

GOOGLE APPS PREMIER EDITION LICENSE

This Google License (the “**License**”) is entered into by and between Google Inc., a Delaware corporation, with offices at 1600 Amphitheatre Parkway, Mountain View, California 94043 (“**Google**”) and CUSTOMER (indicated on the Customer Service Agreement). This License will be effective, once the License is signed by Customer below, as of the General Availability Date (the “**Effective Date**”). This License governs Customer’s access to and use of the Service (as defined below).

1. **Definitions.**

- 1.1. “**Administrator Account**” means the account provided to Customer by Google for the purpose of administering the End User Accounts of Customer’s End Users.
- 1.2. “**Administrative Console**” means the tool Customer may use to access reporting and certain other administration functions. The Administrative Console will be located at a URL that will be provided by and may be updated by Google from time to time.
- 1.3. “**Customer Domain Name(s)**” means the domain name(s) owned by Customer and specified in the Quote (as defined in Section 1.7 below).
- 1.4. “**End Users**” means Customer’s employees, consultants and temporary personnel (employed by staffing agencies) who are registered to use the Services.
- 1.5. “**End User Account**” means Google-hosted accounts provided to Customer’s End Users through the Service for the purpose of enabling such End Users to use the Service.
- 1.6. “**General Availability Date**” means the date upon which Google makes the Services described in this License generally available to Customers, as determined by Google in its sole discretion.
- 1.7. “**Quote**” means the written offer by NuVox to provide a specific number of End User Accounts to Customer subject to the terms and conditions of this License. Each Quote will incorporate this License and will contain, without limitation: (i) product and/or service SKUs (including the term for any End User Accounts, if applicable); (ii) number of End User Accounts; (iii) price; (iv) Customer Domain Name(s) and (v) a reference number.
- 1.8. “**Service(s)**” means the services referred to by Google as “Google Apps Standard Plus Edition” or “Google Apps Premier Edition,” as applicable, that are hosted by Google and used by Customer under this License.
- 1.9. “**Service Level Agreement**,” or “SLA” means the Service Level Agreement located at the following URL: <http://www.google.com/a/help/intl/en/admins/sla.html>.
- 1.10. “**Service Pages**” mean the web pages displaying the Service to End Users.
- 1.11. “**Start Page**” means the Google-hosted web page provided through the Start Page Service, if Customer enables this Service.
- 1.12. “**Start Page Service**” means the service that provides customers of the Services with a Google-hosted web page for end users that enables certain customization by the customer through the Administrative Console and enables further customization by end users.
- 1.13. “**Start Page Terms of Service**” means the terms of service located at the following URL: http://www.google.com/a/help/intl/en/admins/startpage_terms.html, and which terms govern Customer’s use of the Start Page Service.

2. Services.

2.1. Scope. Google will use commercially reasonable efforts to provide the Services to Customer during the Term of this License. Google's provision of the Services to Customers is subject to the Service Level Agreement,. Subject to the terms and conditions of this License, Customer may use the Service to (a) provide End User Accounts to its End Users, and (b) administer such End User Accounts through the provided Administrative Console. Customer acknowledges that the Services are not a telephony service and that the Services are not capable of placing or receiving any calls, including emergency services calls, over publicly switched telephone networks. The default setting for the services is one which does not allow the serving of advertisements ("Ads") by Google in connection with the Services. Customer's enabling the serving of Ads through the Administrative Console will constitute Customer's authorization for Google to serve Ads. Customer agrees that, in the event Google is authorized to serve Ads, any revenue generated by Google from Ads or otherwise derived by Google from the Services will be retained by Google and will not be subject to any revenue sharing. In providing services to Customer Google will use commercially reasonable efforts to perform maintenance during non-peak hours so as to minimize service disruption. Should Google perform maintenance during such a time the downtime will be counted towards any associated service level.

