

NEXTIVA MASTER TERMS & CONDITIONS

SIGNING UP FOR NEXTIVA'S SERVICES CREATES A CONTRACT BETWEEN YOU AND US, CONSISTING OF THE ORDER, THE APPLICABLE SERVICE DESCRIPTION AND THIS AGREEMENT (AS DEFINED BELOW). ANY ONE OF THE FOLLOWING ACTIONS CONSTITUTES YOUR ACCEPTANCE AND AGREEMENT TO BE BOUND BY THESE TERMS AND CONDITIONS: (1) ACCEPTING THE TERMS AND CONDITIONS ELECTRONICALLY DURING THE ORDERING PROCESS AND/OR UPON LOGGING ON TO USE YOUR SERVICE, (2) YOUR SUBMISSION OF AN ORDER AND/OR ACCEPTANCE OF A QUOTE, (3) YOUR USE OF THE SERVICES DESCRIBED HEREIN, (4) YOUR EXECUTION OF A MINIMUM COMMITMENT CONTRACT. THROUGH THESE ACTIONS YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND ALL TERMS AND CONDITIONS INCORPORATED BY REFERENCE IN THIS AGREEMENT.

- 1. INTRODUCTION.** These Nextiva Master Terms and Conditions, together with any Nextiva Service Agreement, the Service-Specific Terms, end-user license agreement, end-user service agreement, other terms and conditions, operating rules, policies, price schedules, and/or other supplemental documents entered into between you and Nextiva or that are otherwise applicable to your Services and/or expressly incorporated herein by reference and published from time to time (collectively, the "Agreement"), constitutes the entire agreement between Nextiva, Inc., a Delaware corporation (hereinafter referred to as "we," "us" or "Nextiva") and the party set forth in the related registration order form or quote (hereinafter referred to as "you," "your", "user" or "Customer") regarding Nextiva's Services (as defined herein), and supersedes all prior agreements, discussions and writings between the parties regarding the subject matter of this Agreement. For purposes of this Agreement, the term "Nextiva" include our respective

subsidiaries, affiliates, agents, employees, predecessors in interest, successors, attorneys and any other service provider that furnishes Services or Devices to you in connection with this agreement.

2. DEFINITIONS.

1. **“Device”** means a Nextiva-provided telephone, telephone adapter (“Adapter”), fax bridge, router, or other device used with the Services.
2. **“Documentation”** means user manuals and other documentation relating to the Services, which are made available to Customer by Nextiva accessible via the Internet, other electronic or digital means, or in the form of printed media.
3. **“Services”** means the products and services that are being provided to you as described in any quote or order form, including, but not limited to, Nextiva’s services, including, but not limited to, unified communication (voice), digital customer engagement, contact center, and vFax services, and any associated features, functionalities, software, hardware or web-based platforms. “Services” shall also include any additional Services provided to you as described in any addendum or amendment.
 1. The following Services are subject to the service-specific terms and conditions (the “Service-Specific Terms”), which are linked below and integrated herein:
 2. UCaaS (VoIP) Services:
<https://www.nextiva.com/legal.html?doc=02>
 3. Digital Customer Engagement Services:
<https://www.nextiva.com/legal.html?doc=03>
 4. Contact Center Services:
<https://www.nextiva.com/legal.html?doc=04>
 5. vFax Services: <https://www.nextiva.com/legal.html?doc=05>
 6. Five9-Provided Contact Center Services:
<https://www.nextiva.com/legal.html?doc=06>

of a 911- dialed call to be correctly routed to emergency service personnel where your Services include UCaaS (Voice) services. You agree to promptly notify Nextiva whenever your billing information changes (including, but not limited to, your name, address, e-mail address, telephone number, and payment method, including credit card number and expiration date, if applicable). You agree to be financially responsible for your use of the Services as well as for use of your account by others.

5. **USE OF SERVICE AND DEVICE.**

1. **Business Plans.** Services are provided to you as a business user, for your business and home office use. This means that you are not using it for any personal, residential, nonbusiness and nonprofessional purpose. This also means that you are not to resell or transfer the Services to any other person for any purpose or make any charge for the use of the Services, without express written permission from Nextiva in advance. Nextiva reserves the right to immediately terminate, change the calling plan or modify the Services if Nextiva determines, in its sole discretion, that you are using the Services for non-business or non-commercial use.
2. **Restrictions.** You shall not: (a) copy or adapt the Software or the Services for any purpose, except as specifically permitted under this Agreement; (b) use the Software or Services except in accordance with all applicable laws and regulations, and except as set forth in the Documentation; (c) reverse engineer, translate, decompile, or disassemble the Software or Services; (d) use the Software or Services in any outsourcing, application service provider, time-sharing or service bureau arrangement, including, without limitation, any use to provide services or process data for the benefit of, or on behalf of, any third party other than the Customer; (e) cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Software or Services; or (f) use or access the Software or Services to compete or enable others to compete with Nextiva, including, but not limited to, copying features, functionalities,

graphics, of the Services, developing or modifying competing products and/or services, and performing competitive analyses or benchmarking.

3. **User Responsibility.** You agree that you are responsible for all use(s) related to your account. You understand this means that you accept full liability and responsibility for your actions or the actions of anyone who uses the Services via your account with or without your permission. You acknowledge that Nextiva will be sending you information, including your password, via e-mail over the Internet. You agree that the Internet is not a secure network and that third parties may be able to intercept, access, use or corrupt the information and telephone calls you transmit over the Internet. In order to maintain the security of your Services, you should safeguard your User IDs and Passwords, as well as the media access control (MAC) address of the Adapter. The MAC address is one of the pieces of information used by Nextiva to authenticate customer calls and should not be shared.
4. **Use of Service and Device by Customers Outside the United States.** While Nextiva encourages use of the Services within the United States to other countries, Nextiva does not presently offer or support the Services to customers located in any countries other than the United States except where expressly agreed by Nextiva in writing. Nextiva's Services are designed to work generally with unencumbered high-speed internet connections. However, if the high-speed internet connection you are using is outside the United States and/or your ISP places restrictions on the usage of the Services, Nextiva does not represent or warrant that use of the Services by you is permitted by any other jurisdictions or by any or all the ISPs. If you remove any Device to a country other than the United States or use the Services from there, you do so at its own risk, including the risk that such activity violates local laws in the country where you do so. You will be solely responsible for any violations of local laws and regulations or violations of ISP terms of service resulting from such use. You also agree to indemnify us for any claims, damages or expenses

resulting from your use of the Services outside of the United States. Nextiva reserves the right to disconnect Services immediately if Nextiva determines, in its sole and absolute discretion, that you have used the Services or the Device in violation of applicable laws, including without limitation laws of jurisdictions outside the United States. You are solely liable for any and all use of the Services and/or Device by any person making use of the Services or Device provided to you.

5. **Account Ownership.** The owner of the account under which the Services are ordered shall be the legal entity (e.g., corporation, partnership, individual) that signs up for the Services with Nextiva. If no legal entity is provided upon sign-up, the account owner shall be the owner of the credit card used to open such account, if applicable. Subsequent changes to ownership must be supported by appropriate legal documentation. Nextiva shall not adjudicate ownership-related disputes, or any other internal business dispute. If Nextiva is unable to determine the valid owner of the account, Nextiva reserves the right to suspend or terminate the account and Services.
6. **Multi-Location Accounts.** Nextiva may allow you to set up Services to multiple locations and/or sub-accounts under your account. You understand that users on an account containing multiple locations or sub-accounts may be able to access data from or regarding other locations or sub-accounts under that account. This data may include, but is not limited to, customer proprietary network information (CPNI), personally identifiable information (PII) and/or protected health information (PHI). Further, users of an account containing multiple locations or sub-accounts may be able to add or remove Services at other locations or sub-accounts. By accepting a quote(s) or other agreement providing for multiple locations or sub-accounts, you acknowledge the aforementioned service feature, and you agree to indemnify us for, and hold us harmless from, any claims, damages or expenses resulting from access by your

users from one location or sub-account to other locations or sub-accounts on your account.

7. Compatibility with Broadband, Cable Modem, and Other Services.

There may be other third-party services with which our Services may be incompatible. Some providers of broadband service may provide modems that prevent the transmission of communications or other content using the Services. We do not warrant that the Service will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of the Services with any particular broadband service. You agree that you are solely responsible for ensuring that the Services are interoperable with your internet service provider (ISP).

6. DISCONTINUATION OF SERVICES; FREE TRIALS.

1. **Substitution and Discontinuation of Services.** Nextiva may, in its sole discretion, discontinue or substitute any service, feature or functionality without your prior approval. If Nextiva discontinues a service, feature or functionality and fails to substitute that service, feature or functionality with an equivalent service, feature or functionality, then upon your written request, Nextiva will reduce the fees assessed to your account by the amount that you specifically pay for any such discontinued service, feature or functionality. Notwithstanding the foregoing, Nextiva may include with or add to your account certain services, features and/or functionalities on a trial, temporary or otherwise limited basis. Nextiva reserves the right to discontinue any such services, features and/or functionalities without notice and without compensation to you, and/or to charge you a fee as a condition of your continued use of any such services, features and/or functionalities.
2. **Free Software Offering.** From time to time, Nextiva may make a free, feature-limited version of the Software (a "Free Version") available to You
 1. **Generally.** The Free Version is provided "as-is, where-is" and without any warranty of any kind. Nextiva reserves the right, in its

sole discretion, to discontinue the Free Version and/or any service, feature or functionality included within the Free Version without your prior approval and without compensation to you at any time.

Nextiva will, to the extent commercially practicable, provide you with reasonable advanced notice of any planned termination of the Free Version. Services, features, and functionalities within the Free Version are subject to change, with or without notice to you. You agree that you will be responsible for any all fees, taxes, charges, and surcharges arising from your use of the Free Version beyond the limitations contained within the Free Version, including, but not limited to, excess usage charges and international calling charges.

2. **Added Services.** You may be prompted to add optional features or services to the Free Version from time-to-time (collectively, the “Added Services”). Your use of a Free Version does not entitle you to the use of any Added Services except to the extent you agree to any requirements that Nextiva provides for access to such Added Services. Such additional requirements may include, but are not limited to: payment of additional costs (subscription, taxes, fees, and the like), becoming subject to a minimum-term commitment, or purchasing additional hardware or features or services to fully enable your usage of such Added Services.
3. **Number Assignment and Use.** If your Free Version includes voice and/or SMS/MMS usage features and/or functionalities, you may be assigned a phone number by Nextiva. You may also be able port a phone number to your Nextiva Free Version account. You understand and agree that if you do not use the voice and/or SMS/MMS features and/or functionalities included with your Free Version for a period of thirty (30) days, Nextiva may remove the phone number from your account and reassign that number to another user. If a phone number is removed from your account due to non-use, you further understand and agree that Nextiva may

assign a new phone number to your account if you request that the voice features and/or functionalities be re-enabled; however, Nextiva may not be able to return the phone number to your account that was previously assigned to you or ported to your account.

7. LENGTH OF SERVICE.

1. **Service Term.** We provide the Services for the term that you have signed up for. Your term begins on the date you first ordered service (the “Subscription Date”). It is not the day you receive the Device you ordered or the first time you use the Services. You are purchasing the Services for the full service term as set forth in the Order.
2. **Automatic Renewal.** The Services will automatically renew for subsequent terms of the same length as the initial term, excluding any promotional or “free” months of Services or initial or renewal term extensions, unless you cancel your Services by providing Nextiva with notice as provided in Section 7.5 of this Agreement at least thirty (30) days before the end of the then-current service term. Each renewal term begins on the day after the last day of the previous term. Any and all fees assessed to your account during the initial term and any renewal terms will be charged to your payment method on file, which may include any payment method automatically updated by your issuing bank. If you are paying by credit card and your credit card is declined, invalid, or payment is not timely made by the issuer of your credit card, without further notice Nextiva reserves the right to automatically recharge the payment method until payment is received, the payment method is updated, or the Services are discontinued for nonpayment.
3. **Our right to disconnect.** You understand and agree that Nextiva has the right to suspend, terminate or disconnect any part of Your Services generally at any time if:
 1. We determine or reasonably believe that You are violating, or violated, any applicable law;

2. We determine or reasonably believe that You materially breached this Agreement and/or the AUP (as defined below);
 3. We determine or reasonably believe that You used fraudulent means to pay for the Services, including use of a fraudulent credit card;
 4. We determine or reasonably believe that You abused or harassed (verbally or otherwise) any Nextiva employee, contractor, agent or representative;
 5. We are ordered by law enforcement or other government agencies to suspend, terminate or disconnect your Services;
 6. You bring any legal action or proceeding against Nextiva, or participate in any class action lawsuit against Nextiva;
 7. A petition in bankruptcy is filed by or against You and such petition is not dismissed within thirty (30) days after the effective filing date thereof, or a trustee or receiver is appointed over You or Your material assets;
 8. We determine that such action is necessary to protect, maintain, or improve the Services, to prevent fraud or misrepresentation, to protect Nextiva, its customers or other third party Nextiva affiliates, or for any other good cause.
 9. You breached this Agreement or as otherwise contemplated by this Agreement.
 10. You fail to make payment.
4. All charges owed at the time of disconnection will be immediately payable. We will pursue collection for unpaid amounts on disconnected accounts and may report these unpaid charges to credit bureaus.
 5. **Termination of Services.** In order to terminate the Services, contact our Customer Care Department, via email at service@Nextiva.com or by calling [1-800-983-4289](tel:1-800-983-4289) at least thirty (30) days prior to the expiration of the current service term. Please refer to the Nextiva Cancellation Policy posted on our Web site at <https://www.nextiva.com/legal.html?doc=10>. If

you provide notice of termination less than thirty (30) days prior to the end of your then-current term, your Agreement will renew as provided herein, and the termination of your Services will be effective at the end of that renewal term.

8. DEVICES.

1. **Ownership and Risk of Loss.** Upon full payment of all fees associated therewith, you will own any Devices that you purchase from Nextiva and, in all events, you bear all risk of loss, theft, or damage regardless of the payment schedule selected for Services and Devices once Nextiva ships the Device(s) to you. Returns of non-defective Devices outside of any initial 30-day money back guarantee period, if any, will not be accepted. Refer to the Cancellation Policy for more information.
2. **Rented Devices.** Section 8.1 above will not apply to Rented Devices. Unless otherwise agreed upon, Customer agrees that within thirty (30) days after the expiration of the Term of any Device Rental Agreement or termination of this Agreement, Customer will promptly return all Rented Devices to Nextiva. Customer will be responsible for (i) any damage to the Rented Devices as assessed by Nextiva upon receipt, (ii) the replacement cost of such Rented Devices if it is lost, misplaced, not delivered or stolen during transit, and (iii) shipping/handling costs. Customer agrees to pay the full retail cost for the repair or replacement of any Rented Device or part that is lost, stolen, damaged, modified, sold, transferred, leased, encumbered or assigned together with any costs incurred by Nextiva in obtaining or attempting to obtain possession of any Rented Devices. For the purposes of this section "Rented Devices" means any Device leased to Customer by Nextiva or Nextiva agents or any other third-party with or without a separate charge or fee in connection with the Services.
3. **Promotional Devices.** Devices provided to you at a discount or at no charge may be previously used, refurbished or reconditioned equipment. Unless otherwise provided in a Minimum Commitment Contract, discounted and free Devices not returned upon cancellation of the

Services will be charged to the customer. See Cancellation Policy for details.

4. **Replacement of a Defective Device.** Devices purchased from Nextiva will be covered by their respective factory warranties, if any, only. Nextiva does not offer any warranty in addition to, or in replacement of any factory warranties. If a factory warranty applies, then prior to returning the equipment, you must contact Nextiva at support@nextiva.com so that Nextiva may determine whether a defect exists and to receive an RMA number, which is required along with the return. You must ship the equipment to the manufacturer at the address provided by Nextiva in accordance with all RMA procedures. You have 7 days after receipt of an RMA to ship the equipment back to the manufacturer at the address we provide. You must pay all shipping fees. Once the manufacturer has received the equipment, a replacement may, if eligible, be sent to you in accordance with the factory warranty, if any. If an advanced replacement is provided and the factory has not received the defective Device within 14 days or it was not in a returnable condition, (original carton, all packing materials and parts in the same condition in which you received them), then Nextiva will charge you for the second device or for the missing parts. Notwithstanding the foregoing, nothing herein shall be construed as creating an obligation for Nextiva to provide an advanced replacement, nor shall any action by Nextiva be construed as a warranty determination or as otherwise guaranteeing eligibility for a replacement device or other warranty remedy.
5. **Receipt of Damaged Devices.** If you receive cartons or Devices that are visibly damaged, you must note the damage on the carrier's freight bill or receipt and keep a copy. You must also keep the original carton, all packing materials, and parts in the same condition in which you received them from the carrier. You must then contact our Customer Care Department immediately at support@nextiva.com for return instruction.

6. **Tampering with the Device.** You may not change the electronic serial number or equipment identifier of your Device or perform a factory reset of your Device without first getting our written consent.
 7. **Prohibited Devices.** You are prohibited from using the Services with any devices other than Nextiva-approved devices received from authorized retailers or from us unless we otherwise agree in writing.
 8. **All Headset Sales Are Final.** Headsets, earpieces, in-ear monitors, microphones and similar devices are not eligible for return or refund unless otherwise required by law. All purchases of these types of products are final and non-refundable.
9. **FEES AND CHARGES.**
1. **Fees and Charges.** Your fees and charges may change from time to time, with or without notice (except base service pricing for contracted quantities will not change during the initial term of a Minimum Commitment Contract). Any pricing adjustment will be reflected in an invoice provided to you at the time of the pricing adjustment for your account. We may introduce or otherwise make available new and/or existing products and services at special introductory pricing. Introductory pricing will not be applied retroactively to existing services and may be applied for only limited periods of time. At our discretion, we may change, reduce, or discontinue introductory pricing. Certain service charges, such as Regulatory Recovery Fees, Universal Service Fund fees, and E911 fees, where and as applicable, are subject to change from time to time and such changes are applicable to ALL Customers regardless of a Minimum Commitment Contract.
 2. **Billing Increments.** All billing policies are defined by the specific package the customer chooses. Please refer to the Web site for exact billing policies.
 3. **Taxes.** Customer is responsible for, and shall pay are any applicable federal, state, municipal, local or other governmental sales, use, excise, Universal Service Fees, value-added, personal property, public utility and

other taxes, fees and charges now in force or enacted in the future, that arise from or as a result of Customer's subscription or use or payment for the Services or a Device. Such amounts are in addition to payment for the Services or Device and will be billed to you. If Customer is exempt from payment of such taxes, you will provide Nextiva with an original government-issued certificate attesting to tax-exempt status. Tax exemption will only apply from and after the date Nextiva receives such certificate.

4. **Activation Fee.** One-time activation fees and any other installation fees that may apply are specified on the Web site and vary by product and plan chosen.
5. **Regulatory Recovery and e911 Fee.** A Regulatory Recovery Fee and e911 Fee shall be charged monthly for certain Services to offset costs incurred by Nextiva in complying with inquiries and obligations imposed by federal, state and municipal regulatory bodies/governments and the related legal and billing expenses and in providing e911 services. These fees are not taxes or charges required or assessed by any government and are in addition to such taxes and charges. The Regulatory Recovery Fee and e911 Fee may apply to every phone number assigned, including toll free and virtual numbers.
6. **Reinstatement Fee.** Reinstating any service deactivated for non-payment of fees shall result in a reinstatement fee up to \$25.
7. **Returned Check Fee.** Nextiva may charge up to the maximum amount permitted by law if your banking institution dishonors or reverses a check, draft, or other payment.

10. BILLING AND PAYMENT.

1. **Billing; Free Trials.** We will charge you in advance for each term of service. If you have selected a free trial offering, we will commence charging you for those Services at the expiration of the free trial period, unless you terminate the free trial offering prior to the expiration of the trial period. If not terminated prior to the end of the trial period, these Services

will be added to your account for the remainder of your term, and any subsequent removal of the Services will be subject to Nextiva's Cancellation Policy, as well as any and all applicable early termination fees. In the event that you do terminate a free trial offering prior to the expiration of the trial period, Nextiva may, without prior notice to you, immediately terminate your access to the free trial offering. Any failure by Nextiva to immediately terminate your access to the free trial offering shall not be considered a waiver of the right to do so later. You further agree that you will not access or attempt to gain access to any free trial offering after the termination of your free trial period.

1. When you subscribe to that Services, you must give us a valid email address and a payment method that we accept. We reserve the right to stop accepting your payment method or your payments. You must advise us at once if your payment method expires, you close your account, your billing address changes, your email address changes, or your payment method is cancelled and replaced on account of loss or theft. Except for usage-based charges, we will bill in advance to your payment method all charges, fees, taxes, and surcharges for each service term. Fees may also include activation fees, porting fees, early termination fees ("ETF"), reinstatement fees, and returned check fees. We reserve the right to charge all fees to your payment method. We will bill monthly as due immediately usage-based charges and any other charges which we decide to bill as due immediately. Bills will be posted to the customer portal and emailed to the email address on record. Any payment not made when due may be subject to a late payment fee equivalent to the lesser of (i) one and a half percent (1.5%) per month; or (ii) the highest rate allowed by law. Nextiva's acceptance of late or partial payments (regardless of how they are marked or designated (including without limitation as 'Paid in Full', 'Accord and Satisfaction', or similarly)) will not waive, limit,

or prejudice in any way Nextiva's rights to collect any amount due. Nextiva may terminate the Services and this Agreement for non-payment if any fees or charges are not paid within thirty (30) days of the due date.

2. **Payment.** When you subscribe to the Services, you authorize us to collect from your payment method. This authorization will remain valid until thirty (30) days after you terminate our authority to charge your payment method.
3. **Collection.** If we disconnect the Services, you will remain liable to us for all charges under this agreement and all the costs we incur to collect these charges, including, without limitation, collection costs and attorney's fees. You also agree to pay any additional charges or fees applied to your billing account for any reason, including but not limited to, interest and charges due to insufficient credit.
4. **Notices.** You understand that it is difficult for us to distinguish between credit and debit cards. You agree to waive your rights under Regulation E to receive ten (10) days' advance notice from us regarding the amount that we will debit from your account. While we may send you messages about your billing from time to time, we are not obligated to do so. We may change or cease our messages at any time without notice to you.
5. **Billing Disputes.** You must notify Nextiva in writing within seven (7) days after receiving your credit card statement or from the time funds are debited from your bank account if you dispute any Nextiva charges on that statement or that have been debited from your account, or such dispute will be deemed waived. Notification of all billing disputes shall be sent to the following address: billing@nextiva.com. Nextiva will charge a late fee as described in Section 10.1 for a disputed amount if (1) it was not paid by the due date and (2) Nextiva determines that you disputed the charge in bad faith.

6. **Prepaid Services.** All prepaid fees being provided to you as described in any quote or order form and other payments by you under this Agreement are non-refundable and non-creditable.

11. PRICING AND PAYMENT.

1. **Prices and Fees.** Nextiva fees and charges for the Services are supplied to you during the ordering process unless otherwise provided for in this Agreement. You agree to pay the applicable one-time and recurring charges. You further agree that any taxes and other charges, including but not limited to, account setup fees, Adapter fees, Device charges, shipping and handling and other nonrecurring charges will be charged to your payment method on file. Recurring charges will be billed and automatically charged to your payment method on file on the first day of every billing cycle. Your billing cycle will begin on the anniversary date of your subscription date as defined in section 7.1.
2. **YOU AGREE THAT WE MAY CHARGE YOUR CREDIT CARD (IF APPLICABLE) FOR ALL AMOUNTS DUE TO US WITHOUT ADDITIONAL NOTICE OR CONSENT.** If you are paying with a credit card, you agree to provide a credit card and not a debit card. If your card is a combination credit card/debit card, you authorize us to use it as a credit card. If your issuing bank automatically provides us with an updated credit card, you agree that we may charge this new credit card for all amounts due to us without additional notice or consent. You also agree to indemnify us for any claims, damages or expenses resulting from providing a debit card instead of a credit card (if applicable). If your credit card is declined, is invalid or payment is not made by the issuer of your credit card at the time that a charge is attempted, you will not be able to use the Services until your account is paid in full.
3. **Credit Balance Account.** Your credit balance account has been established to cover incidental charges on your account that are not covered by your subscription fee. For example, international calls, toll free charges, Directory Assistance calls and taxes related to these calls are

automatically charged to your credit balance account. A certain credit limit will be set on your account based upon your service plan and credit history. When the balance of your credit account reaches the credit limit, your account will be unable to make additional calls until the balance is paid down. You can make payments to reduce your credit balance account at any time by contacting our Customer Care Department at [1-800-983-4289](tel:1-800-983-4289) or by email to support@nextiva.com. Any credit balance used as of your subscription renewal or monthly anniversary date will be charged to the payment method on file.

4. **Credit Terms.** All Services provided to You and covered by the Agreement shall at all times be subject to credit approval or review by Nextiva. You will provide such credit information or assurance as is requested by Nextiva at any time. Nextiva, in its sole discretion and judgment, may discontinue credit at any time without notice or require a deposit.
5. **Discontinuation of Services for Nonpayment.** The Services to you may be denied or discontinued without notice at any time in the event you fail to make payment, your credit card provider denies or discontinues providing credit to you for any reason, or you fail to provide us with a new credit card expiration date before the existing one expires. If your payment method fails for any reason during the ordering process, or any regular or monthly billing process, you will have 24 hours to provide Nextiva your payment method, including credit card information if applicable. If the payment method is not resolved within 48 hours, Nextiva will deactivate the Services. If your new payment method is approved within 24 hours, your calling plan and billing cycle will remain unchanged. We reserve the right to modify the per minute calling plan at any time. You agree to pay all charges owed to Nextiva, including but not limited to the reinstatement fee for reactivated services. In the event Nextiva utilizes a collection agency or resorts to legal action to recover monies due, you agree to reimburse us

for all expenses incurred to recover such monies, including attorneys' fees.

6. **Promotions and Discounts.** Nextiva may limit the number of promotions and/or discounts you may be eligible for in a given period. Promotions and discounts may be cancelled or modified, and discounts may be reduced or eliminated, by Nextiva at any time, with or without notice (except with respect to base service pricing for contracted quantities during the initial term of a Minimum Commitment Contract).
7. **Cancellation Policy.** Nextiva cancellation policies are outlined in the Cancellation Policy posted at our Web site at <https://www.nextiva.com/legal.html?doc=10> and are incorporated into this policy with this reference. All cancellation requests must be submitted in the form of an email ticket to service@nextiva.com or by calling our Customer Care Department at 1-800-983-4289 and must be made prior to the expiration of the Service term. See the cancellation policy for details. Changes to the Cancellation Policy may be made at any time without notice to you and is effective the day following posting to our Web site.
12. **Acceptable Use Policy.** You agree to comply with the Nextiva Acceptable Use Policy ("AUP"), which is posted on our Web site at <https://www.nextiva.com/legal.html?doc=09> and is incorporated into this policy with this reference. Changes to the AUP may be made at any time without notice to you and is effective the day following posting to our Web site.
13. **MANAGEMENT OF YOUR DATA AND COMPUTER.**
 1. **System Management and Service Performance.** You are solely responsible for obtaining, installing, configuring and maintaining suitable equipment, including your computer, fax, telephone and software (as necessary), including any necessary system or software upgrades, patches or other fixes which are or may become necessary to access the Services and to operate your computer. Nextiva will only provide technical assistance with respect to your Nextiva-provided Adapters and other Devices.

2. **Monitoring of Network Performance.** Nextiva automatically measures and monitors network performance. We also will access and record information about your computer's profile and settings and the installation of the Software in order to provide customized technical support. No adjustments to your computer settings will be made without your permission. You hereby consent to Nextiva's monitoring of your Internet connection and network performance, and the access to and adjustment of your computer settings, as set forth above, as they relate to the Services.
3. **Storage of User Information.** Nextiva is not obligated to store your communications logs, voicemails, faxes, e-mails, messages and/or other data and does so only as a convenience to you. You agree that Nextiva has no responsibility or liability whatsoever for the deletion or failure to store any call log information, voicemails, faxes, e-mails, messages, and/or other communications or data maintained or transmitted by the Services. You acknowledge and agree that Nextiva may establish limits as to the size of communications and/or data that Nextiva transmits or stores and the duration for which Nextiva stores any communications and/or data.

14. LIMITATION ON WARRANTIES, REMEDIES AND LIABILITY, INDEMNIFICATION.

1. WARRANTIES.

1. NEXTIVA MAKES NO EXPRESS OR IMPLIED WARRANTY REGARDING THE SERVICES OR DEVICE OR THE INSTALLATION OF SAME AND DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NEXTIVA DOES NOT WARRANT THAT THE SERVICES OR DEVICE WILL FUNCTION WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION.

NEXTIVA DOES NOT AUTHORIZE ANYONE, INCLUDING BUT NOT LIMITED TO ITS EMPLOYEES, AGENTS OR REPRESENTATIVES, TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT. CUSTOMER AGREES THAT IT ACCEPTS THE SERVICES AND DEVICE "AS IS" AND THAT CUSTOMER IS NOT ENTITLED TO REPLACEMENT OR REFUND IN THE EVENT OF ANY DEFECT. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED TO THE FULLEST EXTENT OF THE LAW, BUT IF ANY PORTION OF THIS SECTION IS DETERMINED TO BE UNLAWFUL, THEN THIS SECTION SHALL BE CONSTRUED TO LIMIT LIABILITY AGAINST NEXTIVA TO THE FULLEST EXTENT POSSIBLE UNDER THE LAW.

2. WE WILL NOT GIVE YOU CREDIT FOR ANY INTERRUPTION OF NEXTIVA SERVICES, INCLUDING INTERNATIONAL CALLING SERVICES.

2. LIMITATION OF LIABILITY.

1. IN NO EVENT SHALL NEXTIVA BE LIABLE TO YOU, YOUR REPRESENTATIVES OR AUTHORIZED ASSIGNS OR ANYONE ELSE FOR ANY INCIDENTAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR FOR ANY DAMAGES FOR LOSS OF DATA, LOSS OF REVENUE OR PROFITS, RELATING TO OR ARISING OUT OF THE SERVICES, THE USE OF OR INABILITY TO USE THE SERVICES, THE ABSENCE, DELAY, FAILURE OR OUTAGE OF THE SERVICES, THE INABILITY TO DIAL 911 OR E911 TO ACCESS EMERGENCY SERVICE PERSONNEL, THE INABILITY TO DIAL SECURITY, LAW ENFORCEMENT OR FIRE PREVENTION/ PROTECTION SERVICES OR SYSTEMS, THE DEVICE, THE USE OF AND/OR INABILITY TO USE THE DEVICE, THE INSTALLATION OF THE DEVICE, AND/OR THIS

AGREEMENT. NOR SHALL NEXTIVA BE LIABLE FOR ANY DELAY OR FAILURE TO PROVIDE THE SERVICES, INCLUDING 911 DIALING, AT ANY TIME OR FROM TIME TO TIME, OR FOR ANY INTERRUPTION OR DEGRADATION OF VOICE QUALITY CAUSED BY ANY REASON INCLUDING BUT NOT LIMITED TO THE FOLLOWING: AN ACT OR OMISSION OF AN UNDERLYING CARRIER, SERVICE PROVIDER, VENDOR OR THIRD PARTY, EQUIPMENT, NETWORK OR FACILITY FAILURE, EQUIPMENT, NETWORK OR FACILITY UPGRADE, SERVICE, MAINTENANCE, MODIFICATION, SHORTAGE, OR RELOCATION, FORCE MAJEURE EVENTS SUCH AS BUT NOT LIMITED TO ACTS OF GOD, ADVERSE WEATHER, STRIKES, FIRE, WAR, RIOT, GOVERNMENT ACTIONS OR TERRORISM, SERVICE, DEVICE, EQUIPMENT, NETWORK OR FACILITY FAILURE CAUSED BY THE LOSS OF POWER OR INTERNET SERVICE TO NEXTIVA OR CUSTOMER, AND ANY CAUSE THAT IS BEYOND NEXTIVA'S CONTROL, INCLUDING WITHOUT LIMITATION THE FAILURE OF AN INCOMING OR OUTGOING COMMUNICATION, THE INABILITY OF COMMUNICATIONS TO BE CONNECTED OR COMPLETED, INCLUDING 911 DIALING, OR DEGRADATION OF VOICE QUALITY. NEXTIVA SHALL NOT BE LIABLE FOR UNAUTHORIZED ACCESS TO NEXTIVA'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES, EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES, OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF NEXTIVA'S NEGLIGENCE OR OTHER ACTS OR OMISSIONS. NEXTIVA'S LIABILITY FOR ANY ACT OR OMISSION SHALL IN NO EVENT EXCEED, IN THE

AGGREGATE, THE SERVICE CHARGES ACTUALLY PAID BY YOU TO NEXTIVA FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM, OR, WITH RESPECT TO CLAIMS RELATING TO THE FREE VERSION, ONE HUNDRED DOLLARS (\$100.00). THE LIMITATIONS SET FORTH HEREIN APPLY TO ALL CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT, AND ANY AND ALL OTHER THEORIES OF LIABILITY, AND APPLY WHETHER OR NOT NEXTIVA WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGE. FURTHER, YOU AGREE TO REIMBURSE NEXTIVA FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS, INCLUDING ATTORNEYS' FEES AND LITIGATION COSTS. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED TO THE FULLEST EXTENT OF THE LAW, BUT IF ANY PORTION OF THIS SECTION IS DETERMINED TO BE UNLAWFUL, THEN THIS SECTION SHALL BE CONSTRUED TO LIMIT LIABILITY AGAINST NEXTIVA TO THE FULLEST EXTENT POSSIBLE UNDER THE LAW.

15. INDEMNIFICATION AND WAIVER OF CLAIMS.

1. INDEMNIFICATION BY NEXTIVA.

1. Subject to any limitation of liability described in this Agreement including, without limitation in Section 14.2 of this Agreement, Nextiva agrees to indemnify, defend and hold you harmless at its expense any claim made or action brought or threatened against you based on an allegation that the Services infringe a patent, copyright, trade secret, or other intellectual proprietary right. Nextiva shall have control of the defense and shall pay any amount awarded either as damages or costs in any such action provided that you promptly notify Nextiva of the claim or action, and shall

give Nextiva the information and assistance it reasonably requests in defending and/or settling the action. Nextiva may, at its sole option and expense, negotiate a settlement or compromise of the claim or action, provided such settlement or compromise includes an unconditional release of you. In the event that a settlement is reached or an injunction is obtained, prohibiting use of the Services, Nextiva shall at its expense, procure for Customer the right to continue using the Services, or replace or modify it so that it is non-infringing provided that there is no material diminution in features, functionality or service level. If Nextiva determines that neither of the foregoing alternatives is reasonably available and if the use of the Services is enjoined you shall cease using the Services and return to Nextiva all copies, if any, of the Services or certify that they have been destroyed. In the event it is necessary to cease using the Services, Nextiva shall repay to you a pro rata portion of all license fees paid by Customer.

2. Exceptions to Indemnity. Nextiva shall have no obligation under its obligations of indemnification with respect to any proceeding or claim of infringement based upon the following: (i) unauthorized modification of the Services by you, or (ii) combination, operation, or use of the Services with equipment, software and/or services not furnished, authorized, or contemplated by Nextiva, or (iii) operation or use of the Services in a manner other than its intended purpose. Nextiva shall also not have any indemnification obligations for any claims alleging that a Device and/or Services resold by Nextiva infringe on a third-party's intellectual property rights.

2. INDEMNIFICATION BY CUSTOMER.

1. YOU ARE LIABLE FOR ANY AND ALL USE OF THE SERVICES AND/OR DEVICE BY YOURSELF AND BY ANY PERSON MAKING USE OF THE SERVICES OR DEVICE, AND YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS

NEXTIVA AGAINST ANY AND ALL LIABILITY FOR ANY SUCH USE THAT FAILS TO COMPLY WITH THIS AGREEMENT. YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS NEXTIVA FROM ANY AND ALL CLAIMS AND/OR LIABILITY FOR DAMAGES, PERSONAL INJURY, DEATH, FINES, PENALTIES, COSTS, EXPENSES, LOSSES, LOST PROFIT, LOST REVENUE, PROPERTY DAMAGE, ATTORNEYS' FEES, AND ANY AND ALL OTHER DAMAGES OF WHATEVER KIND AND NATURE RELATING TO OR ARISING OUT OF THE SERVICE, THE USE OF OR INABILITY TO USE THE SERVICES, THE ABSENCE, FAILURE OR OUTAGE OF THE SERVICE, THE INABILITY TO DIAL 911 OR E911 TO ACCESS EMERGENCY SERVICE PERSONNEL, THE INABILITY TO DIAL SECURITY, LAW ENFORCEMENT OR FIRE PREVENTION/ PROTECTION SERVICES OR SYSTEMS, THE DEVICE, THE USE OF AND/OR INABILITY TO USE THE DEVICE, THE INSTALLATION OF THE DEVICE, AND/OR THIS AGREEMENT UNLESS THE CLAIMS OR CAUSES OF ACTION ARISE FROM OUR GROSS NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT. THIS SECTION SHALL SURVIVE THE AGREEMENT.

