

8x8-CUSTOMER TERMS FOR RESOLD 8x8 VIRTUAL OFFICE AND VIRTUAL CONTACT CENTER SERVICES

Last Updated: December 5, 2018

THESE 8x8-CUSTOMER TERMS SHOULD BE READ CAREFULLY, AS THEY AFFECT THE PARTIES' LEGAL RIGHTS BY, AMONG OTHER THINGS, LIMITING 8x8'S LIABILITY UNDER THE 8x8-CUSTOMER AGREEMENT AND REQUIRING ARBITRATION OF CERTAIN DISPUTES

1. GENERAL

1.1. Applicability and Conflict. These 8x8-Customer Terms apply with respect to all 8x8 SaaS Services and Equipment ordered and/or provided under the Reseller-Customer Agreement and/or 8x8-Customer Agreement (such 8x8 SaaS Services, “**Ordered 8x8 SaaS Services**”; such Equipment, “**Ordered Equipment**”; together, “**Ordered Products**”). In the event of any conflict among the components of these 8x8-Customer Terms, the following order of precedence shall apply: (1) the Regional Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services included at the end hereof (the “**Regional Terms**”) (which are incorporated herein), (2) the 8x8 Virtual Office and Virtual Contact Center Use Policy (available at www.8x8.com/terms-and-conditions/use-policy) (the “**Use Policy**”) (which is incorporated herein), and (3) the other components of these 8x8-Customer Terms.

1.2. The 8x8-Customer Agreement. On the first occasion that the legal entity in whose name Reseller agrees to provide Ordered 8x8 SaaS Services under the Reseller-Customer Agreement (“**Customer**”) performs any of the following acts, such entity thereby enters into a legally-binding contract with 8x8, Inc. (“**8x8**”), a Delaware corporation, that shall govern all ordering, acquisition, accessing, and use of Ordered Products (the “**8x8-Customer Agreement**”): (a) entering into an agreement, order, or other document that incorporates these 8x8-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services or otherwise agreeing to or accepting these 8x8-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services or (b) accessing or using any 8x8 SaaS Services after being notified that these 8x8-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services apply to such 8x8 SaaS Services or to such accessing or use thereof.

The 8x8-Customer Agreement shall consist of these 8x8-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services and all content expressly incorporated herein (these “**8x8-Customer Terms**”) and all documents entered into by or on behalf of Customer and 8x8 (or its Affiliate, as applicable) (each a “**Party**” and together as the “**Parties**”) in respect of Customer’s acquisition and/or use of Ordered Products.

The individual who agrees to or accepts these 8x8-Customer Terms represents and warrants to 8x8 that he or she has the authority to bind Customer to the 8x8-Customer Agreement and enter into the 8x8-Customer Agreement on Customer’s behalf. IF SUCH INDIVIDUAL DOES NOT HAVE SUCH AUTHORITY OR DOES NOT AGREE TO THESE 8x8-CUSTOMER TERMS, THEN HE/SHE SHOULD NOT ACCEPT THESE 8x8-CUSTOMER TERMS, ENTER INTO ANY ORDER, OR ORDER, ACCESS, OR USE THE 8x8 SaaS SERVICES OR AUTHORIZE OR PERMIT ANY OTHER PERSON TO DO SO.

1.3. Separate Agreements/Relationships with Reseller and 8x8. Customer acknowledges and agrees that in ordering Ordered Products from Reseller, Customer is doing business (and entering into separate, independent agreements) with two distinct entities – 8x8 (or its Affiliate, as applicable) and the non-8x8 entity(ies) from/through which it orders the Ordered Products (“**Reseller**”). Such entities play the following roles in respect of the Ordered Products:

Entity	Role in Respect of Ordered Products
Reseller	Sells the Ordered Products to Customer (as such, Customer is the customer of Reseller with respect to all Ordered Products) Provides support to Customer for all Ordered Products Bills and collects the fees, taxes, and similar amounts due in respect of all Ordered Products Is the provider of all Ordered Products, <i>other than the Ordered 8x8 SaaS Services</i> Facilitates access to the Ordered 8x8 SaaS Services
8x8 (or its Affiliate, as applicable)	<i>Is the service provider with respect to the Ordered 8x8 SaaS Services</i>

In connection with such roles of Reseller and 8x8, Customer shall enter into the 8x8-Customer Agreement with 8x8 or its Affiliate (as applicable) and shall enter into a separate, concurrent agreement with Reseller in respect of the Ordered Products (the “**Reseller-Customer Agreement**”).