2.2. Implementation. Unless otherwise agreed by Google in writing, Customer shall create and administer End User Accounts and otherwise use the Services in a manner that complies with the technical and implementation requirements provided by Google from time to time. Google will verify, prior to the commencement of the Services, that the Customer Domain Names are owned by Customer. If Customer does not own the Customer Domain Names as provided to Google, then Google will have no obligation to provide Customer with the Services. Notwithstanding anything to the contrary, Google will have no obligation to process requests to create or administer End User Accounts under the Services that are not sent in compliance with the requirements of this License. Information collected by Google may be stored and processed in the United States or any other country in which Google or its agents maintain facilities, provided that all such facilities shall adhere to security standards no less protective than the security standards at facilities where Google stores and processes its own information of a similar type. By using the Services and subject to Section 8, Customer consents to any such transfer, processing and storage of information. Customer is solely responsible for monitoring, responding to, and otherwise processing emails sent to the "abuse" and "postmaster" aliases for Customer Domain Name(s); however, Customer acknowledges and agrees that Google may also monitor, respond to or otherwise process emails sent to such aliases for Customer Domain Name(s).

2.3. Administrative Tools. Google acknowledges that the Customer, in order to perform its administrative functions, may need to access End User Account information including transactional logs and content. Google agrees to co-operate with the Customer to provide tools and processes such that Customer may perform these functions.

3. Customer Obligations.

3.1. Administrative Policy; Privacy. Customer agrees to comply with the policy for the Service available at http://www.google.com/a/help/intl/en/admins/premier_education_program_policies.html (or such URL as Google may provide) (the "Admin Policy") which is incorporated herein by this reference and which may be updated from time to time without notice to Customer. Customer agrees to protect the privacy of its End Users through a policy, which shall comply with all applicable laws and regulations, and which shall be communicated to Customer's End Users.

3.2. Customer Administration of the Services. Customer may specify one or more administrators through the Administrative Console who shall have the rights to access Customer's Administrator Account(s) and to administer the End User Accounts. Customer will receive a password and an Administrator Account to use in connection with administering the End User Accounts (and the Start Page, if enabled by Customer). Customer shall maintain the confidentiality of the password and Administrator Account, designating those employees who are authorized to access the Administrator Account, limiting the scope of such authorization to performance of duties under this License, and shall ensure that all activities in connection with the Administrator Account comply with the Admin Policy and the terms of this License. Customer agrees to immediately notify Google of any unauthorized use of, or access to, the Service, Customer's administrator privileges, password or Administrator Account, or of any other breach or attempted breach of which it becomes aware, including, without

limitation, any security breach. Google shall not be liable for any loss or damage resulting from or in connection with Customer's failure to comply with its security obligations. Google reserves the right (i) upon commercially reasonable notice (which may be via email), to suspend administrative access to the Service in response to Customer's material violation of any applicable terms of use or policy, (ii) to suspend the Service (or any component(s) of the Service as applicable) if, after using commercially reasonable efforts to discuss any such violation with Customer, the issue is not resolved; and (iii) to terminate the Service if Customer has not cured any such violation within thirty (30) days of the commencement of such suspension. Customer acknowledges and agrees that under no circumstances will Google be liable in any way for any acts or omissions of Customer or any End User, including any damages of any kind incurred as a result of such acts or omissions.

3.3. Suspension and Termination of Accounts. As used in this Section 3.3, the term "suspend" means that Customer will immediately disable the applicable End User Account as specified in the Administrative Console or as otherwise specified by Google. The duration of any suspension will be until Google is reasonably satisfied that no breach by the applicable End User has occurred or the applicable End User has cured the breach giving rise to such suspension. In the event that Customer becomes aware of any violation of any applicable terms of use or policy by an End User, Customer shall immediately suspend or terminate such End User Account unless Google agrees otherwise in writing (including by email). At Google's request, Customer will promptly suspend or terminate any End User Account or administrator's access to the Service in response to a violation of any applicable terms of use or policy by an End User or administrator. Google reserves the right to suspend or terminate End User Accounts in response to a violation or suspected violation of any applicable terms of use or policy.

