

## **TERMS AND CONDITIONS**

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### **1. APPLICATION OF TERMS**

These Terms of Service apply to and are incorporated into the contract between you and your Telephony Services Provider for the purchase of Akixi Services.

In case of any conflict or inconsistency with the terms of any agreement with you, your contractual terms will take precedence to the extent of such conflict or inconsistency.

### **2. USE OF SERVICES**

In these Terms of Service, 'we', 'us', or 'our' refers to Akixi Limited, its subsidiaries and affiliated companies, including your Telephony Services Provider or account administrator, who offer Akixi Services to you, provided that you are over 18 years old and are not barred from receiving services under the laws of England and Wales or any other jurisdiction where we provide and/or you may use Akixi Services.

In order to access certain Akixi Services, you may be required to provide current, accurate identification, contact, and other information as part of the registration process and/or continued use of Akixi Services, held and used by Akixi under the Terms of the Akixi Privacy Notice.

You are responsible for maintaining the confidentiality of your account password and are responsible for all activities that occur under your account. You agree to immediately notify Akixi of any unauthorised use of your account or any other breach of security. Akixi cannot and will not be liable for any loss or damage arising from your failure to provide us with accurate information or failure to keep your password secure.

### **3. DATA PROTECTION AND PRIVACY**

3.1. Data Protection Legislation as used and applied in these Terms of Service means any data protection legislation including the Data Protection Act

2018 or any successor legislation and the UK General Data Protection Regulation and any other directly applicable regulation relating to privacy.

3.2. We both will comply with all applicable requirements of the Data Protection Legislation. This clause 3.2 is in addition to, and does not relieve, remove or replace, either of our obligations under the Data Protection Legislation.

3.3. We both acknowledge that for the purposes of the Data Protection Legislation, you are the Data Controller, Akixi are a Data Processor, and, if applicable, your Telephony Services Provider are also a Data Processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Section 21 (“Processing, Personal Data & Data Subjects”) of these Terms of Service sets out the scope, nature and purpose of processing by Akixi, the duration of the processing and the types of Personal Data (as defined in the Data Protection Legislation, Personal Data) and categories of Data Subject.

3.4. Without prejudice to the generality of clause 3.2, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Akixi for the duration and purposes of these Terms of Service, which corresponds to the duration that you subscribe to Akixi Services via your Telephony Services Provider, and three (3) subsequent calendar years after Akixi Services are terminated.

3.5. Without prejudice to the generality of clause 3.2, Akixi shall, in relation to any Personal Data processed in connection with the performance by Akixi of its obligations under these Terms of Service:

i) process that Personal Data only on either (a) your written instructions or your Telephony Services Provider; (b) the direct provisioning of your telephony reporting environment by either you or your Telephony Services Provider via the Akixi Service’s self-service administration portal(s); or (c) where Akixi is required by the laws of the United Kingdom applicable to Akixi to process Personal Data (Applicable Laws). Where Akixi is relying on Applicable Laws as the basis for processing Personal Data, Akixi shall promptly notify you and/or your Telephony Services Provider of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Akixi from so notifying you;

ii) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or

unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, data masking techniques that include encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

iv) if you are based inside the UK or EEA (European Economic Area), we shall not transfer any Personal Data outside of the UK or European Economic Area unless we have ensured that the data transfer is lawful and that one of the following conditions are fulfilled:

a. You or Akixi have provided appropriate safeguards in relation to the transfer;

b. The Data Subject has enforceable rights and effective legal remedies;

c. Akixi complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

d. Akixi complies with reasonable instructions notified to it in advance by you with respect to the processing of the Personal Data;

v) assist you, at your own cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

vi) notify you or your Telephony Services Provider without undue delay on becoming aware of a Personal Data breach;

vii) at your written direction, or your Telephony Services Provider, delete or return Personal Data and copies thereof to you on termination of the agreement unless required by Applicable Law to store the Personal Data; and

viii) maintain complete and accurate records and information to demonstrate its compliance with this clause 3.

