

**REQUESTING EMERGENCY SERVICES.
NEXTIVA TERMS OF SERVICE**

**Welcome to NEXTIVA Broadband Phone Service.
THESE TERMS AND CONDITIONS STATE IMPORTANT REQUIREMENTS
REGARDING YOUR USE OF NEXTIVA BROADBAND PHONE SERVICE.**

**YOU SHOULD READ THESE TERMS AND CONDITIONS CAREFULLY AS THEY
CONTAIN IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OURS.**

PLEASE NOTE: NEXTIVA DOES NOT PROVIDE TRADITIONAL 911 SERVICES.

**YOU MUST MAINTAIN AN ALTERNATE MEANS OF REQUESTING EMERGENCY
SERVICES**

1. 911 SERVICE & LIMITATIONS

1.1. PLEASE READ THIS INFORMATION REGARDING 911 VERY CAREFULLY.

1.1.1. 911 BACKGROUND: IN THE UNITED STATES, EMERGENCY SERVICE IS PROVIDED BY DIALING THE DIGITS “911.” WITH BASIC 911 SERVICE, WHEN YOU DIAL 911, LOCAL EMERGENCY OPERATORS ANSWERING THE CALL WILL NOT HAVE YOUR CALL BACK NUMBER OR YOUR EXACT LOCATION, SO YOU MUST BE PREPARED TO GIVE THEM THIS INFORMATION. UNTIL YOU GIVE THE OPERATOR YOUR PHONE NUMBER, HE/SHE MAY NOT BE ABLE TO CALL YOU BACK OR DISPATCH HELP IF THE CALL IS NOT COMPLETED OR IS NOT FORWARDED, IS DROPPED OR DISCONNECTED, OR IF YOU ARE UNABLE TO SPEAK. WITH ENHANCED 911 (E911) SERVICE, WHEN YOU DIAL 911, YOUR TELEPHONE NUMBER AND REGISTERED ADDRESS IS SIMULTANEOUSLY SENT TO THE LOCAL EMERGENCY CENTER ASSIGNED TO YOUR LOCATION, AND EMERGENCY OPERATORS HAVE ACCESS TO THE INFORMATION THEY NEED TO SEND HELP AND CALL YOU BACK IF NECESSARY. CERTAIN CUSTOMERS DO NOT HAVE ACCESS TO EITHER BASIC 911 OR E911 BECAUSE THERE ARE NO LOCAL EMERGENCY CENTERS IN THEIR AREA OR THEY DID NOT REGISTER FOR AN E911 SERVICE ADDRESS. IF YOU DO NOT HAVE ACCESS TO BASIC 911 OR E911, YOUR 911 CALL WILL BE SENT TO THE NATIONAL EMERGENCY CALL CENTER. A TRAINED AGENT AT THE EMERGENCY CALL CENTER WILL ASK FOR THE NAME, TELEPHONE NUMBER AND LOCATION OF THE CUSTOMER CALLING 911, AND THEN CONTACT THE LOCAL EMERGENCY CENTER FOR SUCH CUSTOMER IN ORDER TO SEND HELP.

EXAMPLES OF SITUATIONS WHERE 911 CALLS WILL BE SENT TO THE NATIONAL EMERGENCY CALL CENTER INCLUDE WHEN THERE IS A

PROBLEM VALIDATING A CUSTOMER'S ADDRESS DURING 911 ADDRESS REGISTRATION, OR THE CUSTOMER IS LOCATED IN AN AREA THAT IS NOT COVERED BY THE LANDLINE 911 NETWORK.

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

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

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

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

and it is possible that the lines at the PSAP will be occupied and that you will get a busy signal.

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

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

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

(3) **INTERNET CONNECTION FAILURE:** IF THERE IS AN INTERRUPTION OF YOUR BROADBAND OR HIGH-SPEED INTERNET ACCESS SERVICE, YOU WILL NOT HAVE ACCESS TO NEXTIVA'S VOIP SERVICE DURING THAT INTERRUPTION AND THEREFORE WILL NOT HAVE ACCESS TO 911 SERVICE DURING THAT INTERRUPTION. IN ADDITION, SINCE THE SERVICE IS DEPENDENT ON THE BROADBAND CONNECTION, THE AVAILABILITY OF AN ADEQUATE POWER SUPPLY AND CORRECT EQUIPMENT CONFIGURATION, NEXTIVA DOES NOT GUARANTEE THAT THE SERVICE WILL BE CONTINUOUS OR ERROR-FREE. NEXTIVA WILL NOT OFFER CREDITS FOR SERVICE FAILURES DUE TO POWER OUTAGES OR DISRUPTIONS IN YOUR BROADBAND CONNECTION.