3.4. Permissible Purposes: Compliance with Laws and Regulations. Customer agrees to use the Service only for purposes that are legal, proper and in accordance with this License and all applicable policies or guidelines. In addition to this License, Customer's use of certain Google services may be governed by policies or guidelines presented to Customer at the time Customer registers or accesses those services and which are specifically incorporated into this License. Customer agrees to comply with all applicable export and reexport control laws and regulations, including the Export Administration Regulations ("**EAR**") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control. A Customer in a country outside of the United States or Customer, when providing End User Accounts to End Users located outside the United States, agrees to additionally comply with any local rules regarding online conduct and acceptable content, including laws regulating the export and reexport of data to and from the United States or such other country.

4. Restrictions. Except as expressly permitted by Google, Customer shall not alter, delete or modify any attributions included within the Service. Customer agrees that it will not engage in any activity that interferes with or disrupts the Service or servers or networks connected to the Service. Except for modifications made to the Start Page Service permitted through the Start Page Service Administrative Console, Customer agrees not to alter the Service or any information transmitted through the Service to End Users (except, with respect to the latter, as otherwise may be necessary to comply with the terms of this License and/or commercially reasonable internal policies of Customer). Except as expressly set forth in this License or as otherwise agreed by Google in writing, Customer shall not transmit, display or otherwise make available (or allow End Users or any other third party to transmit or make available) any content or documentation provided by Google to Customer in connection with the Services. Customer will not, and will not allow third parties to, use or access the Service in a manner not in compliance with the terms of the License. Customer shall monitor and disable any such access or use by unauthorized parties (including, but not limited to, spammers or any third party sites).

5. Technical Support Services. Customer, at its own expense, shall respond to any questions and complaints from End Users and/or third parties relating to Customer or End Users' use of the Service. NuVox shall provide Customer with technical support services, the substance of which will be communicated from NuVox to Customer.

6. Purchase Via NuVox. Customer is purchasing the Services from NuVox. As a result, any purchase of, payment for, or taxes regarding the Services will be resolved between Customer and NuVox.

7. Google Apps API Terms. Customer's right to use, copy and retain a copy of the Google Apps Standard Plus Edition API, or the Google Apps Premier Edition API, (the "Google Apps API") and the applicable Google Apps API specifications is subject to Customer's full compliance with the terms and conditions of this License and the Google Apps API Terms available at http://www.google.com/a/help/intl/en/admins/api_terms.html or

such other URL as Google may provide to Customer from time to time. Upon expiration or termination of this License or Customer's Customer Service Agreement with NuVox, Customer must cease all use of the Google Apps API.