16. **CONTENT.** You are liable for all liability that may arise from the content you transmit to any person, whether or not you authorize it, using the Services or Device. You promise that you and anyone who uses the Services and all your and their content comply at all times with all laws, regulations, and written and electronic instructions for using the Services and the Device.

17. **MISCELLANEOUS LEGAL CONSIDERATIONS.**

1. **Governing Law.** This Agreement and the relationship between you and Nextiva shall be governed by the laws of Arizona without regard to its conflict of law provisions. Any claim brought pursuant to this Agreement shall be brought in a court of competent jurisdiction within the State of

Arizona and venue for any such claim shall be proper in the appropriate state or federal court located in Maricopa County, Arizona.

2. **No Waiver of Rights.** Our failure to exercise or enforce any right or provision of this agreement will not constitute a waiver of the right or provision. Nextiva reserves all of its rights at law and equity to proceed against anyone who uses the Services or Device illegally or improperly. All determinations by Nextiva under this Agreement and exercise of its rights are made and done in our sole and absolute discretion.
3. **No Third-Party Beneficiaries.** If you are not a party to this Agreement, you do not have any remedy, claim, liability, reimbursement, or cause of action. This Agreement does not create any other third-party beneficiary rights.
4. **Entire Agreement.** This Agreement, the Order, the applicable service description, the AUP, or any reference herein to the content of Nextiva's websites constitute the entire agreement between you and Nextiva and govern your use of the Services, superseding any prior agreements between you and Nextiva and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.
5. **Severability.** If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement will remain valid and enforceable. This invalidity or unenforceability will not invalidate or render unenforceable any other portion of this agreement.

18. DISPUTE RESOLUTION AND BINDING ARBITRATION.

1. It is important that you read this entire section carefully. This section provides for resolution of disputes through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury.
2. **Arbitration.** Nextiva and you agree to arbitrate any and all disputes and claims between you and Nextiva except with respect to claims for amounts owed for services rendered. Arbitration means that all disputes and claims will be resolved by a neutral arbitrator instead of by a judge or jury in a

court. This agreement to arbitrate is intended to be given the broadest possible meaning under the law. It includes, but is not limited to: disputes and claims arising out of or relating to any aspect of the relationship between you and Nextiva, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; disputes and claims that arose before this or any prior agreement (including, but not limited to, claims relating to advertising); disputes and claims that may arise after the termination of this agreement; disputes and claims that are currently the subject of individual litigation; disputes and claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and disputes and claims concerning the scope of this arbitration provision. References to “Nextiva,” “us” and “you” include our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors and assigns, as well as all authorized or unauthorized users or beneficiaries of the Services under this agreement or any prior agreements between you and Nextiva.

3. **Informal Resolution of Disputes.** Our Customer Care Department can resolve most customer concerns quickly and to the customer’s satisfaction. If you have a dispute or claim against us, you should first contact the Nextiva Customer Care Department at (800) 983-4289 and provide in detail, including documents or analysis supporting your position, the basis of your claim. Customer care shall be provided with 14 days in which to research and respond to your claim.. In the event your dispute or claim is not resolved to your satisfaction, you may seek to have that dispute or claim resolved as set forth below.
4. **Formal Notice of Disputes** A party who intends to seek arbitration must first send to the other party a written “Notice of Dispute” setting forth in detail, including submission of supporting documentation, the grounds of your dispute. The Notice of Dispute to Nextiva must be sent to Nextiva, attention “General Counsel,” by certified mail addressed to 9451 East Via de Ventura, Scottsdale, AZ 85256.

1. The Notice of Dispute must describe the nature and basis of the dispute or claim and set forth the specific relief sought. If you and Nextiva do not reach an agreement to resolve the dispute or claim within thirty (30) days after the Notice of Dispute is received, you or Nextiva may commence an arbitration proceeding. The amount of any settlement offer made by you or Nextiva shall be non-discoverable and shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or Nextiva is entitled.
5. **Arbitrator and Arbitral Rules.** The arbitration shall be administered by the American Arbitration Association (“AAA”). You may contact the AAA by telephone at [1-800-778-7879](tel:1-800-778-7879), by email at AAAUniversity@adr.org, or by mail at 2415 E. Camelback Road, Suite 700, Phoenix, AZ 85016. The arbitration shall be governed by the AAA’s Commercial Arbitration Rules then in effect (collectively, “AAA Rules”), as modified by this Agreement. The AAA Rules are available at adr.org or by calling the AAA at [1-800-778-7879](tel:1-800-778-7879).
6. **Waiver of Judge or Jury Trial.** You and Nextiva agree that, by entering into this agreement, you and Nextiva are waiving the right to a trial by judge or jury. Notwithstanding the foregoing, in the event that litigation is commenced as expressly permitted by this Agreement, you agree that the right to trial by jury only is waived.
7. **Waiver of Class Actions.** You and Nextiva agree that the arbitrator may award relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual claim. You and Nextiva agree that you and Nextiva may bring claims against the other only in your or its individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. You and Nextiva agree that, unless you and Nextiva agree otherwise, the arbitrator may not consolidate more than one person’s or entity’s claims, and may not otherwise preside over any form of a

representative or class proceeding. If this specific waiver of class actions provision, or any portion thereof, is found to be unenforceable, then the entirety of this dispute resolution and binding arbitration provision shall be null and void.

8. **Statute of Limitations.** You must present a claim within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute (except for billing disputes which are subject to section 10 and 11 of the agreement), or you waive the right to pursue a claim based upon such event, facts, or dispute.
9. **Exceptions to Arbitration Agreement.** Notwithstanding the obligation to arbitrate and any other provisions to the contrary herein, you and we agree that with respect to claims for unpaid invoices: (a) we may take our dispute to small claims court, if the contained dispute qualifies for hearing by such court; (b) if you fail to timely pay amounts due, we may assign your account for collection, and the collection agency may pursue in court claims limited strictly to the collection of the past due debt and any interest or cost of collection permitted by law or the Agreement; (c) you or we may take any disputes over the validity of any party's intellectual property rights to a court of competent jurisdiction; (d) any dispute related to or arising from allegations associated with fraudulent or unauthorized use, theft, or piracy of service may be brought in a court of competent jurisdiction; and (e) either you or we may seek any interim or preliminary relief from a court of competent jurisdiction, necessary to protect the rights or property of you or Nextiva, pending the completion of arbitration.
10. **Modification of Arbitration.** If Nextiva makes any substantive change to this arbitration provision, you may reject any such change and require Nextiva to adhere to the language in this provision.
11. **Venue/Jurisdiction.** All claims for Arbitration shall be submitted to and heard by the office of AAA located in Maricopa County, Arizona. Should an evidentiary hearing be required by the Arbitrator, such hearing shall be heard in Maricopa County, Arizona.

19. **PRIVACY.** Nextiva Services utilize, in whole or in part, the public Internet and third party networks to transmit voice and other communications. You acknowledge and understand that Nextiva cannot guarantee that voice over IP communication is completely secure. You agree that Nextiva may access all features of your account and the Services to determine whether the Services are being used fraudulently and/or in violation of this Agreement, and for any other purposes. YOU AGREE THAT NEXTIVA SHALL NOT BE LIABLE FOR ANY LACK OF PRIVACY. Nextiva is committed to respecting your privacy relating to personally identifiable information. Once you choose to provide personally identifiable information, it will only be used in the context of your relationship with Nextiva. Nextiva will not sell, rent, or lease your personally identifiable information to others except as required by law or to satisfy regulatory requirements. Upon the appropriate request of a government agency, law enforcement agency, court or as otherwise required by law, Nextiva may disclose personally identifiable information. Please refer to our Privacy Policy for additional information.
20. **EXPORT COMPLIANCE.** You agree to comply fully with all relevant export laws and regulations of the United States, including but not limited to the U.S. Export Administration Regulations, administered by the Department of Commerce, Bureau of Industry and Security. You also expressly agree that Customer shall not export, directly or indirectly, re-export, divert, or transfer any portion of the Services or Device, including, without limitation, to any destination, company, or person restricted or prohibited by U.S. export controls.
21. **RECORDING CONVERSATIONS.** Certain Nextiva Services provide a function that allows You to record individual telephone conversations. The laws regarding the notice, notification, and consent requirements for recording conversations vary from state to state. In some states, You are required to obtain consent from all parties to record a conversation. You are solely responsible for complying with all federal, state, and local laws in any relevant jurisdiction when using this feature. Nextiva expressly disclaims all liability with respect to your recording of telephone conversations. You hereby agree to fully, finally, and forever release,

discharge, hold harmless, and fully indemnify Nextiva from and against any damages or liabilities of any kind related to Your recording of any telephone conversations using the Services. You agree that Nextiva, may at its sole discretion, record any call between Nextiva and You for Nextiva quality control purposes.

22. **ASSIGNMENT.** Nextiva may assign all or part of its rights or duties under the Agreement without notifying you. If we do that, we have no further obligation to you. You may not assign the Agreement or the Services or Device without our prior written agreement.

23. **SURVIVAL.** The provisions of this Agreement relating to indemnification, limitations on liability, warranty limitations and disclaimers, resolution of disputes, billings and your obligation to pay for the Services provided and any additional usage charges, shall survive the termination of the Agreement and the termination of the Service.

24. **CALEA.** Nextiva intends to fully comply with the Communications Assistance for Law Enforcement Act (“CALEA”). By using the Services, you hereby agree and consent to Nextiva’s right to monitor and otherwise disclose the nature and content of your communications if and as required by CALEA without any further notice to you.

25. **COMPENSATION PROGRAMS.** Nextiva markets its services through multiple sales channels, including through marketing partnerships, referral programs and sales representative relationships with third parties. We may pay compensation to such third parties in connection with your purchase of services from Nextiva.

26. **FORCE MAJEURE (EVENTS BEYOND NEXTIVA’S CONTROL).** Except for your payment obligations, each party shall be excused from any delay or failure in performance hereunder caused by reason of occurrence or contingency beyond its reasonable control, including without limitation, acts of God, earthquake, fire, flooding, riots, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties as may occur in spite of said party’s best efforts.

27. SOFTWARE COPYRIGHT Any software used by Nextiva to provide the Services and any software provided to you in conjunction with providing the Services are protected by copyright law and international treaty provisions. You may not copy the software or any portion of it. Furthermore, you may not delete, alter, cover, or distort any copyright or other proprietary notices or trademarks provided to you as part of the Services.

28. COPYRIGHT, TRADEMARK, AND INTELLECTUAL PROPERTY; COPYRIGHT INFRINGEMENT; DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) NOTICE.

Our Website content, our materials, services, logs, service marks and trademarks are protected by trademark, copyright, or other intellectual property laws, and international treaty provisions. Infringement by you may result in civil or criminal prosecution.

1. The entire content included in this Website, including but not limited to text, design, graphics, interfaces, or code and the selection and arrangements thereof is copyrighted as a collective work under the United States and other copyright or intellectual property laws and is the property of, or used under license by, Nextiva.

2. Nextiva's trademarks are always changing. Some of our trademarks include, but are not limited to:

3. Nextiva®

Nextiva Office®

NextOS®

CoSpace®

xBert®

Amazing Service®

Simplifying Business Communication®

SmartTopics®

NextCon®

BuildAmazing®

NextIQ®

4. All trademarks, service marks, and trade names (collectively the "Marks") are trademarks or registered trademarks of and are proprietary to Nextiva, or other respective owners that have granted Nextiva the right and license to use such Marks.
5. Nothing in this website or your subscription to, or licensing of, any Nextiva products or services grant any right, title, proprietary or ownership interest in any Nextiva intellectual property Marks, copyrights, patents, trade secrets, or other intellectual property.

29. LICENSE BY CUSTOMER TO USE FEEDBACK

1. Customer hereby grants to Nextiva a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Nextiva's Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer relating to the improvement, operation, or use of Customer's Services.
2. Nextiva may identify you (by name and logo) as a Nextiva customer on our website and on other promotional materials. You hereby grant Nextiva an irrevocable, non-exclusive, royalty free license to utilize your name, trademark(s), trade name(s) and other intellectual property for this limited purpose and as otherwise agreed by you in writing.

30. CUSTOMER DATA. Nextiva does not own: (i) any data, information or material that Customer submits to Nextiva in the course of using the Services; or (ii) outputs which are specifically provided to Customer during the usual course of providing the Services except to the extent that such outputs incorporate Nextiva's Intellectual Property ("Customer Data"). Customer hereby grants to Nextiva a limited, non-exclusive, worldwide, royalty-free license to Customer Data for Nextiva to provide Services. Customer further agrees and authorizes Nextiva to use de-identified Customer Data for purposes of developing, optimizing and improving the Services. Customer, not Nextiva, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data. Nextiva shall not be responsible or liable for the deletion,

correction, destruction, damage, loss or failure to store any Customer Data. Upon termination of Customer's Services, Customer's right to access or use Customer Data immediately ceases, and Nextiva shall have no obligation to maintain or forward any Customer Data. At our sole discretion, Nextiva may retain Customer Data in accordance with Nextiva's data retention policies and our Privacy Policy.

31. THIRD-PARTY INTEGRATIONS. Certain Services may be capable of being integrated with third-party services (each, a "Third-Party Integration") that are not provided by Nextiva. By enabling or integrating the Services with a Third-Party Integration, Customer expressly authorizes Nextiva to share all Customer Data and any other information necessary to facilitate the Third-Party Integration. Customer further understands and agrees that: (i) Nextiva is not responsible for, nor does it make any representations regarding, any Third-Party Integrations; (ii) Nextiva is not responsible for any loss, misuse, or other claims related in any way to the Third-Party Integration, including, but not limited to, any claims, losses or damages arising out of or related to any transmittal of Customer Data or other information to the provider of the Third-Party Integration; (iii) the provider of the Third-Party Integration is not a subprocessor of Nextiva; (iv) Customer is responsible for ensuring that adequate safeguards are in place with the provider of the Third-Party Integration to ensure that Customer's interests are sufficiently protected; (v) under no circumstances shall Nextiva be liable to the Customer or any third-party for any loss, damage or claim arising out of or related in any way to the Third-Party Integration or the actions and/or omissions of the provider of the Third-Party Integration; and, (vi) Customer will indemnify, defend and hold Nextiva harmless from and against any claims arising out of the Third-Party Integration.

Last Updated: July 23, 2024

NEXTIVA UCAAS (VOIP)

SERVICE-SPECIFIC TERMS

1. **SERVICE DESCRIPTION.** Nextiva UCaaS (VoIP) Services (as used herein, the “Services”) consist of voice and related communication services, transmitted via broadband internet connection that can be used either in connection with Nextiva standalone software or, in some cases, using a telecommunications device. The features and functionalities constituting the Services include, but are not limited to, inbound and outbound voice services, SMS/MMS services, audio conference calling, voice call recording, voicemail, video meetings, and team chat.
2. **LOCAL NUMBER PORTABILITY.** In the event you are transferring an existing phone number that currently is subscribed to another carrier, the following terms and conditions apply:
 1. **Authorization.** You hereby authorize Nextiva to process your order for the Services and to notify your local service provider of your decision to switch your local services to Nextiva and to transfer your telephone number and represent that you are authorized to take these actions. You may be required to complete a letter of authorization, provide us with a copy of your most recent bill from your service provider, as well as provide us with any other information required by your service provider to port your number. Failure to provide any information requested by Nextiva or the third-party services provider will delay the porting of the number to Nextiva. You acknowledge that the porting of your numbers is dependent upon the cooperation of you and third parties not under the control of Nextiva. Nextiva shall not be responsible for any delay in the port of your number and will not provide credit for any such delays.
 2. **Activation.** You agree and acknowledge that you must install and activate your Device prior to the date that the number switch becomes effective. You will be assigned a temporary telephone number until your transfer is completed. You may place and receive calls using this temporary number until such time as your phone number is transferred.

3. **Limitation.** Nextiva has the right to refuse to import a number if, in its sole discretion, it does not have the infrastructure to support the number.
 4. **Unauthorized Port Outs.** You acknowledge and agree that telephone or facsimile numbers may be ported out from your Services or your account due to acts or omissions of third parties, and it may be difficult or impossible for Nextiva to: (i) prevent such port-outs; (ii) retrieve numbers ported-out of your account; or (iii) port such numbers back into your account. Nextiva has no responsibility or liability due to such port-outs.
3. **SERVICE DISTINCTIONS.** You acknowledge and understand that the Services are not a telephone service, and we provide it on a best-efforts basis. Important distinctions exist between telephone service and the enhanced Services offering provided by Nextiva. The Services are subject to different regulatory treatment than telephone. This treatment may limit or otherwise affect your rights of redress before Federal and State telecommunications regulatory agencies or judicial forums. Events beyond our control may affect our service, such as power outages, fluctuations in the internet, your underlying ISP or broadband service, or maintenance. We will act in good faith to minimize disruptions to your use of and access to our Services.
1. **Emergency Services – 911 Dialing.** You acknowledge and understand that NEXTIVA 911 dialing is different than traditional 911 service. See complete 911 disclosure posted on our Web site at <https://www.nextiva.com/legal.html?doc=08>. YOUR SERVICE WILL NOT BE ACTIVATED UNTIL NEXTIVA RECEIVES AN AFFIRMATIVE ACKNOWLEDGMENT THAT YOU HAVE READ AND UNDERSTOOD NEXTIVA'S 911 DISCLOSURE AGREEMENT.
 2. **E911 Address.** You must provide us with a valid address that is compatible with our e911 system. If you are unable to provide a valid address, or we are unable to confirm that the address provided is a valid address in our e911 system, then we won't be able to provide you with service and we reserve the right to terminate your account.

3. **Operator Assisted Calling.** No 0+ or Operator Assisted Calling; May Not Support X11 Calling. You acknowledge and understand that the Service does not support 0+ or operator assisted calling, including, without limitation, collect calls, third party billing calls, 900, calling card calls or dial-around calls. Our Service may not support 311, 511, and other x11 services in one or more service areas.
4. **No Directory Listing.** The phone numbers you get from us will not be listed in any telephone directories. However, any phone numbers you transfer from your local phone company may be listed.
5. **Non-Voice Equipment Limitations.** You acknowledge and understand that the Services are not compatible with all non-voice communications equipment, including but not limited to, some home and office security systems that are set up to make automatic phone calls, emergency phones in elevators, some aspects of satellite TV systems, digital entertainment systems, fax machines, modems and medical monitoring devices. By accepting this Agreement, you waive any claim you may have against Nextiva for interference with or disruption of such systems due to the Services.
6. **Use Outside of the United States.** As previously noted, there are limitations with the Services' access to 911. Nextiva's Services do not provide access to emergency services in any country outside of the United States. Nextiva disclaims any obligation to provide you with access to emergency services in any jurisdiction other than the United States.

4. FEES AND CHARGES

1. **Usage Charges.** You will be responsible for all usage charges, including, but not limited to international calling and inbound toll-free charges. Depending on the service package you select, your Services may include a specific quantity of included inbound and outbound calling minutes, inbound toll-free minutes, and/or SMS/MMS message for use over a specific period of time. You understand and agree that any included usage expires, if unused, at the end of the applicable measurement period.

Unused usage does not roll over to the next period. Any usage charges (including excess usage charges) will be billed in arrears at Nextiva's then-current rates.

2. **Charges for Directory Calls (411).** We will charge you \$1.25 for each call you make to Nextiva directory assistance.
3. **Charges for Calls from Public Payphones.** We reserve the right to charge you for any tolls or fees resulting from calls you receive from public payphones.
4. **Toll-Free Calling.** Where your package includes inbound toll-free minutes, such usage is limited to receiving calls originating in the United States of America. Any permitted usage expires at the end of the applicable usage period and does not rollover to future usage periods. Toll-free usage originating outside of the United States of America will be permitted only with Nextiva's prior written approval and invoiced at the then-current rates therefor.

Last Updated: July 23, 2024

NEXTIVA DIGITAL CUSTOMER ENGAGEMENT

SERVICE-SPECIFIC TERMS

1. **SERVICE DESCRIPTION.** Nextiva Digital Customer Engagement Services (as used herein, the "Services") consist of social media and reputation management services that allow you to interact with your customers in real time and through social media. The features and functionalities constituting the Services include, but are not limited to, live chat, social media and messaging platform

integrations, social media management, review management, and email services.

2. **AUTHORIZATIONS AND CREDENTIALS; THIRD-PARTY TERMS AND CONDITIONS.** You must provide to and maintain with Nextiva current login and access credentials, tokens and/or other means of authorization for your applicable social media and related accounts. You understand and agree that the failure to provide and maintain accurate and current information with Nextiva may result in disruptions to the Services. Nextiva makes no representations or warranties regarding or related in any way to any third-party social media channel or related account or site that you link with or connects to the Services, including, but not limited to, the uptime, availability and/or interoperability of such media channel, account, or site with the Services. You agree to comply, at all times, with any and all terms and conditions applicable to social media channels or other accounts or sites that you connect to or links through the Services. You shall further indemnify Nextiva for, and hold Nextiva harmless from, any claims, damages or expenses resulting from Customer's use of the Services in violation of the terms and conditions applicable to any connected or linked social media channel or account.
3. **CONTENT TRANSMITTED THROUGH THE SERVICES.** You acknowledge and agree that Nextiva exercises no control over the content of the information passing through any social media channel, account or other site that you link with or connect to the Services (the "Customer Content") and that it is your sole responsibility to ensure that the information you and your users transmit and receive complies with all applicable laws and regulations. You agree to indemnify Nextiva for, and hold Nextiva harmless from, any claims, damages or expenses resulting from a claim or allegation that the Customer Content violates any law and/or regulation, and/or infringes any third-party intellectual property right(s).
4. **USAGE CHARGES.** Certain features and functionalities included with the Services shall incur usage-based charges. These charges will be billed in arrears at the then-current rate.

NEXTIVA CCaaS

SERVICE-SPECIFIC TERMS

- SERVICE DESCRIPTION.** Nextiva's Contact Center services (as used herein, the "Services") consist of an AI-powered contact center platform and related features and functionalities, including, but not limited to, Advanced IVR, intelligent virtual assistant, intelligent and skills-based routing, transcription and summarization services, a web-based agent voice and digital platform, and related analytics and reporting.
- LICENSE TYPES.** Nextiva may make the Services available under either a Named User License or a Concurrent User License.
 - Named User License.** A Named User License allows access to the Services to a specifically identified and designated individual user (a "Named User") up to the contracted quantity of Authorized Users. Group or shared logins are strictly prohibited. You may not reassign a Named User License to another individual without Nextiva's prior written approval.
 - Concurrent User License.** Concurrent User Licenses allow access to the Services to a specific number of concurrent users ("Concurrent Users") at the same time up to the contracted quantity of Concurrent Users. This license shall only be used by one individual user at a time but is not for a specific named user.
- BURST, OVERAGE, AND USAGE CHARGES.** Nextiva may allow you to add services, features and/or functionalities above and beyond your contracted quantities and to allow access to the Services to Named Users and/or Concurrent Users above and beyond your contracted quantities. You understand and agree that you shall be obligated to pay burst, overage and usage charges regarding or related to the Services, including, but not limited to, excess user charges (above the contracted quantities), cloud-based data storage overages, directory assistance charges, SMS/MMS charges, local and long distance

charges, toll free charges, international calling charges, as well as any taxes, fees or surcharges assessed on any such charges.

1. **Excess Users.** If, during any billing month, your actual number of Named Users and/or Concurrent Users exceeds the contracted level of such users, or if the Services are accessed by someone that is not a Named User (where you have Named User Licenses), you agree to either: a) be invoiced the then-current retail price for any excess users that utilized the Services during the billing month, or b) place a co-terminus add-on order in the amount of such excess usage. For purposes of clarity, you shall be invoiced in arrears for the entire billing month for any excess users at the then-current regular retail pricing irrespective of the number of days the excess users accessed the Services during the applicable billing period.
2. **Additional Features and Functionalities.** If, during any billing month, you enable or utilizes any service, feature and/or functionality in excess of the contracted services, features and/or functionalities, and the quantities thereof, you also agree to either: a) be invoiced the full retail price for any excess services, features and/or functionalities utilized during the billing month, or b) place a co-terminus add-on order in the amount of such excess usage. You shall be invoiced in arrears for the entire billing month for any such excess usage at the then-current regular retail pricing irrespective of the number of days said service(s), feature(s), and/or functionality(ies) were actually used during the applicable billing period.
3. **Usage Charges.** You will be charged usage for calls placed and received and SMS/MMC messages sent and received using the Services. Monthly SMS/MMS charges, local and long distance, international call charges, toll-free charges, as well as usage, burst and any other overage charges, will be charged at the then-current rates and will be exhibited on the next month's billing cycle invoice.
4. **LOCAL NUMBER PORTABILITY.** In the event you are transferring an existing phone number that currently is subscribed to another carrier, the following terms and conditions apply:

1. **Authorization.** You hereby authorize Nextiva to process your order for the Services and to notify your local service provider of your decision to switch your local services to Nextiva and to transfer your telephone number and represent that you are authorized to take these actions. You may be required to complete a letter of authorization, provide us with a copy of your most recent bill from your service provider, as well as provide us with any other information required by your service provider to port your number. Failure to provide any information requested by Nextiva or the third-party services provider will delay the porting of the number to Nextiva. You acknowledge that the porting of your numbers is dependent upon the cooperation of you and third parties not under the control of Nextiva. Nextiva shall not be responsible for any delay in the port of your number and will not provide credit for any such delays.
2. **Activation.** You agree and acknowledge that you must install and activate your Device prior to the date that the number switch becomes effective. You will be assigned a temporary telephone number until your transfer is completed. You may place and receive calls using this temporary number until such time as your phone number is transferred.
3. **Limitation.** Nextiva has the right to refuse to import a number if, in its sole discretion, it does not have the infrastructure to support the number.
4. **Unauthorized Port Outs.** You acknowledge and agree that telephone or facsimile numbers may be ported out from your Services or your account due to acts or omissions of third parties, and it may be difficult or impossible for Nextiva to: (i) prevent such port-outs; (ii) retrieve numbers ported-out of your account; or (iii) port such numbers back into your account. Nextiva has no responsibility or liability due to such port-outs.
5. **SERVICE DISTINCTIONS.** You acknowledge and understand that the Services are not a telephone service, and we provide it on a best-efforts basis. Important distinctions exist between telephone service and the enhanced Service offering provided by Nextiva. The Services are subject to different regulatory treatment than telephone. This treatment may limit or otherwise affect your rights of redress

before Federal and State telecommunications regulatory agencies or judicial forums. Events beyond our control may affect our service, such as power outages, fluctuations in the internet, your underlying ISP or broadband service, or maintenance. We will act in good faith to minimize disruptions to your use of and access to our Services.

1. **NO 911 SERVICES. YOU UNDERSTAND AND AGREE THAT 911 AND EMERGENCY CALLS AND MESSAGES MAY NOT BE PLACED OR SENT UTILIZING THE SERVICES OR FROM WITHIN THE NEXTIVA CONTACT CENTER PLATFORM. YOU AGREE THAT YOU WILL OBTAIN AN ALTERNATIVE MEANS OF EMERGENCY AND 911 CALLING AND MESSAGING. YOU FURTHER AGREE TO PROVIDE NOTICE TO ALL USERS OF THE SERVICES OF (A) THE UNAVAILABILITY OF 911 AND EMERGENCY CALLING AND MESSAGING FEATURES IN THE SERVICES AND CONTACT CENTER PLATFORM; AND, (B) THE AVAILABILITY OF ALTERNATE METHODS FOR 911 AND EMERGENCY CALLING AND MESSAGING.**
2. **Operator Assisted Calling.** No 0+ or Operator Assisted Calling; May Not Support X11 Calling. You acknowledge and understand that the Service does not support 0+ or operator assisted calling, including, without limitation, collect calls, third party billing calls, 900, calling card calls or dial-around calls. Our Service may not support 311, 511, and other x11 services in one or more service areas.
3. **No Directory Listing.** The phone numbers you get from us will not be listed in any telephone directories. However, any phone numbers you transfer from your local phone company may be listed.
4. **Use Outside of the United States.** Nextiva's Services do not provide access to emergency services in any country.

6. FEES AND CHARGES

1. **Charges for Directory Calls (411).** We will charge you \$1.25 for each call you make to Nextiva directory assistance.

2. **Charges for Calls from Public Payphones.** We reserve the right to charge you for any tolls or fees resulting from calls you receive from public payphones.

Last Updated: July 23, 2024

NEXTIVA VFAX

SERVICE-SPECIFIC TERMS

1. **SERVICE DESCRIPTION.** Nextiva vFax Services (as used herein, the “Services”) allow you to send faxes through either Nextiva’s vFax Portal using your email address or via a traditional fax machine using a Nextiva Fax Bridge device.
2. **PORTABILITY.** In the event you desire to use a fax number you already own with the Services, you will be required to port your number to our location. The procedure for porting your fax number along with the documents that must be completed will be emailed to you after your order is completed.
 1. You hereby authorize Nextiva to process your order for the Services and to notify your local service provider of your decision to switch your local services to Nextiva and to transfer your fax number and represent that you are authorized to take these actions. You may be required to complete a letter of authorization, provide us with a copy of your most recent bill from your service provider, as well as provide us with any other information required by your service provider to port your number. Failure to provide any information requested by Nextiva or the third-party services provider will delay the porting of the number to Nextiva. You acknowledge that the porting of your numbers is dependent upon the cooperation of you and third parties not under the control of Nextiva. Nextiva shall not be

responsible for any delay in the port of your number and will not provide credit for any such delays.

2. You agree and acknowledge that you must install and activate your Device prior to the date that the number switch becomes effective. You will be assigned a temporary fax number until your transfer is completed. You may place and receive calls using this temporary number until such time as your phone number is transferred.
 3. Nextiva has the right to refuse to import a number if, in its sole discretion, it does not have the infrastructure to support the number.
 4. Unauthorized Port Outs. You acknowledge and agree that telephone or facsimile numbers may be ported out from your Services or your account due to acts or omissions of third parties, and it may be difficult or impossible for Nextiva to: (i) prevent such port-outs; (ii) retrieve numbers ported-out of your account; or (iii) port such numbers back into your account. Nextiva has no responsibility or liability due to such port-outs.
3. **SERVICE DISTINCTIONS.** You acknowledge and understand that the Services we are providing are not a telephone service, and we provide it on a best-efforts basis. Important distinctions exist between telephone service and the facsimile Services offering provided by Nextiva. The Services are subject to different regulatory treatment than telephone service. This treatment may limit or otherwise affect your rights of redress before Federal and State telecommunications regulatory agencies or judicial forums. Events beyond our control may affect our service, such as power outages, fluctuations in the Internet, your underlying ISP or broadband service, or maintenance. We will act in good faith to minimize disruptions to your use of and access to the Service.
1. **EMERGENCY SERVICES 911 DIALING. YOU ACKNOWLEDGE AND UNDERSTAND THAT THE NEXTIVA FAX SERVICE IS FOR DATA TRANSMISSION ONLY AND EMERGENCY DIALING TO 911 IS NOT CAPABLE WITH THE SERVICES.**
 2. **Certain Broadband, Cable Modem, and Other Services.** There may also be other services with which our Services may be incompatible.

Some providers of broadband service may provide modems that prevent the transmission of communications using our Services. We do not warrant that our Services will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of our Services with any particular broadband service.

4. FEES AND CHARGES

1. **Usage Charges.** Depending on the service package you select, your Services may include a specific number of faxes for use over a specific period of time. You understand and agree that any usage expires if unused at the end of the applicable measurement period. Unused usage does not roll over to the next period. Any excess usage will be billed in arrears at Nextiva's then-current rates.

Last Updated: July 23, 2024

Five9 Contact Center

Terms & Conditions

Customers who subscribe to the Five9 Contact Center product also agree to these terms as passed from Five9, Inc. (as the provider of the product) to Nextiva to Customer:

1. **SERVICES.** "Services" means Five9's cloud-based virtual contact center and related services (e.g., subscriptions, professional services and/or telecommunication services) that Customer orders from the Reseller.
2. **SUSPENSION AND TERMINATION BY FIVE9.**
 1. **Termination for Breach.** Five9 may terminate Customer's access to the Services upon thirty (30) days' written notice in the event of a material

breach of these Required Terms by Customer, provided that such breach remains uncured at the expiration of such thirty (30) days.

2. **Termination for Bankruptcy.** Additionally, either party may terminate these Required Terms if the other party becomes insolvent, files a voluntary petition in bankruptcy, is adjudicated bankrupt, has a receiver appointed for the operation of its business, makes an assignment for the benefit of creditors, abandons its business or makes a material liquidation of its assets.
 3. **Suspension or Termination by Five9.** Five9 may immediately suspend Customer's access to the Services if Five9 has a good faith belief that Customer is using the Services as follows: (i) in violation of applicable laws and/or government regulations; or (ii) in a manner that is compromising the security or operability of the Services. If it is confirmed that Customer is using the Services as described in (i) above, Five9, in its sole discretion, may immediately terminate the Services without providing Customer an opportunity to cure and with respect to (ii), Five9 will notify Customer in writing and provide a reasonable time to cure prior to termination. Resumption of Customer's account following suspension or termination by Five9 is subject to the sole discretion of Five9. Customer's resumption of access to the Services following a suspension or termination by Five9 for the reasons cited in this section will not extend the then-current term, nor result in an extension of the period covered by the prepaid Service Fees or credit or refund.
 4. **Effect of Termination.** Upon termination of Customer's access to the Services, all rights granted hereunder shall immediately terminate and Customer shall have no right to continue to access or use the Services, and Customer shall, at the written request of Five9, destroy or return all Confidential Information (as defined below) of Five9 in its possession or control.
3. **ACCESS CONTROLS AND USE RESTRICTIONS.**

1. **Access Controls.** Customer has sole responsibility and control over access to the domain, account, and/or password(s) , including, (i) its use of Customer Data (defined below) with the Services and its users' compliance with these Required Terms; (ii) the accuracy, quality, and means by which Customer acquired the Customer Data; (iii) using the Services in accordance with these Required Terms; (iv) responsibility for all authorized and unauthorized access, use, activities, calls and charges associated with the domain, account and/or password(s) resulting from use or provisioning of access to the Services by Customer and its users whose access to the Services is provided by Customer; (v) providing notice to and obtaining required consents regarding the collection, processing, transfer, and storage of information from individuals or entities whose information is included in Customer Data through Customer's use of the Services; and (vi) obtaining and maintaining the performance of the internet connectivity related to its use of the Services under these Required Terms.
2. **Use Restrictions.** Customer shall not (i) license, sublicense, sell, resell, transfer, assign, or distribute the Services; (ii) reverse engineer, decompile, disassemble, modify, or translate the Services or make derivative works based upon the Services; (iii) use the Services for any purpose other than to support its internal call center or business process outsourcing. Customer may store its customers' telephone numbers in the Five9 Virtual Contact Center ("**VCC**"). Customer understands and agrees that any other storage usage in the VCC (e.g., storage of call recordings, email, chat, or SMS transcripts) is strictly prohibited unless Customer orders the appropriate Five9 encryption Services under an applicable Service Order. Notwithstanding anything to the contrary, Customer may not store designated record sets (as defined by the Health Insurance Portability and Accountability Act) in the VCC.

4. **CONFIDENTIAL INFORMATION.**

1. Customer shall hold Five9's Confidential Information (defined below) in strict confidence while Customer has access to the Services. Customer shall not (i) disclose Five9's Confidential Information to any third party (excluding affiliates and/or subcontractors who have a need to know and are bound by terms of confidentiality no less restrictive than those hereunder) unless, and only to the minimum extent required by law or to satisfy governmental regulatory requirements (in which case Customer shall notify Five9 in writing, if legally permitted, of its intent to make such disclosure so that Five9 may seek protective treatment); or (ii) use Five9's Confidential Information for any purpose beyond the scope of these Required Terms other than with the express prior written consent of Five9. Except as otherwise stated in these Required Terms, Customer further agrees that Five9 may disclose Confidential Information of Customer to Five9's service providers for compliance with law or to satisfy governmental regulatory requirements (in which case Five9 shall notify Customer, if legally permitted, of its intent to make such disclosure).
"Confidential Information" means all non-public proprietary and/or confidential information of the disclosing party marked as confidential or information which by its nature should reasonably be considered confidential, including, but not limited to, the business, technical or financial activities of a party, its agents, and subcontractors, made available to the other party under or as a result of these Required Terms.
2. Customer's obligations pertaining to Confidential Information shall not apply to information that the Customer can document: (i) is or becomes part of the public domain through no act or omission of the receiving party, (ii) was in Customer's lawful possession prior to the disclosure, (iii) is lawfully disclosed to Customer by a third party without restriction on disclosure, or (iv) is independently developed by Customer without access to or use of the disclosing party's Confidential Information.
5. **PROPRIETARY RIGHTS.** The Services, Five9 products and solutions, and Proprietary Materials (defined below) of Five9 are owned exclusively by Five9

and its licensors including, without limitation, any modifications, customizations, derivative works, performance data, machine learning algorithms, and aggregated results of such machine learning, and are protected by intellectual property laws and international intellectual property treaties. Subject to the limited rights expressly granted in these Required Terms, nothing in these Required Terms shall convey, transfer, or assign any right, title, or interest in either party's Proprietary Materials to the other party. **"Proprietary Materials"** means all patents, copyrights, design rights, trademarks, service marks, trade secrets and other worldwide intellectual property or proprietary rights owned by a party and the software, schematics, diagrams, information, and other tangible embodiments, if any, relating thereto.

