

OffiSync Enterprise

End User License Agreement

1. Summary

The following terms, conditions and notices of this End User License Agreement (the “EULA”) govern your subscription or perpetual use to and use of OffiSync’s online service and offline components (collectively, the “Service.”). This EULA is a legally binding contract between you and OffiSync (“OffiSync”).

Your use of the Service constitutes your agreement to all such terms, conditions, and notices, including any materials available on the OffiSync website (the “Website”) incorporated by reference herein, including but not limited to OffiSync’s privacy policy and legal terms, available at www.offisync.com (the “Policies”), the terms of which are incorporated by reference. If you do not agree to this EULA and/or the Policies, you may not use the Service.

We reserve the right to change the terms, conditions, and notices under which the Service is offered, including but not limited to the charges associated with the use of the Service. Such changes will become effective five (5) business days after being posted on the Website. If you do not agree to the changes to the EULA, Policies or the renewal pricing for the Service, you must discontinue your use of the Service immediately.

2. Enterprise Use

Your enterprise license to the Service, as provided on an order form issued through a third party such as a designated reseller (each, an “Order Form”), is either subscription based (a term typically of one year) or granted on a perpetual basis, for the number of individuals for whom you have purchased a subscription and who you authorize to use the Service (each, an “End User”). An End User may use the Services in accordance with the terms of this EULA. Increases or decreases in licenses or transfer of use by one End User to another end user shall only occur in connection with an Order Form to your designated reseller.

During pre-release, these features are subject to delivery by OffiSync on an as-available basis or, where possible, in the form of offline professional services:

As available, the Website contains more complete description of these features. You agree that your purchases of the subscription is neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by OffiSync regarding future functionality or features.

3. Changes to Browser Settings and Error Processing

By installing the Service, you acknowledge and agree that the software may change certain settings in your Internet browser software, including the default settings for search provider and default home page setting. Installing the Service and changing any software settings may conflict with other agreements including license agreements you have entered into with other entities (such as your Internet service provider). You may opt out of these settings by reconfiguring your settings to your desired Internet browser software.

4. No Customer Support

Except as provided by your designated reseller, there is no customer support for your use of the Service. If you have questions regarding this EULA or wish to obtain additional information, review your designated reseller, the Website, or email contact@offisync.com.

5. Privacy Practices

OffiSync believes the privacy of consumers and Internet users is of the utmost importance. By using the Service, you agree to treat personally identifiable information with the highest degree of care and in compliance with all applicable laws and regulations. OffiSync shall treat your personally and non-personally identifiable information in accordance with OffiSync's Privacy Policy. You agree that your use of the Service will comply with all applicable laws, rules and regulations (including industry-standard practices).

6. License Grant & Restrictions

OffiSync hereby grants you a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this EULA. All rights not expressly granted to you are reserved by OffiSync and its licensors. You are responsible for your use of the Services.

The Service which you use may automatically download and install updates from time to time from OffiSync. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit OffiSync to deliver these to you) as part of your use of the Services.

OffiSync shall have no obligation to develop or provide any update, upgrade, improvement or modification for the enterprise edition software or the Service. You acknowledge that the enterprise edition software and the Service's functionality may be affected by changes to third

party products, services or applications, e.g., Microsoft Office or Google, or conflicts with other third party hardware or software or the configuration of any hardware or software used by you or other End Users, that such changes or conflicts are beyond OffiSync's control, and that, although OffiSync will use diligent efforts with respect to such third party changes, it may not be able to do so promptly, and in some events may be unable to provide an update with respect to a change or modification to such third party products, services or applications, and OffiSync shall not be deemed to be in breach of any obligation to any party as a result or with respect to any such inability.

You may not access the Service if you are a direct competitor of OffiSync, except with OffiSync's prior written consent. In addition, you may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or any content provided through the Service (the "Content") in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service. Your license cannot be shared or used by anyone other than you.

You may use the Service only for your internal business purposes and shall not: (i) upload, post or otherwise transmit spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) upload, post, store, or otherwise transmit infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iii) upload, post, store, or otherwise transmit material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (v) attempt to gain unauthorized access to the Service or its related systems or networks.

7. Third Party Copyright

Many of the images on the World Wide Web are protected by copyright law. Although the Service includes features to locate and display certain materials that may be subject to copyright laws, such as images and text, OffiSync does not hold, grant or imply permissions or licenses to use these materials for any purpose. If you would like to use any materials obtained

through the Service you must contact the webmaster or copyright holder in order to obtain the appropriate permissions to do so.

In connection with your use of the Service, you further agree that you will not share material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to do so.

8. Intellectual Property Ownership

OffiSync alone (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to any OffiSync technology, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Service, subject to copyright and other intellectual property rights under the law. This EULA is not a sale and does not convey to you any rights of ownership in or related to the Service, the Content, any OffiSync technology or other intellectual property rights owned by OffiSync. The OffiSync name, the OffiSync logo, and the product names associated with the Service are trademarks of OffiSync or third parties, and no right or license is granted to use them.

We shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by you. You shall not give us any feedback that is subject to any license obligations or other restrictions on use.

9. Account Information and Data; Password

Your confidential customer data is your property. OffiSync will not disclose your confidential data without your prior consent. OffiSync may use aggregate information which does not identify you as an individual for internal analysis and external marketing purposes. We will comply at all times with OffiSync's Privacy Policy with respect to the use and disclosure of your data.

You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Services, including but not limited to your password to access any third-party service such as Google. Accordingly, you agree that you will be solely responsible to OffiSync for all activities that occur under your account. If you become aware of any unauthorized use of your password or of your account, you agree to notify the applicable party (e.g. Microsoft, Google, etc.).