8. **Confidential Information.** In connection with performance of its obligations hereunder, a party (the "**Discloser**") may disclose to the other party (the "**Recipient**") certain information that the Discloser considers confidential and/or proprietary that is marked confidential or would normally under the circumstances be considered confidential information ("**Confidential Information**"). Confidential Information includes, but is not limited to, tangible, intangible, visual, electronic, present, or future information such as: (a) trade secrets; (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs, and know-how; (d) business information, including operations, planning, marketing interests, and products; (e) any bugs, defects, security problems, and other issues relating to the Service; (f) the existence and terms of this License and the discussions, negotiations and proposals related thereto; and (g) Customer or End User information. The Recipient will only have a duty to protect Confidential Information disclosed to it by the Discloser: (1) if it is clearly and conspicuously marked as "confidential" or with a similar designation; (2) if it is identified by the Discloser as confidential and/or proprietary before, during, or promptly after presentation or communication; or (3) if it is disclosed in a manner in which the Discloser reasonably communicated, or the Recipient should reasonably have understood under the circumstances, that the disclosure should be treated as confidential, whether or not the specific designation "confidential" or any similar designation is used. Customer acknowledges that the source and object code of the software underlying the Service (the "**Software**") remains a confidential trade secret of Google and/or its licensors and that Customer is not entitled to review either the object code or the source code of the Software for any reason at any time. Recipient shall not disclose or cause to be disclosed any Confidential Information of Discloser, except to those employees, agents, representatives, or contractors of the parties who require access to the Confidential Information to perform under this License ("**Authorized Personnel**") and who are bound by written agreement not to disclose third-party confidential or proprietary information disclosed to Recipient, or as such disclosure may be required by law or governmental regulation. Google agrees that Confidential Information obtained pursuant to this Agreement will not be shared with external third parties, other than as referenced in the foregoing sentence, or used for the specific purpose of soliciting a direct or indirect sales relationship between Google and such Customer or End Users with respect to the Services. Notwithstanding the foregoing, Google shall not be prohibited from contacting or soliciting those Customers or End Users (a) with whom Google already has a direct relationship, (b) who contact Google of their own accord, or (c) who are developed by Google as prospective customers independent of this Agreement and without use of Reseller's Confidential Information. Furthermore, Recipient agrees to be responsible for any act and/or omission of any Authorized Personnel in breach of this Section. Recipient shall protect the Confidential Information of Discloser by using the same degree of care, but no less than a reasonable degree of care, that it uses to protect its own confidential information of a like nature to prevent its unauthorized use, dissemination or publication to any unauthorized third parties. A party's Confidential Information shall not include information that: (i) is or becomes publicly available through no act or omission of Recipient; (ii) was in the Recipient's lawful possession prior to the disclosure and was not obtained by Recipient either directly or indirectly from the Discloser; (iii) is lawfully disclosed to the Recipient by a third party without restriction on Recipient's disclosure, and where Recipient was not aware that the information was the confidential information of Discloser; or (iv) is independently developed by the Recipient without violation of this License. Recipient may disclose Confidential Information solely as needed to comply with a court order, subpoena, or other government demand (provided that Recipient first uses all commercially reasonable efforts to notify Discloser and to give Discloser the opportunity to challenge such court order, subpoena, or government demand except in situations where Recipient is prevented, per lawful government request, from disclosing the existence of the court order, subpoena, or other government demand). Results, analyses or other information generated in benchmarking and/or performance testing of the Service shall be Confidential Information of Google and shall, at the request of Google, be provided to Google. Each party acknowledges that damages for improper disclosure of Confidential Information may be irreparable; therefore, the injured party is entitled to seek equitable relief, including temporary restraining order(s) or preliminary or permanent injunction, in addition to all other remedies, for any violation or threatened violation of this Section 8. A Recipient shall have a duty to protect Confidential Information during the Term and for a period of five (5) years thereafter.

9. **Ownership; Restricted Use.** Google and its licensors shall own all right, title and interest, including without limitation all Intellectual Property Rights (as defined below) relating to the Service (and any derivative works or enhancements thereof), including but not limited to, all software, technology, information, content, materials,

guidelines, and documentation, except that Google does not own Customer Content, or any End User or third-party content and/or information used as a part of the Service, including the content of communications appearing as part of the Service. Customer shall not acquire any right, title, or interest therein, except for the limited use rights expressly set forth in the License. Any rights not expressly granted herein are deemed withheld. **“Intellectual Property Rights”** means any and all rights existing from time to time under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide. For the avoidance of doubt, Google does not own third party content contained in or provided as part of the Service, including any Additional Content. Customer shall not, and shall not allow any third party to: (i) transfer, sell, lease, syndicate, sub-syndicate, lend, or use for co-branding, timesharing, service bureau or other unauthorized purposes any Services or access thereto; (ii) modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from any Service or any other Google technology, content, data, routines, algorithms, methods, ideas design, user interface techniques, software, materials, and documentation; (iii) remove, deface, obscure, or alter Google's copyright notice, trademarks or other proprietary rights notices affixed to or provided as a part of any Service, or any other Google technology, software, materials and documentation; (iv) “crawl”, “spider”, index or in any non-transitory manner store or cache information obtained from the Service; (v) create or attempt to create a substitute or similar service or product through use of or access to any of the Service or proprietary information related thereto; or (iv) use the Service for High Risk Activities as described in Section 13. Any and all third party binary or source code included in each portion of the Service may be used only in conjunction with such portion of the Service, and such use shall be subject to all the terms and conditions of this License. THE SERVICE OR ANY PORTION THEREOF MAY NOT BE USED, COPIED, TRANSFERRED, OR MODIFIED EXCEPT AS EXPRESSLY PERMITTED BY THIS LICENSE.

