

iCreate – Internet Campaigns Management Ltd

END USER LICENSE AGREEMENT

This iCreate End User License Agreement (the "**Agreement**") is made upon the Effective Date (defined below), by and between you (both the individual who subscribed for use of the Application (defined below) and any legal entity on whose behalf such individual is acting) (hereinafter: "**You**" or "**Your**") on the one hand and **iCreate – Internet Campaigns Management Ltd** on the other hand ("**Company**").

PLEASE READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE USING THE SERVICES AND/OR THE APPLICATION. THIS APPLICATION IS COPYRIGHTED AND LICENSED (NOT SOLD). TAKING ANY STEP TO REGISTER TO THE SERVICE OR USE THE APPLICATION CONSTITUTES YOUR ASSENT TO AND ACCEPTANCE OF THIS AGREEMENT. WRITTEN APPROVAL IS NOT A PREREQUISITE TO THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT AND NO SOLICITATION OF ANY SUCH WRITTEN APPROVAL BY OR ON BEHALF OF YOU SHALL BE CONSTRUED AS INFERENCE TO THE CONTRARY. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MUST IMMEDIATELY CEASE ALL USE OF THE APPLICATION AND NOTIFY THE COMPANY.

1. **Definitions.**

"**Application**" means the Company's proprietary iCreate application licensed to you in connection with this Agreement for the management of automated marketing campaigns (the "**Services**"), together with all other related and accompanying Documentation, and any Updates, patches and bug fixes of the Application which are made available by the Company during the Term. The Application may also include Upgrades, if and when released by the Company.

"**Documentation**" means user manuals, documents, drawings and other written and/or electronic materials pertaining to the Application provided by the Company to You in accordance herewith or that are posted on the Website.

"**Effective Date**" means the actual date of first use of the applicable License.

"**Update**" means a new version or a revised version of the Application generally made available by the Company to its customers, that contains bug fixes and/or minor enhancements or improvements, but does not contain significant new features, all as determined at Company's sole discretion.

"**Upgrade**" means any new version of the Application generally made available by the Company to its customers, that contains major enhancements and/or new features or functions, all as determined at Company's sole discretion. Further, Company may, in its sole discretion, determine the additional fee or terms shall be applicable for such Upgrades, all as shall be more fully described on the Company's website at: <http://icreate-campaign.com> (the "**Website**").

2. **License.** Subject to the terms and conditions of this Agreement and payment of the Fee, the Company hereby grants You, and You hereby accept, a non-exclusive, non-sublicensable, non-transferable and fully revocable license to use the Application in machine readable object code form only and to use the Documentation, all in the manner described herein, during the Term, and subject to the provisions and limitations set forth herein, especially (but not limited to) Sections 3 and 4 herein (the "**License**"). The License is intended for Your use only and you shall not share Your username and password, or authorize access or use of the Application, to any unauthorized third party.

3. **Use of Application.** Subject to payment of the Fees hereunder and full compliance with this Agreement, the Application may be used by You for the performances of the Services hereunder and according to the Documentations. This Application and accompanying documentation are protected by intellectual property laws and international treaty provisions. Unauthorized access or use of the Application in whole or in part is expressly forbidden. The Application may be used during the Term only and upon the lapse thereof, you shall cease all use

or access to the Application. It is clarified that the Application is a cloud based application and required an active internet connection for its operation, and obtaining such internet connection is Your responsibility. In any event, the Company shall not be liable for any damage or loss caused as result of a faulty or unsecured internet connection. It is further clarified that Company may retain certain information of the campaigns initiated and managed by You while using the Application for the operation of the Application and the provision of the Service. All information so retained shall not be disclosed to any third party, shall be maintained for your benefit only and shall be deleted upon termination of this Agreement.

4. **Restrictions.** Neither You nor anyone on Your behalf, may directly or indirectly, sell, distribute, redistribute, bundle, modify, or incorporate into other programs or products, the Application or any portion thereof (whether for consideration or not), except if you have obtained a prior written approval by the Company. You acknowledge that the source code of the Application, and the underlying ideas or concepts are valuable intellectual property of the Company and You agree not to, except as expressly authorized in writing by the Company and only to the extent established by applicable statutory law, attempt to (or permit other third parties to) decipher, reverse translate, decompile, disassemble or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms or file formats or programming or interoperability interfaces of the Application by any means whatsoever. You will not develop methods to enable unauthorized parties to use or access the Application, or to develop any software or applications competing with the Application or one of the Company's other products. You will not (and will not allow any third party to) remove any copyright or other proprietary notices from the Application. You will not test the Application or use the Application in connection with any benchmark tests, evaluation or any other tests of which the results are designated or likely to be published in any form or media or otherwise made available to the public, without Company's prior written approval. Other than explicitly permitted hereinabove, You will not rent, lend, lease, sub-license or transfer the Application and/or Your rights to the Application. You will not use the Application in a manner that is not in compliance with the Documentation and with Company's specific instructions. You will not copy, modify, adapt or translate into any language the Documentation, without the prior written consent of the Company.

5. **Support and Maintenance.** The Application is provided to You "As Is" with no warranty or guarantee for maintenance and support services; any support or maintenance services, to the extent offered by the Company, shall be at the scope and subject to such terms and conditions as shall be determined by the Company, and posted on the Website. You may purchase maintenance and support packages which shall be governed by terms and conditions delivered to at such purchase.

