

Terms of Use

THE FOLLOWING TERMS AND CONDITIONS (THE "AGREEMENT") GOVERN YOUR USE OF GAZPACHO MOBILE, INCLUDING ONLINE AND OFFLINE COMPONENTS (COLLECTIVELY, THE "SOFTWARE"). BY USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.

Definitions

As used herein: "**Agreement**" means these terms and conditions; "**Content**" means the audio and visual information, forms, documents, cartography, images, data and services contained or made available to you in the course of using the Software; "**Intellectual Property Rights**" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world; "**Limits of Use**" means the limitations on your use of the Software as stated at the time of purchase, including but not limited to maximum GAZPACHO website data storage, the maximum number of mobile devices supported by your GAZPACHO website, and the period of service that you have paid for; "**NETALIZER**" means Netalizer Ltd., an Israeli corporation, having its principal place of business at 20 Kibbutz Galuyot St., Tel Aviv, Israel; "**Software**" means the GAZPACHO websites and the GAZPACHO mobile client applications; "**Technology**" means all of Netalizer's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, forms, data, cartography, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by Netalizer in providing the Software and Content; "**Your Data**" means any data, forms, images, videos, audio files, information or material submitted or created by you in the course of using the Software.

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Term and Termination

The Term of this Agreement shall start with your use of the Software and shall expire as specified in the Limits of Use. In the event this Agreement expires or is terminated (other than by reason of your breach), NETALIZER

will maintain Your Data online for 90 days and make it available to you for export to your own systems. You agree and acknowledge that NETALIZER has no obligation to retain Your Data, and may delete Your Data 30 days after expiration or termination. Any breach of your payment obligations or unauthorized use of Software or Content shall be deemed a material breach of this Agreement. GAZPACHO may terminate your use of the Software, at its sole discretion, if you breach or otherwise fail to comply with this Agreement. You agree and acknowledge that NETALIZER has no obligation to retain Your Data, and may delete Your Data, if you have breached this Agreement.

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You shall indemnify and hold NETALIZER, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of Your Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by you of your representations and warranties; or (iii) a claim against NETALIZER arising from the breach by you of this Agreement, provided in any such case that NETALIZER (a) gives written notice of the claim promptly to you; (b) gives you sole control of the defense and settlement of the claim (provided that you may not settle or defend any claim unless you unconditionally release NETALIZER of all liability and such settlement does not affect NETALIZER'S business or Software); (c) provides to you all available information and assistance; and (d) has not compromised or settled such claim.

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IN NO EVENT SHALL NETALIZER'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL NETALIZER AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SOFTWARE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SOFTWARE, OR FOR ANY CONTENT ASSOCIATED WITH THE SOFTWARE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, IN THE SOFTWARE OR CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Additional Rights

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Notice

NETALIZER may give notice by means of a general notice through the Software, electronic mail to your e-mail address on record in NETALIZER'S account information, or by written communication sent by first class mail or pre-paid post to your address on record in NETALIZER'S account information. Such notice shall be deemed to have been given upon the expiration of 72 hours after mailing or posting (if sent by first class mail or pre-paid

post) or 24 hours after sending (if sent by email). You may give notice to NETALIZER (such notice shall be deemed given when received by NETALIZER) at any time by a letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to NETALIZER at the following address: Netalizer Ltd., 20 Kibbutz Galuyot St, Tel Aviv, Israel, Attention: Chief Operating Officer.

Assignment

This Agreement may not be assigned by you without the prior written approval of NETALIZER but may be assigned without your consent by NETALIZER to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

General

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Questions or Additional Information

If you have questions regarding this Agreement or wish to obtain additional information, please contact NETALIZER at the following address: Netalizer Ltd., 4 Ariel Sharon St, Givatayim, 5320047, Israel, Attention: Chief Operating Officer.