3.6. You give Akixi consent to appoint any third-party processor of Personal Data under the Terms. Akixi confirms that it has entered or (as the case may be) will enter with any third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 3. Akixi will notify you of any changes to any third-party processors via our website or by updating our privacy notice.

#### **4. APPROPRIATE CONDUCT**

You agree that you are responsible for your own conduct and any content that you create, transmit or display while using Akixi Services and for any consequences thereof. You agree to use Akixi Services only for purposes that are legal, proper and in accordance with the Terms and any applicable policies or guidelines. You agree that you will not engage in any activity that interferes with, or disrupts Akixi Services, servers or networks connected to Akixi Services. To report any activity or content that may violate the Terms, please contact us at <https://www.akixi.com/contact/>.

In addition to these Terms of Service, your use of some specific Akixi Services are governed by the policies or guidelines specific to those services and which are specifically incorporated into these Terms of Service.

You understand that the technical processing and transmission of Akixi Services, including your content, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks, devices or services.

You also understand and agree that your Telephony Services Provider or account administrator may have access to your account and its content and may suspend or terminate your account access and your ability to modify your account.

#### **5. PROPRIETARY RIGHTS**

##### **Akixi's Rights**

You acknowledge and agree that Akixi Services and any necessary software used in connection with Akixi Services ("Software") is the sole property of Akixi and contains proprietary and confidential information that is protected by applicable intellectual property and other laws and treaties. You are not permitted to use any of Akixi's trade names, trade marks, logos, domain names, or any other distinctive brand features without Akixi's prior written permission. Any such use

must be in strict compliance with the terms of a separate agreement you must specifically enter into with Akixi.

### **License & Limited Rights**

If your use of the Software is pursuant to a signed license agreement with a Telephony Services Provider, such agreement shall apply instead of the following terms and conditions.

Subject to the Terms, Akixi grants you a personal, non-transferable and non-exclusive right and license to use the object code of its Software; provided that you do not (and do not allow any third-party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sub-license, grant a security interest in or otherwise transfer any right in the Software, unless such activity is expressly permitted, required by law or has been expressly authorised by Akixi in writing. You agree not to use modified versions of the Software, including (without limitation) for the purpose of obtaining unauthorised access to Akixi Services. You also agree not to access Akixi Services by any means other than through the interface that is provided by Akixi for use in accessing Akixi Services except as specifically authorised in a separate written agreement.

Except as expressly authorised by Akixi you agree not to use, copy, imitate, or incorporate any trade name, trademark, domain name, company name, or product name in a way that is likely to cause confusion among consumers. You also agree not to remove, obscure, or alter Akixi's or any third-party's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within or accessed in conjunction with or through the Akixi Services or Software.

### **No Resale Of Service**

You agree not to reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, any portion of Akixi Services, use of or access to Akixi Services, except as otherwise expressly provided in the Terms or as specifically authorised in a separate written agreement.

## **6. SOFTWARE & AUTOMATIC UPDATES**

Akixi Software may automatically report version number or other diagnostic information and may automatically download upgrades to the

Software to update, enhance and further develop Akixi Services, including providing bug fixes, patches, enhanced functions, missing plug-ins and new versions. Any scheduled maintenance downtimes will not prejudice any service level agreements we have with you.

## **7. GENERAL PRACTICES REGARDING USE & STORAGE**

You agree that Akixi has no responsibility or liability for the deletion or failure to store any of your content and other communications maintained or transmitted by Akixi Services. You acknowledge that Akixi may have set no fixed upper limit on the number of records you may create or receive through Akixi Services, or the amount of storage space used; however, we retain the right, at our sole discretion, to create limits at any time with or without notice.

Upon the termination of your use of Akixi Services, Akixi will close your account, and you will no longer be able to retrieve content contained in that account.

Akixi may retain content if it considers it reasonable or necessary to manage the Akixi Services and to comply with regulatory requirements but may delete content at its discretion.

### **Automatic Akixi Service Telephony Data Collection**

You agree that the Akixi Service's data collection logic can automatically access your telephony environment on the hosted telephony platform in order to collect real-time information related to call, device states, and/or ACD / DND activity.