(4) EQUIPMENT FAILURE AND MISCONFIGURATION

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

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

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

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

(7) CALLS OUTSIDE THE U.S.: IF YOU MOVE YOUR NEXTIVA VOIP SERVICE EQUIPMENT OUTSIDE OF THE UNITED STATES, YOUR 911 SERVICE WILL NOT WORK. CHECK THE EMERGENCY CALLING PROCEDURES FOR THE COUNTRY WHERE YOU ARE LOCATED TO DETERMINE THE CORRECT EMERGENCY CALLING PROCEDURES.

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

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

(10) OTHER LIMITATIONS: THE LOCAL EMERGENCY SERVICE OPERATOR RECEIVING NEXTIVA VOIP SERVICE'S E911 EMERGENCY SERVICE CALLS MAY NOT HAVE A SYSTEM CONFIGURED FOR E911 SERVICES OR BE ABLE TO CAPTURE AND/OR RETAIN AUTOMATIC NUMBER OR LOCATION INFORMATION. THIS MEANS THAT THE OPERATOR MAY NOT KNOW THE PHONE NUMBER OR PHYSICAL LOCATION OF THE PERSON WHO IS MAKING THE NEXTIVA VOIP SERVICE E911 CALL. DUE TO TECHNICAL FACTORS IN NETWORK DESIGN, AND IN THE EVENT OF NETWORK CONGESTION ON THE NEXTIVA NETWORK, THERE IS A POSSIBILITY THAT A NEXTIVA 911 CALL WILL PRODUCE A BUSY SIGNAL OR WILL EXPERIENCE

UNEXPECTED ANSWERING WAIT TIMES AND/OR TAKE LONGER TO ANSWER THAN 911 CALLS PLACED VIA TRADITIONAL TELEPHONE NETWORKS. IN ADDITION, A LOCAL OR NATIONAL DISASTER AND SUBSEQUENT SPIKE IN THE NUMBER OF CALLS MAY RESULT IN LONG CONNECTION TIMES, BUSY SIGNALS OR FAILURES TO CONNECT.

- 1.2.2. **YOU MUST NOTIFY ALL USERS OF THESE LIMITATIONS:** YOU MUST INFORM ALL POTENTIAL USERS WHO MAY BE PRESENT AT THE PHYSICAL LOCATION WHERE YOU UTILIZE NEXTIVA'S VOIP SERVICE OF THE IMPORTANT DIFFERENCES IN AND LIMITATIONS OF NEXTIVA'S VOIP 911 DIALING AS COMPARED WITH BASIC 911 OR E911 PROVIDED BY TRADITIONAL LANDLINE TELEPHONE SERVICE.
- 1.2.3. **YOU MUST AFFIX THE PROVIDED WARNING LABELS TO YOUR VOIP EQUIPMENT:** NEXTIVA WILL PROVIDE YOU WITH WARNING LABELS REGARDING THE LIMITATIONS OR UNAVAILABILITY OF 911 EMERGENCY DIALING (THE "911 STICKER"). YOU MUST PLACE ONE OF THESE 911 STICKERS ON EACH TELEPHONE AND ON ANY OTHER DEVICE WHICH WILL BE USED WITH YOUR NEXTIVA VOIP SERVICE. IF YOU REQUIRE ADDITIONAL 911 STICKERS, PLEASE CONTACT NEXTIVA'S CUSTOMER SERVICE DEPARTMENT.
- 1.2.4. **ALTERNATIVE ARRANGEMENTS:** BY SIGNING UP FOR NEXTIVA'S VOIP SERVICE YOU UNDERSTAND THAT IF YOU ARE NOT COMFORTABLE WITH THE LIMITATIONS OF NEXTIVA'S 911 SERVICE, THAT YOU SHOULD ALWAYS HAVE AN ALTERNATIVE MEANS OF ACCESSING EMERGENCY SERVICE. IN ORDER TO ENSURE THAT YOU HAVE ACCESS TO EMERGENCY SERVICES, YOU ACKNOWLEDGE AND ACCEPT THAT IT IS YOUR SOLE RESPONSIBILITY TO PURCHASE, FROM A THIRD-PARTY SEPARATELY FROM NEXTIVA, TRADITIONAL WIRELESS OR LANDLINE TELEPHONE SERVICE AS A BACKUP MEANS OF COMPLETING EMERGENCY CALLS. IF THE SERVICE IS USED IN A HOME OFFICE ENVIRONMENT, IT IS NOT INTENDED TO BE USED FOR PERSONAL, RESIDENTIAL, NONBUSINESS OR NONPROFESSIONAL COMMERCIAL USE. A HOME OFFICE USER MUST PROVIDE ALTERNATIVE ARRANGEMENTS FOR RESIDENTIAL EMERGENCY CALLS.

