

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

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THESE RESELLER-CUSTOMER TERMS SHOULD BE READ CAREFULLY, AS THEY AFFECT THE PARTIES' LEGAL RIGHTS BY, AMONG OTHER THINGS, LIMITING RESELLER'S LIABILITY UNDER THE RESELLER-CUSTOMER AGREEMENT

1. GENERAL

1.1. Applicability and Scope. These Reseller-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services and all content expressly incorporated herein (these “**Reseller-Customer Terms**”) apply to those customers of a reseller of 8x8, Inc. (“**8x8**”) that have agreed to or accepted these Reseller-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services in connection with ordering 8x8 Virtual Office and/or 8x8 Virtual Contact Center services (such services, whether stand-alone, included in 8x8 Editions or 8x8 X Series, or otherwise bundled with other services, and including all components thereof, the “**8x8 SaaS Services**”) from or through such reseller. For such customers, these Reseller-Customer Terms apply with respect to all 8x8 SaaS Services and Project Services (together, “**Services**”) and Equipment ordered or provided under the Reseller-Customer Agreement (as defined below) (such Equipment, “**Ordered Equipment**”; such Services and equipment, together, “**Ordered Products**”).

1.2. The Reseller-Customer Agreement. On the first occasion that the legal entity in whose name Reseller agrees to provide Services (“**Customer**”) performs any of the following acts, such entity thereby enters into a legally-binding contract with the non-8x8 entity(ies) from/through which it orders the Ordered Products (“**Reseller**”) that shall govern all ordering, acquisition, accessing, and use of Ordered Products (the “**Reseller-Customer Agreement**”): (a) entering into an agreement, order, or other document that incorporates these Reseller-Customer Terms for Resold 8x8 Virtual Office and Virtual Contact Center Services or otherwise agreeing to or accepting these Reseller-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 Reseller-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 Reseller-Customer Agreement shall include all terms and conditions between Customer and Reseller (each a “**Party**” and together as the “**Parties**”) related to the ordering, acquisition, accessing, or use of Ordered Products (including without limitation these Reseller-Customer Terms) and all orders of 8x8 SaaS Services and/or Equipment entered into or placed by or on behalf of Customer, each of which shall be subject to these Reseller-Customer Terms. For avoidance of doubt, any transaction, dealing, or relationship between Reseller and Customer – and any terms, conditions, documents, materials, or other content agreed to or entered into by, or otherwise applicable to, Customer and Reseller – that are unrelated to the Ordered Products or the ordering, acquisition, accessing, or use thereof (e.g., Customer’s ordering from Reseller goods or services other than the Services or Equipment) (each such transaction, document, etc., an “**Extraneous Agreement**”) shall be outside of the scope of the Reseller-Customer Agreement, and these Reseller-Customer Terms shall not govern or apply to any such Extraneous Agreement.

The individual who agrees to or accepts these Reseller-Customer Terms represents and warrants to Reseller that he or she has the authority to bind Customer to the Reseller-Customer Agreement and enter into the Reseller-Customer Agreement on Customer’s behalf. IF SUCH INDIVIDUAL DOES NOT HAVE SUCH AUTHORITY OR DOES NOT AGREE TO THESE RESELLER-CUSTOMER TERMS, THEN HE/SHE SHOULD NOT ACCEPT THESE RESELLER-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 – Reseller and 8x8 (or its Affiliate, as applicable). 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, <u>other than the Ordered 8x8 SaaS Services</u> Facilitates access to the Ordered 8x8 SaaS Services
8x8 (or its Affiliate, as applicable)	<u>Is the service provider with respect to the Ordered 8x8 SaaS Services</u>

In connection with such roles of Reseller and 8x8, Customer shall enter into the Reseller-Customer Agreement with Reseller and shall enter into a separate, concurrent agreement with 8x8 or its Affiliate in respect of the Ordered 8x8 SaaS Services (the “**8x8-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 Reseller-Customer Agreement (including without limitation these Reseller-Customer Terms) become or be deemed to be part of (or affect or alter the terms of) the 8x8-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 8x8 and/or its Affiliates within these Reseller-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. Conflict. In respect of the Ordered Products and other matters within the scope of this Agreement, the Reseller-Customer Agreement shall take precedence and control in the event of any conflict or inconsistency with any Extraneous Agreement. In the event of any conflict between these Reseller-Customer Terms and any other component of the Reseller-Customer Agreement, these Reseller-Customer Terms shall take precedence and control.