6. DATA USE AND RETENTION.

1. **"Customer Data"** means Customer's data and information provided by Customer via the Services to Five9 and processed by Five9. Customer retains all ownership of its Customer Data and instructs and grants Five9 a worldwide right to use Customer Data to (i) host, copy, access, transmit, and display Customer Data, each as appropriate for Five9 to provide and ensure proper operation and administration of the Services in accordance with these Required Terms, and (ii) develop, optimize, and improve the Services. If Customer does not wish for Five9 to use its Customer Data as set forth in Section 6.a.(ii) herein, Customer shall opt out at <https://www.five9.com/legal/optout>, which, upon completion, will render Section 6.a.(ii) as inapplicable to the extent of such opt out. For clarity, Customer may not opt out of Section 6.a(i) herein. Five9 shall manage Customer Data according with Five9's data retention practices as set forth at <https://www.five9.com/legal/dataretention>
2. Five9 retains all ownership of AI Features and AI Optimization Data, including any associated documentation, algorithms, machine learning models, tools, modifications, improvements, adaptations, annotations, or derivative works thereof. **"AI Features"** means any AI functionality included or provided with the Services. **"AI Optimization Data"** is any

performance data or metrics, aggregated information, learnings, or processes included in or developed by or via the use of AI Features.

3. Customer acknowledges that certain aspects of the AI Features may utilize third party service providers, and Five9 may share Customer Data with such service providers so that they may use Customer Data for the purposes described in Section 6.a.(i) above. Such service providers may host or process the Customer Data in different locations than the other Five9 Services, including outside of the United States depending on the service providers utilized by Customer. Customer hereby authorizes and consents to such hosting or processing.
4. The technology used to provide the AI Features allows Five9 to identify Customer to Google upon Google's request. When Google makes such a request, Customer acknowledges that Five9 must (i) provide Customer's name to Google, and (ii) receive Google's written consent for Customer to access the AI Features. In the event that such consent is not received, Five9 will notify Customer, and the corresponding Service Order(s) will automatically terminate, without penalty, with respect to the AI Features only.
5. Use of AI Features utilizing technology from Google requires that Customer complies with Google's acceptable use policy (currently available at <https://cloud.google.com/terms/aup>). Customer will immediately remedy any alleged non-conformance with such acceptable use policy upon receipt of notice of the same from Five9. Customer acknowledges that failure to comply with such acceptable use policy may result in Customer's suspension from the relevant AI Features and/or termination of any Service Orders related to the same.

7. CALL RELATED COMPLIANCE.

1. **"Do Not Call" Compliance.** If Customer is advised by any party that it does not wish to receive communications from Customer via the Services, Customer agrees, to the extent required by applicable laws or Customer's policies, to promptly honor such do-not-contact requests, including where

possible by adding the party to its internal do not call list, and thereafter refrain from calling that party. Customer is solely responsible for obtaining any required consent of or a release from persons or entities to whom or to which Customer intends to send communications using the Services. Customer agrees to contact only those persons who Customer is legally permitted to contact and only in the manner permitted under applicable law.

2. **Call Recordings.** Customer acknowledges and understands that, if it subscribes to and uses call recording features of the Services, (i) recordings and transcripts of such calls are Customer Data, and (ii) calls will be recorded at all times, including when a call is placed on hold or after a call is transferred to another party. Customer agrees that when using the call recording features, it will comply with all notice, consent, and privacy requirements pursuant to any applicable laws.
8. **EXPORT CONTROLS.** All Services provided under these Required Terms are subject to U.S. export control laws and regulations and may be subject to export or import requirements in other countries. Customer acknowledges its obligation under and agrees to comply strictly, at its own expense, with all such laws and regulations, including without limitation the U.S. Export Administration Regulations. Customer shall not directly or indirectly export or reexport Services without the express written permission of Five9 and, when necessary, a U.S. government license. In particular, Customer agrees that it will not directly or indirectly export, or reexport the Services to countries or regions subject to U.S. economic sanctions (e.g., Cuba, Crimea, Iran, North Korea, Sudan, and Syria). Customer represents and warrants that: (i) the Services are not to be used for any prohibited end-use, including without limitation, use in rocket, missile or unmanned-aerial vehicle systems, chemical or biological weapons proliferation, any nuclear activities, or military use; and (ii) the Services are not destined for any prohibited end-user, including without limitation a military end-user, or an individual or entity identified on the U.S. List of Specially Designated Nationals

and Blocked Parties, Denied Persons List, Entity List or similar U.S. government lists.

9. **INTEGRATIONS AND INTEROPERABILITY.** The Services may contain features designed to interoperate with non-Five9 Services (“**Non-Five9 Services**”).

Customer is solely responsible for the use of such Non-Five9 Services and any data loss or other losses it may suffer as a result of using any such Non-Five9 Services, and Customer shall ensure that its use of any such integration or interoperability complies with the terms of use of those Non-Five9 Services.

Five9 makes no warranty or guarantee with regards to any Non-Five9 Services, any interoperation between the Services and any Non-Five9 Services, or the continued availability of such features, and may cease providing such features for any reason without incurring fault or liability, for example and without limitation, if the provider of the Non-Five9 Services ceases to make the Non-Five9 Services available for interoperation with the Services. Any cessation of such features will not entitle Customer to any refund of Service fees or other compensation.

10. **WARRANTY.**

1. **Representations and Warranties.** Customer represents and warrants that (i) it has the corporate power and authority to enter into and perform its obligations under these Required Terms; and (ii) it will comply with all applicable laws in performing its obligations under these Required Terms.
2. **Warranty Disclaimer.** EXCEPT AS OTHERWISE SET FORTH HEREIN, FIVE9 PROVIDES THE SERVICES ON AN “AS IS” AND “AS AVAILABLE” BASIS. FIVE9 DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, WILL MEET ANY OR ALL OF CUSTOMER’S BUSINESS REQUIREMENTS, OR THAT ALL COMMUNICATIONS WILL BE DELIVERED, NOR DOES FIVE9 MAKE ANY WARRANTY AS TO ANY RESULTS THAT MAY BE OBTAINED BY USE OF THE SERVICES. FIVE9 MAKES NO WARRANTIES EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A

PARTICULAR PURPOSE IN RELATION TO THE SERVICES. Customer understands that the Services may be inaccessible or inoperable due to scheduled periodic maintenance and upgrades or for reasons beyond Five9's reasonable control including, but not limited to, (i) Customer equipment or network malfunctions; or (ii) service interruptions caused by independent telecommunications providers that provide voice and data connectivity to Five9's or Customer's data centers.

11. LIMITATION OF LIABILITY AND DAMAGES. IN NO EVENT SHALL FIVE9 BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, LOSSES OR COSTS, ARISING OUT OF OR RELATING TO THESE REQUIRED TERMS. ADDITIONALLY, FIVE9 SHALL NOT BE LIABLE FOR ANY CLAIMS RELATING TO: (i) LOSS OR CORRUPTION OF DATA; (ii) INABILITY TO ACCESS THE SERVICES; (iii) PERFORMANCE-RELATED DELAYS; (iv) COMPUTER VIRUSES; (v) NON-DELIVERY OR MIS-DELIVERY OF COMMUNICATIONS; AND (vi) LOSS OR LIABILITY RESULTING FROM ACTS BEYOND A PARTY'S CONTROL.

IN NO EVENT SHALL FIVE9'S LIABILITY UNDER THESE REQUIRED TERMS EXCEED THE SERVICE FEES PAID OR PAYABLE BY CUSTOMER FOR THE FIVE9 SERVICES GOVERNED BY THESE REQUIRED TERMS IN THE ONE (1) YEAR PERIOD PRECEDING THE EVENT THAT GAVE RISE TO THE LIABILITY. THIS LIMITATION OF LIABILITY IS IN THE AGGREGATE AND NOT PER INCIDENT.

12. EMERGENCY SERVICES TERMS.

- 1. Emergency Services Not Provided for Non-United States and Non-Canada Domains.** Customer fully understands and acknowledges that the Services do not support access to emergency organizations for non-United States and non-Canada domains, and Five9 makes no representation or warranty that the Services are capable of the same. For non-United States and non-Canada domains, Customer shall ensure at all times it has provided to it separate or alternative electronic

communications services which do provide access to emergency organizations using standard emergency call numbers.

2. Emergency Services for United States and Canada Domains.

1. Customer e911 Responsibilities and Limitations. Customer understands that to the extent any e911 services are offered as part of the Services for United States domains (“**e911 Services**”), such e911 Services will not function or will not function properly: (A) if an end-user attempts a 9-1-1 call from a location different from the end-user’s then-current address provided to Five9’s e911 service provider by Customer; (B) during any disruption of power at Customer’s location; (C) during any disruption of internet connectivity to Customer’s location; (D) during any period in which Five9, Five9’s e911 provider, or Customer’s local exchange carrier has cancelled or suspended delivery of services to Customer for any reason (including suspension or cancellation for failure to pay or Customer’s default); (E) during any period of e911 outage or failure due to events beyond Five9’s or its service provider’s reasonable control; (F) if incorrect or invalid end-user address information is provided or is not updated accurately; or (G) if Customer equipment fails to function, is not properly configured, or is defective.

2. Public Safety Answering Point. Five9’s e911 service provider uses commercially reasonable efforts to deliver every 9-1-1 call with the enhanced location data provided by Customer to the appropriate Public Safety Answering Point (“**PSAP**”). There are limitations placed upon Five9’s e911 service provider by the PSAPs. Each of the approximately 6,000 PSAPs must individually agree to accept a 9-1-1 call with a VoIP type service. Customer acknowledges that PSAPs fall into three categories: (A) those that accept VoIP 9-1-1 calls with location data on 9-1-1 equipment; (B) those that accept VoIP 9-1-1 calls without location data on

administrative lines; and (C) those that do not accept VoIP 9-1-1 calls. In the case of (C), VoIP 9-1-1 calls are routed to the next closest PSAP that accepts VoIP 9-1-1 calls.

3. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS, CUSTOMER SPECIFICALLY WAIVES ANY AND ALL CLAIMS OR CAUSES OF ACTION ARISING FROM OR RELATING TO FIVE9'S SERVICES OR ANY OTHER SERVICE PROVIDED HEREUNDER TO CONTACT A PSAP OR OTHER EMERGENCY SERVICES PERSONNEL, AND FIVE9 WILL NOT BE LIABLE FOR ANY LOSS (WHETHER DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL) THAT MAY ARISE FROM THE USE, MISUSE, OR OPERATION OF THE E911 SERVICES BY CUSTOMER. FURTHER, CUSTOMER ACKNOWLEDGES THAT FIVE9 WILL NOT BE LIABLE FOR ANY CLAIMS ARISING FROM ANY EFFORTS UNDERTAKEN BY FIVE9, ITS THIRD PARTY SUPPLIER, OR THE EMERGENCY RELAY CENTER, TO CORRECT ANY FAILED CUSTOMER e911 CALLS, INCLUDING BUT NOT LIMITED TO THOSE THAT ARE A RESULT OF INVALID OR INCOMPLETE END-USER LOCATION DATA; ARE A RESULT OF INTERRUPTIONS IN VOICE CONNECTIVITY; OR WHICH CANNOT BE RE-ROUTED TO THE APPROPRIATE PSAP DUE TO LACK OF CORRECT OR VALID LOCATION INFORMATION.

13. MISCELLANEOUS.

1. **Force Majeure.** Five9 shall not be held liable or responsible or be deemed to have breached these Required Terms for failure or delay of performance hereunder when caused by or resulting from causes beyond the reasonable control of Five9; provided, however, Five9 has taken reasonable commercial efforts to avoid or remove such causes of nonperformance, and when they are removed continue performance hereunder.

2. **Sub-processors.** Five9 may utilize sub-processors (e.g., third party telecommunications service providers) in providing the Services. The use of any such sub-processor by Five9 shall not relieve Five9 of any of its obligations under these Required Terms, and Five9 shall be responsible for such actions of its sub-processors.
3. **Notices.** All legal notices, authorizations, and requests in connection with these Required Terms may be sent via email, first-class mail, or courier, and shall be deemed given upon receipt (if sent by electronic mail with receipt-confirmation of successful delivery). All legal notices shall be delivered to Five9 via email (currently billing@five9.com) or mail at its then-current corporate headquarters and to Customer at its most current street and/or email address(es).
4. **General.** No failure or delay in exercising or enforcing any right or remedy by either party shall constitute a waiver of any other right or remedy, or future exercise thereof. If any provision of these Required Terms is determined to be invalid under any applicable statute or rule of law, it is only deemed omitted to that extent, and the rest of the Required Terms remain enforceable. In the event of a dispute arising out of these Required Terms, the prevailing party shall be entitled to recover its reasonable attorneys' fees. These Required Terms do not grant any right or cause of action to any third party. The following sections will survive expiration or termination of these Required Terms: Section 3 (Access Controls and Use Restrictions); Section 4 (Confidential Information); Section 5 (Proprietary Rights); Section 6 (Data Use and Retention); Section 11 (Limitation of Liability and Damages); 12 (Emergency Services Terms); and Section 13 (Miscellaneous).
5. **Verification Rights.** While Customer has access to the Services and for a period of twelve (12) months after these Required Terms expire or terminates, Customer will take reasonable steps to maintain complete and accurate records of Customer's use of the Services sufficient to verify compliance with these Required Terms ("**Verification Records**"). Upon

reasonable advance notice, and no more than once annually, Customer will, within thirty (30) days of Five9's notice, allow Five9 and its auditors access to the Verification Records during Customer's normal business hours.

6. **Publicity.** Customer shall not make, or cause to be made, any press release or public announcement in respect of the transactions contemplated by these Required Terms or otherwise communicate with or through any news or other media without the prior written consent of Five9.

Last Updated: December 12, 2023

PASS THRU END USER SOFTWARE-AS-A-SERVICE ("SAAS") AGREEMENT

WORKFORCE MANAGEMENT SOFTWARE GROUP ("COMMUNITYWFM") IS WILLING TO PROVIDE THE SAAS ACCESS RIGHTS IN ACCORDANCE WITH AND SUBJECT TO END USER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS SAAS AGREEMENT ("AGREEMENT"). SUBJECT TO YOUR COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, THE SAAS ACCESS RIGHTS TO THE SAAS SERVICES SPECIFIED IN THE ORDER SUBMITTED BY RESELLER ON CUSTOMER'S BEHALF AND ACCEPTED BY COMMUNITYWFM ("ORDER") TO WHICH THIS AGREEMENT IS INCORPORATED SHALL BE PROVIDED DURING THE APPLICABLE ACCESS TERM. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ORGANIZATION, ALL REFERENCES TO "YOU" OR "YOUR" IN THIS AGREEMENT SHALL MEAN COLLECTIVELY THE

ORGANIZATION AND THE END USER OF THE SAAS SERVICES. ALL REFERENCES TO “CUSTOMER”, “YOU” AND “YOUR” IN THIS AGREEMENT SHALL MEAN FOR ALL PURPOSES THE COMPANY IDENTIFIED IN THE ORDER. IF YOU DO NOT AGREE WITH THIS END USER SOFTWARE LICENSE, YOU MUST IMMEDIATELY NOTIFY BOTH THE RESELLER AND COMMUNITYWFM THAT YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS AND SUCH ACCESS TO THE SOFTWARE SHALL NOT BE GRANTED TO THE END USER.

1. DEFINITIONS.

The following capitalized terms shall have the meaning ascribed to them below:

Access Term. The term, as further described in Section 3 below, for which COMMUNITYWFM has contractually agreed to provide you with access to the SaaS Services in accordance with the Order.

Confidential Information. Any non-public information, technical data, or know-how, including, without limitation, that which relates to: **(i)** research, product plans, products, pricing, services, customers, personnel, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, data compilations, processes, designs, drawings, engineering, hardware configuration information, marketing or finances, which is designated in writing to be confidential or proprietary at the time of disclosure if provided in tangible form, or if provided in non-tangible form, shall be identified by the disclosing party at the time of disclosure as confidential or proprietary, **(ii)** with respect to COMMUNITYWFM, information concerning the SaaS Services, On-Premise Components, Hosted Environment, and Documentation provided hereunder and/or materials resulting from services, and any derivatives thereto, and the terms and conditions of this Agreement, and **(iii)** with respect to you, any Customer Data. Notwithstanding the foregoing, Confidential Information does not include information, technical data or know-how that is: **(a)** in the public domain or becomes available to the public and not as a result of the act or omission of the receiving party; **(b)** without restriction on disclosure, rightfully obtained by the receiving party from a third party; **(c)** without restriction on disclosure, lawfully in

the possession of the receiving party at the time of disclosure; or **(d)** approved for release by written authorization of the disclosing party.

Customer Data. All data either provided by you or entered on its behalf through use of the SaaS Services, or generated by the SaaS Services on behalf of you.

Customer Environment. The computing environment separately procured, prepared and maintained by you for the access and use of the SaaS Services, where such computing environment meets COMMUNITYWFM's then-current minimum requirements.

Data Subject. An individual who uses the SaaS Services and/or about which information is collected or generated as a part of the SaaS Services.

Designated Employees. A reasonable number of Customer Personnel (including Customer's system administrator), who have received training from COMMUNITYWFM. Designated Employees may be changed by notice to COMMUNITYWFM.

Documentation. COMMUNITYWFM's documentation describing the specifications and use of the SaaS Service.

Error. A failure of the SaaS Service to substantially conform to the Documentation, that COMMUNITYWFM can replicate or you can duplicate.

Error Correction. Revisions, modifications, alterations, and additions to the SaaS Services, installed by COMMUNITYWFM in the Hosted Environment as bug fixes or workarounds to resolve Errors.

Hosted Environment. COMMUNITYWFM's third party hosted infrastructure environment required to operate and provide access to the relevant Software as-a-Service.

Intellectual Property Rights. Any and all tangible and intangible rights, title and interest in and to: **(i)** works of authorship, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, **(ii)** trademarks and trade names, **(iii)** Confidential Information, trade secrets and know-how, **(iv)** patents, designs, algorithms and other industrial property, **(v)** all other intellectual and industrial property rights whether arising by operation of law, contract, license, or otherwise, and **(vi)** all registrations, initial

applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force.

On-Premise Components. Those portions of the COMMUNITYWFM provided software which must be installed at Customer's site, if any.

Professional Services. Consulting, training, installation and maintenance of On-Premise Components, and/or other services provided to Customer hereunder.

Personnel. With respect to you, each of your employees or independent contractors (not a competitor of COMMUNITYWFM) under obligations of confidentiality and nondisclosure which you authorize to use the SaaS Services purchased and/or the SaaS Access Rights procured hereunder; with respect to COMMUNITYWFM, each COMMUNITYWFM employee or subcontractor under obligations of confidentiality and nondisclosure which performs on behalf of COMMUNITYWFM hereunder.

Privacy Laws. Laws, as applicable to personal data, concerning the regulation of the collection, processing, data security, and trans-border data flows, use of web-site cookies, email communications, use of IP addresses and meta-data collection.

SaaS Services. The online services offered by COMMUNITYWFM as more fully described in the Documentation, and all SaaS Access Rights, each as specified on an Order.

SaaS Access Fees. In US dollars, the fees due to COMMUNITYWFM, as further specified in the Order, for use of the SaaS Services to the extent of the SaaS Access Rights.

SaaS Access Rights. The type and quantity of SaaS access rights granted to Customer for use during the applicable Access Term.

Scheduled Downtime. Any downtime scheduled to perform system maintenance, backup and upgrade functions for the Hosted Environment. COMMUNITYWFM will provide Customer with a minimum of seven (7) days advance notice of Scheduled Downtime.

Service Levels. The service level commitments from COMMUNITYWFM with

respect to the maintenance and support of the Hosted Environment and SaaS Services.

Total Time. The total number of minutes in the applicable month.

Updates. Periodic improvements or additions to the SaaS Services, including Error Corrections and other changes to the SaaS Services, that may be provided hereunder, but excluding any new feature or substantial additional functionality available for the SaaS Service, which, in COMMUNITYWFM's sole discretion, is subject to additional fees.

CommunityWFM Intellectual Property. All Intellectual Property Rights in the SaaS Services, Documentation, Hosted Environment, On-Premise Components, and all other Confidential Information provided by COMMUNITYWFM hereunder.

2. **ACCESS RIGHTS.** During the Access Term, and solely for your internal business use, COMMUNITYWFM grants to you a temporary non-exclusive, non-transferable, non-assignable, personal right to use the SaaS Services specified in the Order through internet access, up to the extent of the SaaS Access Rights specified in the Order. With regards to the On-Premise Components and related Documentation, COMMUNITYWFM grants to you, and you accept, a nonexclusive, nonassignable, and nontransferable limited license during the Access Term, to use the On-Premise Components and related Documentation solely in conjunction with the SaaS Services for Customer's internal business purposes, and subject to the terms and conditions of this Agreement. With respect to the Documentation, you may make a reasonable number of copies of the Documentation applicable to the SaaS Services solely as reasonably needed for your internal business use in accordance with the express use rights specified herein. You acknowledge and agree that the use rights provided hereunder do not grant any rights not explicitly expressed. All other such rights and interests in COMMUNITYWFM Intellectual Property (including any derivatives thereto) are expressly reserved, owned by and remain vested in COMMUNITYWFM and its third party vendors, and except for the limited use rights granted hereunder, you shall not assert any right, title, or interest in or to any COMMUNITYWFM Intellectual Property, or portion thereof.

Without limiting the foregoing, you acknowledge and agree that no rights or any other interests are provided to you with respect to: (i) rights in or to the Hosted Environment or SaaS Services beyond those rights specified in the Order, (ii) rights to provide access to or use of the Hosted Environment, SaaS Services and On-Premise Components to any other party, including, without limitation, any uses in the nature of a service bureau or application services provider, (iii) rights to obtain possession of copies of any component of the Hosted Environment or any software used to provide or perform the SaaS Services, except with respect to On-Premise Component(s) and then only as expressly provided for in this Section, or (iv) representations, warranties or other third party beneficiary rights from any COMMUNITYWFM third party vendor.

3. **ACCESS TERM.** The initial Access Term shall be 12 months. An Access Term shall commence on the first day of the month following receipt by the Reseller of the Activation Notice, sent by the Supplier, for the End User. The term shall automatically renew for successive twelve (12) month terms unless either party provides the other with no less than sixty (60) days prior written notice of its intent to not renew.

4. **COMMUNITYWFM RESPONSIBILITIES.**

1. **Support.** As part of the SaaS Services, during any Access Term and subject to payment of all fees, COMMUNITYWFM shall, either directly, or through its applicable third party vendor(s), provide support for the Hosted Environment and SaaS Services in accordance with the terms and conditions of this Section.
2. **Hosted Server Updates.** In addition to establishing and maintaining the Software within the Hosted Environment, COMMUNITYWFM shall maintain the components of the Hosted Environment with all current Updates that COMMUNITYWFM deems necessary for the SaaS Services. COMMUNITYWFM shall routinely be updating your hosted server and will coordinate with your operations team to minimize any impact on daily operations. Please contact the help desk to coordinate and control those regular cycles.

3. **Uptime.** Please see our hosted services uptime commitment posting for details. <https://www.communitywfm.com/product-uptime-agreement>.
4. **Help Desk Service Level Targets.** The CommunityWFM help desk toll free line (877) 668-6870, option 2. is available 7-7 M-F, excluding holidays and other days that may be deemed by CommunityWFM. Please see target response time for Help desk support here. <https://www.communitywfm.com/response-time-service-level-agreement-exhibit-c>.
5. **Customer Data.** COMMUNITYWFM acknowledges it receives no ownership or, except to the extent specified herein, other rights in any Customer Data, and all rights, title and interest in such Customer Data remain with you. COMMUNITYWFM shall not, and shall not permit its third party vendor(s) to disclose Customer Data to any third party, or make any use of the Customer Data, unless authorized by you or COMMUNITYWFM is required to do so by law or court order. You agree that COMMUNITYWFM may: **(a)** use and disclose Customer Data in aggregate and anonymous form, and/or **(b)** use Customer Data for COMMUNITYWFM's internal business purposes, including without limitation, improving and/or creating enhancements to or new offerings related to the SaaS Services, and for purposes of planning, support, administration and invoicing related to your use of the SaaS Services.. You agree that you are solely responsible for: **(x)** obtaining any Customer Data and other information you provide while using the SaaS Services, **(y)** obtaining all rights and requisite consents necessary to collect and use the Customer Data, and **(z)** the accuracy, completeness, quality, integrity, legality, reliability, appropriateness and copyright of all Customer Data. By providing any Customer Data or other information, you agree that you will not, and you represent and warrant that such information does not **(i)** violate any intellectual property rights, publicity rights, confidentiality or trade secret rights, or any other legal or equitable rights; **(ii)** violate any law, rule, order, judgment or regulation to which you or the Customer Data

may be subject; and **(iii)** violate in any way your obligations in Section 5.2 below. You acknowledge and agree that COMMUNITYWFM is not responsible or liable for any unlawful, harassing, defamatory, privacy invasive, abusive, threatening, offensive, harmful, vulgar, obscene, tortuous, hateful, racially, ethnically or otherwise objectionable information, or content, or information or content that infringes or may infringe any copyright, patent, moral right, trade secret, confidential information, trademark right or any other right of a third party. COMMUNITYWFM may remove any violating content posted on the SaaS Services or transmitted through the SaaS Services, without notice to you.

5. END USER RESPONSIBILITIES.

1. **Passwords.** All access codes and passwords are personal to the individual to which it is issued. You and your Personnel are responsible for maintaining the confidentiality and security of all access codes and passwords issued, and ensuring that each access code and password is only used by the individual authorized. To the extent COMMUNITYWFM assigned you with administrative rights to create access codes and passwords for your Personnel, you shall be responsible for issuing such passwords.
2. **Use of SaaS Services.** Customer shall be solely responsible for the actions of its Personnel while using the SaaS Services and the contents of its transmissions through the SaaS Services (including, without limitation, Customer Data), and any resulting charges. Customer agrees: **(i)** to abide by all local, state, national, and international laws and regulations applicable to Customer's use of the SaaS Services, including without limitation all laws and administrative regulations (including, all U.S. and applicable foreign) relating to the control of exports of commodities and technical and/or personal data, and shall not allow any of its Personnel or Data Subjects to access or use the SaaS Service in violation of any export embargo, prohibition or restriction, including but not limited to any party on a U.S. government restricted party list; **(ii)** not to upload or distribute in

any way files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Hosted Environment, SaaS Services or another's computer; **(iii)** not to use the SaaS Services for illegal purposes; (iv) not to interfere or disrupt networks connected to the Hosted Environment or SaaS Services; **(v)** not to post, promote or transmit through the SaaS Services any unlawful, harassing, defamatory, privacy invasive, abusive, threatening, offensive, harmful, vulgar, obscene, tortuous, hateful, racially, ethnically or otherwise objectionable information or content of any kind or nature; **(vi)** not to transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability; **(vii)** not to interfere with another customer's use and enjoyment of the SaaS Services or another entity's use and enjoyment of similar services; **(viii)** not to engage in contests, chain letters or post or transmit "junk mail," "spam," "chain letters," or unsolicited mass distribution of email through or in any way using the SaaS Services; **(ix)** to comply with all regulations, policies and procedures of networks through which Customer connects to, or uses in connection with the SaaS Services; and **(x)** to provide any required notifications to Data Subjects, and obtain all rights and requisite consents from Data Subjects in accordance with all applicable data privacy and other laws in relation to the collection, use, disclosure, creation and processing of personal data, and in connection with this Agreement and the use of the SaaS Services.

3. **SaaS Services Restrictions.** Except as otherwise specified in this Agreement, expressly permitted in writing by COMMUNITYWFM, or otherwise cannot be precluded under mandatory applicable law, you shall not, and shall not permit any other party to:
 1. a. Disassemble, decompile, decrypt, or reverse engineer, or in any way attempt to discover or reproduce source code for, any part of the SaaS Services or On-Premise Components; adapt, modify, or prepare derivative works based on any of the COMMUNITYWFM

Intellectual Property; or use any of the COMMUNITYWFM Intellectual Property to create any computer program or other material that performs, replicates, or utilizes the same or substantially similar functions as the SaaS Services;

2. b. Alter, remove, or suppress any copyright, confidentiality, or other proprietary notices, marks or any legends placed on, embedded or otherwise appearing in or on any COMMUNITYWFM Intellectual Property; or fail to ensure that all such notices and legends appear on all full or partial copies of COMMUNITYWFM Intellectual Property or any related material;
3. c. Sell, sublicense, lease, assign, delegate, transfer, distribute, encumber or otherwise transform any COMMUNITYWFM Intellectual Property or any of the rights or obligations granted to or imposed on you hereunder.

4. **Customer Environment.** You are responsible for the establishment of the Customer Environment necessary for your use of the SaaS Services. Additionally, you acknowledge and agree that COMMUNITYWFM is not responsible for obtaining, licensing or selling any hardware, peripherals or third-party software or interfaces needed to prepare or maintain the Customer Environment.
5. **Privacy Policies and Data Protection Notices.** Customer shall adopt, publish and comply with Customer's privacy policy and ensure that such privacy policy is compliant with the Privacy Laws applicable to the Customer's use of the SaaS Services and how Customer collects, uses and discloses personal data to third parties, such as COMMUNITYWFM (though, for the avoidance of doubt, COMMUNITYWFM need not be specifically named in Customer's policy(ies)). Customer's privacy policy must be sufficient to inform a Data Subject of the information collected by COMMUNITYWFM on Customer's behalf during use of the SaaS Services and Customer warrants and represents that COMMUNITYWFM has the right to collect and process personal data on its behalf in order to permit

COMMUNITYWFM to provide the SaaS Services and that such collection and processing shall not violate the rights of Data Subjects or the Privacy Laws.

6. **Indemnity.** Customer, at your sole expense, shall defend, indemnify and hold harmless COMMUNITYWFM from any action based upon a claim resulting from any breach of Sections 4 or 5 by you, your affiliates, and/or Personnel of either, and shall reimburse COMMUNITYWFM for all damages, costs, and expenses (including reasonable attorneys' fees) awarded against COMMUNITYWFM pursuant to any such actions.
6. **PROFESSIONAL SERVICES.** You may order Professional Services from COMMUNITYWFM or its authorized reseller or integrator by submitting a request for such services referencing this Agreement. Any such services provided hereunder are subject to **(i)** your performance of any obligations herein, and **(ii)** the terms of a mutually agreeable implementation plan (Statement of Work). With respect to any access to the Hosted Environment, use of the SaaS Services requiring integration and other services by and between Customer's systems and the Hosted Environment, and configuration of the SaaS Services for Customer's specific use, COMMUNITYWFM agrees to perform those services to the extent specified on an Order. You must provide all necessary information, access, workspace, computing resources, and other services and support materials as reasonably required by COMMUNITYWFM to perform its duties in a timely manner. All services provided on a time and material basis are per person unless otherwise specified, and charged hourly or daily as indicated for each person. Services scheduling is dependent upon the allocation and availability of COMMUNITYWFM resources. In the event you reschedule or cancel scheduled services, COMMUNITYWFM may, to the extent COMMUNITYWFM cannot reschedule its applicable resources, charge you a rescheduling or cancellation fee.
7. **WARRANTY.**
 1. **Limited Performance Warranty.** COMMUNITYWFM warrants to you that during any Access Term, the SaaS Services will be accessible by you, and

the SaaS Services will perform substantially in accordance with the Documentation. Your exclusive remedy under this Section 7.1 shall be for COMMUNITYWFM to use commercially reasonable efforts to correct any Errors; provided, in the event COMMUNITYWFM is unable to correct that nonconformity, you shall have the right to terminate the remaining Access Term and receive a pro rata refund of any remaining prepaid SaaS Access Fees applicable to those SaaS Services NOT TO EXCEED THE FEES COLLECTED WITHIN THE LAST THREE (3) MONTHS.

2. **Warranty Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1, COMMUNITYWFM MAKES NO WARRANTY AND DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WRITTEN OR ORAL, OR EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, INTEROPERABILITY, DATA ACCURACY, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY PRODUCT, SERVICES, SUPPORT, OR ANY COMPONENTS THEREOF. WITHOUT LIMITING THE FOREGOING, COMMUNITYWFM DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE SAAS SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE.**

8. **PAYMENT.** All Orders placed hereunder are subject to COMMUNITYWFM's acceptance of that Order. Prior to accepting an Order, COMMUNITYWFM shall have the right to perform any credit and other checks required by COMMUNITYWFM. For any Orders placed directly by you, COMMUNITYWFM shall invoice you one hundred percent (100%) of the SaaS Access Fee for the initial Access Term, and 50 % of the any fixed fee Professional Services, and fixed, prepaid travel expenses of \$5,100 for training sessions within the continental US, travel outside of that shall be quoted on a client by client basis, applicable to such, balance due for remaining Professional Services upon the completion of the four day training session and receipt of Activation Notice upon COMMUNITYWFM's receipt and acceptance of the Order. For any month in

which you exceed the licensed usage you subscribed to for that month (“Overage”), the fees due for such Overage shall be calculated with a twenty-five percent (25%) uplift. COMMUNITYWFM shall invoice you quarterly in arrears for any Overage. For any add-on SaaS Services subscription Orders, COMMUNITYWFM shall invoice you the pro rata amount for the remainder of the then current SaaS Services Access Term to co-terminate each of your SaaS Services subscription terms. COMMUNITYWFM may invoice you for each renewal Access Term prior to such renewal, and all other fees, assessments and expenses provided for under this Agreement as performed and/or incurred. All payments shall be due within thirty (30) days after the applicable invoice date, without deduction. You are responsible for all taxes, duties and tariffs of any kind (except with respect to COMMUNITYWFM’s income), and all costs of shipment. All shipments are made ExWorks (Incoterms 2010). You agree to pay COMMUNITYWFM all costs of collection resulting from your failure to pay any amounts due COMMUNITYWFM hereunder. COMMUNITYWFM shall have the right to withhold performance under this Agreement (i) to the extent it has knowledge that any governmental approvals required under then-current applicable laws and/or regulations have not been properly obtained by the respective party(ies), or (ii) if you are in delinquent on any payments or are otherwise in breach of this Agreement.

9. **LIMITATION AND CAP ON LIABILITY.** COMMUNITYWFM’S MAXIMUM LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL BE IN THE AGGREGATE AND LIMITED TO CUSTOMER’S DIRECT ACTUAL DAMAGES NOT TO EXCEED THE ACTUAL FEES PAID TO COMMUNITYWFM HEREUNDER FOR THE NONCONFORMING SAAS SERVICE, REDUCED BY ANY AMOUNT DUE COMMUNITYWFM. IN NO EVENT SHALL COMMUNITYWFM, ANY PARENT, SUBSIDIARY, AFFILIATE OR LICENSOR, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, OR REPRESENTATIVES, BE LIABLE (I) TO ANY THIRD PARTY FOR DAMAGES OF ANY KIND OR NATURE OR IN ANY MANNER WHATSOEVER, OR (II) TO CUSTOMER FOR ANY

CONSEQUENTIAL, INDIRECT, EXEMPLARY, INCIDENTAL, OR SPECIAL DAMAGES OR COSTS (INCLUDING ATTORNEYS' FEES OR LOST PROFITS, TIME, SAVINGS, PROPERTY, DATA OR GOODWILL) REGARDING THIS AGREEMENT OR RESULTING FROM OR IN CONNECTION WITH THE USE, MISUSE, OR INABILITY TO USE THE SAAS SERVICES, OR ANY OTHER PRODUCTS OR SERVICES, REGARDLESS OF THE CAUSE OF ACTION, EVEN IF COMMUNITYWFM HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL COMMUNITYWFM BE LIABLE FOR PROCUREMENT COSTS OF SUBSTITUTE PRODUCTS OR SERVICES. THIS SECTION 9.0 SHALL SURVIVE AND CONTINUE IN FULL FORCE AND EFFECT DESPITE ANY FAILURE OF ESSENTIAL PURPOSE, CONSIDERATION, OR OF AN EXCLUSIVE REMEDY.

