and represents that it will: (i) provide all appropriate notices, (ii) obtain all required informed consents and/or have any and all ongoing legal bases, and (iii) comply at all times with any and all applicable privacy and data protection laws and regulations (including, without limitation, the EU General Data Protection Regulation (“**GDPR**”), for allowing Company to use and process the data in accordance with this Agreement (including, without limitation, the provision of such data to Company (or access thereto) and the transfer of such data by Company to its affiliates, subsidiaries and subcontractors, including transfers outside of the European Economic Area), for the provision of the services, the use of the License and the performance of this Agreement.

B) To the extent that Customer needs a data processing agreement, Customer shall request Company’s Data Processing Agreement (“**DPA**”) by sending a request to [legal@cyscale.com](mailto:legal@cyscale.com).

C) In the event Customer fails to comply with any data protection or privacy law or regulation, the GDPR and/or any provision of the DPA, and/or fails to return an executed version of the DPA to Company, then: (i) to the maximum extent permitted by law, Customer shall be solely and fully responsible and liable for any such breach, violation, infringement and/or processing of personal data without a DPA by Company and Company’s affiliates and subsidiaries (including, without limitation, their employees, officers, directors, subcontractors and agents); and (ii) in the event of any claim of any kind related to any such breach, violation or infringement and/or any claim related to processing of personal data without a DPA, Customer shall defend, hold harmless and indemnify Company and Company’s affiliates and subsidiaries (including, without limitation, their employees, officers, directors, subcontractors and agents) from and against any and all losses, penalties, fines, damages, liabilities, settlements, costs and expenses, including reasonable attorneys’ fees, and (iii) the limitation of Customer’s liability under Section 11 above shall not apply in connection with Sections 13 (A) and 13(B) above.

D) Notwithstanding the foregoing, any anonymous information, which is derived from the use of the Platform (i.e., metadata, aggregated and/or analytics information) which is not personally identifiable information (“**Analytics Information**”) may be used for providing the Service, for development, and/or for statistical purposes. Such Analytics Information is Company exclusive property.

14. **Term and Termination.** This Agreement shall remain in full force and effect for the period specified in the Purchase Order (“**Initial Term**”) and shall automatically be renewed for successive one (1) year terms (each a “**Renewal Term**” and together with the Initial Term, the “**Term**”), unless terminated earlier as set forth herein and/or either Party provides at least 30 days prior written notice of nonrenewal. Either Party may terminate this Agreement with immediate effect if the other Party materially breaches this Agreement and such breach remains uncured fifteen (15) days after having received written notice thereof. Upon termination or expiration of this Agreement: (i) Platform license granted to Customer under this Agreement shall expire, and Customer shall discontinue any further use and access thereof; (ii) Customer shall immediately delete and dispose of all copies of the Documentation in Customer’s or any of its representatives’ possession or control; and (iii) any sums paid by Customer until the date of termination are non-refundable, and Customer shall not be relieved of its duty to discharge in full all due sums owed by Customer to Company under this Agreement until the date of termination or expiration hereof. The provisions of this Agreement that, by their nature and content, must survive the termination of this Agreement in order to achieve the fundamental purposes of this Agreement shall so survive. If applicable, Customer shall be responsible to download its Customer Data prior to termination of this Agreement. The termination of this Agreement shall not limit Company from pursuing any other remedies available to it under applicable law.

15. **Miscellaneous.** This Agreement - including any Order Forms, and any annexes attached or referred hereto - represents the complete agreement concerning the subject matter hereof and may be amended only by a written agreement executed by both Parties. The failure of either Party to enforce any rights granted hereunder or to take action against the other Party in the event of any breach hereunder shall not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable. Any use of the Platform by an agency, department, or other entity of the United States government shall be governed solely by the terms of this Agreement. Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, this Agreement may be assigned by either Party in connection with a merger, consolidation, sale of all of the equity interests of the Party, or a sale of all or substantially all of the assets of the Party to which this Agreement relates. This Agreement shall be governed by and construed under the laws of the State of Israel, without reference to principles and laws relating to the conflict of laws. The competent courts of the Tel-Aviv, Jaffa shall have the exclusive jurisdiction with respect to any dispute and action arising under or in relation to this Agreement. This Agreement does not, and shall not be construed to create any relationship, partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the Parties. The Company will not be liable for any delay or failure to provide the Services resulting from circumstances or causes beyond the reasonable control of the Company. This Agreement may be executed in electronic counterparts, each of which counterpart, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same agreement.

**Annex A**

**SERVICE LEVEL AGREEMENT (SLA)**

Company reserves the right to change the terms of this SLA by providing Customer with at least thirty (30) days prior written notice. During the term of the Agreement, Company will use commercially reasonable efforts to make the Service available with a Monthly Uptime Percentage (defined below) of at least 99.9% during monthly billing cycle (the "**Service Commitment**"). In the event that Company does not meet the Service Commitment, the Customer will be eligible to receive a Service Credit (defined below) as described below.