2. 8x8 SaaS SERVICES

2.1. Ordering 8x8 SaaS Services. Customer may order 8x8 SaaS Services under the Reseller-Customer Agreement, in each case by entering into a written order prepared by or on behalf of Reseller for the same with Reseller pursuant to the Reseller-Customer Agreement (“**Orders**”). Orders shall be:

- (a) deemed entered into by, and shall become effective and legally binding on, the Parties upon (i) execution by Customer (or execution by both Parties if the Parties have agreed in writing that the foregoing shall be required for Orders to be

effective) or (ii) completion by Customer of an electronic “click-through” or “click to accept” process of Reseller or its Partner and

- (b) coterminous with the Reseller-Customer Agreement (i.e., shall terminate, renew, and/or expire at the same time as the Reseller-Customer Agreement, in accordance with Sections 11 (Term and Renewal) and 12 (Termination)).

Upon placement of an Order, the applicable Ordered 8x8 SaaS Services shall be provisioned, a tenant and account shall be automatically created for Customer, and Customer’s designated administrator shall receive email instructions and credentials necessary to access such Ordered 8x8 SaaS Services, assign lines and/or seats to individual users, and otherwise enable Customer to access and use such Ordered 8x8 SaaS Services (“**Provisioning**”).

2.2. Reseller Responsibilities With Respect to 8x8 SaaS Services

2.2.1. 8x8 SaaS Services Support. Reseller shall, itself or through one or more of its vendors, subcontractors, wholesalers, suppliers, or other service-providers (each, a “**Partner**” of Reseller) or Affiliates, provide standard support for Ordered 8x8 SaaS Services during Reseller’s regular business hours (or such other hours agreed to in writing by the Parties) via those particular telephone numbers, email addresses, web chat interfaces, and/or other support channels expressly specified by Reseller for such purpose (the “**Approved Support Channels**”).

2.2.2. 8x8 SaaS Services Pricing Commitment. Except to the extent otherwise expressly agreed in writing by the Parties, (a) the Service Fee rates for Ordered 8x8 SaaS Services shall be as set forth in the applicable Order, and, during the Initial Term, Reseller may not increase any such rates, (b) after the Initial Term, Reseller may, at any time, increase such rates up to – but not in excess of – the then-current list price for the applicable Ordered 8x8 SaaS Services, (c) when Customer orders Ordered 8x8 SaaS Services for the first time in a country, such order shall establish the Service Fee rates that Reseller must offer for future Orders of the same Ordered 8x8 SaaS Services in that country, provided that such established rates shall increase in parallel with any rate increases under the immediately preceding clause (b), and (d) the initial Regulatory Recovery Fee rates for Ordered 8x8 SaaS Services shall be as set forth in the applicable Order.

2.3. Customer Responsibilities With Respect to 8x8 SaaS Services

2.3.1. Customer Subscription Commitment. AS A MATERIAL COMMITMENT UPON WHICH PRICING AND OTHER TERMS OF THE RESELLER-CUSTOMER AGREEMENT ARE BASED, CUSTOMER SHALL BE OBLIGATED TO PAY (IN ACCORDANCE WITH SECTION 7 (BILLING AND PAYMENT)) ALL SERVICE FEES, REGULATORY RECOVERY FEES, AND TAXES RELATED TO ORDERED 8x8 SaaS SERVICES FOR THE ENTIRE PERIOD BEGINNING ON THE EFFECTIVE DATE OF CUSTOMER’S FIRST ORDER AND CONTINUING FOR THE NUMBER OF MONTHS IDENTIFIED THEREIN AS THE “TERM,” “INITIAL TERM,” OR SIMILAR PERIOD (OR, WHERE NO SUCH PERIOD IS SO IDENTIFIED, FOR THIRTY-SIX (36) MONTHS) THEREAFTER) (THE “**INITIAL TERM**”) AND EACH RENEWAL TERM (CUSTOMER’S “**SUBSCRIPTION COMMITMENT**”), provided that Customer may reduce in quantity or downgrade (e.g., to a tier with a lower Service Fee rate) Ordered 8x8 SaaS Services for the next renewal term by providing notice of the same to Reseller at least sixty (60) days before the start of such renewal term (“**Reduce**” or a “**Reduction**”).