Customer acknowledges and agrees that (a) the Reseller-Customer Agreement is solely and exclusively between Customer and Reseller, and the 8x8-Customer Agreement is solely and exclusively between Customer and 8x8 or its Affiliate, as applicable (which is a separate and distinct entity from Reseller), (b) in no event shall Reseller or any of its Affiliates be, or be deemed to be, a party to the 8x8-Customer Agreement or have any obligation, liability, or responsibility to Customer or any other party (nor shall Customer or any other party have any right or remedy that may be enforced or asserted against Reseller or any of its Affiliates) thereunder or by virtue thereof, (c) in no event shall 8x8 or any of its Affiliates, be, or be deemed to be, a party to the Reseller-Customer Agreement or have any obligation, liability, or responsibility to Customer or any other party (nor shall Customer or any other party have any right or remedy that may be enforced or asserted against 8x8 or any of its Affiliates) thereunder or by virtue thereof, (d) in no event shall any provision of the 8x8-Customer Agreement (including without limitation these 8x8-Customer Terms) become or be deemed to be part of (or affect or alter the terms of) the Reseller-Customer Agreement or vice versa, and (e) without limiting the generality of the foregoing provisions of this paragraph, such provisions shall apply notwithstanding (i) 8x8’s and/or its Affiliates’ role as a direct or indirect supplier of Reseller with respect to Ordered Products and/or any performance by 8x8 and/or its Affiliates of any functions (e.g., making available, provision, maintenance, support, administration, implementation, billing, and/or collection) with respect thereto, (ii) the inclusion or display of the branding of 8x8 and/or its Affiliates in connection with any components or aspects of the 8x8 SaaS Services (including without limitation certain software applications available for download and/or for use in connection therewith) or Equipment, and (iii) references to Reseller within these 8x8-Customer Terms and/or the rest of the Reseller-Customer Agreement.

Accordingly, Customer agrees that it shall (1) look solely to Reseller for the fulfillment of any and all obligations owed to Customer, its Affiliates, and/or other related parties under the Reseller-Customer Agreement and shall not seek to enforce the Reseller-Customer Agreement or to assert or enforce their rights or remedies thereunder against 8x8 or its Affiliates and (2) look solely to 8x8 (or its Affiliate, as applicable) for the fulfillment of any and all obligations owed to Customer, its Affiliates, and/or other related parties under the 8x8-Customer Agreement and shall not seek to enforce the 8x8-Customer Agreement or assert or enforce their rights or remedies thereunder against Reseller or its Affiliates. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER HEREBY RELEASES, DISCHARGES, AND HOLDS HARMLESS (I) RESELLER, ITS AFFILIATES, AND THEIR RESPECTIVE PERSONNEL AND PARTNERS (OTHER THAN 8x8 OR ITS AFFILIATE, AS APPLICABLE) FROM AND AGAINST ANY AND ALL CLAIMS AND/OR LIABILITY UNDER OR WITH RESPECT TO THE 8x8-CUSTOMER AGREEMENT OR THE SUBJECT MATTER THEREOF AND (II) 8x8, ITS AFFILIATES, AND THEIR RESPECTIVE PERSONNEL AND PARTNERS (OTHER THAN RESELLER) FROM AND AGAINST ANY AND ALL CLAIMS AND/OR LIABILITY UNDER OR WITH RESPECT TO THE RESELLER-CUSTOMER AGREEMENT OR THE SUBJECT MATTER THEREOF.

1.4. Applicability Throughout the Access Period. Customer agrees and acknowledges that the restrictions and requirements applicable to Customer under these 8x8-Customer Terms are intended to apply throughout the entire Effective Period and all other periods during which the Ordered 8x8 SaaS Services are available, even if any such periods are subsequent to termination or expiration of this 8x8-Customer Agreement or the Reseller-Customer Agreement (the Effective Period and all such other periods, collectively, the “**Access Period**”). Accordingly, Customer agrees that it shall comply with such restrictions and requirements for the entire Access Period, and its obligations related to such restrictions and requirements shall survive any termination or expiration of this 8x8-Customer Agreement and/or the Reseller-Customer Agreement and continue to apply during any such periods.

2. 8x8 SaaS SERVICES

2.1. 8x8 Responsibilities With Respect to 8x8 SaaS Services

2.1.1. 8x8 SaaS Services Availability. 8x8 shall, itself or through one or more of its vendors, subcontractors, or other service-providers (each, a “**Partner**” of 8x8) or Affiliates, make the Ordered 8x8 SaaS Services (which shall substantially conform to the applicable Documentation) available to Customer during the Effective Period as set forth in, and subject to the terms and conditions of, the 8x8-Customer Agreement.

2.1.2. Changes to Ordered 8x8 SaaS Services. 8x8 may not change Ordered 8x8 SaaS Services in any way that materially reduces their overall functionality or security (based on customary usage in the United States (“**US**”), the United Kingdom, Australia, and Canada (the “**Primary Market**”)), except with Customer’s written approval. 8x8 may, however, make other

changes or perform upgrades to Ordered 8x8 SaaS Services, provided that 8x8 shall provide advance notification to Customer of any such change or upgrade if reasonably practicable or otherwise promptly thereafter.

2.1.3. Content and Data Protection. 8x8 shall implement and maintain commercially reasonable administrative, physical, and technical safeguards to protect the content of all communications transmitted, received, and/or stored through any Ordered 8x8 SaaS Services (Customer's "**Content**") from unauthorized access and use. Customer shall remain the owner of its Content. The Parties acknowledge and agree that (a) 8x8's and its Affiliates' role with respect to Customer's Content, if any, shall be that of a passive conduit and (b) neither 8x8 nor any of its Affiliates or Partners shall be responsible for or have any involvement in determining or creating such Content or determining the recipients or destinations of any communications through Ordered 8x8 SaaS Services.

2.2. Customer Responsibilities With Respect to 8x8 SaaS Services

2.2.1. Use Policy Compliance. Customer accepts and agrees to the Use Policy and shall fulfill all of its obligations, representations, warranties, and covenants thereunder. For avoidance of doubt, references in the Use Policy to "SaaS Services", "Ordered SaaS Services", and "Agreement" shall be deemed for purposes of these 8x8-Customer Terms to refer to 8x8 SaaS Services, Ordered 8x8 SaaS Services, and the 8x8-Customer Agreement and Reseller-Customer Agreement, respectively.