10. **Brand Features.** As used in this License, **“Brand Features”** shall mean the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by such party from time to time. Except as expressly allowed by Google, any Brand Features, copyright, or other proprietary notices, legends, symbols, or labels appearing on or in the Service provided to Customer shall not be removed or altered. Subject to the terms and conditions of this License, Customer grants to Google a limited, nonexclusive and nonpublicable license during the Term of this License to display those Customer Brand Features expressly authorized for use in this License, solely for the purposes expressly set forth herein. Notwithstanding anything to the contrary, Customer may revoke the license granted herein to use Customer's Brand Features upon providing Google with written notice thereof and a reasonable period of time to cease such usage. The Service Pages (including the Start Page, if applicable) may display Customer's Brand Features only within designated areas as Customer shall specify from time to time using the automated features included in the Administrative Console. Notwithstanding the foregoing, Google may prominently display on all Service Pages Google's Brand Features including but not limited to a graphic module, in the form provided by Google from time to time, that unambiguously indicates that the Services and Start Page Service, if applicable, are provided by Google. Customer agrees that it shall not place anything on the Site or any Service Page that in any way implies that information or services other than the Services and Start Page Services, if applicable, are provided by Google, unless otherwise expressly provided herein. Each party shall own all right, title and interest, including without limitation all Intellectual Property Rights, relating to its Brand Features. Some, but not all examples of Google Brand Features are located at the URL:

<http://www.google.com/permissions/guidelines.html> (or such other URLs Google may provide to Customer from time to time). Except to the limited extent expressly provided in this License, neither party grants, and the other party shall not acquire, any right, title or interest (including, without limitation, any implied license) in or to any Brand Features of the other party; and all rights not expressly granted herein are deemed withheld. All use by Google of Customer Brand Features (including any goodwill associated therewith) shall inure to the benefit of Customer and all use by Customer of Google Brand Features (including any goodwill associated therewith) shall inure to the benefit of Google. To the extent Customer is using or displaying any Google Brand Features in connection with the Services, Customer agrees to comply with Google's “Guidelines for Third Party Use of Google Brand Features,” located at the following URL: <http://www.google.com/permissions/guidelines.html>. Customer shall not challenge or assist others to challenge the Google Brand Features or the registration thereof, nor shall Customer attempt to register any Google Brand Features or domain names that are confusingly similar to those of Google.

11. **Publicity.** Customer hereby consents to Google's inclusion of Customer's name in a customer list, provided that Customer is not the sole customer appearing on such list. The issuance of any press release shall be subject to the prior written consent of both parties.

12. **Representations and Warranties.** Each party represents and warrants that it has full power and authority to enter into the License. Customer represents, warrants, and covenants that: (i) Customer owns and controls one hundred percent (100%) of the Customer Domain Name(s); (ii) Customer has and will maintain all rights, authorizations and licenses that are required to permit Customer to use the Service; (iii) the execution and delivery of this License, and the performance by Customer of its obligations hereunder, will not constitute a breach or default of or otherwise violate any agreement to which Customer or any of its affiliates are a party or violate any rights of any third parties arising therefrom; (iv) Customer shall comply with all laws, regulations and ordinances applicable to or otherwise connected with Customer's use of the Service(s); and (v) Customer has and will maintain all rights as shall be required to send the information it provides to Google pursuant to this License.