2.3.2. Usage. Customer shall be responsible for, and shall pay in accordance with Section 7 (Billing and Payment), any applicable usage charges of the sort set forth at the time of such usage at www.8x8.com/terms-and-conditions/usage.

2.3.3. Utilization of Approved Support Channels. In seeking technical and other support for Ordered Products (including without limitation in relation to outages or technical issues regarding the Ordered SaaS Services and porting requests) or support related to the Reseller-Customer Agreement or Customer’s relationship with Reseller in connection therewith, Customer agrees to solely and exclusively utilize the Approved 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 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. For number port-outs, Reseller may, to the extent permitted by applicable law, charge Customer a reasonable administrative fee for each number ported out or attempted to be ported out, and Customer shall pay any such fees in accordance with Section 7 (Billing and Payment). Without limiting the foregoing, in the US, \$5.00 (USD) per number shall be considered a reasonable administrative fee for such actual or attempted port-outs.

2.4. Third-Party Offerings and Integrations. Customer’s relationship and dealings (including without limitation any collection or use of data) with providers of third-party 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 Reseller-Customer Agreement. In no event shall Reseller be liable or responsible under any such agreement (unless Reseller has agreed in writing to be a party to such agreement). Except to the extent otherwise expressly agreed in writing by the Parties, Reseller shall have no liability or responsibility (a) for any act or omission of any Provider or any operation of its offering, regardless of whether Reseller, 8x8, or their Affiliates endorse, refer Customer to, approve of Customer's use of, or agree to bill and/or collect on behalf of such Provider or designate any such offering as "certified," "approved," "recommended," etc. or (b) for supporting any such third-party offering.

2.5. Suspension and Restriction. For avoidance of doubt, in no event shall 8x8's or its Affiliate's exercise of any of its rights under the 8x8-Customer Agreement to suspend and/or restrict the Ordered 8x8 SaaS Services relieve Customer of any of its obligations under the Reseller-Customer Agreement, except that Customer shall (except to the extent otherwise expressly agreed in writing by the Parties) not be liable for any fees for any suspended Ordered 8x8 SaaS Services for the period of such suspension if not due to Customer's breach of the Reseller-Customer Agreement or the 8x8-Customer Agreement.

3. EQUIPMENT

The provisions of Sections 3.2 (Equipment Pricing) through 3.4 (Customer Responsibilities With Respect to Equipment) shall not apply to the extent otherwise expressly agreed in writing by the Parties.

3.1. Ordering Equipment. To the extent that Reseller offers to resell to Customer equipment that Reseller or its Partner or Affiliate has purchased (directly or via one or more intermediaries) from 8x8 for resale thereof (such resold equipment, "**Equipment**"), Customer may order such Equipment from Reseller, in each case by entering into an Order. The pricing for Ordered Equipment shall be as set forth in the Order under which it was ordered. Customer shall be deemed the importer of Ordered Equipment for all purposes.

3.2. Equipment Pricing. Equipment-related pricing, discounts, and promotions (e.g., free shipping) provided in an Order shall apply solely to the particular equipment ordered under that Order, and Reseller makes no commitment and shall have no obligation with respect to future pricing for or availability of equipment.

3.3. Reseller Responsibilities With Respect to Equipment. Reseller shall, itself or through its Affiliates or Partners, provide the Ordered Equipment to Customer and pass through to Customer a twelve- (12-) month warranty (or an extended warranty if permitted by the manufacturer) therefor. Customer may return any defective Ordered Equipment covered by warranty by obtaining a return authorization number from Reseller and thereafter returning the Ordered Equipment in its original packaging or equivalent to the address specified by Reseller, in which case Reseller shall replace the Ordered Equipment at no charge and pay the reasonable associated shipping costs.

3.4. Customer Responsibilities With Respect to Equipment. Customer shall, in accordance with Section 7 (Billing and Payment), pay for all Ordered Equipment at the pricing set forth in the applicable Order and for all shipping and related charges. All shipments of Ordered Equipment shall be F.C.A. (free carrier), and title and risk of loss or damage shall pass to Customer upon delivery to the carrier. Customer shall be responsible for all lost, stolen, or broken equipment (except to the extent covered by warranty), and for ensuring that any externally-acquired equipment used with Ordered 8x8 SaaS Services is in reasonable working condition and configured in accordance with 8x8's and Reseller's technical requirements.