2.2.2. Utilization of Approved Reseller Support Channels. Customer agrees that in seeking technical and other support for Ordered Products (including without limitation in relation to outages or technical issues regarding the Ordered 8x8 SaaS Services and porting requests) or support related to the Reseller-Customer Agreement (or the subject matter thereof) or Customer's relationship with Reseller in connection therewith, Customer shall solely and exclusively utilize those particular telephone numbers, email addresses, web chat interfaces, and/or other support channels expressly specified for such purpose by Reseller in connection with the Reseller-Customer Agreement (the "**Approved Reseller Support Channels**"). Without limiting the generality of the foregoing, Customer agrees not to contact 8x8 or any of its Affiliates directly in connection with seeking such support in relation to the Ordered Products or the Reseller-Customer Agreement, except to the extent that a number, address, interface, or other channel of 8x8 or its Affiliate is an Approved Reseller Support Channel. Customer acknowledges and agrees that where 8x8 or its Affiliate is involved in providing such support, 8x8 and/or its Affiliate will not provide support for any services or products other than the Ordered 8x8 SaaS Services or Ordered Equipment.

2.2.3. Registration Information. Customer shall be responsible for the accuracy and legality of all account, Agent, and registration information (including without limitation Customer's legal name and payment information, Customer/Agent contact information, and any personal data included therein) ("**Registration Information**") and the means of its acquisition.

2.2.4. Network Requirements. Customer shall be responsible for ensuring that all aspects of the applicable network environment(s) adhere to the applicable standards and requirements specified in the Documentation and are configured appropriately to its proposed use of Ordered 8x8 SaaS Services.

2.3. 8x8 SaaS Services Limitations. Customer acknowledges and agrees that (a) the Ordered 8x8 SaaS Services will not be uninterrupted, error-free, or available one-hundred percent (100%) of the time (e.g., they may be unavailable during periods of planned or unplanned downtime and communications may not always be delivered to their intended destination or without loss of data), (b) a single log-in is provided for each 8x8 Virtual Office extension, and, except with respect to conference and other extensions specifically designed for conference or multi-party use ("**Conference Extensions**"), such log-in and extension is provided solely for use by a single Agent, (c) data transmitted or stored through the 8x8 SaaS Services may be exported therefrom by or on behalf of Customer, Agents, or other users in a variety of ways (including without limitation via third-party integrations, other features that interoperate with third-party offerings, or local or external download), (d) the 8x8 SaaS Services are not intended to and should not be used for back-up or long-term storage of data, and (e) 8x8 shall not be responsible for any such exported data or any loss of such stored data. Use of 8x8 mobile applications may utilize underlying third-party cellular and/or data services and thus may use such services' allotted units and/or result in usage or other charges associated with such third-party services.

2.4. Third-Party Offerings and Integrations. Customer's relationship and dealings (including without limitation any collection or use of data) with providers of non-8x8 offerings that interoperate with the 8x8 SaaS Services (e.g., third-party applications for which 8x8 SaaS Services integrations are available) or that are used in connection with the 8x8 SaaS Services (e.g., broadband, MPLS, and equipment leasing services) ("**Providers**") shall in each case be governed by Customer's agreement with the applicable Provider and shall be outside the scope of the 8x8-Customer Agreement. In no event shall 8x8 be liable or responsible (a) under any such agreement or for any act or omission of any Provider or any operation of its offering (e.g., any accessing, modification, or deletion of data), regardless of whether 8x8 endorses, refers Customer to, approves of

Customer's use of, or agrees to bill and/or collect behalf of such Provider or designates any such offering as "certified," "approved," "recommended," etc., (b) for supporting any such third-party offering, or (c) for ensuring the continued availability or operation of any such offering or any 8x8 SaaS Services integrations or other features designed to interoperate therewith, which such integrations or features may be discontinued at any time.

2.5. Suspension and Restriction. In addition to 8x8's other rights and remedies under the 8x8-Customer Agreement, 8x8 may (a) suspend some or all of the Ordered 8x8 SaaS Services where 8x8 reasonably determines that such suspension is necessary to avoid actual or likely harm or damages to, or liability for, any party or where Customer has breached the 8x8-Customer Agreement or Reseller-Customer Agreement and/or (b) place reasonable limitations or restrictions on the use of any Ordered 8x8 SaaS Services that are being used in violation of the Use Policy. 8x8 shall notify Customer of any such suspension in advance thereof if reasonably practicable or promptly thereafter if such advance notification is not reasonably practicable. None of the foregoing actions by 8x8 shall relieve Customer of any of its obligations under the 8x8-Customer Agreement.

3. NON-8x8 SaaS SERVICES ORDERD PRODUCTS

For avoidance of doubt, neither 8x8 nor its Affiliates shall have any obligations, responsibilities, or liability under the 8x8-Customer Agreement to Customer or any other party with respect to any goods, services, or products (including without limitation any Equipment or Project Services (as defined under the Reseller-Customer Agreement) other than the Ordered 8x8 SaaS Services.