13. **Warranty Disclaimer.** EXCEPT AS SPECIFIED IN THIS SECTION, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, ARE HEREBY DISCLAIMED EXCEPT TO THE EXTENT THAT THESE DISCLAIMERS ARE HELD TO BE LEGALLY INVALID. GOOGLE AND ITS LICENSORS MAKE NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND/OR NON-INFRINGEMENT. GOOGLE ASSUMES NO RESPONSIBILITY FOR THE USE OF THE SERVICE(S). GOOGLE AND ITS LICENSORS MAKE NO REPRESENTATIONS ABOUT ANY CONTENT OR INFORMATION MADE ACCESSIBLE BY OR THROUGH THE SERVICE. GOOGLE MAKES NO REPRESENTATION THAT GOOGLE (OR ANY THIRD PARTY) WILL ISSUE UPDATES OR ENHANCEMENTS TO THE SERVICE. GOOGLE DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO CUSTOMER. IN THAT EVENT, TO THE EXTENT PERMISSIBLE, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE EFFECTIVE DATE. THE SERVICE IS NOT FAULT-TOLERANT AND IS NOT DESIGNED OR INTENDED FOR USES SUCH AS THE OPERATION OF NUCLEAR FACILITIES, AIR TRAFFIC CONTROL OR LIFE SUPPORT SYSTEMS, WHERE THE FAILURE OF THE SERVICE COULD LEAD TO DEATH, PERSONAL INJURY, OR ENVIRONMENTAL DAMAGE ("**HIGH RISK ACTIVITIES**").

14. **Indemnification.**

14.1 **Customer Indemnity.** Customer will defend, or at its option settle, any third party lawsuit or proceeding brought against Google or NuVox based upon or otherwise arising out of: (i) Customer Content, Customer Domain Name(s) and/or Customer Brand Features; (ii) Customer's use of the Service(s); (iii) Customer's disclosure of End User information; (iv) any breach or non-compliance by Customer of this License, any of Google's policies, or Customer's representations or the provision of warranties contained herein; and (v) any End User's use of the Service.

14.2 **Google Indemnity.** Google will defend, or at its option settle, any third party lawsuit or proceeding brought against Customer based upon or otherwise arising out of a claim that Google's technology used to provide the Service or any Google Brand Feature infringe(s) or misappropriate(s) any copyright, trade secret or trademark of such third party. Notwithstanding the foregoing, in no event shall Google have any obligations or liability under this Section arising from: (i) use of any Service or Google Brand Features in a modified form or in combination with materials not furnished by Google, and (ii) any content, information or data provided by Customer, End Users or any other third parties. Google, in its sole and reasonable discretion, reserves the right to terminate Customer's continued use of any Service or Google Brand Features which are alleged or believed by Google to infringe.

14.3 **General.** Indemnification provided under Sections 14.1 and 14.2 shall be limited to (a) payment by the indemnifying party ("**Indemnitor**") of all damages and costs finally awarded for such claim, or (b) settlement costs approved in writing by the Indemnitor. The foregoing obligations shall exist only if the party seeking

indemnification (“**Indemnitee**”): (i) promptly notifies the Indemnitor of such claim, (ii) provides the Indemnitor with reasonable information, assistance and cooperation in defending the lawsuit or proceeding, and (iii) gives the Indemnitor full control and sole authority over the defense and settlement of such claim. The Indemnitee may join in defense with counsel of its choice at its own expense. The Indemnitor shall only reimburse the Indemnitee for expenses incurred by the Indemnitee with the Indemnitor’s prior written approval. SECTION 14 STATES THE PARTIES’ ENTIRE LIABILITY AND EXCLUSIVE REMEDY WITH RESPECT TO INFRINGEMENT OF A THIRD PARTY’S INTELLECTUAL PROPERTY RIGHTS AS SET FORTH ABOVE.