4. PROJECT SERVICES.

The provisions of this Section 4 (Project Services) shall not apply to the extent otherwise expressly agreed in writing by the Parties. Reseller may from time to time, in each case in its sole discretion, offer to perform work for Customer related to the configuration or customization of Ordered 8x8 SaaS Services, network assessments, Agent training, or similar work or services ("**Project Services**"). Customer may order Project Services under the Reseller-Customer Agreement ("**Ordered Project Services**"), in each case by entering into (via execution or completion by Customer of an electronic "click-through" or "click to accept" process of Reseller or its Partner) an Order and/or a written statement of work or similar document for the same with Reseller (an "**SOW**"). Reseller shall, itself or through its Affiliates or Partners, perform the Ordered Project Services in a professional and workmanlike manner, with reasonable skill and care, and in accordance with the terms of the applicable SOW (which shall set forth the other terms related to the Ordered Project Services ordered thereunder), *provided* that Customer's sole and exclusive remedies for Reseller's breach of this sentence shall be as set forth in the applicable SOW. Customer shall pay all fees and other amounts set forth in the applicable Order and/or SOW for Ordered Project Services, in accordance with Section 7 (Billing and Payment) and any other terms set forth in such SOW. Customer acknowledges and agrees that Reseller makes no commitment and shall have no obligation with respect to future pricing for or availability of Project Services.

5. ORDERS AND PARTY AFFILIATES; RESELLER SUBCONTRACTING

Reseller may, in each case in its sole discretion, (a) permit an Affiliate of Customer to order Ordered Products, in which case, with respect to such orders, (i) references to "Customer" in the Reseller-Customer Agreement shall be deemed to include such Customer Affiliate (as well as Customer) and (ii) Customer shall remain fully, including jointly and severally, liable under the Reseller-Customer Agreement and/or (b) subcontract for the performance of Reseller's obligations under the Reseller-Customer Agreement, provided that Reseller shall remain responsible for performance of such obligations and for such subcontractors' actions or omissions of in performing such obligations.

6. TAXES

The provisions of this Section 6 (Taxes) shall not apply to the extent otherwise expressly agreed in writing by the Parties. Customer shall be liable and responsible for, and shall pay in accordance with Section 7 (Billing and Payment), all taxes, levies, imports, exports, customs, duties, charges, fees or similar governmental assessments, including value-added tax, sales, use, withholding, or public utility taxes or fees that Reseller or its Partner reasonably believes to be assessed or assessable by any governmental, fiscal, or other authority, or recoverable by Reseller or its Partners, in respect of Ordered Products, other than those assessable against Reseller based solely on its income (collectively, "**Taxes**"). Any Taxes set forth in the Reseller-Customer Agreement or any quote shall be solely non-binding estimates. Any such estimates set forth in a quote or Order shall be calculated by or on behalf of Reseller in good faith based on the service address(es) provided by Customer. In order to assert an exemption from any Tax, Customer must deliver to Reseller a valid tax exemption certificate authorized by the appropriate taxing authority, in which case Customer shall still be liable for any Taxes assessed prior to such delivery. To the extent required by Law, Customer may deduct amounts from its payment of Billed Amounts for or on account of any Tax and/or withholding imposed by any governmental or fiscal authority, provided that Customer shall (a) provide notice of such requirement to Reseller at least thirty (30) days prior to making the deduction, (b) furnish Reseller with receipts evidencing remittance of the deducted amounts, and (c) pay such additional amounts to Reseller, as applicable, as are necessary to ensure receipt by Reseller of the full amount that it would have received but for the deduction. Customer acknowledges and agrees that Reseller may not charge value-added, goods and services, or similar Taxes in certain jurisdictions (such as Australia) that permit reverse charge of such Taxes. Reseller shall account for and remit any such Taxes on Ordered Products in such jurisdictions. Except to the extent otherwise expressly agreed in writing by the Parties, (i) the prices set forth in the Reseller-Customer Agreement are exclusive of any goods and services tax (GST) payable by Customer, (ii) the Parties agree to account for any GST on Ordered Products provided to a Customer location (as identified by a physical address specified in the Reseller-Customer Agreement) (each a "**Customer Location**") in Australia in accordance with the reverse charge provisions of Division 83 of the A New Tax System (Goods and Services Tax) Act 1999 and confirm that such Ordered Products are provided to Customer and not to a resident agent, and (iii) Reseller confirms that, in providing the Ordered Products, Reseller does not have a permanent establishment, nor does it provide the Ordered Products through an enterprise that it carries on, in Australia.