If you are subscribing to third party call recording solution you also agree that the Akixi platform's call viewing feature(s) can automatically access your recording platform account in order to automate the retrieval of audio recordings, either for download and/or immediate playback.

### **Active Akixi Service Data & Content**

Active Akixi Service Data is defined as Akixi Service configuration such as Devices, ACD Agents, and User credentials, as well as all historic voice call and ACD & DND activity data & content.

You agree that Akixi will only store historic call, ACD / DND activity and admin actions records created over time through its service, for a Retention Period not less than twelve (12) months. You also agree that Akixi has sole discretion to automatically delete historic voice call, ACD / DND activity, and admin

actions records older than this Retention Period in order to manage data storage capacity.

Please refer to the Glossary for a definition of ACD & DND.

### **Backup Data & Content**

Backup Data is defined as encrypted & inaccessible data used only for service restoration purposes in the unlikely event of a catastrophic technical failure. Backup Data contains Akixi Service configuration such as Devices, ACD Agents, and User credentials, as well as all historic call and ACD / DND activity data for both the current & previous months. You agree that Akixi can maintain up to three (3) years of historic Backup Data and that Akixi has the sole discretion to automatically & irreversibly delete Backup Data when required for maintaining storage availability for its data management operations.

## **8. MODIFICATIONS TO SERVICE**

Akixi reserves the right at any time and, from time to time, modify or discontinue, temporarily or permanently, Akixi Services (or any part thereof) with or without notice. You agree that Akixi shall not be liable to you or to any third-party for any modification, suspension or discontinuation of Akixi Services.

## **9. SUPPORT**

Where we provide support through a direct contractual agreement by using our support services, you agree to the following terms:

**Scope of Support:** Our support is provided to assist with technical, product-related, or service-related inquiries. We do not offer legal advice.

**Availability:** Support is offered during our contracted business hours that we have with you, which may vary depending on the service level agreement or contractual terms. Response times are aligned with any agreement we have with you.

**User Responsibility:** Users are responsible for providing accurate information when seeking support. We reserve the right to limit or terminate support for users who provide false information or misuse the service.

**Limitations:** We are not liable for any data loss, system malfunction, or damages arising from the advice provided during support interactions.



**Privacy:** By engaging with our support services, you consent to the collection and use of your data in accordance with our Privacy Policy.

**Changes:** We reserve the right to modify support services at any time without prior notice.

## 10. TERMINATION

You must cease to use any Akixi Services after the end of any contractual term entered into for Akixi Services. You agree that Akixi may at any time and for any reason, including a period of account inactivity (determined solely by us), terminate your access to Akixi Services, terminate the Terms, suspend or terminate your account.

In the event of termination, your account will be disabled and you may not be granted access to Akixi Services, your account or any files or other content contained in your account. Sections 9 (Termination), 12 (Indemnity), 13 (Disclaimer Of Warranties), 14 (Confidentiality), 15 (Limitation Of Liability), 19 (including “Jurisdiction”, “Waiver And Severability Of Terms” and “Statute Of Limitations”), of the Terms, shall survive expiration or termination.

## 11. LINKS

Akixi Services may provide, or third-parties may provide, links to other World Wide Web sites or resources. Akixi has no control over such sites and resources and you acknowledge and agree that Akixi is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that Akixi shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

## 12. INDEMNITY

Subject to clause 15, you agree to hold harmless and indemnify Akixi, its subsidiaries, affiliates, officers, agents, resellers, employees, advertisers, licensors, suppliers and account administrators, (collectively “Akixi & Partners”)



from and against any third-party claim, pending or threatened, arising from or in any way related to your use of Akixi Services in, violation of the Terms, including any liability or expense arising from all claims, losses, damages (actual and consequential), judgments, litigation costs and solicitor's fees, of every kind and nature. In such a case, Akixi will provide you with written notice of such claim or action and with reasonable control over the defence and settlement of any such claim or action.