10. **CONFIDENTIALITY.** The unauthorized disclosure or use of Confidential Information of a disclosing party or of a disclosing party's third party licensors, and all information and services related thereto, would cause great injury and harm to the owner thereof. Therefore, each party agrees to take all appropriate action to ensure the confidentiality and security of the other party's Confidential Information, but in any event no less than the same standard of care it uses to protect its own Confidential Information of like kind and value. Without limiting the generality of the foregoing, you and COMMUNITYWFM each agree that it: **(i)** shall maintain the other's Confidential Information in the strictest confidence, including compliance with reasonable remote access security requirements; **(ii)** shall not disclose, display, publish, transmit, or otherwise make available such Confidential Information or take the benefit thereof, in whole or in part, except in confidence to its own Personnel on a need-to-know basis; and **(iii)** except as expressly permitted hereunder, shall not copy, duplicate, replicate, transform, or reproduce such Confidential Information. Notwithstanding anything to the contrary in this Section, neither party shall be liable to the other for damages resulting from disclosure of any Confidential Information required by law, regulation or valid court order; provided prior written notice is provided to the

other party sufficiently in advance of such required disclosure to allow the other party to respond and take reasonable and lawful action to avoid and/or minimize the degree of such disclosure or seek appropriate protective orders.

11. **TERM; TERMINATION.** This Agreement shall be effective upon the date that COMMUNITYWFM accepts the initial Order hereunder (as may be evidenced by COMMUNITYWFM's performance) and shall continue so long as you continue to abide by the terms and conditions of this Agreement. COMMUNITYWFM hereby reserves the right to terminate this Agreement and the SaaS Services upon ten (10) day notice and failure to cure your breach of any of the terms contained in this Agreement, including failure to make payment or any breach of Sections 2, 5 or 6. Upon termination of this Agreement, and except to the extent specified herein, (i) all fees due to COMMUNITYWFM for the current Access Term and any other amounts due COMMUNITYWFM shall be immediately paid, and (ii) all of Customer's rights to access and use any of the SaaS Services, On-Premise Components and SaaS Access Rights shall immediately terminate without right of refund. Upon termination of this Agreement for any reason other than your breach, you may request that COMMUNITYWFM conduct a mass export of the Customer Data. Upon termination of this Agreement and subject to Customer's compliance with Section 11 (i), Customer may request that COMMUNITYWFM export and provide to Customer available Customer Data. Subject to Customer ordering from COMMUNITYWFM Professional Services applicable to such work, COMMUNITYWFM agrees to provide such Professional Services at its then current rates, provided that in the event this Agreement is terminated for Customer's breach, COMMUNITYWFM shall have the right to require that Customer prepay for such Professional Services. Notwithstanding the foregoing, after thirty (30) days from termination, COMMUNITYWFM may delete and destroy all Customer Data without notice or liability to Customer. Provisions herein which by their context and content are intended to survive termination or expiration hereof shall so survive, including the Sections 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16.

12. **GOVERNING LAW; FORUM.** This Agreement is governed exclusively by the laws of the U.S. and the State of Delaware, without giving effect to its conflict of law rules. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply in any respect to this Agreement or the parties. The parties further agree that the place of contract and performance of this Agreement is Dallas, Texas.
13. **INJUNCTIVE RELIEF.** You acknowledge that remedies at law may be inadequate to provide COMMUNITYWFM with full compensation in the event of your material breach of this Agreement, and that COMMUNITYWFM shall therefore be entitled, without bond or other security obligation, to seek injunctive relief in the event of any such material breach.
14. **WAIVER / SEVERABILITY.** The failure of COMMUNITYWFM to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is for any reason held unenforceable or invalid, then this Agreement shall be construed as if such provision were not contained in this Agreement.
15. **ASSIGNMENT.** Except to the extent such rights cannot be restricted by applicable law, you cannot assign, sublicense, or transfer this Agreement without the prior written consent of COMMUNITYWFM, and any such attempt by you to sublicense, assign or transfer any rights, duties, or obligations hereunder is null and void, and subject to COMMUNITYWFM's right to immediately terminate this Agreement.
16. **ENTIRE AGREEMENT / MODIFICATIONS.** Except as otherwise specified in this Section, this Agreement, plus the terms on any Order signed in hardcopy form by both you and COMMUNITYWFM, comprises the entire agreement between you and COMMUNITYWFM, and supersedes any other agreement or discussion, oral or written, with respect to the subject matter of this Agreement, and may not be changed except by a written agreement signed in hardcopy form between the parties. Preprinted, additional or conflicting provisions on your purchase order or on either party's acknowledgement forms, whether presented before or after the terms of this Agreement, and including any integration clauses contained therein,

shall not apply unless agreed to by both parties in writing signed in hardcopy form. You agree that your use of the SaaS Services signifies your agreement to all terms and conditions of this Agreement. Notwithstanding any of the foregoing, in the event the parties to this Agreement have executed, in hardcopy form, a separate agreement covering the subject matter herein, that separate agreement shall continue to govern and control the parties with regard thereto, and shall supersede in all respects the terms of this Agreement. Any reference to a law or statute in this Agreement shall be deemed to include any amendment, replacement, re-enactment thereof for the time being in force and to include any by-laws, statutory instruments, rules, regulations, orders, notices, directions, consents, or permissions (together with an conditions attaching to any of the foregoing) made in respect thereof.

ASSEMBLED, INC. SERVICES AGREEMENT

Customers who subscribe to Assembled, Inc. offerings also agree to the Services Agreement available at <https://www.assembled.com/services-agreement> as passed from Assembled to Nextiva to Customer.

Last Updated: April 22, 2026

NovelVox End User License Agreement (EULA)

Customers who subscribe to NovelVox offerings also agree to the End User License Agreement available at <https://www.novelvox.com/end-user-license-agreements> as passed from NovelVox to Nextiva to Customer.

Last Updated: April 22, 2026

EMERGENCY 911 POLICY

REQUESTING EMERGENCY SERVICES. NEXTIVA TERMS OF SERVICE

Welcome to Nextiva UCaaS (VoIP) Service.

THESE TERMS AND CONDITIONS STATE IMPORTANT REQUIREMENTS REGARDING YOUR USE OF NEXTIVA UCaaS (VoIP) SERVICES. YOU SHOULD READ THESE TERMS AND CONDITIONS CAREFULLY AS THEY CONTAIN IMPORTANT INFO REGARDING YOUR RIGHTS AND OURS. PLEASE NOTE: NEXTIVA DOES NOT PROVIDE TRADITIONAL 911 SERVICES. YOU MUST MAINTAIN AN ALTERNATE MEANS OF REQUESTING EMERGENCY SERVICES. **OTHER NEXTIVA SERVICES,**

INCLUDING VFAX, CONTACT CENTER, AND DIGITAL CUSTOMER ENGAGEMENT SERVICES, DO NOT INCLUDE EMERGENCY/911 CALLING OR MESSAGING. YOU AGREE THAT YOU WILL OBTAIN ALTERNATE METHODS OF DIALING OR MESSAGING FOR EMERGENCY AND 911 SERVICES IF YOU SUBSCRIBE TO THOSE SERVICES.

1. 911 Service & Limitations

1. PLEASE READ THIS INFORMATION REGARDING 911 VERY CAREFULLY.

1. **911 BACKGROUND:** IN THE UNITED STATES, EMERGENCY SERVICE IS PROVIDED BY DIALING THE DIGITS "911." WITH BASIC 911 SERVICE, WHEN YOU DIAL 911, LOCAL EMERGENCY OPERATORS ANSWERING THE CALL WILL NOT HAVE YOUR CALL BACK NUMBER OR YOUR EXACT LOCATION, SO YOU MUST BE PREPARED TO GIVE THEM THIS INFORMATION. UNTIL YOU GIVE THE OPERATOR YOUR PHONE NUMBER, HE/SHE MAY NOT BE ABLE TO CALL YOU BACK OR DISPATCH HELP IF THE CALL IS NOT COMPLETED OR IS NOT FORWARDED, IS DROPPED OR DISCONNECTED, OR IF YOU ARE UNABLE TO SPEAK. WITH ENHANCED 911 (E911) SERVICE, WHEN YOU DIAL 911, YOUR TELEPHONE NUMBER AND REGISTERED ADDRESS IS SIMULTANEOUSLY SENT TO THE LOCAL EMERGENCY CENTER ASSIGNED TO YOUR LOCATION, AND EMERGENCY OPERATORS HAVE ACCESS TO THE INFORMATION THEY NEED TO SEND HELP AND CALL YOU BACK IF NECESSARY. CERTAIN CUSTOMERS DO NOT HAVE ACCESS TO EITHER BASIC 911 OR E911

BECAUSE THERE ARE NO LOCAL EMERGENCY CENTERS IN THEIR AREA OR THEY DID NOT REGISTER FOR AN E911 SERVICE ADDRESS. IF YOU DO NOT HAVE ACCESS TO BASIC 911 OR E911, YOUR 911 CALL WILL BE SENT TO THE NATIONAL EMERGENCY CALL CENTER. A TRAINED AGENT AT THE EMERGENCY CALL CENTER WILL ASK FOR THE NAME, TELEPHONE NUMBER AND LOCATION OF THE CUSTOMER CALLING 911, AND THEN CONTACT THE LOCAL EMERGENCY CENTER FOR SUCH CUSTOMER IN ORDER TO SEND HELP. EXAMPLES OF SITUATIONS WHERE 911 CALLS WILL BE SENT TO THE NATIONAL EMERGENCY CALL CENTER INCLUDE WHEN THERE IS A PROBLEM VALIDATING A CUSTOMER'S ADDRESS DURING 911 ADDRESS REGISTRATION, OR THE CUSTOMER IS LOCATED IN AN AREA THAT IS NOT COVERED BY THE LANDLINE 911 NETWORK.

EMERGENCY PERSONNEL DO NOT RECEIVE YOUR PHONE NUMBER OR PHYSICAL LOCATION WHEN YOUR 911 CALL IS ROUTED TO A NATIONAL EMERGENCY CALL CENTER. THEREFORE, YOU MUST BE PREPARED TO GIVE THE OPERATOR YOUR PHONE NUMBER AND LOCATION AND ANY OTHER INFORMATION THAT THE OPERATOR MIGHT REQUEST. BY SIGNING UP FOR NEXTIVA'S VOIP SERVICE YOU AUTHORIZE THE NATIONAL EMERGENCY CALL CENTER TO DISCLOSE YOUR NAME AND ADDRESS TO THE THIRD PARTY OR PARTIES INVOLVED WITH PROVIDING EMERGENCY SERVICES TO YOU, INCLUDING, WITHOUT LIMITATION, CALL ROUTERS, CALL CENTERS AND LOCAL EMERGENCY CENTERS.

2. NEXTIVA'S BASIC 911 OR E911 SERVICE IS DIFFERENT THAN TRADITIONAL 911 LAND LINE SERVICE. CONSEQUENTLY, YOU MUST BE AWARE OF THE FOLLOWING:

YOU MUST REGISTER YOUR LOCATION: FOR EACH PHONE LINE THAT YOU UTILIZE WITH NEXTIVA'S VOIP SERVICE, YOU WILL BE REQUIRED TO REGISTER THE PHYSICAL LOCATION ("REGISTERED LOCATION") OF YOUR EQUIPMENT (E.G., SIP PHONE, PHONE ADAPTER, ETC.) WITH NEXTIVA, EITHER ON NEXTIVA'S WEBSITE OR BY CALLING CUSTOMER SERVICE. YOU MUST REMEMBER TO UPDATE THE REGISTERED LOCATION WHENEVER THE PHYSICAL LOCATION CHANGES. NEXTIVA'S ONLY MECHANISM FOR ROUTING 911 CALLS TO THE CORRECT EMERGENCY CALL TAKER IS THE REGISTERED LOCATION FOR THE ACCOUNT. ANY ENHANCED LOCATION INFORMATION PASSED TO AN EMERGENCY OPERATOR BY NEXTIVA WILL BE BASED UPON THE REGISTERED LOCATION PROVIDED TO NEXTIVA BY YOU. FOR PURPOSES OF 911 DIALING, YOU MAY ONLY REGISTER ONE REGISTERED LOCATION AT A TIME FOR EACH PHONE LINE.

You acknowledge and understand that your failure to provide the current and correct physical address and location of your Equipment as the Service Address will result in any emergency calls you make being routed to the incorrect local emergency service provider. During the ordering process, you will provide Nextiva the physical address where you will use your Service. When you dial 911 with Nextiva, your call will be routed to the general telephone number for the Public Safety Answering Point (PSAP) or local emergency service personnel designated for the Service Address you have registered with Nextiva. You acknowledge and understand that you may not be routed to a dispatcher who is specifically trained and designated to receive incoming emergency response calls, and it is possible that the lines at the PSAP will be occupied and that you will get a busy signal.

1. YOUR E911 SERVICE WITH NEXTIVA WILL NOT BE AVAILABLE UNDER THE FOLLOWING CIRCUMSTANCES:

(1) **RELOCATION OF YOUR VOIP EQUIPMENT:** IF YOU

RELOCATE THE EQUIPMENT THAT YOU USE TO ACCESS NEXTIVA'S VOIP SERVICE, YOU MUST UPDATE YOUR REGISTERED LOCATION. IF YOU DO NOT UPDATE YOUR REGISTERED LOCATION, ANY 911 CALL YOU MAKE USING NEXTIVA'S VOIP SERVICE WILL BE ROUTED BASED ON YOUR PREVIOUSLY PROVIDED REGISTERED LOCATION AND THEREFORE MAY NOT BE ROUTED TO THE APPROPRIATE PUBLIC SAFETY ANSWERING POINT FOR YOUR CURRENT LOCATION. ONCE YOU NOTIFY NEXTIVA OF A CHANGE IN YOUR REGISTERED LOCATION, THERE MAY BE A DELAY IN MAKING THE NEW REGISTERED LOCATION AVAILABLE TO PROPERLY ROUTE 911 CALLS AND TO ADVISE EMERGENCY PERSONNEL OF YOUR REGISTERED LOCATION.

(2) RE-REGISTRATION REQUIRED IF YOU CHANGE YOUR NUMBER OR ADD OR PORT NEW NUMBERS: YOUR NEXTIVA VOIP 911 SERVICE WILL NOT FUNCTION IF YOU CHANGE YOUR PHONE NUMBER OR IF YOU ADD OR PORT NEW PHONE NUMBERS TO YOUR ACCOUNT, UNLESS AND UNTIL YOU SUCCESSFULLY REGISTER YOUR LOCATION OF USE FOR EACH CHANGED, NEWLY ADDED OR NEWLY PORTED PHONE NUMBER AND RECEIVE CONFIRMATION FROM NEXTIVA.

(3) INTERNET CONNECTION FAILURE: IF THERE IS AN INTERRUPTION OF YOUR BROADBAND OR HIGH-SPEED INTERNET ACCESS SERVICE, YOU WILL NOT HAVE ACCESS TO NEXTIVA'S VOIP SERVICE DURING THAT INTERRUPTION AND THEREFORE WILL NOT HAVE ACCESS TO 911 SERVICE DURING THAT INTERRUPTION. IN ADDITION, SINCE THE SERVICE IS DEPENDENT ON THE BROADBAND CONNECTION, THE AVAILABILITY OF AN ADEQUATE POWER SUPPLY AND CORRECT EQUIPMENT CONFIGURATION, NEXTIVA DOES

NOT GUARANTEE THAT THE SERVICE WILL BE CONTINUOUS OR ERROR-FREE. NEXTIVA WILL NOT OFFER CREDITS FOR SERVICE FAILURES DUE TO POWER OUTAGES OR DISRUPTIONS IN YOUR BROADBAND CONNECTION.

(4) EQUIPMENT FAILURE AND MISCONFIGURATION

NEXTIVA'S VOIP SERVICE WILL NOT FUNCTION IF THE EQUIPMENT ON YOUR PREMISES OR ANY EQUIPMENT INCLUDING SOFTWARE, NETWORK ETC. IN OUR LOCATIONS (OFFICES, DATA CENTERS) FAILS FOR ANY REASON INCLUDING BUT NOT LIMITED TO HARDWARE OR SOFTWARE FAILURES OR MISCONFIGURATION EITHER BY NEXTIVA, THE CUSTOMER AND/OR ANY OF OUR VENDORS.

NEXTIVA DOES NOT AND CANNOT GUARANTEE THAT THE SERVICE WILL BE CONTINUOUS OR ERROR-FREE. YOU ACKNOWLEDGE AND UNDERSTAND THAT A FAILURE OF EQUIPMENT CAN OCCUR AND IT IS YOUR SOLE RESPONSIBILITY TO RETAIN ALTERNATIVE MEANS OF COMMUNICATION.

(5) LOSS OF ELECTRICAL POWER: NEXTIVA'S VOIP SERVICE WILL NOT FUNCTION IN THE ABSENCE OF ELECTRICAL POWER AND YOU WILL NOT HAVE PHONE SERVICE OR 911 SERVICE DURING ANY POWER OUTAGE.

(6) NON-VOICE SYSTEMS: NEXTIVA'S VOIP SERVICES ARE NOT SET UP TO FUNCTION WITH OUTDIALING SYSTEMS INCLUDING HOME SECURITY SYSTEMS AND MEDICAL MONITORING EQUIPMENT. BY SIGNING UP FOR NEXTIVA'S VOIP SERVICE YOU WAIVE ALL CLAIMS AGAINST NEXTIVA FOR INTERRUPTION OR DISRUPTION OF SUCH SYSTEMS BY NEXTIVA'S VOIP SERVICE.

(7) CALLS OUTSIDE THE U.S.: IF YOU MOVE YOUR NEXTIVA VOIP SERVICE EQUIPMENT OUTSIDE OF THE UNITED

STATES, YOUR 911 SERVICE WILL NOT WORK. CHECK THE EMERGENCY CALLING PROCEDURES FOR THE COUNTRY WHERE YOU ARE LOCATED TO DETERMINE THE CORRECT EMERGENCY CALLING PROCEDURES.

(8) **TERMINATION OF SERVICE:** 911 SERVICE WILL NOT BE AVAILABLE IF YOUR SERVICE HAS BEEN CANCELLED OR TERMINATED BY YOU OR BY NEXTIVA. You acknowledge and understand that a service outage due to suspension of your account as a result of billing issues or any other reason, including, but not limited to those reasons described elsewhere in this Agreement, will prevent ALL Service, including the limited emergency response service.

(9) **FREE VERSION LIMITATIONS:** You acknowledge and understand that if you are utilizing a free version of Nextiva software that does not contain any voice usage features or functionalities, you will be unable to make any calls, including using the 911 service. If you are using a free version of Nextiva software that does include voice usage and you have exhausted the voice calling minutes included with your free version or your phone number has been removed from your account for non-use, you acknowledge and understand that you will also be unable to make any calls, including using the 911 service.

(10) **NETWORK CONGESTION AND/OR REDUCED SPEED FOR ROUTING EMERGENCY CALLS:** You acknowledge and understand that calls made using the limited emergency response service of Nextiva may be subject to network congestion and/or reduced routing speed and the call may fail.

(11) **OTHER LIMITATIONS:** THE LOCAL EMERGENCY SERVICE OPERATOR RECEIVING NEXTIVA VOIP SERVICE'S E911 EMERGENCY SERVICE CALLS MAY NOT HAVE A SYSTEM CONFIGURED FOR E911 SERVICES OR BE ABLE TO CAPTURE

AND/OR RETAIN AUTOMATIC NUMBER OR LOCATION INFORMATION. THIS MEANS THAT THE OPERATOR MAY NOT KNOW THE PHONE NUMBER OR PHYSICAL LOCATION OF THE PERSON WHO IS MAKING THE NEXTIVA VOIP SERVICE E911 CALL. DUE TO TECHNICAL FACTORS IN NETWORK DESIGN, AND IN THE EVENT OF NETWORK CONGESTION ON THE NEXTIVA NETWORK, THERE IS A POSSIBILITY THAT A NEXTIVA 911 CALL WILL PRODUCE A BUSY SIGNAL OR WILL EXPERIENCE UNEXPECTED ANSWERING WAIT TIMES AND/OR TAKE LONGER TO ANSWER THAN 911 CALLS PLACED VIA TRADITIONAL TELEPHONE NETWORKS. IN ADDITION, A LOCAL OR NATIONAL DISASTER AND SUBSEQUENT SPIKE IN THE NUMBER OF CALLS MAY RESULT IN LONG CONNECTION TIMES, BUSY SIGNALS OR FAILURES TO CONNECT.

2. **YOU MUST NOTIFY ALL USERS OF THESE LIMITATIONS:** YOU MUST INFORM ALL POTENTIAL USERS WHO MAY BE PRESENT AT THE PHYSICAL LOCATION WHERE YOU UTILIZE NEXTIVA'S VOIP SERVICE OF THE IMPORTANT DIFFERENCES IN AND LIMITATIONS OF NEXTIVA'S VOIP 911 DIALING AS COMPARED WITH BASIC 911 OR E911 PROVIDED BY TRADITIONAL LANDLINE TELEPHONE SERVICE.
3. **YOU MUST AFFIX THE PROVIDED WARNING LABELS TO YOUR VOIP EQUIPMENT:** NEXTIVA WILL PROVIDE YOU WITH WARNING LABELS REGARDING THE LIMITATIONS OR UNAVAILABILITY OF 911 EMERGENCY DIALING (THE "911 STICKER"). YOU MUST PLACE ONE OF THESE 911 STICKERS ON EACH TELEPHONE AND ON ANY OTHER DEVICE WHICH WILL BE USED WITH YOUR NEXTIVA VOIP SERVICE. IF YOU REQUIRE ADDITIONAL 911 STICKERS, PLEASE CONTACT NEXTIVA'S CUSTOMER SERVICE DEPARTMENT.

4. **ALTERNATIVE ARRANGEMENTS:** BY SIGNING UP FOR NEXTIVA'S VOIP SERVICE YOU UNDERSTAND THAT IF YOU ARE NOT COMFORTABLE WITH THE LIMITATIONS OF NEXTIVA'S 911 SERVICE, THAT YOU SHOULD ALWAYS HAVE AN ALTERNATIVE MEANS OF ACCESSING EMERGENCY SERVICE. IN ORDER TO ENSURE THAT YOU HAVE ACCESS TO EMERGENCY SERVICES, YOU ACKNOWLEDGE AND ACCEPT THAT IT IS YOUR SOLE RESPONSIBILITY TO PURCHASE, FROM A THIRD-PARTY SEPARATELY FROM NEXTIVA, TRADITIONAL WIRELESS OR LANDLINE TELEPHONE SERVICE AS A BACKUP MEANS OF COMPLETING EMERGENCY CALLS. IF THE SERVICE IS USED IN A HOME OFFICE ENVIRONMENT, IT IS NOT INTENDED TO BE USED FOR PERSONAL, RESIDENTIAL, NONBUSINESS OR NONPROFESSIONAL COMMERCIAL USE. A HOME OFFICE USER MUST PROVIDE ALTERNATIVE ARRANGEMENTS FOR RESIDENTIAL EMERGENCY CALLS.
3. YOU HEREBY ACKNOWLEDGE:
 - (1) NEXTIVA DOES NOT SUPPORT TRADITIONAL 911 AND E911 ACCESS TO EMERGENCY SERVICES. The limited emergency response service accessible by Nextiva differs in a number of important ways from traditional emergency response services as further explained below. You agree to inform any potential users and other third persons who may be present at the physical location where the Service is utilized (whether home or office) as to the important limitations on emergency response service.
 - (2) THE EMERGENCY RESPONSE SERVICE WILL NOT RECEIVE AUTOMATED NUMBER AND LOCATION IDENTIFICATION. You acknowledge and understand that when you call 911 using the Service, the local emergency personnel receiving your call will not be able to identify your phone number or the physical address from which you are

calling. You will need to state the nature of your emergency promptly and clearly, including your telephone number and location. You acknowledge and understand that the individual answering the call may not be able to call you back or find your location if the call is unable to be completed, is dropped or disconnected, or if you are unable to tell them your phone number and physical location and/or if the Service is not operational for any reason, including without limitation those reasons listed elsewhere in this Agreement.

(3) EMERGENCY CALLS FROM A LOCATION OTHER THAN YOUR SERVICE ADDRESS MAY NOT BE DIRECTED CORRECTLY TO A LOCAL EMERGENCY SERVICE PROVIDER. You acknowledge and understand that if you use your Equipment and the Service to call 911 from a location other than the Service Address that you have registered with Nextiva (e.g., if you move or use the Service while you are traveling), unless you have completed registration of such location as described in Section 6.e below, your call will not be routed to the correct local emergency service provider. The provider to whom any such 911 calls are routed will be unable to transfer the call to a local emergency service provider in the area from which you are calling.

4. **DISCLAIMER OF LIABILITY AND INDEMNIFICATION:** YOU ACKNOWLEDGE AND UNDERSTAND THAT NEXTIVA WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE AND/OR INABILITY TO DIAL 911 OR ANY OTHER EMERGENCY TELEPHONE NUMBER USING NEXTIVA OR TO ACCESS AN EMERGENCY SERVICE OPERATOR DUE TO THE 911 DIALING CHARACTERISTICS AND LIMITATIONS SET FORTH ABOVE. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS NEXTIVA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS WHO FURNISH SERVICES TO YOU IN CONNECTION WITH NEXTIVA'S VOIP SERVICE, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE

ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICE RELATING TO THE FAILURE OR OUTAGE OF THE SERVICE, INCLUDING THOSE RELATED TO 911 DIALING. IN ADDITION, NEXTIVA DOES NOT HAVE ANY CONTROL OVER WHETHER, OR THE MANNER IN WHICH, CALLS USING NEXTIVA'S 911 SERVICE ARE ANSWERED OR ADDRESSED BY ANY LOCAL EMERGENCY RESPONSE CENTER. NEXTIVA DISCLAIMS ALL RESPONSIBILITY FOR THE CONDUCT OF LOCAL EMERGENCY RESPONSE CENTERS AND THE NATIONAL EMERGENCY CALLING CENTER. NEXTIVA RELIES ON THIRD PARTIES TO ASSIST US IN ROUTING 911 SERVICE CALLS TO LOCAL EMERGENCY RESPONSE CENTERS AND TO A NATIONAL EMERGENCY CALLING CENTER. NEXTIVA DISCLAIMS ANY AND ALL LIABILITY OR RESPONSIBILITY IN THE EVENT SUCH THIRD PARTY DATA USED TO ROUTE CALLS IS INCORRECT OR YIELDS AN ERRONEOUS RESULT. NEITHER NEXTIVA NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH NEXTIVA'S VOIP SERVICE MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS, AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO THE NEXTIVA 911 SERVICE UNLESS SUCH CLAIMS OR CAUSES OF ACTION AROSE FROM NEXTIVA'S GROSS NEGLIGENCE, RECKLESSNESS OR WILLFUL MISCONDUCT. YOU SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS NEXTIVA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH NEXTIVA'S VOIP SERVICE, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY RELATING TO

THE ABSENCE, FAILURE OR OUTAGE OF THE SERVICE, INCLUDING 911 SERVICE, INCORRECTLY ROUTED 911 SERVICE CALLS, AND/OR THE INABILITY OF ANY USER OF THE SERVICE TO BE ABLE TO USE 911 SERVICE OR ACCESS EMERGENCY SERVICE PERSONNEL. THESE PROVISIONS SUPPLEMENT AND DO NOT LIMIT THE INDEMNIFICATION AND LIMITATION OF LIABILITY PROVISIONS CONTAINED IN NEXTIVA'S TERMS AND CONDITIONS.

5. BY USING NEXTIVA SERVICES YOU AFFIRM THAT YOU HAVE RECEIVED AND UNDERSTOOD THE ADVISORY ABOVE REGARDING THE LIMITATIONS OF NEXTIVA'S 911 SERVICE AND UNDERSTAND THE DISTINCTIONS BETWEEN SUCH SERVICE AND TRADITIONAL 911 OR E911 CALLS AND FURTHER ACKNOWLEDGE AND ACCEPT THAT NEXTIVA'S VOIP SERVICE MAY NOT SUPPORT OR PROVIDE EMERGENCY SERVICE AT ALL TIMES.

2. Last Updated: July 23, 2024

NEXTIVA ACCEPTABLE USE POLICY

1. Definitions:

1. **"Service"** – shall mean the products and services that are being provided to you as described in any Nextiva-accepted quote or order form, including, but not limited to, Nextiva's Unified Communication services (including voice and messaging services), Nextiva Contact Center services, Nextiva collaboration and customer experience services, and related services, features and functionalities, as well as any associated software, hardware or web-based platforms. "Service" shall also include any additional services provided to you as described in any addendum or amendment.

2. **"Device"** – shall mean a Nextiva-provided telephone, telephone adapter ("Adapter"), router, or other Nextiva-provided device used with the Services.
 3. **"Fax, SMS, or MMS Broadcasting"** – shall mean sending the same message by fax, SMS, or MMS to six (6) or more recipients at the same time or one after another.
2. **Excessive and Improper Usage.** Nextiva reserves the right to periodically review your usage levels of any Service, including, but not limited to, call volume, data usage, message volume, and API call volume to ensure that you are not using such Service in violation of this AUP and/or the other terms and conditions applicable to that Service. If such an abuse or violation is discovered, Nextiva may, in its sole discretion, suspend, terminate or adjust your service plan and/or assess reasonable usage charges, as appropriate.
1. You agree to use the Service in a manner consistent with the typical customer presently utilizing Nextiva services of the same or similar nature. You further agree that you will not employ methods, devices or procedures to take improper advantage of the Service, including, but not limited to the excessive use of unlimited plans, or otherwise use the Service for means not intended or permitted by Nextiva. Excessive use is defined by Nextiva as use that substantially exceeds the average volume, nature or duration of calls, data or messages generally used by other Nextiva customers using the same or similar services, or attempting to originate or terminate multiple concurrent phone calls, faxes, or messages through any single line of service. The following types of services are specifically prohibited and may not be accessed through Nextiva's Service: monitoring services, data transmissions, transmission of broadcasts and transmission of recorded material. Nextiva may suspend or terminate your Service or change your service plan if, in its sole discretion, Nextiva determines that your use of any Service violates this prohibition, is otherwise "unreasonable," or results in abuse of the Service.

2. **We consider your use of our Service to be "unreasonable" and therefore subject to immediate termination if you, among others:**
 1. re-sell, re-brand, re-supply, re-market or commercially exploit our Service, without our written consent;
 2. aggregate traffic from more than one customer over any line or trunk;
 3. set up routing functionality such that only outbound long-distance traffic is sent over the Service; or
 4. engage in any other conduct which is fraudulent, illegal, harassing or results in significant network congestion or degradation, or that may otherwise cause harm to Nextiva or to a third party.
3. **We consider your use of our Service to be "abusive" and subject to immediate termination or adjustment if you, among others, utilize:**
 1. Autodialing (except where expressly authorized by Nextiva in connection with certain Nextiva Contact Center services and when used in accordance with your agreement for those services), predictive-dialing, or robo-dialing;
 2. Continuous, repetitive or extensive call forwarding;
 3. Harassing, threatening or abusive calls, faxes or messages;
 4. Unsolicited calls, faxes or messages if such unsolicited activities could reasonably be expected to, or actually do in fact, provoke complaints;
 5. False information for you or any users of the Service;
 6. Continuous or extensive chat line or conference call participation;
 7. Free conference calling or similar services that participate in traffic simulation practices or schemes that result in excessive charges;
 8. Repetitive and/or continuous messaging or calling to the same destination number if such activity could reasonably be expected to, or in fact actually does, provoke complaints;
 9. Long duration calls (defined as calls to the same number in excess of four hours (continuous or cumulative) within a 24 hour period)

and/or calls placed to specific numbers/destinations for the purpose of generating charges or fees for or with a third party;

10. calls that do not consist of uninterrupted live human voice dialog by and between natural human beings;

11. Continuous call session connectivity;

12. Fax, SMS or MMS Blasting (except where expressly permitted by Nextiva and when used in accordance with your agreement for those services);

13. Telemarketing; Or,

14. Any other activity that would be inconsistent with reasonable business use patterns, causes network congestion or jeopardizes the integrity of Nextiva's network.

4. **SHORT DURATION CALLS:** Nextiva reserves the right to charge all short duration calls (calls under 10 seconds in length) a ten-cent (10¢) per call assessment if Nextiva determines, in its sole discretion, that you have an excessive volume of calls that consist of such short duration calls. You agree that calls, as defined herein for billing purposes, shall include all call traffic when accepted by Nextiva or its underlying carriers for termination whether such calls are terminated or not for any reason ("incomplete calls"). Nextiva will bill you for all calls completed to Nextiva's facility or equipment or that of Nextiva's underlying carriers regardless if the call is completed to the called party. Accordingly, you understand your obligations regarding incomplete calls and agree that Nextiva shall incur no liability as a result of or, in relation to, said incomplete call.
3. **Lawful purposes only.** You may not use our Service or your Device in any way that is illegal, improper or inappropriate. A non-exhaustive list of examples of illegal, improper or inappropriate uses of our Service and/or Devices includes:
1. Interfering with our ability to provide Service to you or other customers, or avoiding your obligation to pay for the Service within the time frame designated for payment.

2. Use of the Service to threaten, abuse, harass, defame, deceive, defraud, interfere or invade another's privacy or engage in any similar behavior.
 3. Use our Service or your Device for: auto-dialing (except as expressly permitted by Nextiva); continuous, repetitive or extensive call forwarding, telemarketing (including charitable or political solicitation or polling), fax or voicemail broadcasting or blasting.
 4. Use our Service or your Device to: impersonate another person; send bulk unsolicited messages; use robots, data mining techniques, or other automated Devices or programs to catalog, download, store, or otherwise reproduce or distribute information from our Service or use any automated means to manipulate our Service.
 5. Violate any law, rule, or regulation; violate any third party's intellectual property or personal rights; or exceed your permitted access to our Service.
 6. Use the Service for transmitting or receiving any communication or material of any kind which would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law or encourage conduct that would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law.
4. **Further Restrictions on Use of Services.** You agree that you will not, nor will you allow any third-party to:
1. Analyze, decompile, disassemble, decrypt or reverse engineer, or cause a third-party to analyze, decompile, disassemble, decrypt or reverse engineer any portion of the Service;
 2. Modify or make derivative works of or from any part of the Service;
 3. Derive or attempt to derive the source code for any portion of the Service;
 4. Access the Service for purposes of creating or modifying a competing service, software, or other offering;
 5. Use or access any portion of the Services that is not included in the Services that you purchased or after the termination of your Services;

6. Bypass, circumvent, defeat, disable, or exploit any security mechanisms or other limitations of any nature placed on your use of the Services; or,
7. Use the Services in a manner not expressly permitted.

5. Nextiva Contact Center Autodialer/Predictive Functionality.

1. Nextiva Contact Center Autodialer/Predictive Functionality (the “Autodialer Functionality”) may only be used in connection with service offerings that explicitly include this functionality. Except where expressly authorized by Nextiva in writing, you may not utilize any autodialer and/or predictive feature, functionality or service in connection with the Service.
2. You agree to use the Autodialer Functionality strictly in compliance with all applicable federal, state and local laws and regulations, as well as with all applicable “Do Not Call” registries. You further agree that you will obtain and maintain any and all required consents necessary to utilize the Autodialer Functionality, including but not limited to maintaining the consent of each recipient of such calls, where and as required.
3. Prior to utilizing the Autodialer Functionality and on a reasonable basis thereafter, you agree to consult with competent legal counsel in the jurisdiction in which you operate and any jurisdictions to which you place calls utilizing the Autodialer Functionality to confirm your use is in accordance with all applicable laws and regulations. You agree that you will implement and maintain any and all controls, processes, procedures, requirements and/or other recommendations made by such counsel at all times while using the Autodialer Functionality.
4. Upon request, you further agree to provide Nextiva, for its review, a copy of any and all scripts you utilize in connection with the Autodialer Functionality. Nextiva’s review of any such script(s) shall not be construed as approval of the contents thereof or your specific use case, or as a waiver to any rights that Nextiva has regarding your use (or misuse) of the Autodialer Functionality.
5. Nextiva reserves the right to suspend or terminate your Service if it reasonably believes that your use of the Autodialer Functionality violates

your agreement with Nextiva, this Acceptable Use Policy, compromises the security of Nextiva's services and/or network, or otherwise may, in Nextiva's sole discretion, cause or potentially cause harm to Nextiva or any third-party.