7. BILLING AND PAYMENT

The provisions of this Section 7 (Billing and Payment) shall not apply to the extent otherwise expressly agreed in writing by the Parties.

7.1. Billing of Billed Amounts. Service Fees and other monthly-recurring charges shall start to be billed as of the effective date of the applicable Order. Except to the extent otherwise expressly agreed in writing by the Parties, such amounts shall be billed monthly, at or near the beginning of the applicable calendar month, provided that when Ordered 8x8 SaaS Services are ordered, Reseller may bill the first thirty (30) days of such amounts for such Ordered 8x8 SaaS Services at or near the time of order. One-time Services charges, including Project Services fees, shall be incurred on the effective date of the applicable Order. Equipment-related charges shall be incurred upon shipment of the Equipment.

7.2. Payment of Billed Amounts. Except as set forth in this Section 7.2 (Payment of Billed Amounts) and Section 6 (Taxes), Customer shall pay all amounts billed to Customer by or on behalf of Reseller in respect of Ordered Products ("**Billed Amounts**") without counter-claim, set-off, withholding, or deduction of any sort. If Customer believes in good faith that a Billed Amount was not actually incurred under the Reseller-Customer Agreement (i.e., was overbilled), then Customer may dispute such Billed Amount by providing notice to Reseller within thirty (30) days of the date of the first posting of the Billed Amount in the relevant account (where payment is not By Invoice) or the date of the first invoice in which the Billed Amount was invoiced (where payment is By Invoice), which such notice must specify the particular Billed Amount(s) in dispute and the

basis of the dispute in reasonable detail. Failure to so dispute a Billed Amount within such period shall constitute a complete and irrevocable waiver of Customer's right to dispute such Billed Amount. If payment of a Billed Amount is By Invoice and Customer disputes such Billed Amount in good faith in accordance with this Section 7.2 (Payment of Billed Amounts), then Customer may, at its option, either (a) pay such Billed Amount expressly under protest or (b) withhold payment of such Billed Amount, in which case such Billed Amount, ***if (and only if) actually incurred under the Reseller-Customer Agreement (i.e., not actually overbilled)***, shall not become due until ten (10) days after Reseller's determination of the same (if such due date is later than the original due date for such amount). Delinquent Billed Amounts shall, beginning upon delinquency, accrue interest at the rate of the lesser of one-point-five percent (1.5%) per month or the maximum rate permitted by applicable law. All payments to Reseller or its Affiliate shall be non-refundable and non-creditable.

7.3. Up-Front Payment. At all times during the Effective Period other than those periods for which payment of all Billed Amounts is By Invoice, Customer shall maintain on file with Reseller complete, accurate, and up-to-date information for at least one valid, working credit card or Customer account (sufficient to permit ACH withdrawals). Payment of all Billed Amounts – other than those for which Reseller has agreed to payment By Invoice – shall be by charge to such credit card(s) or by ACH withdrawal from such account(s), at or near time of billing, and Customer hereby authorizes Reseller or its Partner to make such charges or withdrawals. Where payment is by such charge or withdrawal, (a) Reseller shall post a statement of the Billed Amounts in the relevant account at or near the time of the first attempted charge or withdrawal and shall thereafter make commercially reasonable efforts to notify Customer by email and/or telephone if the charge or withdrawal is not successful and (b) Billed Amounts shall be due within fourteen (14) days of such posting.

7.4. Payment by Invoice. To the extent agreed by Reseller, Customer may pay Billed Amounts by invoice, in which case payment of those Billed Amounts shall be (a) made by credit card, check, ACH, or wire transfer and (b) due within thirty (30) days of invoice date (Net 30) (payment "**By Invoice**"). Each such agreement shall be within Reseller's sole discretion, but, once entered into, may not be revoked by Reseller, except upon the occurrence of event(s) that, in Reseller's reasonable discretion, put Customer's creditworthiness or solvency into question (which such events shall include without limitation Customer's default on any of its financial obligations or a Solvency Event with respect to Customer or any entity that owns or controls it).