### **13. DISCLAIMER OF WARRANTIES**

You expressly understand and agree that:

- a. Your use of Akixi Services is at your sole risk. Akixi Services are provided on an "as is" and "as available" basis. To the maximum extent permitted by law, Akixi & Partners expressly disclaim all warranties and conditions of any kind, whether express or implied, including, but not limited to the implied warranties and conditions of merchantability, fitness for a particular purpose and non-infringement.
- b. Akixi & Partners do not warrant that (i) Akixi Services will meet your requirements, (ii) Akixi Services will be uninterrupted, timely, secure, or error-free, (iii) the operation of your telephony platform(s) and/or associated voice calls will be uninterrupted, timely, secure, or error-free (iv) the results that may be obtained from the use of Akixi Services will be accurate or reliable (v) the quality of any products, services, information, or other material purchased or obtained by you through Akixi Services will meet your expectations, and (vi) any errors in the Software will be corrected.
- c. Any material downloaded or otherwise obtained through the use of Akixi Services is done at your own discretion and risk and that you will be solely responsible for any damage to your computer system, network, or other device or loss of data that results from the download of any such material.
- d. No advice or information, whether oral or written, obtained by you from Akixi or obtained from Akixi Services shall create any warranty not expressly stated in the terms.

## 14. CONFIDENTIALITY

You shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature, and any intellectual property rights, that have been disclosed to you by Akixi or any Telephony Service Provider, or discovered by you, and any other confidential information concerning your business or Akixi Services which you may obtain. You shall restrict disclosure of such confidential material to your employees, agents or sub-contractors as need to know it for the purpose of discharging your obligations to Akixi, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind you.

Additionally, we shall ensure that persons authorised to process Personal Data provided by the controller have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality. We shall not disclose Personal Data to any third party without the prior written consent or appropriate lawful basis to do so set out in Article 6 of the GDPR.

We are committed to protecting the confidentiality of your personal and sensitive information. Any data you provide will be used solely for the purposes outlined in this agreement and will not be disclosed to third parties without your explicit consent, except as required by law. We implement reasonable security measures to safeguard your information from unauthorized access, use, or disclosure.

## 15. LIMITATION OF LIABILITY

You expressly understand and agree that Akixi & Partners shall not be liable to you for any indirect, incidental, special, consequential or exemplary loss, including but not limited to, loss of profits, goodwill, use, data or other intangible losses (even if Akixi & Partners have been advised of the possibility of such damages) resulting from: (i) the use or the inability to use Akixi Services; (ii) the cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through or from Akixi Services; (iii) unauthorised access to or alteration of your transmissions or data; (iv) statements or conduct of any third-party on Akixi Services; or (v) any other matter relating to Akixi Services.

All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Terms of Service.

Akixi's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Akixi Services shall be limited to twelve (12) times the amount of fees paid by you to Akixi in the previous single subscription month prior to the date of any such breach of the Terms by Akixi.

Your maximum liability under these Terms of Service or arising from the Akixi Services provided thereunder, whether such liability arises from a claim based on breach or repudiation of contract, negligence, tort, statutory duty or otherwise, shall in no case exceed twelve (12) times the total amount of fees paid by you to Akixi in the previous month of subscription prior to the date of any such breach. You shall not be liable for any indirect, incidental, special, consequential or exemplary loss, costs or damages including but not limited to, loss of profits, goodwill, (even if you have been advised of the possibility of such damages) resulting from your use of or any other matter relating to the Akixi Services provided under these Terms of Service.

Nothing in these Terms of Service excludes or limits either party's liability to the other for death or personal injury caused by a party's negligence or for fraud or fraudulent misrepresentation.

## **16. THIRD-PARTY RIGHTS**

You agree that, except as otherwise expressly provided in the Terms, there shall be no third-party beneficiaries to the Terms and the Contract (Rights of Third Parties) Act 1999 is excluded.

## **17. FORCE MAJEURE**

Akixi shall have no liability to you under the Terms if it is prevented from, or delayed in, performing its obligations under these Terms of Service or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Akixi or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Akixi or sub-contractors.