15. **Limitation of Liability.** IN NO EVENT WILL GOOGLE OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST DATA, LOST PROFITS, LOST REVENUE OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO CONTRACT OR TORT (INCLUDING PRODUCTS LIABILITY, STRICT LIABILITY AND NEGLIGENCE), AND WHETHER OR NOT SUCH PARTY WAS OR SHOULD HAVE BEEN AWARE OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED HEREIN. IN NO EVENT WILL GOOGLE’S AND/OR ITS LICENSORS LIABILITY FOR ANY CLAIM ARISING OUT OF THIS LICENSE (WHEN AGGREGATED WITH GOOGLE’S LIABILITY FOR ALL OTHER CLAIMS ARISING OUT OF THIS LICENSE) EXCEED THE NET AMOUNT GOOGLE HAS ACTUALLY RECEIVED AND RETAINED UNDER THE LICENSE DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH CLAIM ARISES.

16. **Term; Termination.**

16.1 **Term.** Unless terminated earlier in accordance with this License, the term and termination provisions of this License is as set forth in the Customer Service Agreement between Customer and NuVox.

16.2 **Termination by Google.** Notwithstanding anything to the contrary in the Customer Service Agreement between Customer and NuVox, Google may terminate this License with six (6) months prior written notice to Customer. Additionally, and notwithstanding the foregoing, Google may terminate this License upon thirty (30) days’ written notice if Customer fails to cure any breach of this License within such thirty (30) day period. In addition, Google may, immediately upon written notice, suspend any and all Services, and thereafter terminate this License upon written notice: (i) if Customer breaches Section 3 (Customer Obligations), Section 4 (Restrictions), Section 5 (Payment), Section 8 (Confidential Information) or Section 9 (Ownership; Restricted Use); (ii) if Google reasonably determines that it is commercially impractical to continue providing the Service(s) in light of applicable laws; or (iii) if Customer is in material breach of this License more than two (2) times notwithstanding any cure of such breaches. Google, upon notice the duration of which Google in its reasonable discretion may determine, reserves the right at any time and from time to time to make commercially reasonable modifications to the Service(s) (or any part thereof), including hours of operation and availability of any feature of the Service(s). Customer agrees that Google shall not be liable to Customer, any End User, or any third party for any modification, suspension, or termination of the Service provided for in this License. Sections 8 (Confidentiality), 9 (Ownership; Restricted Use), 12 (Representations and Warranties), 13 (Warranty Disclaimer), 14 (Indemnification), 15 (Limitation of Liability), 16 (Termination), and 17 (Miscellaneous) shall survive the expiration or termination of this License. Upon the expiration or termination of the License for any reason: (i) all rights and licenses granted by Google shall cease immediately; (ii) each party shall promptly return to the other party, or destroy and certify the destruction of, all Confidential Information of the other party; and (iii) Customer’s rights to use any Google Brand Features, as permitted under the License, shall cease immediately.

16.3 **Suspension and Termination in the Event of an Injunction.** Google may suspend performance under this License in whole or in part with immediate effect if, as a result of a claim alleging facts that would constitute a breach of Customer’s representations and warranties made in Section 12, Google is obliged by final or temporary court order or magisterial decision to temporarily or permanently refrain from continuing to perform its obligations under this License. Google’s rights under this provision shall become effective on the date of the court order or magisterial decision or on the date of the service of the order irrespective of the possibility of appeal. If any suspension under this paragraph continues for more than six (6) months, Google may terminate this License in whole or in part immediately upon written notice.