4. ORDERS AND OTHER ENTITIES; 8x8 SUBCONTRACTING

Where any entity other than Customer (e.g., a Customer Affiliate) orders Ordered Products under the Reseller-Customer Agreement, (a) references to "Customer" in the 8x8-Customer Agreement shall be deemed to include such other entity (as well as Customer) and (b) Customer shall remain fully, including jointly and severally, liable under the 8x8-Customer Agreement. 8x8 may, in each case in its sole discretion, (i) designate an 8x8 Affiliate to perform its obligations relating to certain Orders or Ordered 8x8 SaaS Services, in which case, with respect to such Orders or Ordered 8x8 SaaS Services (unless otherwise agreed in writing by the Parties), (1) the 8x8-Customer Agreement's references to "8x8" shall include such 8x8 Affiliate (as well as 8x8) (provided that the 8x8 Affiliate shall be deemed to be the service provider with respect to such Orders or Ordered 8x8 SaaS Services) and (2) 8x8 shall remain fully, including jointly and severally, liable under the 8x8-Customer Agreement, and/or (ii) subcontract for the performance of 8x8's obligations under the 8x8-Customer Agreement, provided that 8x8 shall remain responsible for performance of such obligations and for such subcontractors' actions or omissions in performing such obligations.

5. CHANGE IN TERMS

8x8 may not change these 8x8-Customer Terms in any manner that would materially reduce Customer's rights or benefits, or materially increase Customer's obligations or liability, under the 8x8-Customer Agreement (i.e., any such change shall not apply to the 8x8-Customer Agreement), except where 8x8 provides Customer with at least thirty (30) days' notice of such change. Where Customer objects (via notice to 8x8) to such change before the end of such notice period, such change shall not take effect during the then-current initial term or renewal term (as applicable) of the Reseller-Customer Agreement, but shall take effect if and when the Reseller-Customer Agreement renews (i.e., on the first day of the Reseller-Customer Agreement's next renewal term, if any). Where Customer fails to so object to such a change, such change shall take effect at the end of such notice period. 8x8 may make other changes to these 8x8-Customer Terms (including without limitation adding Regional Terms for a new country or region) by posting such changes to www.8x8.com/distribution-terms or this web page, which changes shall be effective upon such posting.

6. GENERAL REPRESENTATIONS AND WARRANTIES; WARRANTY DISCLAIMER

Each Party represents and warrants that it is a bona fide business, has the power and authority to enter into and perform its obligations under the 8x8-Customer Agreement, and is not relying upon any statements, commitments, representations, or warranties other than those expressly set forth in the 8x8-Customer Agreement. Customer represents and warrants that its orders or purchases under the Reseller-Customer Agreement and commitments under the 8x8-Customer Agreement are not contingent on the delivery of any future functionality or feature. EXCEPT FOR THE WARRANTIES EXPRESSLY PROVIDED BY 8x8 IN THE 8x8-CUSTOMER AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, 8X8 MAKES NO WARRANTIES AND DISCLAIMS ALL WARRANTIES IN RELATION TO THE 8x8 SaaS SERVICES, EQUIPMENT, AND/OR THE 8x8-CUSTOMER AGREEMENT, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE.

7. RIGHTS IN AND TO THE 8x8 SaaS SERVICES AND FEEDBACK

To the maximum extent permitted by Law, all intellectual property and other rights, title, and interest in or to the Documentation or the 8x8 SaaS Services and related software, applications, functionalities, APIs, tools, and interfaces (the “**8x8 Platform**”) – and all configuration designs, code, deliverables, and other work product produced or developed by 8x8 or its Affiliates or Partners in the course of performing under the 8x8-Customer Agreement (except to the extent such work product embodies Customer’s pre-existing intellectual property) – shall remain with, and belong exclusively to, 8x8, its Affiliates, and/or their licensors. Customer hereby assigns to 8x8 all intellectual property and other rights, title, and interest in or to any improvement, enhancement, recommendation, correction, or other feedback that Customer may provide to 8x8 or its Affiliates relating to their operations or the 8x8 SaaS Services or Equipment, and agrees that 8x8 shall be free to use, license, assign, and exploit any ideas, concepts, know-how, or techniques contained therein for any purpose without restriction or compensation.

8. TERM AND RENEWAL

The 8x8-Customer Agreement shall become effective on the date that the Parties enter into the 8x8-Customer Agreement and continue in full force and effect until the earlier of (a) the date terminated in accordance with Section 9 (Termination) and (b) the date of expiration as set forth in the next sentence (the “**Effective Period**”). At the end of each of the Reseller-Customer Agreement’s “Terms” (as defined therein), the 8x8-Customer Agreement, if not earlier terminated in accordance with these 8x8-Customer Terms, shall:

- (i) expire if 8x8 has elected not to renew the 8x8-Customer Agreement via notice to Customer at least thirty (30) days prior to the end of such Term or
- (ii) renew or expire in the same manner as the Reseller-Customer Agreement if 8x8 has provided no such notice.