## 18. NOTICE

You agree that Akixi may provide you with notices, including those regarding changes to the Terms, by e-mail, regular mail, or content postings on Akixi Services.

## 19. GENERAL

### Entire Agreement

The Terms (including any policies, guidelines or amendments that may be presented to you from time to time such as Program Policies and Legal Notices) constitute the entire agreement between you and Akixi and govern your use of Akixi Services, superseding any prior agreements between you and Akixi for the use of Akixi Services. You also may be subject to additional terms and conditions that may apply when you use or purchase certain other Akixi Services, affiliate services, third-party content or third-party software.

### Jurisdiction

The Terms and the relationship between you and Akixi shall be governed by the laws of the England and Wales without regard to its conflict of law provisions. You and Akixi agree to submit to the personal and exclusive jurisdiction of the courts located within the country of the England.

### Waiver And Severability Of Terms

The failure of Akixi to exercise or enforce any right or provision of the Terms shall not constitute a waiver of such right or provision. If any provision or part-provision of the Terms becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Terms.

### Statute Of Limitations

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of Akixi Services or the Terms must be served within one (1) year after such claim or cause of action arose.

The section headings in the Terms are for convenience only and have no legal or contractual effect.

### Partnership

Nothing in these Terms are intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between you and Akixi, nor constitute either party, or the agent of another party for any purpose. Neither of us shall have authority to act as agent for, or to bind the other party(s) in any way.

## 20. IMPORTANT PRIVACY NOTICE

Akixi Services are offered by Akixi in conjunction with your Telephony Services Provider or account administrator where every involved party may have access to your account information including your e-mail and records. Specifically, subject to your designated Telephony Services Provider and/or account administrator's privacy policies, your account administrator may:

- View statistics regarding your account, such as information concerning your logins or data storage usage;
- Change your account password, suspend or terminate your account access and your ability to modify your account;
- Access or retain information stored as part of your account, including your e-mail, telephone number, contacts and other information; and,
- Receive account information in order to satisfy applicable law, regulation, legal process or enforceable governmental request.

Akixi's other use of your information is governed by the Akixi Privacy Notice (<https://www.akixi.com/privacy-policy>) and the applicable specific services privacy policies.

## 21. PROCESSING, PERSONAL DATA & DATA SUBJECTS

Please refer to the Akixi privacy policy [Akixi privacy-policy](#) which defines the scope, nature and purpose of processing by Akixi. Additionally, the policy defines data retention, types and categories of personal data

## 22. SLAVERY & HUMAN TRAFFICKING

We are committed to acting ethically and with integrity in all our business relationships and take reasonable steps to ensure slavery and human trafficking are not taking place in any business or organisation that has any sort of a business relationship with our Company. We expect all our customers and supply chain to comply with our values and have suitable anti-slavery and human trafficking policies and processes.

## **23. SANCTIONS COMPLIANCE**

Each party represents and warrants that it is not currently, and has not been in the past, subject to sanctions imposed by any governmental authority, including but not limited to sanctions administered by the United Nations, the United States, the European Union, or any other applicable jurisdiction.

Each party agrees to promptly notify the other party in writing if it becomes subject to sanctions during the term of the services provided by us.

Under the Terms of Service, you will ensure that your customer base also complies with the terms set out in Section 23.

## **24. ANTI-MONEY LAUNDERING**

Each party agrees to comply with all applicable laws and regulations relating to anti-money laundering, including but not limited to the Proceeds of Crime Act 2002 (UK) and the Money Laundering Regulations 2019 (UK).

Each party agrees to implement and maintain appropriate policies, procedures, and controls to prevent money laundering and terrorist financing activities.

Each party agrees to conduct due diligence on its counterparties and customers in accordance with applicable laws and regulations.

## **25. GLOSSARY**

### **25.1. Telephony Terminology**

- ACD means an Automatic Call Distributor, which is a telephony platform function that distributes incoming calls to a specific group of people commonly called ACD Agents.
- DND means Do-Not-Disturb, which is a telephony platform function that allows phone extension users to designate their device or phone account as being either available or unavailable to take inbound calls.