10. Linked Sites

During use of the Service, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of advertisers or sponsors showing their goods and/or services through the Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity are solely between you and the applicable third-party. OffiSync and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between you and any such third-party.

OffiSync does not endorse any sites on the Internet that are linked through the Service. OffiSync provides these links to you only as a matter of convenience, and in no event shall OffiSync or its licensors be responsible for any content, products, or other materials on or available from such sites. OffiSync provides the Service to you pursuant to the terms and conditions of this EULA. You recognize, however, that certain third-party providers of ancillary software, hardware or services may require your agreement to additional or different license or other terms prior to your use of or access to such software, hardware or services.

11. Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this EULA. OffiSync represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with online documentation with normal use and circumstances. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service and that any information you provide is correct. You represent and warrant that your use of the Service shall comply with all applicable laws, rules and regulations.

12. Internet Delays

OFFISYNC SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET, ELECTRONIC COMMUNICATIONS AND CONNECTION TO OTHER THIRD-PARTY WEBSITES OR PRODUCTS. OFFISYNC IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

13. Exclusion of Warranties

13.1 NOTHING IN THESE TERMS, INCLUDING SECTIONS 13 AND 14, SHALL EXCLUDE OR LIMIT OFFISYNC'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF

CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE LIMITATIONS WHICH ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

13.2 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE."

13.3 IN PARTICULAR, OFFISYNC, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO YOU THAT:

(A) YOUR USE OF THE SERVICES WILL MEET YOUR REQUIREMENTS,

(B) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR,

(C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, AND

(D) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICES WILL BE CORRECTED.

13.4 ANY MATERIAL UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED DIRECTLY OR INDIRECTLY THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE UPLOAD OR DOWNLOAD OF ANY SUCH MATERIAL.

13.5 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM OFFISYNC OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

13.6 OFFISYNC FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

14. Limitation of Liability

14.1 SUBJECT TO THE OVERALL PROVISIONS IN SECTION 13.1 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT OFFISYNC, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU FOR:

(A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS;

(B) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:

(I) ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE SERVICES;

(II) ANY CHANGES WHICH OFFISYNC MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES);

(III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES;

(III) YOUR FAILURE TO PROVIDE OFFISYNC WITH ACCURATE ACCOUNT INFORMATION;

(IV) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL;

14.2 THE LIMITATIONS ON OFFISYNC'S LIABILITY TO YOU IN SECTION 12.1 ABOVE SHALL APPLY WHETHER OR NOT OFFISYNC HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

14.3 IN NO EVENT SHALL OFFISYNC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS EULA, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID FOR THE AFFECTED END USER(S) BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, SUBJECT TO FURTHER LIMITATION IN STATES AND JURISDICTIONS THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES.

15. Indemnification

You agree to defend, indemnify and hold harmless OffiSync, its parent corporation, officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Service or Website; (ii) your violation of any term of this Agreement; (iii) your violation of any third party right, including without limitation any copyright, property, privacy right or other intellectual property right; or (iv) any claim that your content caused damage to a third party.

16. Digital Millennium Copyright Act

(A) If you are a copyright owner or an agent thereof and believe that any submission or other content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our Copyright Agent with the following information in writing (see 17 U.S.C 512(c)(3) for further detail):

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit the service provider to locate the material;
- Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail;
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

(B) OffiSync's designated Copyright Agent to receive notifications of claimed infringement is: Adam Goldblatt, PS, 710 Second Avenue, Suite 840, Seattle, WA 98104, fax: 206-774-1289. For clarity, only DMCA notices should go to the Copyright Agent; any other feedback, comments, requests, and other communications should be directed to OffiSync directly at contact@offisync.com. You acknowledge that if you fail to comply with all of the requirements of this section, your DMCA notice may not be valid.

(C) Counter-Notice. If you believe that your User Submission that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to post and use the content in your submission, you may send a counter-notice containing the following information to the Copyright Agent:

- Your physical or electronic signature;
- Identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
- A statement that you have a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content; and
- Your name, address, telephone number, and e-mail address, a statement that you consent to the jurisdiction of the federal court in Seattle, Washington, and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Copyright Agent, OffiSync may send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at OffiSync's sole discretion.

17. Termination

We reserve the right, in our sole discretion, to terminate this EULA and your access to the Service and any related services or any portion thereof at any time, immediately upon notice. The "Privacy Practices," "Intellectual Property Ownership," "Indemnification," "Limitation of Liability" and "General" sections shall survive termination of this EULA for any reason.

18. Assignment; Change in Control

This EULA may not be assigned by you without the prior written approval of OffiSync but may be assigned without your consent by OffiSync 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. Any actual or proposed change in control of you that results or would result in a direct competitor of OffiSync directly or indirectly owning or controlling 50% or more of you shall entitle OffiSync to terminate this EULA for cause immediately upon written notice.

19. Notice

OffiSync may give notice by means of a general notice on the Service, electronic mail to your e-mail address on record in OffiSync's account information, or by written communication sent by first class mail or pre-paid post to your address on record in OffiSync's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to OffiSync (such notice shall be deemed given when received by OffiSync) at any time by emailing to contact@offisync.com.

20. General

This EULA shall be governed by laws of the State of Washington and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this EULA or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located in Seattle, Washington. No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form, if applicable) shall add to or vary the terms and conditions of this EULA. If any provision of this EULA is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between you and OffiSync as a result of this EULA or use of the Service. The failure of OffiSync to enforce any right or provision in this EULA shall not constitute a waiver of such right or provision unless acknowledged and agreed to by OffiSync in writing. This EULA, together with any applicable Order Form and the Policies, comprises the entire agreement between you and OffiSync and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

21. Questions or Additional Information

If you have questions regarding this EULA or wish to obtain additional information, please send an e-mail to contact@offisync.com.