9. TERMINATION

The Reseller-Customer Agreement may be terminated:

- (a) by either Party with thirty (30) days’ notice to the other Party in the event of the other Party’s material breach of the 8x8-Customer Agreement (which shall include without limitation any Customer breach of the Use Policy) and, if such breach is reasonably capable of cure, failure to cure such breach within such notice period, provided that such cure requirement shall not apply with respect to a Customer payment delinquency where there has already been such a delinquency;
- (b) immediately by either Party upon notice to the other Party where the other Party experiences a Solvency Event;
- (c) by 8x8 with thirty (30) days’ notice to Customer in the event that any 8x8 SaaS Services become subject to an actual or threatened Claim of infringement (an “**Infringement Claim**”) and avoidance of the alleged infringement via procurement of a license or modification or replacement of the applicable 8x8 SaaS Services (either or both of which may be exercised by 8x8, at its sole option and expense, in the event of any Infringement Claim) is not commercially feasible;
- (d) by 8x8 with thirty (30) days’ notice to Customer in the event that Customer objects to any change to these 8x8-Customer Terms proposed or made by 8x8 under Section 5 (Change in Terms);
- (e) by 8x8 with thirty (30) days’ notice to Customer in the event that 8x8 determines in good faith that such termination is necessary to comply with a law, regulation, or court or administrative order or ruling; or
- (f) by 8x8 with thirty (30) days’ notice to Customer in the event of termination of 8x8’s upstream agreement with Reseller or the applicable distributor or other intermediary supply chain entity (as applicable) or termination of the upstream order(s) or sub-agreement/arrangement between 8x8 and such distributor or other entity relating to the Ordered SaaS Services.

In addition, the 8x8- Customer Agreement shall automatically and immediately expire or terminate, respectively, upon the expiration of the Reseller-Customer Agreement or termination thereof for any reason.

10. INDEMNIFICATION

8x8 shall (a) defend Customer, its Affiliates, and their personnel (collectively, the “**Customer Parties**”) from and against any Indemnified IP Claim threatened or brought against any of them by any third party and (b) indemnify and hold harmless the Customer Parties against any damages, attorneys’ fees, defense costs, and other losses (collectively, “**Losses**”) payable by them pursuant to the adjudication or settlement of any Indemnified IP Claim. Customer shall (i) defend 8x8, its Affiliates, and their personnel (collectively, the “**8x8 Parties**”) from and against any action, claim, demand, suit, investigation, inquiry, or proceeding (each a “**Claim**”) threatened or brought against any of them by any third party that arises out of or results from Customer’s Content or any actual or alleged breach of the 8x8-Customer Agreement or Reseller-Customer Agreement by

Customer and (ii) indemnify and hold harmless the 8x8 Parties against any Losses payable by any of them pursuant to the adjudication or settlement of any such Claim. An indemnified party shall (1) provide the indemnifying Party prompt notice upon becoming aware of such a Claim, (2) permit the indemnifying Party to have sole and exclusive control over the defense and settlement of any such Claim, if it elects, and (3) provide reasonable assistance to the indemnifying Party in connection therewith; provided that the indemnifying Party shall not enter into any settlement agreement that would result in any payment or other obligation, or restriction on the business of, the indemnified party without its prior written consent.

11. EXCLUSIONS AND LIMITATIONS OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, (a) NONE OF THE 8x8 PARTIES SHALL BE LIABLE UNDER THE 8x8-CUSTOMER AGREEMENT FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, OR COVER DAMAGES; LOSS OF PROFITS, REVENUES, OR GOODWILL; OR LOSS OR INTERRUPTION OF BUSINESS, WHETHER FROM BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY, OR OTHERWISE AND (b) THE MAXIMUM LIABILITY OF THE 8x8 PARTIES UNDER THE 8x8-CUSTOMER AGREEMENT, WHETHER ARISING FROM A THEORY OR CLAIM OF BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, TORT, STATUTORY DUTY, OR OTHERWISE, SHALL IN NO CASE EXCEED THE TOTAL AMOUNT OF BASE RECURRING SERVICE FEES PAYABLE UNDER THE RESELLER-CUSTOMER AGREEMENT FOR THE ORDERED 8x8 SaaS SERVICES FOR THE TWELVE- (12-) MONTH PERIOD PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING EXCLUSION AND LIMITATION SHALL APPLY REGARDLESS OF WHETHER EITHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, AND ON A CUMULATIVE (RATHER THAN PER-INCIDENT) BASIS. THE PARTIES AGREE THAT (i) THE FOREGOING EXCLUSION AND LIMITATION ARE INTENDED TO ALLOCATE RISK AMONG THE PARTIES UNDER THE 8x8-CUSTOMER AGREEMENT AND COMPRISE AN ESSENTIAL PART THEREOF, (ii) THE PARTIES RELIED ON SUCH EXCLUSION AND LIMITATION IN ENTERING INTO THE 8x8-CUSTOMER AGREEMENT, AND (iii) THE PRICING FOR THE ORDERED PRODUCTS UNDER THE RESELLER-CUSTOMER AGREEMENT WOULD HAVE BEEN SUBSTANTIALLY HIGHER IN THE ABSENCE OF SUCH EXCLUSION OR LIMITATION.