8. CHANGE IN TERMS

The provisions of these Reseller-Customer Terms may not be changed or amended in any way, except as follows:

- (a) The Parties may amend the provisions of these Reseller-Customer Terms as they apply to the Reseller-Customer Agreement by agreeing to do so in a written, legally-binding (on both Parties) amendment or similar document executed by both Parties that specifies the applicable amendments to these Reseller-Customer Terms and includes an express representation by Reseller that 8x8 has been notified and has expressly approved of such amendments as they apply to the Reseller-Customer Agreement. Any other attempt by Reseller and/or Customer to change or amend these Reseller-Customer Terms shall be deemed null and void, and the purported change(s) or amendment(s) in question shall not apply to the Reseller-Customer Agreement. For clarity, where the Parties agree to such different or additional terms as expressly permitted by these Reseller-Customer Terms (e.g., where a provision of these Reseller-Customer Terms is qualified by "Except to the extent otherwise expressly agreed in writing by the Parties . . ."), such different or additional terms shall not be considered to be "amendments" to these Reseller-Customer Terms for purposes of this clause (a).
- (b) 8x8 may change or update these Reseller-Customer Terms as follows:
 - (i) 8x8 may not change or update these Reseller-Customer Terms in any manner that would materially reduce Customer's rights or benefits, or materially increase Customer's obligations or liability, under the Reseller-Customer Agreement (a "**Material Change**") (i.e., any such change shall not apply to the Reseller-Customer Agreement), except where Reseller or 8x8 provides Customer with at least thirty (30) days' advance notice of, and opportunity to object to, such change by 8x8. During such notice period, Customer shall have the right to object to such change by providing notice of such objection to both Reseller and 8x8. Where Customer provides a such notice of objection to both Reseller and 8x8 before the end of the applicable notice period, the change shall not take effect (i.e., shall not apply to the Reseller-Customer Agreement) during the then-current Initial Term or renewal term (each a "**Term**"), but shall take effect (i.e., shall begin applying to the Reseller-Customer Agreement) 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 object to such a change by providing such a notice of objection to both Reseller and 8x8 before the end of the applicable notice period, the change shall take effect at the end of such notice period.

- (ii) 8x8 may make changes or updates to these Reseller-Customer Terms that are not Material Changes by posting such changes to www.8x8.com/distribution-terms or this web page, which changes shall be effective upon such posting.

9. 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 Reseller-Customer Agreement, and is not relying upon any statements, commitments, representations, or warranties other than those expressly set forth in the Reseller-Customer Agreement. Customer represents and warrants that its orders or purchases are not contingent on the delivery of any future functionality or feature. EXCEPT FOR THE WARRANTIES EXPRESSLY PROVIDED BY RESELLER IN THE RESELLER-CUSTOMER AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, RESELLER MAKES NO WARRANTIES AND ASSUMES NO OBLIGATIONS, AND DISCLAIMS ALL WARRANTIES AND OBLIGATIONS IN RELATION TO THE SERVICES, EQUIPMENT, AND/OR THE RESELLER-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.

10. RIGHTS IN FEEDBACK

Customer hereby assigns to Reseller 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 Reseller or its Affiliates or their Personnel relating to their or 8x8's or its Affiliates' operations or the Services or Equipment, and agrees that such parties 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.

11. TERM AND RENEWAL

The Reseller-Customer Agreement shall become effective on the date that the Parties enter into the Reseller-Customer Agreement and continue in full force and effect until the earlier of (a) the date terminated in accordance with Section 12.1 (Exclusive Termination Rights) and (b) the date of expiration as set forth in the next sentence (the "**Effective Period**"). At the end of each Term, the Reseller-Customer Agreement, if not earlier terminated in accordance with these Reseller-Customer Terms, shall:

- (i) expire if either Party has elected not to renew the Reseller-Customer Agreement via notice to the other Party (and, in the case of Customer's non-renewal, notice to 8x8) at least thirty (30) days prior to the end of such Term;
- (ii) continue on a month-to-month basis (i.e., automatically renew for successive one- (1-) calendar month renewal terms) if Customer has so elected via notice to Reseller and 8x8 at least thirty (30) days prior to the end of such Term; or
- (iii) automatically renew for a twelve- (12-) month renewal term if neither of the foregoing applies.