6. **SMS Campaign Registration.** In order to utilize Nextiva Services to send text messages, you are required to register and submit campaign information for all phone numbers used for texting in accordance with applicable laws, rules, regulations and policies. Failure to register will result in texting/SMS being disabled on your account.
 1. You agree to take proactive steps to monitor and prevent unwanted, harmful and prohibited message content, including, but not limited to content that:
 1. Is unlawful, harmful, abusive, malicious, misleading, harassing, violent, obscene/illicit, or defamatory
 2. Is deceptive (e.g., phishing messages intended to access private or confidential information), including deceptive links
 3. Invades privacy
 4. Promotes illegal activity
 5. Causes safety concerns
 6. Incites harm, discrimination, hate or violence
 7. Includes malware
 8. Threatens recipients or intended to intimidate
 2. You understand and agree that certain use cases (e.g. high-risk financial services, "get rich quick" schemes, debt forgiveness, job postings, controlled substances, and other disallowed uses) are ineligible for campaign registration and that you will not advertise any such services or engage in any such use cases in connection with SMS and/or MMS messaging utilizing the Service.
 3. Registering a campaign does not modify your obligations to comply with all laws and regulations applicable to your use of SMS and MMS. You agree that your use of SMS and MMS services will be, at all times, in

accordance with all applicable laws and regulations, including, but not limited, to any and all requirements to obtain consent of the recipient to the messaging and “opt-out” requirements.

7. **Right of Termination.** In addition to Nextiva’s right to terminate any service for non-payment, Nextiva reserves the right to terminate the Service immediately and without advance notice if Nextiva, in its sole discretion, believes that you have violated any of the above restrictions, leaving you responsible for the full charges to the end of the current term, including without limitation unbilled charges and early termination fees, plus a disconnect fee and any penalties, all of which immediately become due and payable.
8. **Monitoring.** We may monitor the use of our Service for violations of this agreement. We may, without liability, remove or block all communications if we suspect a violation of this agreement, or if we think it necessary in order to protect our services, or Nextiva, its parent, affiliates, directors, officers, agents, and employees from harm. We may further monitor the contents of your communications (including, but not limited to, SMS and MMS messages) for compliance with the terms of your agreement with Nextiva and applicable laws and regulations.
 1. **Providing information to authorities and third parties.** If we believe that you have used our Service or your Device for an unlawful purpose, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You consent to our forwarding of any such communications and information to these authorities. In addition, we may disclose your name, telephone number, credit card information, and other personal information, any communications sent or received by you, and any other information that we may have about your account, including but not limited to, types of service, length of service, MAC address(es), IP address(es), email address(es), registered 911 address, and all other account information, as follows: in response to law enforcement or other governmental agency requests; as required by law, regulation, rule,

subpoena, search warrant, or court order; as necessary to identify, contact, or bring legal action against someone who may be misusing the Service, the Device, or both; to protect Nextiva's rights and property; or in emergency situations where disclosure of such information is necessary to protect Nextiva customers or third parties from imminent harm.

2. Use of Service and device by Customers Outside the United States.

While Nextiva encourages use of the Service within the United States to other countries, Nextiva does not presently offer or support the Service to customers located in any countries other than the United States. Nextiva's services are only for use by persons or entities whose primary residence or business address is in the United States. Nextiva's services are designed to work generally with unencumbered high-speed internet connections. However, if the high-speed internet connection you are using is outside the United States and/or your ISP places restrictions on the usage of the Service, Nextiva does not represent or warrant that use of the Service by you is permitted by any other jurisdictions or by any or all the ISPs. If you remove the device to a country other than the United States or use the Service from there, you do so at its own risk, including the risk that such activity violates local laws in the country where you do so. You will be solely responsible for any violations of local laws and regulations or violations of ISP terms of service resulting from such use. Nextiva reserves the right to disconnect the Service immediately if Nextiva determines, in its sole and absolute discretion, that you have used the Service or the Device in violation of applicable laws, including without limitation laws of jurisdictions outside the United States. You are solely liable for any and all use of the Service and/or Device by any person making use of the Service or Device provided to you.

3. No Transfer of Service. You may not resell, assign, distribute, sublicense or otherwise transfer your Service or your Device or provide a telephone service to anyone else by using your Nextiva service or features of your Nextiva service without first obtaining our prior written consent.

4. **No Alterations or Tampering.** If you copy or alter or have someone else copy or alter the firmware or software of the Device in any way that facilitates a compromise of your service, you are responsible for any charges that result. You may not attempt to hack or otherwise disrupt our Service or make any use of our Service that is inconsistent with its intended purpose.
5. **Theft of Service.** You may not use or obtain our Service in any manner that avoids Nextiva policies and procedures, including an illegal or improper manner. You will notify us immediately in writing if your Device is stolen or if you believe that your Service is being stolen, fraudulently used, or otherwise being used in an unauthorized manner. When you notify us of one of these events, you must provide your account number and a detailed description of the circumstances of the theft, fraudulent use, or unauthorized use of Service. If you fail to notify us in writing in a timely manner, we may disconnect your service and levy additional charges on you. Until you notify us in writing, you will remain liable for all use of our Service using a Device stolen from you and any and all stolen, fraudulent or unauthorized use of the Service up through the date notice is received by Nextiva.

Last Updated: July 9, 2024

CANCELLATION POLICY

You may cancel your Nextiva Services at any time by providing Nextiva with a notice of your intent to cancel by sending an email to service@nextiva.com or calling our Customer Care Department at **1-800-983-4289**.

1. **Money Back Guarantee.** If you are unsatisfied with your Nextiva Services for any reason in the first 30 days after your initial sign up, under the condition that:

(a) you have not used over 50% of the allowed minutes of voice calling in your metered subscription plan or 500 minutes in an “unlimited” plan for UCaaS (VoIP) Services; (b) you have not used over 50% of your allowed pages in a metered subscription plan or 500 faxed pages in an “unlimited” plan; (c) you did not receive a free device; (d) you are not subject to a minimum commitment contract (such as a Nextiva Service Agreement); (e) you have not used any Digital Customer Engagement and/or Contact Center Services; and, (f) you are not otherwise in breach of the terms and conditions applicable to your Services, you may cancel and be eligible for a refund of equipment, activation and subscription fees. Shipping and handling charges are not refundable. Refunds for devices where an RMA was requested within the 30-day period will be made in full if the devices are in "returnable" condition and the device is returned within 7 days of the RMA date. Returnable condition requires the item to be in new condition, in the original packaging and all parts and documentation received. Return shipping is the customer responsibility.

Our money back guarantee does not apply to customers who received a free device, minimum commitment contracts, any charges for international usage, payphone calls to Nextiva toll free numbers, and directory assistance or fax page usage. Our money back guarantee also does not apply to any renewals or add-on lines or services added after your initial order. In addition, we may not be able to refund all of the taxes that you paid. Nextiva will use commercially reasonable efforts to refund promptly any charges (less any amounts that you owe to us) to your account following the return of your device. If your device is not returned within 14 days from the RMA date, Nextiva will refund you for all eligible charges except for the device charges. Once the device is returned, the device charges will be refunded less any applicable restock fee.

A charge for the retail price of any device will be made to the customer's account if the device is not returned within 14 days of the RMA date.

WE HAVE THE RIGHT TO REVOKE THE MONEY BACK GUARANTEE FOR ALL CUSTOMERS AT ANY TIME WITHOUT PRIOR NOTICE.

The 30-Day Money Back Guarantee does not apply if you are found to be in

violation of our terms of service or if you have taken advantage of the guarantee in the past.

2. **Termination After 30 Days (Month-to-Month Agreements).** Upon termination of service after the initial 30 days, the termination will be effective on the last day of the first billing period that is at least 30 days after notice of termination is given (not applicable to minimum commitment contracts). At any time, and for any reason, Nextiva may provide a refund, discount, or other consideration to a Nextiva customer ("Credit"). The amount and form of a Credit, and the decision to provide them, are at Nextiva's sole and absolute discretion. The provision of a Credit in one instance that does not entitle you to a Credit in the future for similar instances, nor does it obligate Nextiva to provide a Credit in the future, under any circumstances. Equipment is not returnable or refundable after the 30-Day Money Back Guarantee period. Non-usage of service does not constitute cancellation of service nor does it extend the 30-Day Money Back Guarantee period.
3. **Minimum Commitment Contracts.** In the event you signed up for a minimum term commitment contract, in addition to any disconnect fee, you will be responsible for all charges for the entirety of the then-current term and authorize Nextiva to bill these fees to your payment method (credit card). The 30-Day Money Back Guarantee does not apply to any executed minimum commitment contract.
4. **Porting.** You may be able to take, or "port," your current number to another service provider. Once your port is completed through your new service provider, you must email service@nextiva.com to cancel your Nextiva Service. Until you cancel service with Nextiva, you will remain a Nextiva customer, and you will continue to be responsible for all charges and fees associated with your Service. If you cancel your Service prior to completion of the port, your Service will not work and your number may not be available for porting. Your account must be active and in good standing in order to port out your number.

Last Updated: July 23, 2024

NEXTIVA SERVICE DELIVERY TERMS AND CONDITIONS

SIGNING UP FOR NEXTIVA'S SERVICE DELIVERY SERVICES CREATES A CONTRACT BETWEEN YOU AND US, CONSISTING OF THE ORDER, ORDER FORM OR QUOTE, THE APPLICABLE SERVICE DELIVERY DESCRIPTION, ANY APPLICABLE STATEMENT OF WORK, ANY RELATED TERM SERVICE AGREEMENT AND THIS AGREEMENT. ANY ONE OF THE FOLLOWING ACTIONS CONSTITUTES YOUR ACCEPTANCE AND AGREEMENT TO BE BOUND BY THESE TERMS AND CONDITIONS: (1) ACCEPTING THE TERMS AND CONDITIONS ELECTRONICALLY DURING THE ORDERING PROCESS AND/OR UPON LOGGING ON TO USE YOUR SERVICE, (2) YOUR SUBMISSION OF AN ORDER OR ACCEPTANCE OF A QUOTE CONTAINING SERVICE DELIVERY SERVICES, (3) YOUR EXECUTION OF A NEXTIVA SERVICE AGREEMENT OR ANY OTHER AGREEMENT INCORPORATING THESE TERMS AND CONDITIONS, AND/OR (4) YOUR REQUEST FOR OR RECEIPT OF SERVICE DELIVERY SERVICES. THROUGH THESE ACTIONS YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND ALL TERMS AND CONDITIONS INCORPORATED BY REFERENCE IN THIS AGREEMENT.

1. **INTRODUCTION.** These Nextiva Service Delivery Terms and Conditions, together with any operating rules, policies, price schedules, terms and conditions, Service Delivery Descriptions, Statements of Work, Orders, Order Forms, Quotes, Term Service Agreements, or other supplemental documents expressly incorporated herein by reference and published from time to time (collectively, the "Agreement"), constitutes the entire agreement between Nextiva, Inc., a Delaware corporation (hereinafter referred to as "we," "us" or "Nextiva") and the party set forth in the related Order, Order Form, or Quote (hereinafter referred to

as “you,” “user” or “Customer”), regarding Nextiva’s provision of Service Delivery Services (as defined in Section 2.7 of this Agreement), and supersedes all prior agreements, discussions and writings between the parties regarding the subject matter of this Agreement. For purposes of this Agreement, the term “Nextiva” includes our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors, attorneys and any other service provider that furnishes Service Delivery Services to you in connection with this agreement.

2. DEFINITIONS.

1. **"Custom Service Delivery Services"** means customized service delivery services, the scope of which is defined by a separate Statement of Work that outlines the specific tasks that Nextiva will undertake and the fees that you will pay for those services.
2. **"Documentation"** means user manuals and other documentation relating to the Service and/or Service Delivery Services, which are available to Customer by Nextiva accessible via the Internet or in the form of printed media.
3. **"On-Site Location"** shall mean a Customer location within the contiguous United States at which Nextiva will provide Service Delivery Services.
4. **"Order" or "Order Form" or "Quote"** means the Nextiva-approved form or online subscription process by which you agree to purchase Service Delivery Services. Most Orders are completed through our online quoting process or through the acceptance of a Quote.
5. **"Service"** means the products and services that are being provided to you as described in any Order, Order Form, or Quote and made available online by us, including, but not limited to, the Nextiva platform, communication services, collaboration services, analytics, customer relations management system, contact center services, and any associated services, software, hardware or web-based platform, as described in the Documentation. “Service” excludes Content and third-party applications.

6. **"Service Delivery Description"** means the description of specific service delivery services, as set forth on Nextiva's website (www.nextiva.com) (the "Website"), that you engage Nextiva to provide to you through either an Order, Order Form, or Quote. Service Delivery Services that are outlined in a Service Delivery Description may also be referred to herein as "Standard Service Delivery Services."
 7. **"Service Delivery Services"** means Standard Service Delivery Services and/or Custom Service Delivery Services related to the Service.
 8. **"Software"** means any proprietary software owned by, licensed by, or which Nextiva has a right to sublicense under this Agreement, which software is either provided to Customer by Nextiva or is used in or used to provide the Service.
 9. **"Statement of Work"** means documentation describing the specific customized scope of service delivery services that Nextiva will provide with you as well as the fees therefor, which fees may be detailed in an Order, Order Form, or Quote that is incorporated into the Statement of Work. A Statement of Work includes a change order to another Statement of Work.
3. **REVISIONS TO TERMS AND PRICING.** From time to time, we may revise the terms and conditions of this Agreement (including, without limitation, any of the policies incorporated by reference). Notice of revisions to the Agreement shall be posted on the Nextiva Website ("the Website") and deemed given and effective on the date posted to the Website. Pricing is also subject to change at any time, including the hourly rate charged by Nextiva for additional Service Delivery Services (except that any fixed fees for one-time Service Delivery Services already agreed to between you and Nextiva shall not be subject to change), with or without notice. By continuing to engage Nextiva for the Service Delivery Services after revision(s) and/or pricing changes are in effect, you hereby accept and agree to all such revisions and/or pricing changes.
4. **ELIGIBILITY.**
1. In order to receive Service Delivery Services, you must:

1. Have adequate licenses and/or rights to use the Service(s) associated with the Service Delivery Services and be in compliance with all legal and contractual obligations related thereto;
 2. Be at least eighteen (18) years old and able to enter into contracts;
 3. Complete the registration process;
 4. Agree to these terms and conditions; and
 5. Provide true, complete, and up to date contact information.
2. By engaging Nextiva to provide the Service Delivery Services, including by accepting an Order, Order Form or Quote or by signing a term service agreement, you represent and warrant that you meet all the requirements listed above.
5. **USE OF SERVICE.** Use of any Service is subject to the terms and conditions associated with each such Service.
 6. **SERVICE DELIVERY SERVICES FEES.** Service Delivery Services may be purchased by placing an Order with us, agreeing to an Order Form, accepting a Quote, or executing a Statement of Work. All Service Delivery Services will be subject to the terms of this Agreement.
 1. If you purchase Standard Service Delivery Services, Nextiva agrees to deliver to you the Service Delivery Services described in the Service Delivery Description, subject to your payment of all applicable fees.
 1. Nextiva reserves the right to change or modify the Service Delivery Description, including its pricing at any time and from time to time in its sole discretion, and to determine whether and when any such changes apply to both existing or future customers. Except for changes in hourly pricing for additional Service Delivery Services not yet performed, any change to the Service Delivery Description shall not, however, modify the scope of the Service Delivery Services or pricing of any Standard Service Delivery Services for which you have already accepted an Order, Order Form, or Quote.
 2. Nextiva may offer additional Standard Service Delivery Services for specific integrations or that otherwise expand base Service Delivery

Descriptions at an additional fee via an Order, Order Form, or Quote. The scope of any such integration shall be outlined on the Website and incorporated, where accepted, into this Agreement.

2. If you purchase Custom Service Delivery Services, Nextiva agrees to deliver to you the Service Delivery Services described in the separate Statement of Work between you and Nextiva, subject to your payment of all applicable fees.
 3. Fees for these Service Delivery Services are in addition to any fee charged for the Service. Any and all Service Delivery Services fees will be due when invoiced unless otherwise agreed in writing by Nextiva. Service Delivery Service fees shall not be subject to any promotions, including discounted or complimentary months of service.
 4. If any fee for Service Delivery Services is payable by you in monthly installments over the term of a term service agreement or otherwise, your obligation to pay that fee is absolute and not subject to set off. Further, if your Service is terminated prior to the end of the initial term or minimum commitment period, you shall be obligated to immediately pay the balance due for the remaining installments of the Service Delivery Services fees.
 5. Service Delivery Services are non-cancellable and all fees for Service Delivery Services are non-refundable.
- 7. TIMING AND EXPIRATION OF SERVICE DELIVERY SERVICES.**
1. If there are a specific number of hours included with the Service Delivery Services, those hours will expire as indicated in the applicable Service Delivery Description or Statement of Work, which expiration period will commence upon purchase (the "Expiration Period"). You agree that, if additional service hours above and beyond the hours included with the Service Delivery Services are performed, you will pay to Nextiva, immediately upon invoice, the then-current hourly overage rate for each hour, or fraction of an hour, of service provided to you by Nextiva in excess of the included, unexpired hours. You agree that Nextiva may charge your payment method for any excess hours. You further agree that

the prevailing hourly overage rate is subject to change, with or without notice.

2. If there are deliverables that Nextiva agrees to perform included in the Service Delivery Services, it is estimated that those deliverables will be completed within the time period indicated as the delivery period in a Statement of Work or as agreed upon in the initial kickoff meeting (the "Delivery Period"). If the Service Delivery Services provided are not complete at the end of the Delivery Period due to your failure to make the necessary resources available to us or to perform your obligations, such Service Delivery Services will be deemed to be complete at the end of the Delivery Period, unless otherwise agreed in writing by Nextiva. If the Service Delivery Services provided are not complete at the end of the Delivery Period due to our failure to make the necessary resources available to you or to perform our obligations, the Delivery Period will be extended to allow us to complete such Service Delivery Services.
3. Customer understands that Nextiva allocates, assigns and schedules resources to perform the Service Delivery Services based upon the schedule agreed to with the Customer. Except to the extent caused solely by Nextiva's actions or omissions, once scheduled, Customer shall be responsible for payment of an additional fee, as determined by Nextiva in its sole discretion, for any meeting, training, conference, or other scheduled event that is canceled or rescheduled, including, but not limited, to any such event canceled or rescheduled as a result of (1) Customer's request for cancellation or rescheduling of said event; (2) Customer's failure to adequately prepare for said event, including, but not limited to, through a failure to timely and accurately complete any Customer actions required in advance of said event; and/or (3), that Customer and its necessary assigned Customer resources fails to timely attend.
4. Unless otherwise agreed by Nextiva in writing, the Service Delivery Services shall be deemed complete fifteen (15) days after the substantial completion of the Customer's build or other associated deliverable, as

determined by Nextiva in its sole discretion. Any further Service Delivery Services after completion of the Service Delivery Services shall require a separate Order, Order Form, Quote, or Statement of Work.

8. LOCATION AND DELIVERY OF SERVICE DELIVERY SERVICES.

1. Remote Services. Unless otherwise (a) contained in the Service Delivery Description or Statement of Work; (b) contained explicitly in an Order, Order Form or Quote; or (c) agreed in writing by Nextiva, all Service Delivery Services will be delivered to you remotely and will include telephonic and remote access consulting services and coordination for the Service Delivery Services. Nextiva shall determine, in its sole discretion, the manner and means by which the Service Delivery Services shall be performed. Nextiva shall determine: (a) the appropriate location, place, and time of such performance; (b) the equipment and tools that shall be used in connection with such performance; and (c) the personnel and staffing (including without limitation employees or third-party subcontractors) that shall be used for such performance.
2. On-Site Service Delivery Services. Nextiva will provide on-site Service Delivery Services to the initially contracted number of On-Site Locations identified in your Statement of Work, Order, Order Form, and/or Quote. Each On-Site Location shall include Service Delivery Services for up to thirty (30) devices, with not more than one device assigned per user, not to exceed one (1) day, during Nextiva's regular business hours of up to six (6) hours, of on-site services per location. Additional users at a specified On-Site Location, extended on-site time at a location, and/or additional On-Site Locations may be available to Customer for an additional fee and requires your agreement to a new or amended Statement of Work, Order, Order Form, Quote, or Change Order.
3. User and Location Quantities; Additions. Nextiva will provide Service Delivery Services for the number of users and locations included in your Statement of Work, Order, Order Form, and/or Quote. Any addition of users and/or locations beyond the initially contracted amount will result in

an additional fee, irrespective of whether or not the addition of users and/or locations will result in the total user and/or location quantity exceeding any cap for the applicable Service Delivery Services. You agree that if Service Delivery Services are performed for additional users and/or locations above and beyond the initially contracted quantity, you will pay to Nextiva, immediately upon invoice, the then-current per user and/or per location fee for any and all users and/or locations in excess of the initially contracted quantity, even if the total quantity of users and/or locations is below the maximum cap included with the applicable Service Delivery Services. You agree that Nextiva may charge your payment method for any excess users and/or locations.

4. Change Orders. In the event Customer requests a change in any of the specifications, requirements, or scope of the Service Delivery Services, the Customer must notify Nextiva by written notice proposing the applicable changes. Within five (5) business days, both parties shall meet to discuss the proposed changes (“Change Request Meeting”). If the proposed changes require, in Nextiva’s sole discretion, revision to the Agreement and/or payment of any additional fees, Nextiva will provide a written change order or an Order, Order Form, or Quote for the additional scope of Service Delivery Services (each a “Change Order”) for Customer's approval. Nextiva shall not commence any additional work unless and until the Customer approves the Change Order and paid any and all fees related thereto.
 5. Third-Party Providers. We might provide some or all elements of the Service Delivery Services through third-party service providers and contractors/sub-contractors, in our sole discretion.
 6. Changes in Staffing. We reserve the right to change the staffing of the assigned project team in our sole discretion.
9. **THIRD-PARTY PRODUCTS AND SERVICES.** The Service Delivery Services do not include warranty, repair, technical or troubleshooting service or any other service for third-party products, software or services. Where applicable, Nextiva

may act as a facilitator between you and a third-party vendor to obtain third-party support service or support that you may be entitled to receive pursuant to your agreements with those vendors. You are solely responsible for any costs associated with third-party services that you obtain, and you agree to indemnify and hold Nextiva harmless for any claims related to those third-party products, software or services.

10. **SUPPORTED SOFTWARE.** Nextiva may, in its sole discretion, require you to maintain Software at Nextiva-specified minimum release level or configurations. You further understand and agree that you must install software patches, updates or subsequent releases as directed by Nextiva to keep your systems eligible for the Service Delivery Services.
11. **EXCLUSIONS.** The Service Delivery Services do not cover or include any services not explicitly listed in the Service Delivery Description, Statement of Work, Order, Order Form, or Quote. If not already specified in a Statement of Work, the specific scope of Service Delivery Services will be outlined during a kickoff meeting. Further, Nextiva shall in no event be required to do any of the following: (a) anything that could, in Nextiva's reasonable discretion, endanger its personnel, agents, or others; (b) perform the Service Delivery Services outside the United States or in any language other than English; (c) configure end-point IP devices that Nextiva has not expressly certified as compatible with the Service; (d) move any furniture, equipment, or other material heavier than forty (40) pounds; (e) transport Customer equipment or other materials (including telephones) to, from, or between areas or sites; (f) perform the Service Delivery Services outside of regular business hours (Monday through Friday 8 am to 5 pm local time, excluding holidays), unless otherwise agreed to in writing by Nextiva; (g) make changes to Customer's network; or (h) implement anything other than the Service Delivery Services agreed to by Nextiva. Customer acknowledges and agrees that in the event that Nextiva elects, in its sole discretion, to implement and/or provision uncertified devices, such provisioning may be unsuccessful, cause delays, and/or require changes to the implementation timeline.

12. **CUSTOMER RESPONSIBILITIES.**

1. You agree to follow the instructions Nextiva provides and where applicable, before you ask Nextiva to provide the Service Delivery Services you agree to follow the problem determination, problem analysis, and service request procedures that Nextiva provides.
2. You agree to cooperate with Nextiva to see to it that the Service Delivery Services are successfully completed.
3. You agree to allow Nextiva reasonable access to your computers, servers, or other data that Nextiva deems, in its sole discretion, necessary to perform the Service, and you represent and warrant to Nextiva that you have obtained permission for both you and for Nextiva to access and use such computers, servers and data. If you have not already obtained such permission, you agree that you will obtain it, at your expense, before you ask Nextiva to perform the Service Delivery Services.
4. You agree to make available, in a timely manner, all technical data, facilities, programs, files, documentation, test data, sample output, or other information and resources reasonably required by Nextiva and to provide services and access to equipment and all supporting infrastructure, including network connectivity and power supply requirements that Nextiva may reasonably require for the performance of the Service Delivery Services.
5. In order to receive the Service Delivery Services, you must fulfill all customer responsibilities detailed in this Agreement, the Service Delivery Description, and the Statement of Work. Please read and understand all of your obligations. If you fail to fulfill each of the customer responsibilities, Nextiva will not be obligated to perform the Service Delivery Services, or there may be an additional charge for the Service Delivery Services.
6. You understand and agree that Nextiva is not responsible for any lost or corrupted software or data. Nextiva strongly recommends that you maintain a complete data backup and disaster recovery plan.

7. Cooperation. You will cooperate reasonably and in good faith with Nextiva in Nextiva's performance of the Service Delivery Services by, without limitation:
 1. Allocating sufficient resources and timely performing any tasks reasonably necessary to enable Nextiva to perform the Service Delivery Service;
 2. Timely delivering any materials and other obligations required under this Agreement;
 3. Timely responding to Nextiva's inquiries related to the Service Delivery Services;
 4. Assigning an internal project manager or equivalent to serve as a primary point of contact for Nextiva. This person shall have the technical background sufficient to effectively perform requirements for data gathering and design and to reasonably assist with Nextiva's performance of the Service Delivery Services, including, but not limited to, the generation of the scope of the Service Delivery Services and the implementation timeline;
 5. Actively participating in scheduled project meetings;
 6. Providing, in a timely manner and at no charge to Nextiva, office workspace, telephone and other facilities, suitably configured computer equipment with Internet access, access to Customer's appropriate and knowledgeable employees and agents, and continuous administrative access to Customer's Online Service account, and coordination of onsite, online and telephonic meetings all as reasonably required by Nextiva; and
 7. Complete, accurate and timely information, data and feedback all as reasonably required.
 8. In the event that Nextiva has made a request and you have not responded in a reasonable, timely manner with the requested information, Nextiva may issue a "Final 10-Day Project Notice" ("Final Notice") to you. If you do not respond as requested to the

Final Notice, you agree that Nextiva shall be relieved of any further obligations to perform the Service Delivery Services, including any incomplete Service Delivery Services. In addition, all fees associated with the Service Delivery Services shall be considered earned in full as of the expiration of the ten (10) day period set forth in the Final Notice. Any and all Service Delivery Services requested by you after the expiration of this ten (10) day period will require you and Nextiva to enter into a new Order, Order Form, Quote or Statement of Work, and you shall be responsible for any additional fees contemplated thereunder, even if listed in the original Order, Order Form, Quote or Statement of Work.

8. You are responsible for validating the implementation and data related to the Service Delivery Services.
9. You are responsible for submitting all documentation, information and data necessary to complete porting of your telephone numbers. Due to dependencies outside of Nextiva's direct control, porting is not considered a criteria of success to determine the completeness of the Service Delivery Services. Where and as applicable, You are also responsible for setting up any call forwarding services to your Nextiva account.
10. You agree to comply fully with all relevant export laws and regulations of the United States, including but not limited to the U.S. Export Administration Regulations, administered by the Department of Commerce, Bureau of Industry and Security. You also expressly agree that you shall not export, directly or indirectly, re-export, divert, or transfer any portion of the Service, including, without limitation, to any destination, company, or person restricted or prohibited by U.S. export controls.
11. If Customer requires the Nextiva staff providing the Service Delivery Services to undergo specified training or education prior to or during the course of the provision of the Service Delivery Services, Customer shall pay any and all costs associated with said training and/or education,

including, but not limited to, any program fees, materials, and travel expenses.

12. You acknowledge that Nextiva may develop for itself, or for others, content similar to the materials and processes developed in performing the Service Delivery Services, and nothing contained herein precludes Nextiva from developing or disclosing such materials and information, provided that the same does not contain or reflect Customer confidential information. You further acknowledge and agree that the Service Delivery Services are for your use with the Services only. In no event shall you allow third parties to access or use the Documentation or other materials provided to you by Nextiva.
13. All Service Delivery Services shall be performed remotely, unless agreed in writing by Nextiva. If the Service Delivery Services will be performed on-site at a location designated by you, such onsite visits must include budgeted travel and expenses, unless otherwise approved in advance by Nextiva. Any Service Delivery Services fees for onsite Service Delivery Services, including any such fees in a Quote, Order, Order Form and/or Statement of Work, are exclusive of travel and expense fees associated with said Service Delivery Services. Travel and expense fees will be separately invoiced to Customer upon completion of the associated on-site services. The following responsibilities apply to Customers who are receiving Services on-site:
 1. Safe Work Environment. Customer shall maintain and ensure a safe working condition on all sites visited by Nextiva personnel in connection with this Agreement and shall promptly inform Nextiva of any hazardous conditions at any such site prior to any visit by Nextiva personnel.
 2. Customer Pre-Service Delivery Internal Check. Customer is not required to perform any equipment, resources, or system or network configuration change that Nextiva recommends; however, Customer acknowledges and agrees that failure to do so could

prevent or impede Nextiva's performance of the Service Delivery Services or result in performance issues. Any delay or additional Service Delivery Services arising from or otherwise related to Customer's failure to perform and/or implement any changes as outlined in this Agreement may result in the assessment of additional fees in Nextiva's sole discretion.

3. Customer Site Information. At least thirty (30) days prior to a site visit or as otherwise agreed in the Statement of Work, Customer's project manager shall provide to Nextiva's project manager the following information for the site to be visited: (a) In Microsoft Excel format, the first and last name, extension number, and email address of each User for which the services described in the Statement of Work are to be implemented at the site and any other information required to configure the services; (b) written or illustrated diagrams of dial plans and data and call flows; (c) information related to configurations, equipment, and deployment requirements for the site, as requested by Nextiva; and (d) the name and contact information for both a primary and backup contact for the site.
4. Customer Network. Customer acknowledges and agrees that the Service Delivery Services require a high-performance network and broadband Internet connection for optimum performance, and that anything less may result in undesirable performance of the Service and/or Service Delivery Services. Customer shall, prior to each site visit, perform network readiness testing at the site and shall ensure that the network and broadband Internet services and connection for that site are configured and ready for transporting toll-quality voice.
5. Customer Site Responsibilities. Customer shall be responsible for providing Nextiva with access to Customer's system administrators

and other personnel relevant to the implementation of the Service Delivery Services during each site visit.

13. TAXES AND FEES.

1. **Taxes.** Customer is responsible for, and shall pay, any and all applicable federal, state, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility and other taxes, fees and charges now in force or enacted in the future, that arise from or as a result of the Service Delivery Services. Such amounts are in addition to payment for the Service Delivery Services and will be billed to you. If Customer is exempt from payment of such taxes, you will provide Nextiva with an original government-issued certificate attesting to tax-exempt status. Tax exemption will only apply from and after the date Nextiva receives such certificate.
2. **Returned Check Fee.** Nextiva may charge up to the maximum amount permitted by law if your banking institution dishonors or reverses a check, draft, or other payment.

14. BILLING AND PAYMENT.

1. **Prices and Fees.** Nextiva fees and charges for the Service Delivery Services are supplied to you during the ordering process unless otherwise provided for in this Agreement. You agree to pay all applicable one-time and recurring charges. You further agree that any taxes and other charges will be charged to your credit card. Recurring charges will be billed and automatically charged to your credit card immediately upon your engagement of Nextiva for Service Delivery Services.
2. **Billing.** We will charge you in advance for the Service Delivery Services that you order, including for any Change Orders and estimated hourly overage fees. Unless otherwise agreed by Nextiva, fees for Service Delivery Services (including any associated taxes, fees and surcharges) must be paid in full prior to your receipt of said services.

When you engage us to provide Service Delivery Services, you must give

us a valid email address and a payment method (credit card) that we accept.

YOU AGREE THAT WE MAY CHARGE YOUR CREDIT CARD (IF APPLICABLE) FOR ALL AMOUNTS DUE TO US WITHOUT ADDITIONAL NOTICE OR CONSENT. If you are paying with a credit card, you agree to provide a credit card and not a debit card. If your card is a combination credit card/debit card, you authorize us to use it as a credit card. If your issuing bank automatically provides us with an updated credit card, you agree that we may charge this new credit card for all amounts due to us without additional notice or consent. You also agree to indemnify us for any claims, damages or expenses resulting from providing a debit card instead of a credit card (if applicable). If your credit card is declined, is invalid or payment is not made by the issuer of your credit card at the time that a charge is attempted, you will not be able to receive Service Delivery Services until your account is paid in full.

We reserve the right to stop accepting your payment method or your payments. You must advise us at once if your payment method expires, you close your account, your billing address changes, your email address changes, or your payment method is cancelled and replaced on account of loss or theft. Bills will be posted to the customer portal and emailed to the email address on record. Any payment not made when due may be subject to a late payment fee equivalent to the lesser of (i) one and a half percent (1.5%) per month; or (ii) the highest rate allowed by law. Nextiva's acceptance of late or partial payments (regardless of how they are marked or designated (including without limitation as 'Paid in Full', 'Accord and Satisfaction', or similarly)) will not waive, limit, or prejudice in any way Nextiva's rights to collect any amount due. Nextiva may terminate the Services and this Agreement and may discontinue providing Service

Delivery Services for non-payment if any fees or charges are not paid by the due date.

3. **Payment.** You authorize us to collect any and all fees related to the Service Delivery Services that you order from your payment method. This authorization will remain valid until thirty (30) days after you terminate our authority to charge your payment method.
4. **Discontinuation of Service Delivery Services for Nonpayment.** The Service Delivery Services provided to you may be denied or discontinued without notice at any time in the event you fail to make a payment, your credit card provider denies or discontinues providing credit to you for any reason, or you fail to provide us with a new credit card expiration date before the existing one expires. If your payment method fails for any reason during the ordering process, or any regular or monthly billing process, you will have 24 hours to provide Nextiva your payment method including credit card information, if applicable. If the payment method issue is not resolved within 48 hours, Nextiva will cease providing Service Delivery Services. In the event Nextiva utilizes a collection agency or resorts to legal action to recover monies due, you agree to reimburse us for all expenses incurred to recover such monies, including attorneys' fees.
5. **Collection.** If we discontinue the Service Delivery Services as a result of your actions and/or omissions, including any breach of this Agreement or any breach related to your Service, you will remain liable to us for all charges under this agreement and all the costs we incur to collect these charges, including, without limitation, collection costs and attorney's fees. You also agree to pay any additional charges or fees applied to your billing account related to the collection of any unpaid amounts, including but not limited to, interest and charges due to insufficient credit.
6. **Notices.** You understand that it is difficult for us to distinguish between credit and debit cards. You agree to waive your rights under Regulation E to receive ten (10) days advance notice from us regarding the amount that

we will debit from your account. While we may send you messages about your billing from time to time, we are not obligated to do so. We may change or cease our messages at any time without notice to you.

7. **Billing Disputes.** You must notify Nextiva in writing within seven (7) days after receiving your credit card statement or from the time funds are debited from your bank account if you dispute any Nextiva charges on that statement or that have been debited from your account, or such dispute will be deemed waived. Notification of all billing disputes shall be sent to the following address: billing@Nextiva.com. Nextiva will charge a late fee as described in in this Agreement for a disputed amount if (1) it was not paid by the due date and (2) Nextiva determines that you disputed the charge in bad faith.
8. **Incidental Expenses.** You agree to reimburse Nextiva for reasonable travel, administrative, and out-of-pocket expenses incurred in connection with the Service Delivery Services, including without limitation reasonable travel, lodging, meals and telephone expenses (the “Incidental Expenses”). You agree that Nextiva may charge your payment method for the Incidental Expenses. Nextiva reserves the right to separately invoice you for these expenses, which invoice (if not charged to your payment method) will be due upon receipt.

15. **WARRANTIES.**

1. EXCEPT AS SET FORTH HEREIN, NEXTIVA MAKES NO EXPRESS OR IMPLIED WARRANTY REGARDING THE SERVICE OR THE SERVICE DELIVERY SERVICES AND DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NEXTIVA DOES NOT WARRANT THAT THE SERVICE WILL FUNCTION WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEXTIVA DOES NOT AUTHORIZE ANYONE, INCLUDING BUT NOT LIMITED TO ITS EMPLOYEES, AGENTS OR REPRESENTATIVES, TO MAKE A

WARRANTY OF ANY KIND ON ITS BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT. CUSTOMER AGREES THAT IT ACCEPTS THE SERVICE "AS IS" AND THAT CUSTOMER IS NOT ENTITLED TO REPLACEMENT OR REFUND IN THE EVENT OF ANY DEFECT. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED TO THE FULLEST EXTENT OF THE LAW, BUT IF ANY PORTION OF THIS SECTION IS DETERMINED TO BE UNLAWFUL, THEN THIS SECTION SHALL BE CONSTRUED TO LIMIT LIABILITY AGAINST NEXTIVA TO THE FULLEST EXTENT POSSIBLE UNDER THE LAW.