12. DISPUTE RESOLUTION

12.1. Pre-Filing Notice. Each Party shall, before initiating an arbitration, court or other action, suit, or proceeding against the other Party, its Affiliate, or their personnel in respect of any Covered Claim (each a “**Proceeding**”), provide written notice to the other Party describing in reasonable detail its contentions and the specific provisions of the 8x8-Customer Agreement, if any, allegedly breached. The Parties shall work diligently and in good faith for thirty (30) days following such notice to attempt to resolve the dispute, including without limitation by ensuring that knowledgeable executives of each Party hold at least one meeting (in person or by video- or tele-conference) to such end. If the Parties fail to resolve the dispute within such thirty- (30-) day period, either Party may thereafter initiate the Proceeding in accordance with these 8x8-Customer Terms (and without satisfying any further notice or cure period under the 8x8-Customer Agreement). FAILURE TO COMPLY WITH THIS SECTION 12.1 (PRE-FILING NOTICE) MAY BE PLEADED AS A FULL AND COMPLETE BAR AND DEFENSE TO, AND MAY BE USED AS A BASIS FOR AN INJUNCTION AGAINST, ANY PROCEEDING INSTITUTED IN CONTRAVENTION THEREOF.

12.2. Mandatory Arbitration. (IF CUSTOMER IS DOMICILED IN THE US, THIS SECTION 12.2 (MANDATORY ARBITRATION) SHALL APPLY TO ALL COVERED CLAIMS; OTHERWISE, IT SHALL APPLY TO ONLY COVERED CLAIMS RELATING TO 8x8 SaaS SERVICES PROVIDED IN THE US.) COVERED CLAIMS SHALL BE SUBMITTED TO FINAL, BINDING ARBITRATION ADMINISTERED BY AMERICAN ARBITRATION ASSOCIATION (“**AAA**”). Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. This agreement to arbitrate also requires Customer to arbitrate claims against other parties relating to 8x8 SaaS Services provided or billed to Customer if Claims are asserted against 8x8 in the same proceeding. Arbitration will be conducted under AAA’s published commercial arbitration rules. Customer and 8x8 agree to bear their own fees, costs, and expenses, including those for any attorneys, experts, and witnesses. The place of arbitration shall be Santa Clara County, California. The language of the arbitration shall be English.

13. MISCELLANEOUS

13.1. Notices. Except as expressly provided otherwise in the 8x8-Customer Agreement, any notice to be provided thereunder shall be provided as follows: (a) **to Customer** – via email to the email address specified by Customer in connection with its entry into the 8x8-Customer Agreement or its initial order of 8x8 SaaS Services under the Reseller-Customer Agreement or via personal service, overnight courier, or US certified mail (return receipt requested and postage prepaid) (collectively, “**Delivery**”) to any postal address provided by Customer in connection with such entry into the 8x8-Customer Agreement or its initial order of 8x8 SaaS Services under the Reseller-Customer Agreement and (b) **to 8x8** – via email to

claims@8x8.com (for notices of Claims or termination) or notice@8x8.com (for all other notices) or via Delivery to “8x8, Inc., Attn: Customer Service, 2125 O’Nel Drive, San Jose, CA 95131”. Either Party may change any of its designated notice addresses via notice to the other Party. Notices shall be deemed effective and received as follows: (i) **via Email** – the first business day after the date sent (without any undeliverable notification being returned), (ii) **via Personal Service** – the first business day after the date delivered to the noticed Party, (iii) **via Overnight Courier** – the first business day after the date delivered to the overnight courier, and (iv) **via US Certified Mail** – the fifth (5th) day after the date sent.

13.2. Governing Law; Jurisdiction. The 8x8-Customer Agreement shall be governed by and construed in accordance with the laws of California, without regard to its choice or conflicts of law rules. The Parties agree to submit to the jurisdiction of the state and federal courts within Santa Clara County, California (which jurisdiction shall be exclusive if Customer is domiciled in the US), and waive any objection as to venue or inconvenient forum in such courts.

13.3. Force Majeure. Neither Party shall be considered in breach of, or have any liability under, the 8x8-Customer Agreement as the result of any failure or delay in such Party’s performance thereunder caused by events beyond such Party’s reasonable control, including without limitation act of God; fire, flood, hurricane, earthquake, tsunami, or other natural disaster; riot; war; terrorism; government action or intervention; embargo; strike; destruction of facilities; late or failed delivery by suppliers; unavailability of power or Internet services; or network or carrier issues.

13.4. Entire Agreement; Amendment. The documents comprising the 8x8-Customer Agreement constitute the entire agreement between the Parties in respect of the Ordered Products and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to thereto. The 8x8-Customer Agreement may not be amended, except via both Parties’ execution of a written amendment thereto or as otherwise expressly provided in these 8x8-Customer Terms. In no event shall the terms of any purchase order or similar document delivered by or on behalf of Customer or its Affiliate to 8x8 or its Affiliate or Partner in connection with the 8x8-Customer Agreement or Reseller-Customer Agreement (to which 8x8 hereby objects) become part of, apply to, or modify or supersede the 8x8-Customer Agreement’s terms.

13.5. Severability. If any provision of the 8x8-Customer Agreement is deemed illegal, invalid, or unenforceable, in whole or in part, under applicable Law, the 8x8-Customer Agreement shall be deemed amended as and to the extent necessary to render its terms valid, enforceable under applicable Law, and, to the greatest extent possible, consistent with the Parties’ original intent.

13.6. Waiver. Except to the extent expressly otherwise provided in the 8x8-Customer Agreement, (a) either Party’s failure to exercise or enforce any right or remedy under the 8x8-Customer Agreement shall not constitute a waiver of such right or remedy and (b) no waiver of any right or remedy shall be enforceable against a Party unless in writing and otherwise conforming with these 8x8-Customer Terms.