12. TERMINATION

12.1. Exclusive Termination Rights. The Reseller-Customer Agreement may be terminated:

- (a) by either Party with thirty (30) days' notice to the other Party (and, in the case of termination by Customer, notice to 8x8) in the event of the other Party's material breach of the Reseller-Customer Agreement (which shall include without limitation any Customer payment delinquency) 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 Reseller with thirty (30) days' notice to Customer in the event that Customer objects to any change to these Reseller-Customer Terms proposed or made by 8x8 under Section 8 (Change in Terms); or
- (d) by Reseller with thirty (30) days' notice to Customer in the event that Reseller determines in good faith that such termination is necessary to comply with a law, regulation, or court or administrative order or ruling.

In addition, the Reseller-Customer Agreement shall automatically and immediately (i) terminate upon termination of the 8x8-Customer Agreement for any reason ("**Automatic Termination**") and (ii) expire upon expiration of the 8x8-Customer Agreement. Where the Reseller-Customer Agreement Automatically Terminates in connection with termination of the 8x8-Customer Agreement by 8x8 on the grounds permitted thereunder for Customer's breach thereof or experiencing a Solvency Event, the Reseller-Customer Agreement shall, for purposes of Section 12.2 (Effect of Termination), be deemed and considered

to have been terminated by Reseller under and in accordance with clause (a) of the immediately preceding sentence (i.e., to have been terminated by Reseller for Customer's breach of the Reseller-Customer Agreement).

THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS SECTION 12.1 (EXCLUSIVE TERMINATION RIGHTS) STATES THE PARTIES' SOLE AND EXCLUSIVE RIGHTS TO TERMINATE THE RESELLER-CUSTOMER AGREEMENT, AND THE RESELLER-CUSTOMER AGREEMENT MAY NOT OTHERWISE BE TERMINATED BY EITHER PARTY.

12.2. Effect of Termination. Upon termination of the Reseller-Customer Agreement for any reason, all Orders and SOWs shall immediately terminate. In the event that the Reseller-Customer Agreement is terminated by Customer under and in accordance with clause (a) or (b) – or by Reseller under clause (c) or (d) – of Section 12.1 (Exclusive Termination Rights) or is Automatically Terminated in connection with termination of the 8x8-Customer Agreement on grounds expressly permitted thereunder other than those relating to Customer's breach thereof or experiencing a Solvency Event, Customer shall be relieved of its Subscription Commitment for any post-termination period, and, except to the extent otherwise expressly agreed in writing by the Parties, Reseller shall refund any amounts un-used and pre-paid for Ordered 8x8 SaaS Services for any such period. For clarity, (a) no other termination of the Reseller-Customer Agreement shall relieve Customer of such commitment (which shall survive any such termination) or entitle Customer to any refund and (b) in no event shall termination or expiration of the Reseller-Customer Agreement relieve Customer of its obligation to pay any amount incurred thereunder prior to such termination or expiration.

13. INDEMNIFICATION

Customer shall (i) defend Reseller, its Affiliates, their Partners, and their personnel (collectively, the "**Reseller 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 the content of any communications transmitted, received, and/or stored through any Ordered 8x8 SaaS Services or any actual or alleged breach by Customer of the Reseller-Customer Agreement or the 8x8-Customer Agreement and (ii) indemnify and hold harmless the Reseller Parties against any damages, attorneys' fees, defense costs, and other losses (collectively, "**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.

14. EXCLUSIONS AND LIMITATIONS OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, (a) IN NO EVENT SHALL RESELLER BE LIABLE UNDER THE RESELLER-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 RESELLER UNDER THE RESELLER-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 EVENT EXCEED THE TOTAL AMOUNT OF SERVICE FEES PAYABLE UNDER THE RESELLER-CUSTOMER AGREEMENT FOR THE TWELVE- (12-) MONTH PERIOD PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE, PROVIDED THAT WHERE THE PARTIES HAVE AGREED TO A LOWER LIMITATION OF LIABILITY, SUCH LOWER LIMITATION SHALL APPLY. 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 RESELLER-CUSTOMER AGREEMENT AND COMPRISE AN ESSENTIAL PART THEREOF, (ii) THE PARTIES RELIED ON SUCH EXCLUSION AND LIMITATION IN ENTERING INTO THE RESELLER-CUSTOMER AGREEMENT, AND (iii) THE PRICING FOR THE ORDERED PRODUCTS WOULD HAVE BEEN SUBSTANTIALLY HIGHER IN THE ABSENCE OF SUCH EXCLUSION OR LIMITATION.