2. NEXTIVA WARRANTS THAT THE SERVICE DELIVERY SERVICES WILL BE PERFORMED IN A PROFESSIONAL AND WORKMANLIKE MANNER IN ACCORDANCE WITH GENERALLY ACCEPTED INDUSTRY STANDARDS. FOR ANY BREACH OF THIS WARRANTY, CUSTOMER'S EXCLUSIVE REMEDY AND NEXTIVA'S ENTIRE LIABILITY WILL BE THE RE-PERFORMANCE OF THE APPLICABLE SERVICE DELIVERY SERVICES. IF NEXTIVA IS UNABLE TO RE-PERFORM THE SERVICE DELIVERY SERVICES AS WARRANTED, CUSTOMER WILL BE ENTITLED TO RECOVER THE FEES PAID TO NEXTIVA FOR THE DEFICIENT SERVICE DELIVERY SERVICES. CUSTOMER MUST MAKE ANY CLAIM UNDER THE FOREGOING WARRANTY TO NEXTIVA IN WRITING WITHIN NINETY (90) DAYS OF PERFORMANCE OF SUCH SERVICE DELIVERY SERVICES IN ORDER TO RECEIVE WARRANTY REMEDIES. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES RELATED TO THE PURCHASED Service Delivery SERVICES AND NEITHER PARTY MAKES ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES RELATED TO THE Service Delivery SERVICES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A

PARTICULAR PURPOSE, OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

16. LIABILITY.

- 1. LIMITATION OF LIABILITY.** IN NO EVENT SHALL NEXTIVA BE LIABLE TO YOU, YOUR REPRESENTATIVES OR AUTHORIZED ASSIGNS OR ANYONE ELSE FOR ANY INCIDENTAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR FOR ANY DAMAGES FOR LOSS OF DATA, LOSS OF REVENUE OR PROFITS, RELATING TO OR ARISING OUT OF THE SERVICE OR THE Service Delivery SERVICES, THE USE OF OR INABILITY TO USE THE SERVICE, THE ABSENCE, DELAY, FAILURE OR OUTAGE OF THE SERVICE, AND/OR THIS AGREEMENT. NOR SHALL NEXTIVA BE LIABLE FOR ANY DELAY OR FAILURE TO PROVIDE THE SERVICE OR THE Service Delivery SERVICES, AT ANY TIME OR FROM TIME TO TIME, OR FOR ANY INTERRUPTION OR DEGRADATION OF VOICE QUALITY CAUSED BY ANY REASON INCLUDING BUT NOT LIMITED TO THE FOLLOWING: AN ACT OR OMISSION OF AN UNDERLYING CARRIER, SERVICE PROVIDER, VENDOR OR THIRD PARTY, EQUIPMENT, NETWORK OR FACILITY FAILURE, EQUIPMENT, NETWORK OR FACILITY UPGRADE, SERVICE, MAINTENANCE, MODIFICATION, SHORTAGE, OR RELOCATION, FORCE MAJEURE EVENTS SUCH AS BUT NOT LIMITED TO ACTS OF GOD, ADVERSE WEATHER, STRIKES, FIRE, WAR, RIOT, GOVERNMENT ACTIONS OR TERRORISM, SERVICE, DEVICE, EQUIPMENT, NETWORK OR FACILITY FAILURE CAUSED BY THE LOSS OF POWER OR INTERNET SERVICE TO NEXTIVA OR CUSTOMER, AND ANY CAUSE THAT IS BEYOND NEXTIVA'S CONTROL. NEXTIVA SHALL NOT BE LIABLE FOR UNAUTHORIZED ACCESS TO NEXTIVA'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES, EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS,

PROCEDURES, OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF NEXTIVA'S NEGLIGENCE OR OTHER ACTS OR OMISSIONS. NEXTIVA'S LIABILITY FOR ANY ACT OR OMISSION SHALL IN NO EVENT EXCEED THE SERVICE CHARGES WITH RESPECT TO THE AFFECTED TIME PERIOD. THE LIMITATIONS SET FORTH HEREIN APPLY TO ALL CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT, AND ANY AND ALL OTHER THEORIES OF LIABILITY, AND APPLY WHETHER OR NOT NEXTIVA WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGE. FURTHER, YOU AGREE TO REIMBURSE NEXTIVA FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS, INCLUDING ATTORNEYS' FEES AND LITIGATION COSTS. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED TO THE FULLEST EXTENT OF THE LAW, BUT IF ANY PORTION OF THIS SECTION IS DETERMINED TO BE UNLAWFUL, THEN THIS SECTION SHALL BE CONSTRUED TO LIMIT LIABILITY AGAINST NEXTIVA TO THE FULLEST EXTENT POSSIBLE UNDER THE LAW.

2. INDEMNIFICATION AND WAIVER OF CLAIMS.

1. **INDEMNIFICATION.** YOU ARE LIABLE FOR ANY AND ALL USE OF THE SERVICE BY YOURSELF AND BY ANY PERSON MAKING USE OF THE SERVICE, AND YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS NEXTIVA AGAINST ANY AND ALL LIABILITY FOR ANY SUCH USE THAT FAILS TO COMPLY WITH THIS AGREEMENT. YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS NEXTIVA FROM ANY AND ALL CLAIMS AND/OR LIABILITY FOR DAMAGES, PERSONAL INJURY, DEATH, FINES, PENALTIES, COSTS, EXPENSES, LOSSES, LOST PROFIT, LOST REVENUE,

PROPERTY DAMAGE, ATTORNEYS' FEES, AND ANY AND ALL OTHER DAMAGES OF WHATEVER KIND AND NATURE RELATING TO OR ARISING OUT OF THE SERVICE AND/OR THE Service Delivery SERVICES, THE USE OF OR INABILITY TO USE THE SERVICE, THE ABSENCE, FAILURE OR OUTAGE OF THE SERVICE, AND/OR THIS AGREEMENT UNLESS THE CLAIMS OR CAUSES OF ACTION ARISE FROM OUR GROSS NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT. FURTHER, EXCEPT TO THE EXTENT OF NEXTIVA'S PERSONNEL'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS NEXTIVA AND NEXTIVA PERSONNEL FROM AND AGAINST ANY AND ALL LIABILITY, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY FEES, ARISING FROM OR RELATING TO ANY PERSONAL INJURY OR DAMAGE TO PROPERTY (INCLUDING WITHOUT LIMITATION ANY EQUIPMENT, DEVICE, NETWORK, SYSTEM OR STRUCTURE) OCCURRING DURING ANY VISIT BY NEXTIVA OR ANY REPRESENTATIVE, PERSONNEL, OR AGENT OR THEREOF TO ANY SITE; OR RESULTING OR ARISING FROM ANY CLAIM, ACTION, ALLEGATION, DEMAND, OR PROCEEDING BY OR ON BEHALF OF ANY WORKFORCE MEMBER, CONTRACTOR, AGENT, REPRESENTATIVE, OR INVITEE OR CUSTOMER.

2. THIS SECTION 16 SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.

3. **Attorney Fees and Costs.** If we file an action against you claiming you breached these Terms and we prevail, you agree that we shall be entitled to recover all attorney fees, taxable and non-taxable costs (including, but

not limited to expert witness fees and arbitration costs), as well as any damages or other relief we may be awarded.

4. **Equitable Relief.** If you violate these Terms then we may seek injunctive relief (meaning we may request a court order to stop you) or other equitable relief.
5. **Subpoena Fees.** If we have to provide information in response to a subpoena related to your account, then we may charge you for our costs. These fees may include attorney and employee time spent retrieving the records, preparing documents, and participating in a deposition.

17. MISCELLANEOUS LEGAL CONSIDERATIONS.

1. **Governing Law.** This Agreement and the relationship between you and Nextiva shall be governed by the laws of Arizona without regard to its conflict of law provisions. Any claim brought pursuant to this Agreement shall be brought in a court of competent jurisdiction within the State of Arizona and venue for any such claim shall be proper in the appropriate state or federal court located in Maricopa County, Arizona.
2. **No Waiver of Rights.** Our failure to exercise or enforce any right or provision of this agreement will not constitute a waiver of the right or provision. Nextiva reserves all of its rights at law and equity to proceed against anyone who uses the Services illegally or improperly. All determinations by Nextiva under this Agreement and exercise of its rights are made and done in our sole and absolute discretion.
3. **No Third-Party Beneficiaries.** If you are not a party to this Agreement, you do not have any remedy, claim, liability, reimbursement, or cause of action. This Agreement does not create any other third-party beneficiary rights.
4. **Entire Agreement.** This Agreement constitutes the entire agreement between you and Nextiva regarding the Service Delivery Services, superseding any prior agreements between you and Nextiva and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.

5. **Severability.** If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement will remain valid and enforceable. This invalidity or unenforceability will not invalidate or render unenforceable any other portion of this agreement.
6. **License.** You shall have a revocable, non-transferable term license to use the Documentation and any other materials provided related to the Service Delivery Services for your own internal use only. All other rights in the Documentation and/or any other materials regarding or related in any way to the Service Delivery Services remain in and/or are assigned to Nextiva. You agree to cooperate with Nextiva and to execute any documents as may be necessary to achieve the objectives of this provision.

18. DISPUTE RESOLUTION AND BINDING ARBITRATION.

1. It is important that you read this entire section carefully. This section provides for resolution of disputes through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury.
2. **Arbitration.** Nextiva and you agree to arbitrate any and all disputes and claims between you and Nextiva except as set forth in Section 18.9 of this Agreement. Arbitration means that all disputes and claims will be resolved by a neutral arbitrator instead of by a judge or jury in a court. This agreement to arbitrate is intended to be given the broadest possible meaning under the law. It includes, but is not limited to: disputes and claims arising out of or relating to any aspect of the relationship between you and Nextiva, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; disputes and claims that arose before this or any prior agreement (including, but not limited to, claims relating to advertising); disputes and claims that may arise after the termination of this agreement; disputes and claims that are currently the subject of individual litigation; disputes and claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and disputes and claims concerning the scope of this arbitration provision. References to "Nextiva," "us" and "you" include our

respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors and assigns, as well as all authorized or unauthorized users or beneficiaries of the Service Delivery Services under this agreement or any prior agreements between you and Nextiva.

3. **Informal Resolution of Disputes.** Our Customer Care Department can resolve most customer concerns quickly and to the customer's satisfaction. If you have a dispute or claim against us, you agree to first contact the Nextiva Customer Care Department at (800) 983-4289 and provide in detail, including documents or analysis supporting your position, the basis of your claim. Customer care shall be provided within 14 days in which to research and respond to your claim. In the event your dispute or claim is not resolved to your satisfaction, you may seek to have that dispute or claim resolved as set forth below.
4. **Formal Notice of Disputes.** If you intend to seek arbitration you must first send Nextiva a written "Notice of Dispute" setting forth in detail, including submission of supporting documentation, the grounds of your dispute. The Notice of Dispute must be sent to Nextiva, attention "General Counsel," by certified mail addressed to 9451 East Via de Ventura, Scottsdale, AZ 85256.

The Notice of Dispute must describe the nature and basis of the dispute or claim and set forth the specific relief sought. If you and Nextiva do not reach an agreement to resolve the dispute or claim within thirty (30) days after the Notice of Dispute is received, you or Nextiva may commence an arbitration proceeding. The amount of any settlement offer made by you or Nextiva shall be non-discoverable and shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or Nextiva is entitled.

5. **Arbitrator and Arbitral Rules.** The arbitration shall be administered by the American Arbitration Association ("AAA"). You may contact the AAA by telephone at 1-800-778-7879, by email at AAAUniversity@adr.org, or by

mail at 2415 E. Camelback Rd., Suite 700 Phoenix, AZ 85016. The arbitration shall be governed by the AAA's Commercial Arbitration Rules (collectively, "AAA Rules"), as modified by this Agreement. The AAA Rules are available at adr.org or by calling the AAA at 1-800-778-7879.

6. **Waiver of Jury Trial.** You and Nextiva agree that, by entering into this Agreement, you and Nextiva are waiving the right to a trial by jury.
7. **Waiver of Class Actions.** You and Nextiva agree that the arbitrator may award relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. You and Nextiva agree that you and Nextiva may bring claims against the other only in your or its individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. You and Nextiva agree that, unless you and Nextiva agree otherwise, the arbitrator may not consolidate more than one person's or entity's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific waiver of class actions provision, or any portion thereof, is found to be unenforceable, then the entirety of this dispute resolution and binding arbitration provision shall be null and void.
8. **Statute of Limitations.** You must present a claim within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute (except for billing disputes which are subject to section 14 of the agreement), or you waive the right to pursue a claim based upon such event, facts, or dispute.
9. **Exceptions to Arbitration Agreement.** Notwithstanding the obligation to arbitrate and any other provisions to the contrary herein, you and we agree that: (a) with respect to claims for unpaid invoices we may bring a claim for amounts due and owing to Nextiva in a court of competent jurisdiction in Maricopa County, Arizona; (b) if you fail to timely pay amounts due, we may assign your account for collection, and the collection agency may pursue in court claims limited strictly to the

collection of the past due debt and any interest or cost of collection permitted by law or the Agreement; (c) you or we may take any disputes over the validity of any party's intellectual property rights to a court of competent jurisdiction; (d) any dispute related to or arising from allegations associated with fraudulent or unauthorized use, theft, or piracy of service may be brought in a court of competent jurisdiction; and (e) either you or we may seek any interim or preliminary relief from a court of competent jurisdiction, necessary to protect the rights or property of you or Nextiva, pending the completion of arbitration.

10. **Modification of Arbitration.** If Nextiva makes any substantive change to this arbitration provision, you may reject any such change by sending Nextiva written notice within 30 days of the changes to the address provided in Section 18.4. By rejecting any change, you agree to adhere to the language in this provision. If you fail to timely reject a change to these arbitration provisions, you agree to be bound by any change that Nextiva may, in its discretion, make to these provisions.
11. **Venue/Jurisdiction.** All claims for Arbitration shall be submitted to and heard by an arbitrator located in Maricopa County, Arizona. Should an evidentiary hearing be required by the Arbitrator, such hearing shall be heard in Maricopa County, Arizona.
12. **Arbitration Costs.** You agree that all administrative fees and arbitrator costs (the "Arbitration Costs") shall initially be borne in accordance with the AAA Rules. If the division of the Arbitration Costs is not set forth in the AAA Rules then in effect, you agree that the Arbitration Costs, including any required deposits, will initially be paid equally by you and Nextiva. You further agree that the arbitrator shall award the prevailing party in any arbitration proceeding the recovery of its share of the Arbitration Costs against the non-prevailing party. You and Nextiva agree that the failure or refusal of a party to pay its required share of any deposits for arbitrator compensation or administrative charges shall constitute a waiver by that

party to present any evidence or cross-examine witnesses, and a waiver of that party's claims, if any.

19. **PRIVACY.** The Service Delivery Services may be delivered, in whole or in part, via the public Internet and third-party networks. You acknowledge and understand that Nextiva cannot guarantee that the delivery of the Service Delivery Services, or the Service itself, is completely secure. YOU AGREE THAT NEXTIVA SHALL NOT BE LIABLE FOR ANY LACK OF PRIVACY. Nextiva is committed to respecting your privacy relating to personally identifiable information. Once you choose to provide personally identifiable information, it will only be used in the context of your relationship with Nextiva. Nextiva will not sell, rent, or lease your personally identifiable information to others. Upon the appropriate request of a government agency, law enforcement agency, court or as otherwise required by law, Nextiva may disclose personally identifiable information. Please refer to our Privacy Policy for additional information.

20. **CONTENT.**

1. **Privacy of Content.** In the course of the delivery of the Service Delivery Services, you may submit content to Nextiva (including your personal data and the personal data of others) (your "Content"). You in turn agree that Nextiva may use and share your Content in accordance with the Nextiva privacy policies and applicable data protection laws.
2. **Confidentiality.** Nextiva will treat your Content as confidential information and only use and disclose it in accordance with this Agreement (including the Nextiva Privacy Policy). However, Your Content is not regarded as confidential information if such Content: (a) is or becomes public (other than through breach of this Agreement by Nextiva); (b) was lawfully known to Nextiva before receiving it from You; (c) is received by Nextiva from a third party without knowledge of breach of any obligation owed to You; or (d) was independently developed by Nextiva without reference to your Content. Nextiva may disclose your Content when required by law or legal process, but only after Nextiva, if permitted by law, uses commercially

reasonable efforts to notify you to give you the opportunity to challenge the requirement to disclose.

3. **Security.** Nextiva will store and process your Content in a manner consistent with industry security standards.
4. **You Retain Ownership of Your Content.** You retain ownership of all of your intellectual property rights in your Content. Nextiva does not claim ownership over any of your Content. This Agreement does not grant us any licenses or rights to your Content except for the limited rights needed for us to provide the Service, and as otherwise described in this Agreement.
5. **Limited License to Your Content.** You grant Nextiva a worldwide, royalty free license to use, reproduce, distribute, modify, adapt, create derivative works, make publicly available, and otherwise exploit your Content, but only for the limited purposes of providing the Service Delivery Services to you and as otherwise permitted by the Nextiva privacy policies. This license for such limited purposes continues even after the completion of the Service Delivery Services, with respect to aggregate and de-identified data derived from your Content and any residual backup copies of your Content made in the ordinary course of Nextiva's business. This license also extends to any trusted third parties we work with to the extent necessary to provide the Service and/or Service Delivery Services to you. If you provide Nextiva with feedback about the Service, we may use your feedback without any obligation to you.
6. **Customer Lists.** Nextiva may identify you (by name and logo) as a Nextiva customer on our website and on other promotional materials. You hereby grant Nextiva an irrevocable, non-exclusive, royalty free license to utilize your name, trademark(s), trade name(s) and other intellectual property for this limited purpose and as otherwise agreed by you in writing.
7. **Liability Related to Content.** You are liable for all liability that may arise from the Content you transmit to any person, whether or not you authorize it, in the delivery of the Service Delivery Services. You promise that you

and anyone who provides Content will comply at all times with all laws, regulations, and written and electronic instructions related to the Service Delivery Service.

21. **EXPORT COMPLIANCE.** You agree to comply fully with all relevant export laws and regulations of the United States, including but not limited to the U.S. Export Administration Regulations, administered by the Department of Commerce, Bureau of Industry and Security. You also expressly agree that you shall not export, directly or indirectly, re-export, divert, or transfer any portion of the Service Delivery Service, including, without limitation, to any destination, company, or person restricted or prohibited by U.S. export controls.
22. **ASSIGNMENT.** Nextiva may assign all or part of its rights or duties under the Agreement without notifying you. If we do that, we have no further obligation to you. You may not assign the Agreement or the Service Delivery Services without our prior written agreement.
23. **SURVIVAL.** The provisions of this Agreement relating to indemnification, limitations on liability, warranty limitations and disclaimers, resolution of disputes, billings and your obligation to pay for the Service Delivery Services provided and any additional charges, shall survive the termination of the Agreement and the termination of the Service Delivery Services and/or this Agreement.
24. **FORCE MAJEURE (EVENTS BEYOND NEXTIVA'S CONTROL).** Nextiva shall be excused from any delay or failure in performance hereunder caused by reason of occurrence or contingency beyond its reasonable control, including without limitation, acts of God, earthquake, fire, flooding, riots, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties as may occur in spite of Nextiva's best efforts.
25. **INTELLECTUAL PROPERTY.** Neither this Agreement nor your use of the Service grants you ownership in the Service, the content you access through the Service (other than your Content), or the Service Delivery Services, including, but not limited to any Deliverables provided related thereto.
26. **SOFTWARE COPYRIGHT** Any software used by Nextiva to provide the Service Delivery Services and any software provided to you in conjunction with the

Service Delivery Services is protected by copyright law and international treaty provisions. You may not copy the software or any portion of it. Furthermore, you may not delete, alter, cover, or distort any copyright or other proprietary notices or trademarks provided to you as part of the Service.

27. COPYRIGHT, TRADEMARK, AND INTELLECTUAL PROPERTY; COPYRIGHT INFRINGEMENT; DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) NOTICE.

Our Website content, our materials, services, logs, service marks and trademarks are protected by trademark, copyright, or other intellectual property laws, and international treaty provisions. Infringement by you may result in civil or criminal prosecution.

The entire content included in this Website, including but not limited to text, design, graphics, interfaces, or code and the selection and arrangements thereof is copyrighted as a collective work under the United States and other copyright or intellectual property laws and is the property of, or used under license by, Nextiva.

Nextiva's trademarks are always changing. Some of our trademarks include, but are not limited to:

Nextiva®

Nextiva Office®

NextOS®

CoSpace®

xBert®

Amazing Service®

Simplifying Business Communication®

SmartTopics®

NextCon®

BuildAmazing®

NextIQ®

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Nothing in this website or your subscription to, or licensing of, any Nextiva products or services grant any right, title, proprietary or ownership interest in any Nextiva intellectual property Marks, copyrights, patents, trade secrets, or other intellectual property.

28. LICENSE BY CUSTOMER TO USE FEEDBACK. Customer hereby grants to Nextiva a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Nextiva's Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer relating to the improvement, operation, or use of Customer's Services and/or the Service Delivery Services.

Last Updated: July 26, 2023

NEXTIVA END USER SERVICES AGREEMENT

THIS IS A LEGAL AGREEMENT BETWEEN CUSTOMER AND NEXTIVA, INC. AND ITS AFFILIATES (COLLECTIVELY, "NEXTIVA"). BY ACCESSING AND/OR USING THE SERVICES, CUSTOMER IS AGREEING, ON BEHALF OF AN INDIVIDUAL AND/OR A LEGAL ENTITY, TO BE BOUND BY THE TERMS OF THIS AGREEMENT. THIS AGREEMENT DOES NOT APPLY TO THIRD PARTY SERVICES SOLD BY NEXTIVA, WHICH SHALL BE SUBJECT TO THE TERMS OF THE THIRD PARTY PROVIDER.

1. **DEFINITIONS.** As used in the Agreement, the following defined terms shall apply:

1. **"Affiliate"** means, with respect to a party, any entity which directly or indirectly controls, is controlled by, or is under common control with such party, where "control" means the power, directly or indirectly, to direct, or to cause the direction of, the management and policies of an entity, through majority ownership of voting securities or equity interests.
2. **"Agreement"** means this End User Services Agreement together with any operating rules, price schedules, or other documents incorporated herein by reference.
3. **"Customer" or "you"** means the legal entity or individual that has ordered any Services from Nextiva.
4. **"Customer Account"** means an account for Customer that is required to access and utilize the applicable Services.
5. **"Content"** means any data uploaded to a Customer Account for storage or data in Customer's computing environment to which Nextiva is provided access in order to perform Services.
6. **"Device"** means a device authorized by Customer to be used by any individual(s) to access instances of a Service. This applies under the Device licensing model.
7. **"Fees"** means all Nextiva fees applicable to the Services.
8. **"Nextiva"** means Nextiva, Inc., a Delaware company with its headquarters at 9451 East Via de Ventura, Scottsdale, AZ 85256. Except where otherwise stated, "Nextiva" includes our respective subsidiaries, Affiliates, agents, employees, predecessors in interest, successors, attorneys and any other service provider that furnishes services or devices to Customer in connection with this agreement.
9. **"Nextiva Marks"** means any name, logo, or mark belonging to Nextiva or its Affiliates.
10. **"Open Source Software"** means third party software distributed by Nextiva under an open source licensing model (e.g., the GNU General

Public License, BSD or a license similar to those approved by the Open Source Initiative).

11. **“Order” or “Order Form” Or “Quote”** means the Nextiva-approved form or online subscription process by which Customer agrees to subscribe to the Services. Most Orders are completed through Nextiva’s online quoting process.
12. **“PHI”** means personal health information covered by US Health Insurance Portability and Accountability Act (“HIPAA”) regulations.
13. **“Privacy Notice”** means the Nextiva Inc., User Privacy Notice available at <https://www.nextiva.com/privacy-policy.html>.
14. **“Services”** means the products and services that are being provided to Customer as described in any quote or order form, including, but not limited to, Nextiva’s Unified Communication services, collaboration services, and any associated software, hardware or web-based platform. “Services” shall also include any additional services provided to Customer as described in any addendum or amendment.
15. **“Services Descriptions”** means the overview and other terms applicable to the Services, as amended from time to time, as found at <https://www.nextiva.com/nextiva-pricing>.
16. **“Software”** means any proprietary software owned by, licensed by, or which Nextiva has a right to sublicense under this Agreement, which software is either provided to Customer under this Agreement or is used in or used to provide the Services.
17. **“Taxes”** means all applicable transactional taxes on Services (including but not limited to withholding tax, sales tax, use tax, excise tax, personal property tax, public utility tax, services tax, value-added tax (VAT), goods and services tax (GST), and tariffs and/or duties) imposed by any government entity or collecting agency based on the Services.
18. **“Term Services Agreement”** means an agreement between Customer and Nextiva that provides for the provision of services through a fixed term.

19. **“Updates”** means any corrections, bug fixes, features or functions added to or removed from the Services, but shall not include any new Service(s) not generally included with the Services purchased. Updates shall not substantially diminish or eliminate the core functionality of the Services subject to the exclusive remedy set forth in Section 7.3 (Termination for Cause).
20. **“Use Level”** means the purchased Services entitlement(s) under the license model(s) by which Nextiva measures, prices and offers the Services to Customer as set forth at <https://www.nextiva.com/nextiva-pricing>.

2. **RIGHTS.**

1. **Right to Use Service for Business.** Subject to these terms, Nextiva, with the assistance of Nextiva third-party service providers, will provide the Services set forth in any Order that Nextiva has accepted for Customer’s use, in accordance with the Agreement and applicable Use Levels. Nextiva hereby grants Customer a limited, personal, non-exclusive, non-transferable license to use the Services up to the number of subscriptions purchased and in accordance with the license model(s) purchased and identified at <https://www.nextiva.com/nextiva-pricing>. Updates to the Services are managed by Nextiva and included in the Fees. Customer shall use the then-current version of the Services, including any Updates, as made available by Nextiva. To the extent that Affiliates use the Services, Customer warrants that it has the authority to bind those Affiliates and will be liable to Nextiva in the event any Affiliate fails to comply with this Agreement. Customer may purchase Nextiva consulting services in support of Services or may receive them as part of technical support services. With respect to Nextiva consulting services, all intellectual property rights in all deliverables, pre-existing works and derivative works of such pre-existing works, as well as developments made, conceived, created, discovered, invented, or reduced to practice in the performance of the consulting services are and shall remain the sole

and absolute property of Nextiva, subject to a worldwide, non-exclusive license to Customer for internal use.

2. **Limitations on Use**. Except to the extent expressly permitted by applicable law or as explicitly authorized by Nextiva in writing, Customer agrees not to:
 1. modify, distribute, prepare derivative works of, reverse engineer, reverse assemble, disassemble, decompile or attempt to decipher any code relating to the Services and/or Nextiva technology;
 2. knowingly or negligently access or use the Services in a manner that abuses or disrupts the Nextiva networks, security systems, Customer Accounts, or Services of Nextiva or any third party, or attempt to gain unauthorized access to any of the above through unauthorized means;
 3. Transmit any viruses, malware, or other types of malicious software, or links to such software, through the Services;
 4. Circumvent, or attempt to circumvent any limitations that Nextiva has imposed on their Customer Account;
 5. transmit through or post on the Services any material that violates the [Nextiva Platform Privacy Policy or Rules](#), including without limitation, content which is deemed abusive, threatening, harassing, obscene, slanderous, fraudulent, libelous or otherwise unlawful;
 6. market, offer to sell, and/or resell the Services without express written permission from Nextiva in advance
 7. Probe, scan, or test the vulnerability of any Nextiva system or network;
 8. Register Customer Accounts by “bots” or other automated methods;
 9. if the Customer is a Nextiva competitor for the relevant Services, use the Services directly or indirectly for competitive benchmarking or other competitive analysis, unless permitted under applicable law;

10. include PHI in any SMS, MMS, or communications portions of the Services, upload PHI to the Services, or otherwise use the Services to collect, protect, or otherwise handle PHI. For the avoidance of doubt, this does not prohibit use of the Services by a Covered Entity (as defined in HIPAA), however Customer shall only use the Services in compliance with HIPAA rules and regulations, and in compliance with any instructions provided by Nextiva or a third party services integrated into the Services. Such instructions may be provided by email, through in-product messaging, or otherwise provided to you by Nextiva.
 11. use the Services for any personal, residential, nonbusiness, nonprofessional, or non-commercial purpose;
 12. use the Software or Services except in accordance with all applicable laws and regulations;
 13. use the Software or Services in any outsourcing, application service provider, time-sharing or service bureau arrangement, including, without limitation, any use to provide services or process data for the benefit of, or on behalf of, any third-party other than the Customer;
 14. If Customer's use of the Services requires them to comply with industry-specific regulations applicable to such use, Customer will be solely responsible for such compliance. Customer may not use the Services in a way that would subject Nextiva to those industry-specific regulations without obtaining Nextiva's prior written agreement.
3. **Violations of Limitations on Use.** If Customer becomes aware or receives notice from Nextiva that any Content or use of Content violates Section 2.2 (Limitations on Use), Customer must take immediate action to remove the applicable part of the Content. Nextiva may ask Customer to remediate, and if Customer fails to comply with such request, Nextiva may

modify or suspend the Services pursuant to Section 13.8 (Suspension of Services).

4. **Proprietary Rights**. Except for the limited use rights expressly granted herein, Customer has no right, title or interest in or to the Services or Nextiva Marks or any intellectual property rights related thereto.
 5. **Open Source Software**. Notwithstanding anything set forth in this Agreement, Customer's use of Open Source Software shall in all ways be exclusively governed by the open source license(s) indicated as applicable to the code in the readme file.
3. **ORDERS**. Customer may order Services using the Nextiva then-current ordering processes. Customer is responsible for all Fees and Taxes on Orders. Payment is due for the Services for the term purchased, including any renewals, pursuant to the payment schedule of the applicable license model. If Customer purchases a subscription under a consumption-based license model, such purchase constitutes Customer's agreement to be invoiced for and pay for consumption at intervals and pricing as defined in the license model. If Customer purchases an auto-renewing subscription (which includes consumption models), Customer's purchase constitutes their agreement to auto-renewals for same term as initially purchased, and to auto-renewals for Customer's other Nextiva subscriptions, if any, for the same term as initially purchased for each of those. Customer maintains the right to give e-mail notice of non-renewal to Nextiva prior any auto-renewal. Each consumption model invoice shall constitute an auto-renewal notice under consumption models. Unless Customer completes a renewal through a Nextiva authorized reseller, Customer understands and agree that a subscription renewal will be through and due and payable to Nextiva. All Orders are subject to acceptance by Nextiva in its discretion. All purchases are final, with no right to a refund, except as expressly provided under Sections 7.3 (Termination for Cause). Nextiva reserves the right, in its discretion, to suspend or terminate the Services or any portion thereof for non-payment of Fees. All Customer information provided by or on behalf of Customer for a subscription

must be current, complete and accurate, and Customer is responsible for keeping such information updated.

4. **FEES AND CHARGES.**

1. **FEES AND CHARGES.** The fees and charges may change from time to time, with or without notice (except pricing will not change during the initial term of a contract for a specific period of time. Any pricing adjustment will be reflected in an invoice provided to Customer at the time of the pricing adjustment for their account.
2. **BILLING INCREMENTS.** All billing policies are defined by the specific package the customer chooses. Please refer to the website for exact billing policies.
3. **TAXES.** Customer is responsible for, and shall pay, any and all Taxes on Orders. Such amounts are in addition to payment for the Services and will be billed to Customer. If Customer is exempt from payment of such taxes, Customer will provide Nextiva with an original government-issued certificate attesting to tax-exempt status. Tax exemption will only apply from and after the date Nextiva receives such certificate.

5. **BILLING AND PAYMENT.**

1. **BILLING.** Nextiva will charge Customer in advance for each term of service for the Services that they order. If Customer has selected a free trial offering, Nextiva will commence charging Customer for the Services at the expiration of the free trial period, unless Customer terminates the free trial offering prior to the expiration of the trial period. If not terminated prior to the end of the trial period, this Service will be added to Customer's account for the remainder of its term, and any subsequent removal of the Service will be subject to Nextiva's Cancellation Policy, as well as any and all applicable early termination fees. When Customer subscribes to the Services, Customer must give Nextiva a valid email address and a payment method (credit card) that Nextiva accepts. Nextiva reserves the right to stop accepting Customer's payment method or payments. Customer must advise Nextiva at once if their payment method expires,

they close their account, their billing address changes, their email address changes, or their payment method is cancelled and replaced on account of loss or theft. Except for usage-based charges, Nextiva will bill in advance to Customer's payment method all charges, fees, taxes, and surcharges for each service term. Fees may also include activation fees, porting fees, early termination fees ("**ETF**"), reinstatement fees, and returned check fees. Nextiva reserves the right to charge all fees to Customer's payment method. Nextiva will bill monthly as due immediately usage-based charges and any other charges which Nextiva decides to bill as due immediately. Bills will be posted to the customer portal and emailed to the email address on record. Any payment not made when due may be subject to a late payment fee equivalent to the lesser of (a) one and a half percent (1.5%) per month; or (b) the highest rate allowed by law. Nextiva's acceptance of late or partial payments (regardless of how they are marked or designated (including without limitation as 'Paid in Full', 'Accord and Satisfaction', or similarly)) will not waive, limit, or prejudice in any way Nextiva's rights to collect any amount due. Nextiva may terminate the Services and this Agreement for non-payment if any fees or charges are not paid within thirty (30) days of the due date.

2. **PAYMENT**. Customer authorizes Nextiva to collect any and all fees related to the Services that Customer orders from their payment method. This authorization will remain valid until thirty (30) days after Customer terminates Nextiva's authority to charge their payment method.
3. **COLLECTION**. If Nextiva disconnects the Services, Customer will remain liable for all charges under this Agreement and all the costs incurred by Nextiva to collect these charges, including, without limitation, collection costs and attorney's fees. Customer also agrees to pay any additional charges or fees applied to their billing account for any reason, including but not limited to, interest and charges due to insufficient credit.
4. **BILLING NOTICES**. Customer understands that it is difficult for Nextiva to distinguish between credit and debit cards. Customer agree to waive their

rights under Regulation E to receive ten (10) days advance notice from Nextiva regarding the amount that it will debit from Customer's account. While Nextiva may send Customer messages about their billing from time to time, Nextiva is not obligated to do so. Nextiva may change or cease its messages at any time without notice to Customer.

5. **BILLING DISPUTES**. Customer must notify Nextiva in writing within seven (7) days after receiving their credit card statement or from the time funds are debited from their bank account if Customer disputes any Nextiva charges on that statement or that have been debited from their account, or such dispute will be deemed waived. Notification of all billing disputes shall be sent to the following address: billing@nextiva.com. Nextiva will charge a late fee as described in Section 5.1 (Billing) for a disputed amount if (a) it was not paid by the due date and (b) Nextiva determines that Customer disputed the charge in bad faith.
6. **PRICING AND PAYMENT**.
 1. **PRICES AND FEES**. Nextiva fees and charges for the Services are supplied to Customer during the ordering process unless otherwise provided for in this Agreement. Customer agrees to pay all applicable one-time and recurring charges. Customer further agrees that any taxes and other charges, including but not limited to, account setup fees, shipping and handling and other nonrecurring charges will be charged to Customer's credit card. Recurring charges will be billed and automatically charged to Customer's credit card on the first day of every billing cycle. Customer's billing cycle will begin on the anniversary date of their subscription date as defined in section 7.1 (Term).
 2. **CUSTOMER AGREES THAT NEXTIVA MAY CHARGE THEIR CREDIT CARD (IF APPLICABLE) FOR ALL AMOUNTS DUE TO NEXTIVA WITHOUT ADDITIONAL NOTICE OR CONSENT**. If Customer is paying with a credit card, Customer agrees to provide a credit card and not a debit card. If Customer's card is a combination credit card/debit card, Customer authorizes Nextiva to use it as a credit card. If Customer's

issuing bank automatically provides Nextiva with an updated credit card, Customer agrees that Nextiva may charge this new credit card for all amounts due to Nextiva without additional notice or consent. Customer also agrees to indemnify Nextiva for any claims, damages or expenses resulting from providing a debit card instead of a credit card (if applicable). If Customer's credit card is declined, is invalid or payment is not made by the issuer of the credit card at the time that a charge is attempted, Customer will not be able to use the Services until their account is paid in full.