13.7. Assignment; Binding Effect. The 8x8-Customer Agreement shall be binding upon the Parties’ heirs, successors, and permitted assigns. Customer may not assign the 8x8-Customer Agreement or assign its rights or delegate its obligations thereunder, in whole or in part, except (a) (to the extent in connection with a bona fide sale of Customer or substantially all of its assets to a third party and the simultaneous assignment of the Reseller-Customer Agreement to the same assignee) with ten (10) days’ prior notice to 8x8 or (b) with 8x8’s prior express written consent. In connection with any such proposed or actual assignment or delegation by Customer, Customer shall provide such information and documentation concerning the assignee or delegee as 8x8 might reasonably request, and Customer shall remain jointly liable for the obligations of such assignee or delegee. For the avoidance of doubt, 8x8 may assign its rights and/or delegate its obligations under the 8x8-Customer Agreement, in part or in full, to one or more of its Affiliates.

13.8. No Third-Party Beneficiaries. Except as expressly stated in the 8x8-Customer Agreement, the 8x8-Customer Agreement is intended for the sole benefit of, and shall only be enforceable by, each Party and its permitted assigns. Without limiting the foregoing, 8x8 shall have no obligation or liability under the 8x8-Customer Agreement to any Agent or other end user of Ordered 8x8 SaaS Services.

13.9. Document Execution/Acceptance. Use of DocuSign, or any other widely-used method of verifiable electronic signature and delivery, shall be a valid method of execution and/or delivery of all documents under the 8x8-Customer Agreement. Any document or other content related to or proposed for addition to the 8x8-Customer Agreement that is prepared by 8x8 and sent to Customer for acceptance via completion of an electronic “click-through,” “click to accept,” or similar process shall be deemed accepted and entered into by Customer upon Customer’s completion of such process.

13.10. Interpretation. The headings in the documents comprising the 8x8-Customer Agreement are solely for the convenience of reference and shall not be given any effect in the construction or interpretation of thereof. References in the 8x8-Customer Agreement to a web address (URL) shall be deemed to include (a) any subpages that are accessible through one

or a series of clearly-labelled hyperlinks and (b) such successor sites as may be designated by the owner or controller of the web site.

13.11. Survival. Sections 1.3 (Separate Agreements/Relationships with Reseller and 8x8), 1.4 (Applicability Throughout the Access Period), 10 (Indemnification), 11 (Exclusions and Limitations of Liability), and 12 (Dispute Resolution) shall survive termination or expiration of the 8x8-Customer Agreement, as shall any other provision that by its nature is intended to so survive.

13.12. Definitions. When used in these 8x8-Customer Terms, the following capitalized terms shall have the following meanings:

“8x8 SaaS Services” – the 8x8 Virtual Office and 8x8 Virtual Contact Center services (whether stand-alone, included in 8x8 Editions or 8x8 X Series, or otherwise bundled with other services), including all components thereof.

“Affiliate” – an entity that directly/indirectly controls or is controlled by or under common control with the applicable person.

“Agent” – an individual authorized to use, administer, or perform actions with respect to Ordered 8x8 SaaS Services through Customer’s account (as an agent, administrator, or otherwise), as identified through a unique log-in.

“Covered Claim” – a Claim that one Party intends to assert against the other Party, its Affiliates, or any of their personnel, other than (a) provisional remedies related to Claims related to infringement or misappropriation of intellectual property and (b) Claims that the other Party is expressly required to defend under the 8x8-Customer Agreement.

“Documentation” – user manuals and technical documentation related to the 8x8 SaaS Services posted to www.8x8.com or otherwise made available by 8x8 to its customers from time to time, but excluding marketing or promotional materials.

“Equipment” – equipment that Reseller or its Partner has purchased (directly or via intermediary entities) from 8x8 for resale.

“Indemnified IP Claim” – a Claim alleging that the 8x8 SaaS Services, as used in accordance with the 8x8-Customer Agreement and the Documentation, infringe any patent, trademark, or copyright enforceable under the laws of the Primary Market or the European Community, excluding any Claim based upon: (a) the combination, operation, or use of 8x8 SaaS Services with any non-8x8 product, device, service, or software; (b) the alteration or modification of 8x8 SaaS Services other than by 8x8 or its authorized subcontractors; or (c) 8x8’s or its Partner’s alteration or modification of 8x8 SaaS Services at Customer’s request.

“Order” – a written or electronic order prepared by or on behalf of Reseller for 8x8 SaaS Services and/or Equipment and entered into between Reseller and Customer or its Affiliate pursuant to the Reseller-Customer Agreement.

“Solvency Event” – a bankruptcy, reorganization, insolvency, or similar proceeding not dismissed within thirty (30) days; dissolution; becoming insolvent or bankrupt; or the making of an assignment for the benefit of creditors.

REGIONAL TERMS FOR RESOLD 8x8 VIRTUAL OFFICE AND VIRTUAL CONTACT CENTER SERVICES

A. Applicability and Definitions. These Regional Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services (these “**Regional Terms**”) shall apply solely with respect to Ordered Products provided to a Customer location (as identified by a physical address specified in the Reseller-Customer Agreement) (each a “**Customer Location**”) in the US, Australia, or Canada, except to the extent that one or more particular countries or regions are expressly referenced with respect to a provision of these Regional Terms, in which case such provision shall apply solely with respect to Ordered Products, if any, provided to a Customer Location in the referenced country(ies) or region(s). Capitalized terms used and not defined in these Regional Terms shall have the meanings assigned to them in the 8x8-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services into which these Regional Terms are incorporated (the “**8x8-Customer Terms**”).