6. **Title and Intellectual Property.** You acknowledge and agree that the Application and the accompanying Documentation, including any revisions, corrections, modifications, enhancements, Upgrades and/or derivative works thereto as made by the Company (regardless of whether such derivative works were made pursuant to Your request and/or, and irrespective of any support and/or assistance the Company may receive, will receive or had received from You, or any third party on Your behalf, with respect thereto), are Company's property protected under any applicable laws and treaties. You further acknowledge and agree that all right, title and interest in and to the Application and Documentation, including associated intellectual property rights (including but not limited to, copyrights, trade secrets, and trademarks), evidenced by or embodied in and/or attached/connected/related to the Application and Documentation, are and shall remain with the Company. This Agreement does not convey to You an interest in or to the Application and Documentation, but only a limited right of use, revocable in accordance with the terms and conditions of this Agreement. Nothing in this Agreement constitutes a waiver of Company's intellectual property rights under applicable Law.

7. **Term and Termination.** This Agreement shall commence as of the Effective Date, and shall be in full force and effect for the License period subscribed for by You, and shall terminate upon any violation of the License terms as set forth in this Agreement (the **Term**). Upon lapse of the Term, the License to the Application shall terminate. In the event of any violation, breach or default by You of any of the provisions of this, which has not been remedied within ten (10) days after written notice by the Company to that effect ("**Cause**"), rights to use the Application and/or the Services and/or the Documentation shall automatically expire and terminate. In any event of termination for Cause, You shall indemnify the Company for any loss expenses and/or damages incurred

by the Company pursuant to such breach or violation, in addition to any other rights and remedies available to the Company under applicable law. This Agreement shall automatically expire upon Your insolvency, bankruptcy or liquidation or filing of any application therefore, or upon assignment or transfer of all or substantially all of Your assets, stock and/or business to a trustee for the benefit of creditors (to the extent applicable). You may terminate the License hereunder for any reason whatsoever, provided that all Fees to be paid for your use of the Application during the Term were paid in full.

Upon termination of this Agreement: (a) You must cease all use of the Application; and (b) any fees paid to Company prior to effective date of termination shall be refundable, provided that in the event of termination for Cause, such fees shall not be refundable. If Company makes a request via public announcement or press release to stop using the Applications, you will comply immediately with this request.

8. **Fees; Taxes.** The license fee, support fees (if elected to purchase), and any other payment for the access and use of the Application (collectively, the "**Fees**") shall be in accordance with the prices and payment details set out in Company's registration process which You must accept the terms and conditions of this Agreement, and according to the license and support packages subscribed for by you. Payment of the Fees shall be made in the manner provided for on the Website, unless agreed otherwise by the Company. The Fees due to the Company are stated in net values, and are exclusive of applicable local, state, federal and international sales, value added, withholding and other taxes and duties of any kind. You shall be responsible for payment of taxes and duties of any kind payable with respect to the licensing of the Application other than taxes levied or imposed on the Company based upon the Company's net income at its domicile. All prices and packages are indicated on the Website, or provided otherwise by the Company, and the Company reserves the right to amend, change or increase such prices and packages without notice provided that the terms of any purchased packages at such time are not affected.

9. **Warranty.** THE APPLICATION AND THE DOCUMENTATION ARE LICENSED AS IS WITHOUT ANY WARRANTY OF ANY KIND, AND THE COMPANY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW; NO LICENSOR, DEALER, DISTRIBUTOR, RESELLER, AGENT OR EMPLOYEE IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSIONS, OR ADDITIONS TO THIS WARRANTY.

10. **Limitation of Liability.** YOU HEREBY AGREE THAT IN NO EVENT SHALL THE COMPANY OR ITS AGENTS BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTIONS, LOSS OF BUSINESS INFORMATION OR DATA, OR OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE APPLICATION, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION SHALL APPLY REGARDLESS OF THE FAILURE OF ANY ESSENTIAL PURPOSE. THIS LIMITATION IS AN ESSENTIAL PART OF THE AGREEMENT BETWEEN YOU AND THE COMPANY. YOU ACKNOWLEDGE THAT THIS LIMITATION REPRESENTS A REASONABLE ALLOCATION OF RISK, AND THAT THE COMPANY WOULD NOT PROVIDE THE APPLICATION EXCEPT UNDER THE TERMS OF THIS LICENSE AGREEMENT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO YOU.

11. **Export Control.** You shall comply with all applicable government trade and export control laws and regulations with respect to the Application. You agree that the Application will not be transferred or exported into any country or used in any manner prohibited by any applicable laws in any jurisdiction.

12. **Miscellaneous.** (a) Without derogating from the provisions of Section 3 above, You shall not assign, sublicense, subcontract, charge or otherwise encumber any of Your rights or obligations hereunder without the prior written consent of the Company. Company may assign this Agreement at its discretion provided that a notice of such assignment is posted on its website. (c) If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, that provision of the Agreement will be enforced to the maximum extent permissible so as to affect the intent of the Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect. (d) 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. (e) This Agreement shall be governed by the laws of the State of Israel, and the Parties hereto submit to the exclusive jurisdiction of the competent courts located in Tel-Aviv Jaffa, Israel. (f) This Agreement, sets the entire understanding and agreement between You and the Company, it supersedes any prior proposal, representation and understanding concerning the Application, and may be amended only in writing signed by both parties. (g) Nothing in this Agreement shall create or be construed as creating any relationship of partnership, of employer/employee, franchiser/franchisee, or principal/agent between You and the Company.