17. **Miscellaneous.** Customer may not assign or otherwise transfer its rights or delegate its obligations under this License, without the prior written consent of Google. Any attempted assignment in derogation hereof shall be null and void. Customer agrees that there shall be no third party beneficiaries to this License. This License shall be governed by and construed in accordance with the laws of the State of California and the federal U.S. laws applicable therein, excluding its choice of law provisions, and Customer and Google agree to submit to the personal and exclusive jurisdiction of the courts located in Santa Clara County, California. The parties specifically exclude from application to this License the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act. Each party shall comply with all laws, rules and regulations, if any, applicable to it in connection with the performance of its obligations under the License. All notices shall be in English and in writing and (a) if sent to Customer to the address identified above and (b) if sent to Google to such address as provided at: www.google.com/corporate/address.html or as otherwise provided in writing by Google to Customer for such notice purposes; provided, however, that all invoices and payments shall be sent to the attention of Google Finance, all legal notices shall be sent to the attention of the Google Legal Department, and all other correspondence shall be sent to the attention of the account manager specified by Google. Notice shall be deemed given (i) upon receipt when delivered personally, (ii) upon written verification of receipt from overnight courier, (iii) upon verification of receipt of registered or certified mail or (iv) upon verification of receipt via facsimile, provided that such notice is also sent simultaneously via first class mail. The failure to require performance of any provision shall not affect a party's right to require performance at any time thereafter; nor shall waiver of a breach of any provision constitute a waiver of the provision itself. The parties hereto are and shall remain independent contractors and nothing herein shall be deemed to create any agency, partnership, or joint venture relationship between the parties. Neither party shall be deemed to be an employee or legal representative of the other nor shall either party have any right or authority to create any obligation on behalf of the other party. The License (1) shall be binding on and inure to the benefit of each of the parties and their respective successors and assigns; (2) may be executed in counterparts, including facsimile counterparts, each of which will be deemed an original and all of which when taken together will constitute one and the same instrument; and (3) shall be construed as if both parties jointly wrote it. Neither party shall be liable for failing or delaying performance of its obligations (except for the payment of money) resulting from any condition beyond its reasonable control, including but not limited to, governmental action, acts of terrorism, earthquake, fire, flood or other acts of God, labor conditions, power failures, and Internet disturbances. If any provision of this License is found void and unenforceable, it shall be replaced to the extent possible with a provision that comes closest to the meaning of the original provision. The unenforceability of any provision, however, shall not affect the validity of the balance of the License, which shall remain valid and enforceable according to its terms. Any amendments or modifications to the License must (i) be in writing; (ii) refer to the License; and (iii) be executed by an authorized representative of each party. THIS LICENSE CONSTITUTES A COMPLETE INTEGRATION OF ALL UNDERSTANDINGS BETWEEN THE PARTIES AND IS THE ENTIRE LICENSE BETWEEN CUSTOMER AND GOOGLE RELATING TO THE SERVICE AND ALL TERMS HEREIN. IN THE EVENT OF A CONFLICT BETWEEN THE TERMS OF THE LICENSE, AND THE TERMS OF ANY ONLINE TERMS OF SERVICE, THE TERMS OF THE LICENSE WILL CONTROL. THE TERMS AND CONDITIONS OF THIS LICENSE AND ANY SPECIFICALLY REFERENCED UNIFORM RESOURCE LOCATOR (AS SUCH URL MAY BE MODIFIED FROM TIME TO TIME, AS PROVIDED HEREIN) SHALL TAKE PRECEDENCE OVER ANY PURCHASE ORDER, WEB SITE RELATING TO THE SUBJECT MATTER OF THIS LICENSE OR OTHER DOCUMENT WHETHER FORMALLY REJECTED BY GOOGLE OR NOT, AND ANY CONFLICTING, INCONSISTENT, OR ADDITIONAL TERMS CONTAINED THEREIN SHALL BE NULL AND VOID.

18. **Authority And Agreement To Be Bound.** Each signatory to the Customer Service Agreement incorporating this License represents and warrants (i) that he or she has the power and authority to accept and to bind the party that such signatory represents to this License, (ii) that he or she has read and understands this License, and (iii) that he or she hereby agrees, on behalf of the party that such signatory represents, to this License.