B. Numbers and Porting. Subject to Customer’s utilization of Approved Reseller Support Channels and subject to the following requirements and limitations, 8x8 shall support number portability under applicable Law for Ordered 8x8 SaaS Services that involve telephone numbers (including codes) that are provided to Customer by 8x8 or its Affiliate in connection with such Ordered 8x8 SaaS Services (“**8x8 Numbers**”) or telephone numbers that are ported into 8x8 or its Affiliate by Customer in connection with such Ordered 8x8 SaaS Services (“**Ported-In Numbers**”):

- **Availability of Porting** – In the US and Canada, portability is dependent upon the cooperation of third parties not under the control of 8x8 and applicable laws and regulations concerning the geographic relevance of local exchange area service, where applicable. Outside of the US and Canada, number portability may be unavailable (and thus Customer may not be able to port numbers into or out of 8x8 or its Affiliate when transferring service to or from 8x8 or its Affiliate) under certain circumstances (e.g., the absence of any porting agreement between 8x8 and the relevant carrier).
- **Number Port-Ins** – Where Customer wishes to port numbers in to 8x8 or its Affiliate from another provider (the “**Donor Provider**”), Customer authorizes 8x8 to have the numbers routed by 8x8 (instead of the Donor Provider) and to forward appropriate details of Customer’s porting application.
- **8x8 Numbers** – 8x8 shall use commercially reasonable efforts to facilitate Customer’s retention of numbers assigned to the Ordered 8x8 SaaS Services during the Effective Period, provided that 8x8 Numbers (a) may be changed with reasonable notice to Customer where 8x8 or its Affiliate is so instructed by a regulator or determines in good faith that a third party has a valid claim to such 8x8 Number(s) or that such change is required under applicable law and (b) shall belong to 8x8, and not Customer, and Customer shall have no right to sell, dispose, transfer, or keep 8x8 Numbers.
- **Number Port-Outs** – Upon termination or expiration of the 8x8-Customer Agreement or a reduction in quantity of Ordered 8x8 SaaS Services, 8x8 shall, at Customer’s request via Approved Reseller Support Channels, use commercially reasonable efforts to assist Customer to port out the relevant numbers (including both 8x8 Numbers and Ported-In Numbers), provided that outside of the US and Canada, 8x8 shall have no obligation to port out any 8x8 Number where such port out would require the porting out of a larger block of numbers.
- **Disclosure to Directory Services** – Subject to any specific requirements in these Regional Terms, Customer consents to 8x8’s or its Affiliate’s or Partner’s disclosure of details of its and its Agents’ numbers to organizations that wish to compile directories or directory enquiry services.

C. Emergency Calling Labels. In the US and Canada, 8x8 or its Partner will provide Customer with warning labels regarding the limitations or unavailability of 911 emergency dialing. Customer agrees to place a label on or near each non-mobile telephone or other equipment through which Ordered 8x8 SaaS Services may be utilized or accessed. If additional labels are required, Customer shall request them from 8x8.

D. Data Protection in Australia. Subject to the terms of the 8x8-Customer Agreement, 8x8 will handle any “personal information”, as defined in the *Privacy Act 1988* (Cth) as amended from time to time, that Customer submits to 8x8 via any Ordered 8x8 SaaS Services provided to a Customer Location in Australia (“**Australia Personal Information**”) only in accordance with 8x8’s Privacy Notice (available at <https://www.8x8.com/terms-and-conditions/privacy-policy>) (the “**Privacy Notice**”), or as otherwise permitted or required by law. 8x8 shall (a) take reasonable steps to protect Personal Information from misuse, interference, unauthorized access, modification, or disclosure and (b) not use Personal Information, except to provide the 8x8 SaaS Services, Ordered Equipment, or other services or products provided as the supplier of Reseller, or otherwise perform its obligations under the 8x8-Customer Agreement; as set forth in the Privacy Notice; or as otherwise permitted or required by law. 8x8 confirms that, in providing the Ordered 8x8 SaaS Services, 8x8 does not have a permanent establishment, nor does it provide any Ordered Products through an enterprise that it carries on, in Australia.

E. Data Protection in Canada. To the extent that the Content, if any, that Customer sends, receives, or stores via Ordered 8x8 SaaS Services provided to a Customer Location in Canada includes “personal information” as defined under the Personal Information Protection and Electronic Documents Act (2000, c. 5) (PIPEDA) (“**Canada Personal Information**”), 8x8 shall use and disclose such Canada Personal Information solely (a) for the purpose of fulfilling 8x8’s obligations or exercising 8x8’s rights under the 8x8-Customer Agreement (which shall, for clarity, include providing, supporting, or enhancing (e.g., performing quality control functions) the 8x8 SaaS Services, Ordered Equipment, or other services or products provided as the supplier of Reseller), (b) as approved in advance in writing by Customer, (c) in accordance with Customer’s instructions, or (d) for the purpose of complying with Laws, including without limitation in response to legal process. To the extent that Customer otherwise submits Canada Personal Information to 8x8 via any Ordered 8x8 SaaS Services provided to a Customer Location in Canada, 8x8 shall use and disclose such Canada Personal Information solely as set forth in the Privacy Notice.