3. **DISCONTINUATION OF SERVICE FOR NONPAYMENT**. The Services provided to Customer may be denied or discontinued without notice at any time if Customer fails to make a payment, Customer's credit card provider denies or discontinues providing credit to Customer for any reason, or Customer fails to provide Nextiva with a new credit card expiration date before the existing one expires. If Customer's payment method fails for any reason during the ordering process, or any regular or monthly billing process, Customer will have twenty-four (24) hours to provide Nextiva their payment method including credit card information, if applicable. If the payment method issue is not resolved within forty-eight (48) hours, Nextiva will deactivate the Customer Account. If Customer's new payment method is approved within twenty-four (24) hours, Customer's calling plan and billing cycle will remain unchanged. Nextiva reserve the right to modify the per-minute calling plan at any time. Customer agrees to pay all charges owed to Nextiva, including but not limited to the reinstatement fee for reactivated services. In the event Nextiva utilizes a collection agency or resorts to legal action to recover monies due, Customer agree to reimburse Nextiva for all expenses incurred to recover such monies, including attorneys' fees.
4. **PROMOTIONS AND DISCOUNTS**. Nextiva may limit the number of promotions and/or discounts Customer may be eligible for in a given period. Promotions and discounts may be cancelled or modified, and

discounts may be reduced or eliminated, by Nextiva at any time, with or without notice (except with respect to discounted pricing during the initial term of a contract for a minimum period of time). Discounts may not apply to renewals.

5. **CANCELATION POLICY**. Nextiva cancellation policies are outlined in the Cancellation Policy posted at Nextiva's website at <https://www.nextiva.com/legal.html?doc=10> and are incorporated into this policy by reference. All cancellation requests must be submitted in the form of an email ticket to service@nextiva.com or by calling our Customer Care Department at 1-800-983-4289 and must be made at least thirty (30) days prior to the expiration of the then-current Services Term. Changes to the cancellation policy may be made at any time without notice and are effective the day following the posting of the updated Cancellation Policy to Nextiva's website.

7. **TERM AND TERMINATION**.

1. **Term**. Nextiva provides the Services for the term that Customer has signed up for. Customer's term begins on the later of the date the Services are first ordered (the "**Subscription Date**"), or the date Nextiva successfully processes Customer's payment. Customer is purchasing the Services for the full service term as set forth in the Order, as well as for any renewal terms as set forth in Section 7.2 (Automatic Renewal).
2. **Automatic Renewal**. The Service will automatically renew for subsequent terms of the same length as the initial term, excluding any promotional months, unless Customer cancels the Services by providing Nextiva with notice as provided in Section 13.14 (Notices) at least thirty (30) days before the end of the then-current service term. Each renewal term begins on the day after the last day of the previous term. Any and all fees assessed to the Customer Account during the initial term and any renewal terms will be charged to Customer's payment method on file, which may include any payment method automatically updated by Customer's issuing bank. If Customer is paying by credit card and the credit card is declined,

invalid, or payment is not timely made by the issuer of the credit card, without further notice Nextiva reserves the right to automatically recharge the payment method until payment is received, the payment method is updated, or the Services are discontinued for nonpayment.

3. **Termination for Cause**. Either party may suspend or terminate the Services if the other party breaches any of its material obligations as to the Services, and fails to cure within thirty (30) days of receipt of written notice from the non-breaching party. In the event of termination by Customer for Nextiva material breach, Customer shall be entitled to a refund of any unused prepaid Fees, and relief from any subsequent annual payments due, with respect to such Services. With respect to any breach of Section 1.18 (Updates) by Nextiva, Customer must give written notice within thirty (30) days of introduction of the relevant Update, or be deemed to waive its claims as to such Update, and termination with such refund and relief shall be its exclusive remedy. Nextiva may immediately terminate the Agreement if the Customer breaches Sections 2 (Rights), 8 (Content and Customer Account) or 13.11 (Export Restriction and Compliance with Laws). Additionally, Nextiva may suspend or terminate any part of the service generally at any time if:
 1. Nextiva determines or reasonably believes that Customer has materially breached this Agreement or any other agreement between Customer and Nextiva;
 2. Nextiva determines or reasonably believes that Customer has used fraudulent means to pay for the Services, including use of a fraudulent credit card;
 3. Nextiva determines or reasonably believes that Customer has abused or harassed (verbally or otherwise) any Nextiva employee, contractor, agent or representative;
 4. Customer is ordered by law enforcement or other government agencies to suspend, terminate or disconnect Customer's access to the Services;

5. Customer brings any legal action or proceeding against Nextiva, or participate in any class action lawsuit against Nextiva;
 6. A petition in bankruptcy is filed by or against Customer and such petition is not dismissed within thirty (30) days after the effective filing date thereof, or a trustee or receiver is appointed over Customer or Customer's material assets;
 7. Nextiva determines that such action is necessary to protect maintain, or improve the Services, to prevent fraud or misrepresentation, to protect Nextiva, its customers or other third-party Nextiva affiliates, or for any other good cause; or
 8. It is otherwise contemplated by this Agreement.
4. **Effect of Termination**. Upon termination under Section 7.3 (Termination for Cause), Customer will immediately discontinue all access and use of the Services. Neither party shall be liable for any damages resulting from termination, including without limitation unavailability of Content arising therefrom; provided, however, termination shall not affect any claim arising prior to the effective termination date. Nextiva shall have the right to invoice Customer and Customer agrees to pay for any use of the Services past the date of termination other than Customer's access to download Content. All charges owed at the time of disconnection will be immediately payable. Nextiva will pursue collection for unpaid amounts on disconnected Customer Accounts and may report these unpaid charges to credit bureaus.
5. **Termination of Services**. In order to terminate the Services, contact Nextiva's Customer Care Department, via email at service@Nextiva.com or by calling 1-800-983-4289 prior to expiration of the current service term. Please refer to the Nextiva Cancellation Policy posted on Nextiva's website at <https://www.nextiva.com/legal.html?doc=10>.
8. **CONTENT AND CUSTOMER ACCOUNT**.
1. **Content**. Customer retains all rights to any and all of its Content, subject to a non-exclusive, worldwide, royalty-free, license to Nextiva as

necessary to provide the Services hereunder. Each party shall apply reasonable technical, organizational and administrative security measures, as appropriate relative to the Services, to keep Content protected in accordance with industry standards, including those identified in Section 13.7 (Security and Privacy) for Nextiva. If Nextiva reasonably believes a problem with the Services may be attributable to Content or use of the Services, Customer shall cooperate with Nextiva to identify the source of and to resolve the problem. Customer shall comply with all intellectual property laws and obligations related to the Content, as well as all legal duties applicable to Customer by virtue of using the Services, including providing all required information and notices and obtaining all required consents. This Agreement states Nextiva's exclusive obligations with respect to care of Content. Nextiva has no obligation to maintain Content following expiration or termination of the Agreement or the affected Services.

2. **Limited License**. Customer grants Nextiva a worldwide, royalty free license to use, reproduce, distribute, modify, adapt, create derivative works, make publicly available, and otherwise exploit your Content, but only for the limited purposes of providing the Services to Customer and as otherwise permitted by the Privacy Notice. This license for such limited purposes continues even after Customer stops using the Services, with respect to aggregate and de-identified data derived from your Content and any residual backup copies of your Content made in the ordinary course of Nextiva's business. This license also extends to any trusted third parties Nextiva works with to the extent necessary to provide the Services to Customer.
3. **Confidentiality**. Nextiva will treat your Content as confidential information and only use and disclose it in accordance with this Agreement (including the Privacy Notice). However, your Content is not regarded as confidential information if such Content: (a) is or becomes public (other than through breach of this Agreement by Nextiva); (b) was lawfully known to Nextiva

before receiving it from Customer; (c) is received by Nextiva from a third party without knowledge of breach of any obligation owed to Customer; or (d) was independently developed by Nextiva without reference to your Content. Nextiva may disclose your Content when required by law or legal process, but only after Nextiva, if permitted by law, uses commercially reasonable efforts to notify Customer to give them the opportunity to challenge the requirement to disclose.

4. **Customer Account**. Customer is solely responsible for all use related to their Customer Account, including without limitation:
 1. the configuration of their Customer Account;
 2. the operation, performance and security of Customer's equipment, networks and other computing resources used to connect to the Services;
 3. ensuring all Devices exit or log off from the Services at the end of each session in accordance with Customer's session policy;
 4. maintaining the confidentiality of their Customer Account, user id's, conference codes, passwords and/or personal identification numbers used in conjunction with the Services, including not sharing login information; and
 5. all uses of the Services that occur using Customer's password or Account. Customer will notify Nextiva immediately of any unauthorized use of its Account or any other breach of security.
5. **Customer Account Ownership**. The owner of the Customer Account under which the Service is ordered shall be the legal entity (e.g., corporation, partnership, individual, etc.) that signs up for the Service with Nextiva. If no legal entity is provided upon sign-up, the Customer Account owner shall be the owner of the credit card used to open such Customer Account, if applicable. Subsequent changes to ownership must be supported by appropriate legal documentation. Nextiva shall not adjudicate ownership-related disputes, or any other internal business dispute. Customer will not request access to or information about a

Customer Account that is not Customer's, and Customer will resolve any account-related disputes directly with the other party. Nextiva decides who owns a Customer Account based on the content of the emails in that Customer Account, and if multiple people or entities are identified in the content, then Nextiva will rely on the contact information listed for that Customer Account. If Nextiva is unable to determine the valid owner of the Customer Account, Nextiva reserves the right to suspend or terminate the Customer Account and Services. Customer agrees that Nextiva is not liable for any damages arising out of or otherwise related to any Customer Account-related dispute.

6. **Customer Account Access/Instructions**. The Customer Account owner, and any authorized Device, will have access to information in the Customer Account. Nextiva will not provide access to any other Device at any time. Customer agrees that Nextiva may rely on instructions given by the Customer Account owner either through the account dashboard or via email from the address on file for the Customer Account owner. In the event of a dispute regarding Customer Account data, Nextiva will only release information to another party other than the Customer Account owner pursuant to a court order or other notarized waiver and release as determined by Nextiva. The Customer Account owner must keep their email address and, where applicable, contact and payment details associated with the account current and accurate. The Customer Account owner acknowledges that Nextiva will be sending them information, including their Password, via e-mail over the Internet. The Customer Account owner agrees that the Internet is not a secure network and that third parties may be able to intercept, access, use or corrupt information transmitted over the Internet. In order to maintain the security of the Services, the Customer Account owner should safeguard their user IDs and Passwords.
7. **Customer Lists**. Nextiva may identify Customer (by name and logo) as a Nextiva customer on its website and on other promotional materials.

Customer hereby grants Nextiva an irrevocable, non-exclusive, royalty free license to utilize their name, trademark(s), trade name(s) and other intellectual property for this limited purpose and as otherwise agreed in writing.

9. **WARRANTIES AND WARRANTY DISCLAIMER.**

1. NEXTIVA MAKES NO EXPRESS OR IMPLIED WARRANTY REGARDING THE SERVICES OR THE INSTALLATION OF SAME AND DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NEXTIVA DOES NOT WARRANT THAT THE SERVICES WILL FUNCTION WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEXTIVA DOES NOT AUTHORIZE ANYONE, INCLUDING BUT NOT LIMITED TO ITS EMPLOYEES, AGENTS OR REPRESENTATIVES, TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND CUSTOMER SHOULD NOT RELY ON ANY SUCH STATEMENT. CUSTOMER AGREES THAT IT ACCEPTS THE SERVICES "AS IS" AND THAT CUSTOMER IS NOT ENTITLED TO REPLACEMENT OR REFUND IN THE EVENT OF ANY DEFECT. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED TO THE FULLEST EXTENT OF THE LAW, BUT IF ANY PORTION OF THIS SECTION IS DETERMINED TO BE UNLAWFUL, THEN THIS SECTION SHALL BE CONSTRUED TO LIMIT LIABILITY AGAINST NEXTIVA TO THE FULLEST EXTENT POSSIBLE UNDER THE LAW.

10. **INDEMNIFICATION AND WAIVER OF CLAIMS.**

1. **Indemnification:** CUSTOMER IS LIABLE FOR ANY AND ALL USE OF THE SERVICES BY THEMSELVES AND BY ANY PERSON MAKING USE OF THE SERVICES, AND CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS NEXTIVA AGAINST ANY AND ALL LIABILITY FOR ANY SUCH USE THAT FAILS TO COMPLY WITH THIS AGREEMENT. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND

HOLD HARMLESS NEXTIVA FROM ANY AND ALL CLAIMS AND/OR LIABILITY FOR DAMAGES, PERSONAL INJURY, DEATH, FINES, PENALTIES, COSTS, EXPENSES, LOSSES, LOST PROFIT, LOST REVENUE, PROPERTY DAMAGE, ATTORNEYS' FEES, AND ANY AND ALL OTHER DAMAGES OF WHATEVER KIND AND NATURE RELATING TO OR ARISING OUT OF THE SERVICES, THE USE OF OR INABILITY TO USE THE SERVICES, THE ABSENCE, FAILURE OR OUTAGE OF THE SERVICES, AND/OR THIS AGREEMENT UNLESS THE CLAIMS OR CAUSES OF ACTION ARISE FROM NEXTIVA'S GROSS NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT. FURTHER, EXCEPT TO THE EXTENT OF NEXTIVA'S PERSONNEL'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, CUSTOMER AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS NEXTIVA AND NEXTIVA PERSONNEL FROM AND AGAINST ANY AND ALL LIABILITY, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY FEES, ARISING FROM OR RELATING TO ANY PERSONAL INJURY OR DAMAGE TO PROPERTY (INCLUDING WITHOUT LIMITATION ANY EQUIPMENT, DEVICE, NETWORK, SYSTEM OR STRUCTURE) OCCURRING DURING ANY VISIT BY NEXTIVA OR ANY REPRESENTATIVE, PERSONNEL, OR AGENT OR THEREOF TO ANY SITE; OR RESULTING OR ARISING FROM ANY CLAIM, ACTION, ALLEGATION, DEMAND, OR PROCEEDING BY OR ON BEHALF OF ANY WORKFORCE MEMBER, CONTRACTOR, AGENT, REPRESENTATIVE, OR INVITEE OR CUSTOMER.

2. **Attorney Fees and Costs**. If Nextiva files an action against Customer claiming that Customer has breached these Terms and prevails in that action, Customer agrees that Nextiva shall be entitled to recover all attorney fees, taxable and non-taxable costs (including, but not limited to expert witness fees and arbitration costs), as well as any damages or other relief that may be awarded.

3. **Equitable Relief**. If Customer violates these Terms then Nextiva may seek injunctive relief or other equitable relief.
4. **Subpoena Fees**. If Nextiva has to provide information in response to a subpoena related to a Customer Account, then Nextiva may charge Customer for its costs. These fees may include attorney and employee time spent retrieving the records, preparing documents, and participating in a deposition.

11. **LIMITATION OF LIABILITY**. IN NO EVENT SHALL NEXTIVA BE LIABLE TO CUSTOMER, CUSTOMER'S REPRESENTATIVES OR AUTHORIZED ASSIGNS OR ANYONE ELSE FOR ANY INCIDENTAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR FOR ANY DAMAGES FOR LOSS OF DATA, LOSS OF REVENUE OR PROFITS, RELATING TO OR ARISING OUT OF THE SERVICES, THE USE OF OR INABILITY TO USE THE SERVICES, THE ABSENCE, DELAY, FAILURE OR OUTAGE OF THE SERVICES, AND/OR THIS AGREEMENT. NOR SHALL NEXTIVA BE LIABLE FOR ANY DELAY OR FAILURE TO PROVIDE THE SERVICES, AT ANY TIME OR FROM TIME TO TIME, OR FOR ANY INTERRUPTION OR DEGRADATION OF VOICE QUALITY CAUSED BY ANY REASON INCLUDING BUT NOT LIMITED TO THE FOLLOWING: AN ACT OR OMISSION OF AN UNDERLYING CARRIER, SERVICE PROVIDER, VENDOR OR THIRD PARTY, EQUIPMENT, NETWORK OR FACILITY FAILURE, EQUIPMENT, NETWORK OR FACILITY UPGRADE, SERVICE, MAINTENANCE, MODIFICATION, SHORTAGE, OR RELOCATION, FORCE MAJEURE EVENTS SUCH AS BUT NOT LIMITED TO ACTS OF GOD, ADVERSE WEATHER, STRIKES, FIRE, WAR, RIOT, GOVERNMENT ACTIONS OR TERRORISM, SERVICE, DEVICE, EQUIPMENT, NETWORK OR FACILITY FAILURE CAUSED BY THE LOSS OF POWER OR INTERNET SERVICE TO NEXTIVA OR CUSTOMER, AND ANY CAUSE THAT IS BEYOND NEXTIVA'S CONTROL. NEXTIVA SHALL NOT BE LIABLE FOR UNAUTHORIZED ACCESS TO NEXTIVA'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES, EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR

ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES, OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF NEXTIVA'S NEGLIGENCE OR OTHER ACTS OR OMISSIONS. NEXTIVA'S LIABILITY FOR ANY ACT OR OMISSION SHALL IN NO EVENT EXCEED THE SERVICE CHARGES WITH RESPECT TO THE AFFECTED TIME PERIOD. THE LIMITATIONS SET FORTH HEREIN APPLY TO ALL CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT, AND ANY AND ALL OTHER THEORIES OF LIABILITY, AND APPLY WHETHER OR NOT NEXTIVA WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGE. FURTHER, CUSTOMER AGREES TO REIMBURSE NEXTIVA FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS, INCLUDING ATTORNEYS' FEES AND LITIGATION COSTS. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED TO THE FULLEST EXTENT OF THE LAW, BUT IF ANY PORTION OF THIS SECTION IS DETERMINED TO BE UNLAWFUL, THEN THIS SECTION SHALL BE CONSTRUED TO LIMIT LIABILITY AGAINST NEXTIVA TO THE FULLEST EXTENT POSSIBLE UNDER THE LAW.

12. **DISPUTE RESOLUTION AND BINDING ARBITRATION.**

1. It is important that you read this entire section carefully. This section provides for resolution of disputes through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury.
2. **Contracting Party, Choice of Law and Location for Resolving Disputes.** This Agreement and the relationship between Customer and Nextiva shall be governed by the laws of Arizona without regard to its conflict of law provisions. Any claim brought pursuant to this Agreement shall be brought in a court of competent jurisdiction within the State of Arizona and venue for any such claim shall be proper in the appropriate state or federal court located in Maricopa County, Arizona. The specified

state governing law and jurisdiction do not apply to U. S. Government Customers.

3. **Arbitration**. Nextiva and Customer agree to arbitrate any and all disputes and claims between Customer and Nextiva except as set forth in Section 12.10 (Exceptions to Arbitration Agreement) of this Agreement. Arbitration means that all disputes and claims will be resolved by a neutral arbitrator instead of by a judge or jury in a court. This agreement to arbitrate is intended to be given the broadest possible meaning under the law. It includes, but is not limited to: disputes and claims arising out of or relating to any aspect of the relationship between Customer and Nextiva, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; disputes and claims that arose before this or any prior agreement (including, but not limited to, claims relating to advertising); disputes and claims that may arise after the termination of this agreement; disputes and claims that are currently the subject of individual litigation; disputes and claims that are currently the subject of purported class action litigation in which Customer is not a member of a certified class; and disputes and claims concerning the scope of this arbitration provision. References to “**Nextiva**,” “**Customer**” and “**you**” include our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors and assigns, as well as all authorized or unauthorized users or beneficiaries of the Services under this agreement or any prior agreements between Customer and Nextiva.
4. **Informal Resolution of Disputes**. Our Customer Care Department can resolve most customer concerns quickly and to the customer’s satisfaction. If Customer has a dispute or claim against Nextiva, Customer agrees to first contact the Nextiva Customer Care Department at (800) 983-4289 and provide in detail, including documents or analysis supporting Customer’s position and the basis of their claim. Customer care shall be provided with fourteen (14) days in which to research and respond to Customer’s claim. In the event Customer’s dispute or claim is

not resolved to their satisfaction, Customer may seek to have that dispute or claim resolved as set forth below.

5. **Formal Notice of Disputes**. If Customer intends to seek arbitration they must first send Nextiva a written “Notice of Dispute” setting forth in detail, including submission of supporting documentation, the grounds of the dispute. The Notice of Dispute must be sent to Nextiva, attention “General Counsel,” by certified mail addressed to 9451 East Via de Ventura, Scottsdale, AZ 85256.
 1. The Notice of Dispute must describe the nature and basis of the dispute or claim and set forth the specific relief sought. If Customer and Nextiva do not reach an agreement to resolve the dispute or claim within thirty (30) days after the Notice of Dispute is received, Customer or Nextiva may commence an arbitration proceeding. The amount of any settlement offer made by Customer or Nextiva shall be non-discoverable and shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which Customer or Nextiva is entitled.
6. **Arbitrator and Arbitral Rules**. The arbitration shall be administered by the American Arbitration Association (“**AAA**”). Customer may contact the AAA by telephone at 1-800-778-7879, by email at AAAUniversity@adr.org, or by mail at 2415 E. Camelback Rd., Suite 700 Phoenix, AZ 85016. The arbitration shall be governed by the AAA’s Commercial Arbitration Rules (collectively, “**AAA Rules**”), as modified by this Agreement. The AAA Rules are available at adr.org or by calling the AAA at 1-800-778-7879.
7. **Waiver of Jury Trial**. Customer and Nextiva agree that, by entering into this agreement, Customer and Nextiva are waiving the right to a trial by jury.
8. **Waiver of Class Actions**. Customer and Nextiva agree that the arbitrator may award relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual claim. Customer and Nextiva agree that Customer and Nextiva

may bring claims against the other only in their or its individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. Customer and Nextiva agree that, unless Customer and Nextiva agree otherwise, the arbitrator may not consolidate more than one (1) person's or entity's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific waiver of class actions provision, or any portion thereof, is found to be unenforceable, then the entirety of this dispute resolution and binding arbitration provision shall be null and void.

9. **Statute of Limitations**. Customer must present a claim within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute (except for billing disputes which are subject to Section 2.2 (Limitations on Use) of the Agreement), or Customer waives the right to pursue a claim based upon such event, facts, or dispute.
10. **Exceptions to Arbitration Agreement**. Notwithstanding the obligation to arbitrate and any other provisions to the contrary herein, Customer and Nextiva agrees that: (a) with respect to claims for unpaid invoices Nextiva may bring a claim for amounts due and owing to it in a court of competent jurisdiction in Maricopa County, Arizona; (b) if Customer fails to timely pay amounts due, Nextiva may assign their account for collection, and the collection agency may pursue in court claims limited strictly to the collection of the past due debt and any interest or cost of collection permitted by law or the Agreement; (c) Customer or Nextiva may take any disputes over the validity of any party's intellectual property rights to a court of competent jurisdiction; (d) any dispute related to or arising from allegations associated with fraudulent or unauthorized use, theft, or piracy of service may be brought in a court of competent jurisdiction; and (e) either Customer or Nextiva may seek any interim or preliminary relief from a court of competent jurisdiction, necessary to protect the rights or property of Customer or Nextiva, pending the completion of arbitration.

11. **Modification of Arbitration**. If Nextiva makes any substantive change to this arbitration provision, Customer may reject any such change by sending Nextiva written notice within thirty (30) days of the changes to the address provided in Section 12.5 (Formal Notice of Disputes). By rejecting any change, Customer agrees to adhere to the language in this provision. If Customer fails to timely reject a change to these arbitration provisions, Customer agrees to be bound by any change that Nextiva may, in its discretion, make to these provisions.
12. **Venue/Jurisdiction**. All claims for Arbitration shall be submitted to and heard by an arbitrator located in Maricopa County, Arizona. Should an evidentiary hearing be required by the Arbitrator, such hearing shall be heard in Maricopa County, Arizona.
13. **Arbitration Costs**. Customer agrees that all administrative fees and arbitrator costs (the “**Arbitration Costs**”) shall initially be borne in accordance with the AAA Rules. If the division of the Arbitration Costs is not set forth in the AAA Rules then in effect, Customer agrees that the Arbitration Costs, including any required deposits, will initially be paid equally by Customer and Nextiva. Customer further agrees that the arbitrator shall award the prevailing party in any arbitration proceeding the recovery of its share of the Arbitration Costs against the non-prevailing party. Customer and Nextiva agree that the failure or refusal of a party to pay its required share of any deposits for arbitrator compensation or administrative charges shall constitute a waiver by that party to present any evidence or cross-examine witnesses, and a waiver of that party’s claims, if any.

13. **ADDITIONAL TERMS**.

1. **U.S. Government End-Users**. If Customer is a U.S. Government agency, Customer hereby acknowledges and agrees that the software being accessed through Services, as well as any software that is downloaded by any Customer or Device in connection with the Services, constitutes “**Commercial Computer Software**” as defined in Section 2.101 of the

Federal Acquisition Regulation (“**FAR**”), 48 CFR 2.101. Therefore, in accordance with Section 12.212 of the FAR (48 CFR 12.212), and Sections 227.7202-1 and 227.7202-3 of the Defense Federal Acquisition Regulation Supplement (“**DFARS**”) (48 CFR 227.7202-1 and 227.7202-3), the use, duplication, and disclosure of the software and related Documentation by the U.S. Government or any of its agencies is governed by, and is subject to, all of the terms, conditions, restrictions, and limitations set forth in this Agreement. If, for any reason, FAR 12.212 or DFARS 227.7202-1 or 227.7202-3 or these license terms are deemed not applicable, Customer hereby acknowledges that the Government’s right to use, duplicate, or disclose the software and related Documentation are “**Restricted Rights**” as defined in 48 CFR Section 52.227-14(a) (May 2014) or DFARS 252.227-7014(a)(15) (Feb 2014), as applicable.

Manufacturer is:

Nextiva, Inc.

9451 East Via de Ventura

Scottsdale, AZ 85256

2. **Services Trial**. If an offering of the Services is identified as a trial (“**Trial**”), Customer may use the Services for a limited period of time for internal demonstration, test, or evaluation purposes. NEXTIVA PROVIDES TRIALS “AS IS” AND WITHOUT WARRANTY. ANY CUSTOMER DATA UPLOADED IN A TRIAL WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL OR EXPORTS SUCH DATA BEFORE THE END OF THE TRIAL PERIOD. These terms supersede any conflicting terms and conditions in this Agreement.
3. **Beta, Tech Preview or Labs Services**. The Services do not include Beta, Tech Preview or Labs Services. CUSTOMER ACKNOWLEDGES THAT ANY BETA, TECH PREVIEW OR LABS SERVICES ARE OFFERED “AS-IS” FOR INTERNAL DEMONSTRATION, TEST OR EVALUATION PURPOSES AND WITHOUT WARRANTY. SUCH SERVICES MAY

CONTAIN BUGS, ERRORS AND OTHER DEFECTS. Nextiva does not make any representations, promises or guarantees that such Services will be publicly announced or made generally available. Nextiva has no obligation to provide technical support or continued availability, and such Services can be suspended or terminated at any time by Nextiva in its sole discretion with or without notice to Customer.

4. **Third Party Products, Services or Content**. The Services may contain features or functions that enable interoperation with third party products, services or content. Nextiva may also provide access to third party products, services or content directly within the Services. Third party products, services or content, and Content in third party services are not part of the Services and are not warranted or supported by Nextiva. Customer's use of such third party products, services or content is subject to the terms of the third party provider. Customer is responsible for reading and understanding the Third-Party Terms before accessing or using any Third-Party Application.
5. **Copyright**. Nextiva reserves the right to delete or disable any allegedly infringing content, to require that Customer terminate the Customer Accounts of Customers who are repeat infringers, and to forward the information in the copyright-infringement notice to the Customers who allegedly provided the infringing content.
6. **Consent to Use Logs**. Nextiva and its service providers may collect and use Logs for purposes of facilitating the Services, including securing, managing, measuring and improving the Services. Logs may be used for purposes not specified in this Section 13.6 only in an aggregated, anonymized form.
7. **Security and Privacy**. Nextiva is committed to respecting Customer's privacy relating to personally identifiable information. When providing SaaS Services, technical support services or consulting services, Nextiva will (a) implement and maintain the administrative, physical and technical security controls as set forth in the Privacy Notice, and (b) process

personal data on Customer's behalf as set forth in the Privacy Notice. Customer agrees to provide any notices, obtain any consents or otherwise establish the legal basis necessary for Nextiva to access and process personal and other data as specified in this Agreement. Customer agrees that Nextiva may access all features of their Customer Account and the Services to determine whether the Services are being used fraudulently and/or in violation of this Agreement, and for any other purposes.

CUSTOMER AGREES THAT NEXTIVA SHALL NOT BE LIABLE FOR ANY LACK OF PRIVACY. The Privacy Notice is incorporated herein by reference.

8. **Suspension of Services**. Nextiva reserves the right to suspend Customer's access to the Services if it determines, in its sole discretion, that (a) payment for the Services is not received within thirty (30) days from the date on which payment is due; (b) Customer's use of the Services are in breach of this Agreement and not cured as required by Section 7.3 (Termination for Cause); (c) Customer failed to timely address Nextiva's request to take action pursuant to Section 2.3 (Violations of Limitations on Use); (d) Customer's use of the Services poses a security or other risk to the Services or to other users of the Services; or (e) suspension is required pursuant to a subpoena, court order or other legal process. Nextiva agrees to notify Customer of any such suspension. Customer will remain responsible for all fees incurred before or during any suspension. Nextiva reserves the right, in its discretion, to impose reasonable Fees to restore archived data upon Customer request from delinquent accounts.
9. **Voice and Data Charges; Customer Connectivity**. Customer is responsible for all fees and charges imposed by Customer's telephone carriers, wireless providers, and other voice and/or data transmission providers arising out of access to and use of the Services. If Customer's broadband connection and/or telephone service fails, or Customer

experiences a power or other failure or interruption, the Services may also cease to function for reasons outside of Nextiva' control.

10. **Assignment**. Customer may not assign its rights or delegate its duties under this Agreement either in whole or in part without Nextiva' prior written consent, except that Customer may assign this Agreement in whole to an Affiliate, or a successor in interest as part of a corporate reorganization, consolidation, merger, or sale of all or substantially all of its assets. Customer shall provide notice to Nextiva upon completion of any permitted assignment. Any attempted assignment in violation of the foregoing shall be void. This Agreement will bind and inure to the benefit of each party's successors or permitted assigns.
11. **Export Restriction and Compliance with Laws**. Customer acknowledges that the Services are subject to U.S., foreign, and international export controls and economic sanctions laws and regulations and agrees to comply with all such applicable laws and regulations, including, but not limited to, the U.S. Export Administration Regulations ("**EAR**") and regulations promulgated by the U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"). Customer also specifically agrees not to, directly or indirectly, allow access to or use of the Services in embargoed or sanctioned countries/regions, by sanctioned or denied persons, or for prohibited end-uses under U.S. law without authorization from the U.S. government. Both parties also agree to comply with all other laws, rules and regulations applicable to that party under this Agreement.
12. **CALEA**. Nextiva intends to fully comply with the Communications Assistance for Law Enforcement Act ("**CALEA**"). By using the Services, Customer hereby agrees and consent to Nextiva's right to monitor and otherwise disclose the nature and content of Customer's communications if and as required by CALEA without any further notice.

13. **Audit**. To the extent permitted by applicable law, Customer agrees to allow Nextiva to audit Customer's compliance with this Agreement pursuant to the terms below:

1. Any audit may be conducted remotely or on Customer's premises and shall not unreasonably interfere with Customer's business activities. Nextiva may perform the audit or use a third-party agent, such as an independent certified public accounting firm. Nextiva shall not audit Customer more than once per calendar year. Customer must reasonably cooperate, and, without prejudice to other rights of Nextiva, address any non-compliance identified by the audit, including, but not limited to, promptly paying any license or Maintenance fees owed. If the audit reveals an underpayment of ten percent (10%) or more of total fees owed for the review period, or any other material breach of the this Agreement, Customer agrees to also reimburse Nextiva for its reasonable audit expenses.
2. Nextiva and its agent will protect confidential information obtained during the performance of the audit by using the same degree of care as Nextiva uses to protect its own information of a like nature, but no less than a reasonable degree of care, to prevent its unauthorized use, disclosure, dissemination, or publication. Nextiva and its agent shall not have an obligation to maintain the confidentiality of information (i) received rightfully from a third party prior to the audit; (ii) Customer has disclosed to a third party without any obligation of confidentiality; or (iii) is independently developed by Nextiva or its agent. Customer agrees that it will not require any additional confidentiality or non-disclosure agreements to be implemented by Nextiva or its designated third-party agents in relation to the audit.

14. **Notices**. All legal notices required under this Agreement shall be in writing and delivered in person or by certified or registered express mail to the address last designated on the Customer Account, and the Nextiva

contracting entity as specified below, or such other address as either party may specify by notice to the other party as provided herein. Notice shall be deemed given (a) upon personal delivery; (b) if delivered by air courier or email, upon confirmation of receipt; or (c) five (5) days after deposit in the mail. A copy of all legal notices from Customer to Nextiva must also be sent to Legal@Nextiva.com. Non-legal notices under Section 3 (Orders) may be provided by Customer to the Nextiva email address specified on the applicable Renewal Notification and shall be deemed effective as of the date and time stamp on the Customer's email. Nextiva may provide Customer with non-legal notices through <https://www.nextiva.com/> and/or through in-product messaging or dashboards, which shall likewise be deemed effective immediately.

15. **Feedback.** Customer hereby grants to Nextiva a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into Nextiva's Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer relating to the improvement, operation, or use of Customer's Services.
16. **Entire Agreement; Order of Precedence.** A Term Services Agreement, the Agreement, the Order, the applicable service description, or any reference herein to the content of Nextiva's websites constitute the entire agreement and understanding of the parties relating to the Services and Content and supersedes all prior and contemporaneous oral and written agreements. For any conflict between these terms and any supplementary BAA terms related to PHI, this Agreement shall control. For any conflict between these terms and the Services Descriptions related to the Services, these terms shall control. For any conflict between these terms and the Term Services Agreement, the Term Services Agreement shall control. Except as provided for in the previous sentence regarding the Term Services Agreement, nothing contained in any Order or other document submitted by Customer shall in any way add to or otherwise

modify the Agreement or any Nextiva license program terms under which an Order is submitted.

17. **Changes**. Nextiva may revise and update these Terms of Use from time to time in its sole discretion. All changes are effective immediately once they are posted, and apply to all access to and use of the Services thereafter. However, any changes to the dispute resolution provisions set out in Section 12 (Dispute Resolution and Binding Arbitration) will not apply to any disputes for which the parties have actual notice on or before the date the change is posted on the Website. Customer's continued use of the Services following the posting of a revised version of this Agreement means that it accepts and agrees to the changes. Customer is expected to check this Agreement from time to time so that it is aware of any changes, as they are binding on Customer.

18. **General Terms**. Captions and headings are used herein for convenience only, are not a part of this Agreement, and shall not be used in interpreting or construing this Agreement. The provisions of Sections 1 (Definitions), 2.2 (Limitations on Use), 2.4 (Proprietary Rights), 2.5 (Open Source Software), 3 (Orders), 7.4 (Effect of Termination), 8 (Content and Customer Accounts), 10 (Indemnification and Waiver of Claims), 11 (Limitation of Liability), 12.2 (Contracting Party, Choice of Law and Location for Resolving Disputes), 13.14 (Notices), and 13.18 (General Terms) shall survive any termination of the Agreement. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from this Agreement and the other provisions shall remain in full force and effect. The parties are independent contractors and nothing in this Agreement creates a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between or among the parties. Nextiva may subcontract responsibilities under this Agreement, but remains responsible for its breach of this Agreement by the acts or omissions of Nextiva or its subcontractors. No person or entity not a party to this

Agreement will be deemed to be a third party beneficiary of this Agreement or any provision hereof. Nextiva authorized resellers and distributors do not have the right to make modifications to this Agreement or to make any additional representations, commitments, or warranties binding on Nextiva. No waiver or amendment of any term or condition of this Agreement shall be valid or binding on any party unless agreed to in writing by such party. Nextiva failure to enforce any term of this Agreement will not be construed as a waiver of the right to enforce any such terms in the future. Unless otherwise specified, remedies are cumulative. This Agreement may be agreed to online, by use of the Services and/or executed by electronic signature and in one (1) or more counterparts. Neither party will be responsible or have any liability for any delay or failure to perform its non-monetary obligations hereunder to the extent due to unforeseen circumstances or causes beyond its reasonable control, including acts of God, earthquake, fire, flood, sanctions, embargoes, strikes, lockouts or other labor disturbances, civil unrest, failure, unavailability or delay of suppliers or licensors, riots, terrorist or other malicious or criminal acts, war, failure or interruption of the internet or third party internet connections or infrastructure, power failures, acts of civil and military authorities and severe weather (“**Force Majeure**”). The affected party will give the other party prompt written notice (when possible) of the failure to perform due to Force Majeure and use its reasonable efforts to limit the resulting delay in its performance.