**The following definitions apply to this SLA:**

- "**Company Service(s)**" or "**Service(s)**" means the services specified in the Agreement;
- "**Downtime**" or "**Downtime Incident**" means the time in which Company Service is unavailable to the Customer as measured and determined solely by Company based on its servers. Downtime Incidents shall exclude: planned downtime incidents announced in-advance by Company, including without limitation, for periodic upgrade and maintenance; and/or any time where Company is awaiting information from the Customer or awaiting Customer confirmation that the Service has been restored.
- "**Downtime Period**" means the number of minutes in a calendar month during which Company Service is unavailable to the Customer due to Downtime Incident(s).
- "**Monthly Uptime Percentage**" means the total number of minutes in a calendar month, minus the Downtime Period, divided by the total number of minutes in a calendar month.
- "**Service Credit**" means credit notes due to the Customer because of Downtime Period as detailed in the following table:

Monthly Uptime Percentage	Percentage of monthly service license for Service which does not meet SLA that will be credited to future billing cycle for the Customer (in accordance with the subscription period applicable to each Customer)
Between 99.0% – 99.9% (inclusive)	10%
Less than 99.0%	20%

**Service Credit Eligibility**

If the Monthly Uptime Percentage is less than or equals 99.9%, then the Customer will be eligible to receive Service Credits as detailed in the table above.

In order to receive any of the Service Credits described above, the Customer must (i) notify Company's technical support team within thirty (30) days from the time on which the Customer becomes eligible to receive Service Credits; and (ii) submit Company's technical support team all information necessary for Company to validate the Customer's claim, including but not limited to: (a) a detailed description of the Downtime Incident; (b) information regarding the time and duration of the Downtime Incident. Failure to comply with these requirements will forfeit such Customer's right to receive Service Credits. In addition, the Customer must be in compliance with the Agreement in order to be eligible for a Service Credit.

**Maximum Service Credits**

The aggregate maximum number of Service Credits to be issued by Company to the Customer for any and all Downtime Periods that occur in a single subscription period shall not exceed 20% of the amount due by Customer for the Company Services provided to it during the applicable subscription period. The Service Credits will be made in the form of a monetary credit applied to future use of the Company Services and will be deducted from the Customer's next billing cycle/invoice. The Service Credits will not entitle the Customer to any refund or other payment from Company.

THE CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT ITS RIGHT TO RECEIVE SERVICE CREDITS AS SPECIFIED ABOVE CONSTITUTES ITS SOLE AND EXCLUSIVE REMEDY FOR ANY DOWNTIME INCIDENTS, UNAVAILABILITY OR NON-PERFORMANCE.

**Other SLA Exclusions**

The SLA does not apply to any: (a) features or services excluded from the Agreement (as specified in the associated Documentation); or (b) Downtime Incidents that: (i) are explicitly excluded under this SLA; (ii) are caused by factors beyond Company's reasonable control (e.g. any force majeure event, Internet access or related problems beyond Company's reasonable control etc.); (iii) results or outcomes attributable to repair, maintenance or modification of Company's software by persons other than Company's authorized third parties; (iv) resulted from accident, negligence, abnormal physical or electrical stress, abnormal environmental conditions, abuse or misuse of the Company's software; (v) resulted from use of the Company's software other than in accordance with its manuals, specifications or documentation or in violation of the Agreement; (vi) resulted from Customer's equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within Company's direct control); and/or (vii) resulted from the combination of the Company's software with equipment or software not authorized or provided by Company or otherwise approved by Company in the software's manuals, specifications or documentation.

**Annex B**  
**SUPPORT POLICY**

**Response Times Telephone, Web, and Email Support**

The following outlines the maximum length of time allowed for the initial acknowledgement to occur:

<b>Communication Type</b>	<b>Initial Acknowledgement<sup>1</sup></b>
Telephone	70% of phone calls during UK business hours will receive immediate voice contact with Support Technicians.
Web Support Form	Assigned to Support Technician by the next business day.
Email	Assigned to Support Technician by the next business day.
Slack/Teams	Assigned to Support Technician by the next business day.

*For purposes of this Support Policy only, “Business Day” shall mean that Support is available weekdays from 7AM to 5PM GMT, excluding national holidays in the United Kingdom.*

*International Support is available starting at 8AM GMT.*

**On-Line Support:** <https://cyscale.com/contact-us/>

Company Platform is offered as SaaS, and updates are provided automatically and without service interruptions. Company subscribers receive these software Updates and Releases at no charge and will receive notice of such improvements.

If needed, the following Company personnel will be made aware of the matter and respond personally to Customer in the following time frame:

- a. 72-hours after initial contact: Company Customer Support Manager
- b. 96-hours after initial contact: Company Customer Support Director

Company Support is only provided to clients with an existing Subscription. You may be asked to provide proof of coverage before receiving assistance. Please have your order number printed on your quote PDF or the Customer Account ID/email displayed within Company UI WebApp.

**Premium Dedicated Support**

Premium Dedicated support is available for purchase in addition to the standard support mentioned above. Premium Support includes the following additional services:

**Premium Support:**

- Customer has high-priority for resolution and issue consideration.
- Customer will speak with a tier 2 engineer without escalation.
- Escalation path within queue to appropriate engineer is given priority status.
- Customer is provided with one complimentary custom Product Feature Request per year.

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<sup>1</sup> “Initial Acknowledgement” refers to the maximum length of time allowed for the Support Technician to acknowledge receipt of your support request and route the request to the appropriate person for resolution.