YOU HEREBY ACKNOWLEDGE:

(1) NEXTIVA DOES NOT SUPPORT TRADITIONAL 911 AND E911 ACCESS TO EMERGENCY SERVICES. The limited emergency response service accessible by NEXTIVA differs in a number of important ways from traditional emergency response services as further explained below. You agree to inform any potential users and other third persons who may be present at the physical location where the Service is utilized (whether home or office) as to the important limitations on emergency response service.

(2) THE EMERGENCY RESPONSE SERVICE WILL NOT RECEIVE AUTOMATED NUMBER AND LOCATION IDENTIFICATION. You acknowledge and understand that when you call 911 using the Service, the local emergency personnel receiving your call will not be able to identify your phone number or the physical address from which you are calling. You will need to state the nature of your emergency promptly and clearly, including your telephone number and location. You acknowledge and understand that the individual answering the call may not be able to call you back or find your location if the call is unable to be completed, is dropped or disconnected, or if you are unable to tell them your phone number and physical location and/or if the Service is not operational for any reason, including without limitation those reasons listed elsewhere in this Agreement.

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

1.3. **DISCLAIMER OF LIABILITY AND INDEMNIFICATION:** YOU ACKNOWLEDGE AND UNDERSTAND THAT NEXTIVA WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE AND/OR INABILITY TO DIAL 911 OR ANY OTHER EMERGENCY TELEPHONE NUMBER USING NEXTIVA OR TO ACCESS AN EMERGENCY SERVICE OPERATOR DUE TO THE 911 DIALING CHARACTERISTICS AND LIMITATIONS SET FORTH ABOVE. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS NEXTIVA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS WHO FURNISH SERVICES TO YOU IN CONNECTION WITH NEXTIVA'S VOIP SERVICE, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICE RELATING TO THE FAILURE OR OUTAGE OF THE SERVICE, INCLUDING THOSE RELATED TO 911 DIALING. IN ADDITION, NEXTIVA DOES NOT HAVE ANY CONTROL OVER WHETHER, OR THE MANNER IN WHICH, CALLS USING NEXTIVA'S 911 SERVICE ARE ANSWERED OR ADDRESSED BY ANY LOCAL EMERGENCY RESPONSE CENTER. NEXTIVA DISCLAIMS ALL RESPONSIBILITY FOR THE CONDUCT OF LOCAL EMERGENCY RESPONSE CENTERS AND THE NATIONAL EMERGENCY CALLING CENTER. NEXTIVA RELIES ON THIRD PARTIES TO ASSIST US IN ROUTING 911 SERVICE CALLS TO LOCAL EMERGENCY RESPONSE CENTERS AND TO A NATIONAL EMERGENCY CALLING CENTER. NEXTIVA DISCLAIMS ANY AND ALL LIABILITY OR RESPONSIBILITY IN THE EVENT

SUCH THIRD PARTY DATA USED TO ROUTE CALLS IS INCORRECT OR YIELDS AN ERRONEOUS RESULT. NEITHER NEXTIVA NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH NEXTIVA'S VOIP SERVICE MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS, AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO THE NEXTIVA 911 SERVICE UNLESS SUCH CLAIMS OR CAUSES OF ACTION AROSE FROM NEXTIVA'S GROSS NEGLIGENCE, RECKLESSNESS OR WILLFUL MISCONDUCT. YOU SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS NEXTIVA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH NEXTIVA'S VOIP SERVICE, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY RELATING TO THE ABSENCE, FAILURE OR OUTAGE OF THE SERVICE, INCLUDING 911 SERVICE, INCORRECTLY ROUTED 911 SERVICE CALLS, AND/OR THE INABILITY OF ANY USER OF THE SERVICE TO BE ABLE TO USE 911 SERVICE OR ACCESS EMERGENCY SERVICE PERSONNEL. THESE PROVISIONS SUPPLEMENT AND DO NOT LIMIT THE INDEMNIFICATION AND LIMITATION OF LIABILITY PROVISIONS CONTAINED IN NEXTIVA'S TERMS AND CONDITIONS.

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