Last Updated: June 8, 2022

NEXTIVA HIPAA USE GUIDELINES

INTRODUCTION

When used properly and in accordance with these Guidelines, XBert AI, NEXT Unified Customer Experience Management Platform, NextivaONE, Nextiva Contact Center, and Nextiva Core, Engage and Power Suite (NextivaCx) Services are compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). As a customer of one or more of these services, you are responsible for your and your users' compliance, in all respects, with these Guidelines and any and all other requirements of HIPAA, as well as all applicable state and federal laws and regulations, in using the applicable service within a HIPAA-compliant environment.

XBert AI

SERVICE REQUIREMENTS

In order to use XBert AI in a HIPAA-compliant environment, you must obtain a Nextiva HIPAA-compliant service offering. These service offerings are designated as HIPAA-compliant or "HC" on your quote. You must also enter into a Business Associate Agreement or BAA with Nextiva. In addition, if your services include other Nextiva services or offerings, these services must also be the HIPAA-compliant version. These Guidelines are in addition to, and do not modify or amend, your responsibilities and obligations pursuant to the BAA between you and Nextiva.

SMS/MMS

Nextiva's XBert AI and related AI employee, receptionists, and agents can communicate using SMS/MMS messages. SMS/MMS messages are not encrypted, can't be recalled (if sent to the wrong recipient), and can be intercepted on public networks. Furthermore, copies of SMS/MMS messages can remain on carriers' servers indefinitely. As such,

you acknowledge and agree that you will not configure XBert AI to send any Protected Health Information (PHI) via SMS/MMS. SMS and MMS messages may be used in a manner compliant with HIPAA, including where PHI is not sent nor received.

Email

Nextiva's XBert AI and related AI employee, receptionists, and agents can communicate using email. Email messages are not encrypted by default, and, accordingly, you acknowledge and agree that you will not configure XBert AI to send any Protected Health Information (PHI) via email. Email messages may be used in a manner compliant with HIPAA, including where PHI is not sent nor received.

Chat

Nextiva's XBert AI and related AI employee, receptionists, and agents can communicate through a chat widget hosted on your website. This widget communicates securely with Nextiva's services, but you are responsible for the security of the website that hosts the widget. The site must be secured by HTTPS with TLS 1.2 or higher, and you must have adequate security controls on the site to ensure the integrity of the JavaScript widget.

NEXT

SERVICE REQUIREMENTS

In order to use NEXT in a HIPAA-compliant environment, you must obtain a Nextiva HIPAA-compliant service offering. These service offerings are designated as

HIPAA-compliant or “HC” on your quote. You must also enter into a Business Associate Agreement or BAA with Nextiva. In addition, if your services include Nextiva Business Communications offerings, these services must also be the HIPAA-compliant Business Communications offering. These Guidelines are in addition to, and do not modify or amend, your responsibilities and obligations pursuant to the BAA between you and Nextiva.

USE RESTRICTIONS

Messaging

NEXT provides messaging capabilities with users through multiple channels, including SMS, email, social media, and chat. While Nextiva secures the data related to these messages within the NEXT platform, communications on these channels may not be secure end-to-end.

SMS/MMS

SMS/MMS messages are not encrypted, can't be recalled (if sent to the wrong recipient), and can be intercepted on public networks. Furthermore, copies of SMS/MMS messages can remain on carriers' servers indefinitely. As such, you acknowledge and agree that you will not send any Protected Health Information (PHI) via SMS/MMS. SMS and MMS messages may be used in a manner compliant with HIPAA, including where PHI is not sent nor received.

Email

Email messages are not encrypted by default, and, accordingly, you acknowledge and agree that you will not send any PHI via email. Email messages may be used in a manner compliant with HIPAA, including where PHI is not sent nor received.

Social Media

NEXT supports messaging via social media platforms, including X, WhatsApp and Facebook. The posting of PHI on social media or through social media messaging does not generally comply with the requirements of HIPAA. Accordingly, you acknowledge and agree that you will not send any PHI via social media messaging. This includes, but is not limited to, posting or messaging without identifying a patient's name, but in a manner through which the patient could be identified.

Chat

NEXT provides Live Chat and Chatbot capabilities through a widget hosted on your website. This widget communicates securely with NEXT, but you are responsible for the security of the website that hosts the widget. The site must be secured by HTTPS with TLS 1.2 or higher, and you must have adequate security controls on the site to ensure the integrity of the JavaScript widget.

Reporting

Reports containing PHI should not be transmitted by email.

Surveys

Do not include PHI in surveys.

Calendar Integrations

NEXT allows integration with calendar applications. These calendar applications may not be HIPAA compliant. Users must not include PHI in Scheduled Meeting Information (Title, Description) when integrating calendars with Outlook or Google.

Third Party Integrations not Provided by Nextiva

NEXT may be integrated with third-party applications through APIs and SDK features. You are responsible for using any integrated applications in a HIPAA compliant manner.

END-POINT AND WEBSITE MANAGEMENT AND SECURITY

You understand and agree that you are responsible for the security and management of all end user devices running the NEXT application, including desktop and laptop computers and mobile devices. You are responsible for the security of websites hosting Live Chat or Chatbot widgets. You are also responsible for the security of user credentials used for accessing the NEXT application. Nextiva recommends that you consult with your information technology provider regarding best practices and procedures related to device and web security and password policies and practices.

NEXTIVAONE

SERVICE REQUIREMENTS

In order to use NextivaONE in a HIPAA-compliant environment, you must obtain a Nextiva HIPAA-compliant service offering. These service offerings are designated as HIPAA-compliant or “HC” on your quote. You must also enter into a Business Associate Agreement or BAA with Nextiva. These Guidelines are in addition to, and do not modify or amend, your responsibilities and obligations pursuant to the BAA between you and Nextiva.

USE RESTRICTIONS

SMS/MMS

SMS and MMS messages are not encrypted and not recallable. As such, you acknowledge and agree that you will not send any Protected Health Information (PHI) via the NextivaONE SMS or MMS function. SMS and MMS messages may, however, be used in a manner compliant with HIPAA, including where PHI is not sent or received.

Email

Email messages are generally unencrypted, and, accordingly, you acknowledge and agree that you will not send any PHI via email using NextivaONE. Email features, when and where available, may be utilized as long as PHI is not transmitted through email.

Contacts

The application allows you to create Business contacts. You acknowledge and agree not to include PHI in Contact First/Last Name, Company Name, or Job Title.

Conversations/Rooms

Conversations and Rooms functionalities within NextivaONE may include contacts that are set to receive SMS messages instead of messages within the NextivaONE application itself. Accordingly, you acknowledge and agree that you will not send any PHI via Conversations and/or Rooms, nor will you include PHI in the name or description of any Conversation and/or Room.

Calendar

Calendar functionalities within NextivaONE enable users to create calendar entries in the application. You acknowledge and agree that you will not include PHI in the Calendar data fields: Title, Location, or Details.

Calendar Integrations

Nextiva provides a mechanism for you to integrate and sync your Google and/or Outlook calendars with your NextivaONE calendar. You acknowledge and agree that you will not sync any such calendar that contains or may contain PHI.

Surveys

Surveys allows you to ask questions of your customers. Nextiva does not encrypt survey questions or answers on the platform. You acknowledge and agree that you will not include PHI in survey questions or elicit answers that may include PHI from survey recipients.

Topics

Topics enables users to tag conversation events with pre-defined SmartTopics. Nextiva does not encrypt SmartTopics on the platform. You acknowledge and agree that you will not include PHI in SmartTopics.

END-POINT MANAGEMENT AND SECURITY

You understand and agree that you are responsible for the security and management of all end user devices containing the NextivaONE application, including desktop and laptop computers and mobile devices. Nextiva recommends that you consult with your information technology provider regarding best practices and procedures regarding and related to device security and password policies and practices.

NEXTIVA CONTACT CENTER SERVICES

SERVICE REQUIREMENTS

In order to use NCC in a HIPAA-compliant environment, you must obtain a Nextiva HIPAA-compliant service offering. These service offerings are designated as HIPAA-compliant or “HC” on your quote. You must also enter into a Business Associate Agreement or BAA with Nextiva. In addition, if your services include Nextiva Business Communications offerings, these services must also be the HIPAA-compliant Business Communications offering. These Guidelines are in addition to, and do not modify or amend, your responsibilities and obligations pursuant to the BAA between you and Nextiva.

USE RESTRICTIONS

SMS/MMS (Outbound)

SMS/MMS messages are not encrypted, can't be recalled (if sent to the wrong recipient), and can be intercepted on public networks. Furthermore, copies of SMS/MMS messages can remain on carriers' servers indefinitely. As such, you acknowledge and agree that you will not send any Protected Health Information (PHI) via the NCC SMS or MMS function. SMS and MMS messages may, however, be used in a manner compliant with HIPAA, including where PHI is not sent or received.

Email

Email messages are not encrypted by default, and, accordingly, you acknowledge and agree that you will not send any PHI via email using NCC. Email features, when and where available, may be utilized only if PHI is not transmitted through email.

Contact List Management / Contact History

NCC supports the ability to manage contacts (Business, Customers) with its native "mini-CRM." Which allows you to create Business contacts and Customer Contacts. You acknowledge and agree not to include PHI in any of the Contact fields.

Social Conversations (WhatsApp, Facebook, X)

NCC supports X, WhatsApp and Facebook messaging. The posting of PHI on social media or through social media messaging applications does not generally comply with the requirements of HIPAA. Accordingly, you acknowledge and agree that you will not send any PHI via Social Conversation, nor will you include PHI in the name or description of any Social Conversation name. This includes, but is not limited to, posting or messaging without identifying a patient's name, but in a manner through which the patient could be identified.

Chat Conversations (Proactive-Virtual, Advanced-Live, Third-Party Integrations)

NCC Application supports various Chat types and Chat integration with Third Parties. Chat Conversations within NCC may include Customers that are set to receive SMS/MMS or email messages. Accordingly, you acknowledge and agree that you will not send any PHI via Chat Conversations, nor will you include PHI in the name or description of any Chat Conversation. Further, Nextiva does not represent or warrant that the integration of NCC with any third-party application or API is compliant with HIPAA. You are solely responsible for any such use in a manner compliant with all applicable laws.

Preferences & Feedback Form (customer-facing digital forms)

With NCC, you can create a wide variety of customer-facing digital forms without any programming. The form can be for lead qualification, sentiment feedback, or for communication channel preferences. Accordingly, you acknowledge and agree that you will not include PHI in the questions, the name, or the description of any of the forms you would create, nor will you solicit responses that might include PHI.

END-POINT MANAGEMENT AND SECURITY

You understand and agree that you are responsible for the security and management of all end user devices containing the NCC application, including desktop and laptop computers and mobile devices. Nextiva recommends that you consult with your information technology provider regarding best practices and procedures regarding and related to device security and password policies and practices.

NEXTIVA CORE, ENGAGE,

AND POWER SUITE SERVICES (NEXTIVACX)

SERVICE REQUIREMENTS

In order to use Nextiva Core, Engage and/or Power Suite (“NextivaCx”) in a HIPAA-compliant environment, you must obtain a Nextiva HIPAA-compliant service offering. These service offerings are designated as HIPAA-compliant or “HC” on your quote. You must also enter into a Business Associate Agreement or BAA with Nextiva. In addition, if your services include Nextiva Business Communications offerings, these services must also be the HIPAA-compliant Business Communications offering. These Guidelines are in addition to, and do not modify or amend, your responsibilities and obligations pursuant to the BAA between you and Nextiva.

USE RESTRICTIONS

Messenger Applications

Connecting messaging apps to NextivaCX centralizes conversations across various platforms into one single interface, leading to improved response times and a consistent brand voice. Messaging apps are communication channels, facilitating real-time interactions and fostering seamless conversations between businesses and customers in a convenient and accessible manner.

NextivaCX supports the integration with various messaging apps such as, Facebook Messenger (chats sent/received), X (Twitter), Instagram DM, WhatsApp API (provides the ability to send out messages via campaign), Viber bot (cloud-based voice and messaging app that has the ability for users to integrate a bot for Viber, helping users to interact with AI that a brand puts in place), Telegram, Telegram bot, and Twilio.

The posting of PHI on social media or through social media messaging applications does not generally comply with the requirements of HIPAA. Accordingly, you acknowledge and agree that you will not send any PHI via social media messaging, nor will you include PHI in the name or description of any social media messaging name. This includes, but is not limited to, posting or messaging without identifying a patient's name, but in a manner through which the patient could be identified.

Email / Group Email Mailbox

Email messages are not encrypted by default, and, accordingly, you acknowledge and agree that you will not send any PHI via email using NextivaCX. Email features, when and where available, may be utilized only if PHI is not transmitted through email.

Social Media Management (Facebook, Instagram, WhatsApp, X, YouTube)

Currently, the Social Media channels that can be connected through NextivaCX are: Facebook, Twitter, LinkedIn, Instagram and Youtube. Once social channels have been connected to NextivaCX, businesses can begin using NextivaCX to monitor, analyze and respond to social interactions.

The posting of PHI on social media does not generally comply with the requirements of HIPAA. Accordingly, you acknowledge and agree that you will not send any PHI via social conversation, nor will you include PHI in the name or description of any social conversation name, case determination/name or customizable auto-responses. This includes, but is not limited to, posting or messaging without identifying a patient's name, but in a manner through which the patient could be identified.

Review Management

Online Reviews in NextivaCX provides the businesses with the opportunity to manage their customers reviews across a variety of review platforms. There are five categories in the review platforms: App Store Reviews, Location Reviews, E-Commerce Reviews, Other Reviews (such as Glassdoor and Indeed), and App Store Competitors reviews. You acknowledge and agree that you will not include ePHI in the name or description of any of the reviews.

END-POINT MANAGEMENT AND SECURITY

You understand and agree that you are responsible for the security and management of all end user devices containing the NextivaCX application, including desktop and laptop computers and mobile devices. Nextiva recommends that you consult with your information technology provider regarding best practices and procedures regarding and related to device security and password policies and practices.

Last Updated: November 05, 2025

NEXTIVA, INC. CONNECT BETA LICENSE AGREEMENT

PLEASE CAREFULLY READ ALL OF THE FOLLOWING TERMS AND CONDITIONS OF THE NEXTIVA, INC. ("**NEXTIVA**") CONNECT BETA LICENSE AGREEMENT (THIS "**AGREEMENT**"). IF YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK ON THE "ACCEPT" BUTTON. IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK ON THE "DECLINE" BUTTON AND YOU WILL BE INELIGIBLE TO PARTICIPATE IN THE NEXTIVA, INC. CONNECT BETA PROGRAM. BY CLICKING "ACCEPT" YOU REPRESENT AND WARRANT THAT YOU ARE DULY AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF THE PARTY THAT YOU REPRESENT (THE "**PARTICIPANT**").

This Agreement is entered into as of the date accepted by the Participant (the "**Effective Date**").

Participant wishes to evaluate the Nextiva Connect desktop application and related Nextiva Connect features, functionalities and services as added to the Participant's account (the "**Beta Services**").

1. **USE OF THE BETA SERVICES.** In consideration for the Participant's participation in the Beta program provided for herein, Nextiva grants Participant a nonexclusive, nontransferable, non-sublicensable, temporary, revocable, limited right to access and use the Beta Services solely for the purpose of testing and evaluating the Beta Services. The rights granted under this Agreement are granted only to Participant and may not be assigned or transferred to any other party. Title to the Beta Services remains in Nextiva. Participant agrees that it will not (a) permit unauthorized access to or use of the Beta Services; (b) attempt to gain unauthorized access to the Beta Services or any related systems or networks; or (c) interfere with or disrupt the integrity or performance of the Beta Services or the data contained therein. Participant further agrees to safeguard all passwords related to the Beta Services and to notify Nextiva immediately of any

unauthorized use of Participant's password and/or account, or any other known or suspected breach of security.

2. **TERM AND TERMINATION.** The rights granted in Section 1 of this Agreement shall be in effect for the earlier of **sixty (60) days** from the date of delivery of access to the Beta Services to Participant or until either party provides the other with written notice of its termination of this Agreement ("**Beta Period**").

Participant agrees not to attempt to gain access to the Beta Services after the Beta Period without Nextiva's express permission. Participant understands and agrees that Nextiva is under no obligation to release any final service or product resulting from the Beta Program to the public, including for Participant's use after the Beta Period.

3. **DISCLAIMER OF WARRANTY.** NEXTIVA SPECIFICALLY DISCLAIMS ALL WARRANTIES INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY OTHER WARRANTY, WHETHER EXPRESSED OR IMPLIED. Nextiva does not warrant that the Beta Service(s) will meet Participant's requirements or that operation will be uninterrupted or error free. The Beta Services(s) are provided "AS IS". PARTICIPANT AGREES THAT NEXTIVA SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, SPECIAL, COVER, RELIANCE OR CONSEQUENTIAL DAMAGES ARISING FROM PARTICIPANT'S USE OF THE BETA SERVICE(S). PARTICIPANT IS SOLELY RESPONSIBLE FOR ALL ACTIVITY OCCURRING UNDER PARTICIPANT'S ACCOUNT(S) AND AGREES TO FULLY COMPLY WITH ALL APPLICABLE LAWS.

Participant understands and agrees that any data entered by Participant into the Beta Services may be deleted or otherwise unavailable to Participant at the conclusion of the Beta Period even if Participant and Nextiva enter into a further agreement to allow Participant to continue to use any of the Beta Services at the conclusion of the Beta Period. Nextiva encourages Participant to maintain redundant back-up copies of any data inputted by Participant into the Beta Services.

4. **REPORTING.** Participant agrees to provide Nextiva with reports of any defects found in, and any recommendations for changes or modifications to, the Beta Service(s). Participant further agrees to designate one or more individuals that will provide regular feedback (at least once every two weeks) to Nextiva, including by email, chat and audio and/or video conferences that may, in Nextiva's discretion, be recorded. Participant acknowledges and agrees that Nextiva shall exclusively own and retain all right, title, and interest, including but not limited to all intellectual property rights, in and to all suggestions, ideas, enhancements, requests, feedback, recommendations, and other information provided by Participant.
5. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of Arizona. The parties hereby irrevocably consent to the jurisdiction of the courts having jurisdiction over Maricopa County, Arizona for the interpretation of this Agreement and for the resolution of all disputes hereunder.
6. **INCORPORATION OF TERMS AND CONDITIONS.** Participant further agrees to the Nextiva Terms and Conditions located at <https://www.nextiva.com/legal.html>. If there is a conflict between this Agreement and the Terms and Conditions referenced herein, the terms of this Agreement will prevail.
7. **CONFIDENTIAL INFORMATION.** Participant agrees that the Beta Services and any information concerning the Beta Services (including, but not limited to, its nature and existence, feature, functionalities, availability, log-in credentials, and interface (including screenshots thereof), and any other information disclosed to Participant by Nextiva regarding or in connection with the Beta Services shall be considered and referred to herein as "**Confidential Information**". Confidential Information shall not include information that would otherwise be deemed Confidential Information, but (i) is or becomes publicly available without breach of this Agreement; (ii) can be shown by documentation to have been known to the Participant at the time of its receipt from Nextiva; (iii) is rightfully received by the Participant from a third party who did not acquire or disclose such information by a wrongful or tortuous act; or (iv) can be shown by documentation to have been independently developed by the Participant without reference or access to any

Confidential Information. All Confidential Information remains Nextiva's sole property, and Participant has no implied licenses or other rights in the Confidential Information except as expressly set forth in this Agreement.

8. NON-USE AND NON-DISCLOSURE OF CONFIDENTIAL INFORMATION.

Participant agrees that it will not disclose, publish, or otherwise disseminate any Confidential Information to anyone. Participant further agrees to take reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of Confidential Information, including preventing access to or display of the Beta Services to third parties. Participant agrees to use the Confidential Information solely for the permitted uses as set forth in this Agreement. Participant agrees not to use Confidential Information otherwise for its own or any third party's benefit without Nextiva's prior written approval in each instance. Participant hereby acknowledges that unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to Nextiva that may be difficult to ascertain. Accordingly, Participant agrees that Nextiva will have the right to seek immediate injunctive relief to enforce obligations under this Agreement in addition to any other rights and remedies available to it.

9. ENTIRE AGREEMENT. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter hereof, and supersedes any prior agreements or understandings between the parties, whether written or oral, with respect hereto. No modification to this Agreement shall be of any force or effect unless made in writing and signed by each party.

10. NO UNANNOUNCED MODIFICATIONS. By signing and delivering this Agreement and/or any schedule, exhibit, amendment, or addendum thereto, the delivering party represents to the other party that the delivering party has not made any changes to such document from the draft most-recently provided to the delivering party by the other party unless the delivering party has expressly called such changes to the other party's attention in writing (e.g., by "redlining" the document or by a comment memo or email).

Last Updated: December 23, 2021

Trademark

Guidelines

Brand Asset Trademark Guidelines

The name Nextiva belongs to Nextiva, Inc. (“Nextiva”) and our logos, service marks, and trade names (collectively, the “Marks”) are trademarks or registered trademarks of, and are proprietary to, Nextiva or other respective owners that have granted Nextiva the right and license to use such Marks. These Marks are important intellectual property assets of Nextiva.

These guidelines have been created to ensure a uniform and proper use of our Trademarks by all of our licensees, partners, and other authorized users. Without express written agreement from Nextiva, there is no license, right, title, or interest granted in any Nextiva Marks or other intellectual property.

When you have express written agreement from Nextiva, these guidelines provide an overall reference with respect to the proper and permissible use of our Marks. The purpose is to assist you with referring to our Marks and to ensure the correct use of our Marks (including logos, names, and names of products and services). Nextiva is the sole and exclusive owner of our Marks and we reserve all right, title and interest in our Marks and other intellectual property. Nextiva reserves the right to revoke or limit your usage of any Nextiva Trademark at any time and for any reason.

You must observe these guidelines and maintain a clear distinction between your products and services and Nextiva, Inc.’s products and services, as well as between your trademarks and our Marks. Please do not display these graphics in a way that

implies a relationship, affiliation, or endorsement by Nextiva of your products, services, or business. Also, please do not alter, distort, or modify any Nextiva Marks or intellectual property (including those shown as graphics, images, or video content) in any way, or combine them with any other graphics, without prior written consent from Nextiva.

These guidelines are subject to revision at any time by Nextiva.

Terms Trademarked:

Nextiva's Marks are always changing. Some of our Marks include, but are not limited to:

Nextiva®

Nextiva Office®

NextOS®

CoSpace®

xBert®

Amazing Service®

Simplifying Business Communication®

SmartTopics®

NextCon®

BuildAmazing®

NextIQ®

General Guidelines

Use our Marks only with the express written permission of Nextiva. You may not use our Marks unless you have an agreement with Nextiva, Inc. or you otherwise receive our permission to use the Trademarks. Upon receiving our permission, your use must be limited to these Guidelines, and the limited permission you have received to

use specific Trademarks. If you have any questions about these Guidelines or our Trademarks, please contact us at xbert@nextiva.com.

Do not combine our name with yours. Do not combine our name or Marks with your name, marks, or names of products and services.

No confusingly similar uses. You must not attempt to obtain ownership rights in our Trademarks, or any confusingly similar approximations, whether by trademark registration, domain name registration (including second-level domain names), or otherwise.

Do not use a confusingly similar design or copy verbiage. Do not copy the look and feel of Nextiva's Marks or our Website and do not copy any verbiage incorporated into our Website.

Do not use our Marks for promotional activities. Do not use our Marks (including logos, trade dress, color or design motif) or other elements of our product packaging and website in any of your advertising, product packaging, promotional and other materials, or merchandise.

Do not alter our Marks. You may not change, alter or modify the appearance of our Trademarks by abbreviating them, incorporating them into acronyms, changing their spelling, using them in parts, changing their looks, making color variations, or using improper capitalization.

Display our trademark symbol. Please display our Marks (including logos) with the appropriate [™] or ® symbol either with the first usage of the Mark or throughout whatever material you are incorporating Nextiva's Marks into.

Use as an adjective. If you do refer to a Nextiva Mark, please always use the Mark as a proper adjective and never as a noun or a verb. Whenever possible, use our of a Mark

should be followed by a common descriptive name (noun) – for example, “Nextiva® VOIP services”.

Always use the Nextiva Marks as they are provided to you and in compliance with these guidelines.

Last Updated: May 27, 2021

Nextiva Affiliate Program Terms

Search Campaign

Protected SEM Bidding Keywords

Nextiva runs its own pay-per-click (“PPC”) campaigns. As a result, we do not allow affiliates to bid on keywords containing Nextiva trademarked terms or keywords that resemble Nextiva terms. These keywords include (but aren't limited to): Nextiva, Nextiva voip, Nextiva Inc., Nextiva fax, Nextivafax, Nextiva.com, www.Nextiva.com, uk.Nextiva.com, us.Nextiva.com. We also do not allow our affiliates to use the keywords mentioned above as part of "long tail" keywords such as, but not limited to, Nextiva business voip, Nextiva business fax, voip fax Nextiva, Nextiva coupons, Nextiva promotions. In order to meet our Program Terms and Conditions, you must include the following terms as negative broad match keywords: Nextiva, Nextiva fax, Nextiva Inc., Nextiva voip, Nextivafax, Nextiva.com, www.Nextiva.com, uk.Nextiva.com, us.Nextiva.com. Non-compete SEM Bidding Keywords: You must not display PPC adverts that appear in a higher position than those from Nextiva’s own PPC Campaigns. If advertisements placed by you outrank advertisements from a Nextiva campaign, you should immediately lower the CPC bid.

Prohibited SEM Display URL Content

Display URLs: You may not use any Nextiva domain (including but not limited to www.Nextiva.com or Nextiva.com or any Nextiva country-specific domain or sub-domain e.g. Nextiva.co.uk or Nextiva.fr, uk.Nextiva.com, Nextiva.ca, us.Nextiva.com) as the display URL in a PPC advert. The use of a Nextiva trademark in the domain after .com is not to be used in any PPC advertising (e.g. www.domain.com/Nextiva). Trademarks: Please do not use a domain name containing any Nextiva trademark. This includes domains that combine a Nextiva trademark with any combination of additional letters, numbers, words, phrases or other characters. This restriction includes domain names containing any misspelling or other variation of any Nextiva trademark which may be misleading. In addition, the use of Nextiva in the domain after .com is not to be used in any PPC advertising (e.g., www.domain.com/Nextiva). Direct linking: Any advertisements should only ever link directly to your website, not re-direct to Nextiva.com, and be represented solely as an affiliate of Nextiva.com. Direct linking to Nextiva.com is strictly forbidden.

Prohibited SEM Ad Copy Content

Search Campaigns - Prohibited SEM Ad Copy Content Trademarks: We ask that you do not use the trademarked terms Nextiva or Nextiva.com, or keywords that resemble Nextiva terms (e.g., common misspellings or plural versions) in PPC advertisement copy, regardless of the originally searched for keyword. advertisement copy should not contain Nextiva trademarked terms or those that resemble Nextiva terms. These terms include (but aren't limited to): Nextiva, Nextiva fax, Nextiva Inc., Nextiva voip, Nextivafax, Nextiva.com, www.Nextiva.com, uk.Nextiva.com, us.Nextiva.com. We also do not allow our affiliates to use the terms mentioned above as part of advert copy e.g., Nextiva fax store, Nextiva voip fax, voip fax Nextiva, Nextiva coupons, Nextiva promotions. Mimicking Nextiva: We kindly ask that you do not display advertisements imitating or mimicking Nextiva or suggesting that your ad is served by Nextiva in any way.

Nextiva runs their own PPC campaigns. As such, we do not work with PPC affiliates. You are, of course, still permitted to send traffic directly to your website, whilst adhering to Nextiva's Terms and Conditions. Any advertisement should only ever link directly to your website, not redirect to Nextiva.com, and be represented solely as an affiliate of Nextiva.com. Direct linking to Nextiva.com is strictly forbidden.

Website

Prohibited Website Domain Keywords

Display URLs: you may not use any Nextiva domain (including but not limited to www.Nextiva.com or Nextiva.com or any Nextiva country-specific domain or sub-domain e.g. Nextiva.co.uk or Nextiva.fr, uk.Nextiva.com, us.Nextiva.com) as the display URL in a PPC advert. The use of a Nextiva trademark in the domain after .com is not to be used in any PPC advertising (e.g., www.domain.com/Nextiva). Trademarks: Please do not use a domain name containing any Nextiva trademark. This includes domains that combine a Nextiva trademark with any combination of additional letters, numbers, words, phrases or other characters. This restriction includes domain names containing any misspelling or other variation of any Nextiva trademark which may be misleading. In addition, the use of Nextiva in the domain after .com is not to be used in any PPC advertising (e.g., www.domain.com/Nextiva). Direct linking: All advertisements should only ever link directly to your website, not redirect to Nextiva.com, and be represented solely as an affiliate of Nextiva.com. Direct linking to Nextiva.com is strictly forbidden.

Prohibited Web Site URL Keywords

Display URLs: you may not use any Nextiva domain (including but not limited to www.Nextiva.com or Nextiva.com or any Nextiva country-specific domain or sub-domain e.g. Nextiva.co.uk or Nextiva.fr, uk.Nextiva.com, us.Nextiva.com) as the display URL in a PPC advert. The use of a Nextiva trademark in the domain after .com is not to be

used in any PPC advertising (e.g., www.domain.com/Nextiva). Trademarks: Please do not use a domain name containing any Nextiva trademark. This includes domains that combine a Nextiva trademark with any combination of additional letters, numbers, words, phrases or other characters. This restriction includes domain names containing any misspelling or other variation of any Nextiva trademark which may be misleading. In addition, the use of Nextiva in the domain after .com is not to be used in any PPC advertising (e.g., www.domain.com/Nextiva). Direct linking: All adverts should only ever link directly to your website, not redirect to Nextiva.com, and be represented solely as an affiliate of Nextiva.com. Direct linking to Nextiva.com is strictly forbidden.

Prohibited Website Content

Online Content: In order to work with Nextiva, your site(s) cannot be associated with any racist, overtly political, vulgar or sexual content that Nextiva deems offensive. You must remove all content deemed offensive by Nextiva within 24 hours of being notified by the Nextiva Affiliate Team. Social Media Sites: Nextiva is very active in various social media communities, and so we kindly ask that you do not create groups or specific web pages in social communities to promote Nextiva offers. We do not allow use of Nextiva.com, the Nextiva trademark or misspellings of the name (nor other similar terms which may result in confusion), including but not limited to Nextiva, Nextiva Print, Nextiva Inc., Nextiva.com, www.Nextiva.com, on any social media or social networking tools or sites as a means to promote Nextiva offers, deals, coupons or promotions of any kind. PR Policy and Press Releases: Whilst Nextiva recognizes the importance of promoting your site and its affiliation with Nextiva to drive customers from your site to Nextiva's pages, we request that all affiliates do not mention Nextiva in press releases or written promotional materials without written consent from the Nextiva Affiliate Team.

Unacceptable Web Sites

Online Content: In order to work with Nextiva, your site(s) cannot be associated with any racist, overtly political, vulgar or sexual content that Nextiva - at Nextiva's sole

discretion - deems offensive. You must remove all content deemed offensive by Nextiva within 24 hours of being notified by the Nextiva Affiliate Team. Social Media Sites: Nextiva is very active in various social media communities, and so we kindly ask that you do not create groups or specific web pages in social communities to promote Nextiva offers. We do not allow use of Nextiva.com, the Nextiva trademark or misspellings of the name (nor other similar terms which may result in confusion), including but not limited to Nextiva, Nextiva fax, Nextiva Inc., Nextiva voip, Nextiva.com, www.Nextiva.com, on any social media or social networking tools or sites as a means to promote Nextiva offers, deals, coupons or promotions of any kind. PR Policy and Press Releases: Whilst Nextiva recognizes the importance of promoting your site and its affiliation with Nextiva to drive customers from your site to Nextiva.com, we request that all affiliates do not mention Nextiva in press releases or written promotional materials without written consent from the Nextiva Affiliate Team.

Use of Logos and Trademarks in Web sites

The Nextiva logo and Nextiva owned images cannot be altered or changed. If you require a certain logo or image size that is not available inside our affiliate portal please reach out to Nextiva directly by emailing affiliates@Nextiva.com. PR Policy and Press Releases: Whilst Nextiva recognizes the importance of promoting your site and its affiliation with Nextiva to drive customers from your site to Nextiva.com, we request that all affiliates do not mention Nextiva in press releases or written promotional materials without written consent from the Nextiva Affiliate Team.

Non-Commissionable Items

A Non-Commissionable VoIP Lead:

1. Does not have a US-based business excluding the states of Alaska or Hawaii
2. Does not have an active internet connection (T-1, not wi-fi, clear of satellite, DSL, Cable, Fiber)

3. Is not actively looking to have VoIP Service installed A sale will be considered non-commissionable if the account does not remain active for at least 60 days after the initial sign up. Affiliates will not be paid for sales with accounts that cancel within 60 days from the sign-up date.

Last Updated: May 27, 2021

SMS TERMS AND CONDITIONS OF USE

By opting in, you agree to receive and authorize Nextiva, Inc. (“we,” “us,” “our”) (and its service providers) to send recurring automated and personalized SMS/text messages to you at the mobile number you provide. SMS messages may include:

Transactional / Account Messages (Non-Marketing): order confirmations, provisioning notices, billing/renewal reminders (if applicable), support ticket updates, service notices related to your account, and other operational/account communications.

Marketing Messages: promotions, product updates, feature announcements, events, surveys, and special offers.

You can choose to opt in to Transactional, Marketing, or both (see Section 2). Nextiva reserves the right to modify or amend these Terms from time to time and without notice to you.

BY ACCEPTING THESE TERMS, YOU ALSO AGREE TO OUR PRIVACY POLICY, LOCATED AT <https://www.nextiva.com/privacy-policy.html>, WHICH IS INCORPORATED HEREIN AND MAY BE UPDATED OR AMENDED FROM TIME TO TIME.

Eligibility & Mobile Number Requirements. You represent that:

You are authorized to enroll the mobile number provided (your number or one you are authorized to use).

You are at least 18 years old (or the age of majority where you live).

Consent Types.

Transactional / Account Messages (Non-Marketing). By opting in to Transactional SMS, you consent to receive text messages related to your account, services, devices, orders and support tickets. Consent to Transactional SMS is not a condition of purchase.

Marketing Messages. By opting in to Marketing SMS, you consent to receive promotional text messages from us. Marketing consent is not required to buy our products or services.

Use of Automated Technology. You understand and agree that Transactional SMS and/or Marketing SMS may be sent using automated technologies.

Your selections control what you receive. If you opt into Transactional SMS only, you will not receive Marketing SMS unless you separately opt in later.

How to Opt In. You may opt in by any of the following methods:

Checking a box during checkout, account registration, billing setup, or support ticket submission.

Enabling SMS preferences in your account settings.

Confirming opt-in via a reply or verification step (e.g., "Reply YES to confirm").

With respect to Transactional SMS, by verbally agreeing to receive such messages from us.

We may send a confirmation message when you opt in.

Message Frequency. Message frequency varies based on your activity and selected message types and may vary by user. We reserve the right to alter the frequency of messages sent at any time.

Transactional SMS. Frequency depends on order activity, support ticket activity, and service notifications.

Marketing SMS. Up to 6 messages per month.

Costs & Carrier Disclosures. **Message and data rates may apply**. To participate, you must have text messaging enabled on your device and a compatible text messaging plan. Not all carriers, devices and/or plans may be supported, and text messaging may not be available in all areas. Delivery depends on your mobile device and carrier network. We, our service providers, and your wireless carrier are not liable for delayed or undelivered messages.

Cancellation. You can opt out of all SMS messages at any time by replying “STOP,” “END,” “CANCEL,” “UNSUBSCRIBE,” or “QUIT”. After you opt out, you may receive one final message to confirm your opt out. Please note that if you opt out of Transactional SMS, you may miss time-sensitive account updates. You may still be able to receive these updates by email or by contacting Nextiva support. You can re-enroll at any time by updating your preferences in your account or by replying “START”.

Help / Support. For help, reply HELP or contact us at help.nextiva.com or by calling (800) 285-7995.

Privacy. We may use your mobile number and messaging interaction data to deliver and improve our SMS program and as described in our Privacy Policy.

No Emergency Use. Our SMS program is not intended for emergencies. Do not use SMS to send emergency requests.