15. MISCELLANEOUS

15.1. Notices. Any notice to be provided under the Reseller-Customer Agreement shall be provided as follows:

- (a) **to Customer** – via any of the following methods: (i) email to the email address specified by Customer in connection with its initial order of 8x8 SaaS Services under the Reseller-Customer Agreement, (ii) 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 order, or (iii) such additional method agreed to in writing by the Parties,
- (b) **to Reseller** – via (i) the method and to the address(es) specified for notices to Reseller in the Reseller-Customer Agreement or (ii) if no such method and address(es) are specified therein, via Delivery to the physical address specified for Reseller in connection with the first Order, and
- (c) **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”.

Reseller or 8x8 may change any of its designated notice addresses via notice to Customer, and Customer may change any of its designated notice addresses via notice to both Reseller and 8x8. For avoidance of doubt, only 8x8 may change its designated notice address. 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. Any notice or notification provided to Customer by 8x8 in accordance with this Section 15.1 (Notices) shall satisfy any requirement under these Reseller-Customer Terms for Reseller to provide that type of notice or notification (as applicable) to Customer.

15.2. Governing Law; Jurisdiction. The Reseller-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. Except to the extent otherwise expressly agreed in writing by the Parties, 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.

15.3. Force Majeure. Neither Party shall be considered in breach of, or have any liability under, the Reseller-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, *provided* that the foregoing shall not apply to either Party’s payment obligations under the Reseller-Customer Agreement.

15.4. Entire Agreement; Amendment. The documents comprising the Reseller-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 Reseller-Customer Agreement may not be amended, except via both Parties’ execution of a written amendment thereto or as otherwise expressly provided in these Reseller-Customer Terms or the Reseller-Customer Agreement, provided that, for avoidance of doubt, these Reseller-Customer Terms may be amended only as set forth in Section 8 (Change in 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 Reseller or its Partner in connection with the Reseller-Customer Agreement or the 8x8-Customer Agreement (to which Reseller hereby objects) become part of, apply to, or modify or supersede the terms of the Reseller-Customer Agreement.

15.5. Severability. If any provision of the Reseller-Customer Agreement is deemed illegal, invalid, or unenforceable, in whole or in part, under applicable Law, the Reseller-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.

15.6. Waiver. Except to the extent expressly otherwise provided in these Reseller-Customer Terms, (a) either Party’s failure to exercise or enforce any right or remedy under the Reseller-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 Reseller-Customer Terms.

15.7. Assignment; Binding Effect. The Reseller-Customer Agreement shall be binding upon the Parties’ heirs, successors, and permitted assigns. Customer may not assign the Reseller-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) with ten (10) days’ prior notice to Reseller and 8x8 or (b) with Reseller’s and 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 Reseller might reasonably request, and Customer shall remain jointly liable for the obligations of such assignee or delegee. For the avoidance of doubt, Reseller may assign its rights and/or delegate its obligations under the Reseller-Customer Agreement, in part or in full, to 8x8 or one or more of 8x8's Affiliates. Any attempted assignment in violation of this Section 15.7 (Assignment; Binding Effect) shall be null and void.

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

15.9. 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 Reseller-Customer Agreement. Any document or other content related to or proposed for addition to the Reseller-Customer Agreement that is prepared by Reseller or its Partner 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.

15.10. Interpretation. The headings in the documents comprising the Reseller-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 Reseller-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.

15.11. Survival. Sections 1.3 (Separate Agreements/Relationships with Reseller and 8x8), 2.3.1 (Customer Subscription Commitment), 13 (Indemnification), and 14 (Exclusions and Limitations of Liability) shall survive termination or expiration of the Reseller-Customer Agreement, as shall any other provision that by its nature is intended to so survive.

15.12. Definitions. When used in these Reseller-Customer Terms, the following capitalized terms shall have the following meanings:

"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.

"Ordered 8x8 SaaS Services" – the 8x8 SaaS Services ordered and/or provided under the Reseller-Customer Agreement.

"Party" – each of Reseller and Customer (together, the **"Parties"**).

"Regulatory Recovery Fees" – monthly fees (which are not Service Fees, Taxes, or government-imposed charges) charged by Reseller or its Affiliate for each number (including without limitation toll free and virtual numbers) associated with telephony Ordered 8x8 SaaS Services, to offset costs incurred by Reseller or its Affiliates or Partners in complying with inquiries from, and obligations imposed on them by, regulatory bodies and/or governmental agencies.

"Service Fees" – the base recurring fees for Ordered 8x8 SaaS Services.

"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.