

NEXTHINK STANDARD LICENSE AGREEMENT (EULA)

This License Agreement including any Addendums, Exhibits or Schedules attached to it or as otherwise agreed between the Parties ("Agreement") is a legally binding agreement between the Ordering Activity under GSA Schedule contracts identified in the Order using the Products ("Licensee") and Nexthink S.A., a Swiss company headquartered in Lausanne Switzerland or any Nexthink's Affiliate ("Licensor" or "Nexthink"). Licensor and Licensee are individually referred to as a "Party" and together as the "Parties".

BY EXECUTING A WRITTEN ORDER FOR THE SOFTWARE:

LICENSEE, OR IF THE SOFTWARE WILL BE USED BY AN ENTITY, ON BEHALF OF THAT ENTITY, REPRESENTS AND AGREES THAT LICENSEE HAS THE LEGAL CAPACITY AND AUTHORITY TO ACCEPT THE AGREEMENT, LEGALLY REPRESENT AND BIND SUCH ENTITY, THAT LICENSEE HAS READ ALL TERMS OF THIS AGREEMENT, UNDERSTANDS THEM AND AGREES TO BE BOUND BY THEM; AND

LICENSEE UNDERSTANDS THAT, IF THE SOFTWARE LICENSE IS ACQUIRED THROUGH A RESELLER, THAT RESELLER IS NOT LICENSOR'S AGENT AND IS NOT AUTHORIZED TO MAKE ANY REPRESENTATIONS ON LICENSOR'S BEHALF OR TO VARY THE TERMS OR CONDITIONS OF THIS AGREEMENT.

SCOPE

The Agreement covers the provision of the Product and related Services. Subject to the obligations recorded in this Agreement, Licensee shall be granted the rights for any Product, and Services purchased by a Reseller for the Licensee.

In the event of a conflict between the terms of this Agreement and any ordering document, the terms of this Agreement will govern and control. The present Agreement shall prevail over any other agreement relating to the provision and use of the Products, unless an express amendment to this Agreement is made via an Addendum.

SECTION 2 DEFINITIONS

- (a) *"Addendum"* means any supplemental document signed between the parties to amend or add terms and conditions to this Agreement.
- (b) *"Affiliate"* means any legal entity that owns, is owned by, or is commonly owned by a Party, whereby *"own"* means having more than 50% ownership or the right to direct the management of the entity;
- (a) *"Device(s)"* means any personal computer or computerized system from which the Software is configured to, directly or indirectly, extract data;
- (b) *"Documentation"* means any user manuals and instructional guides provided by Licensor with the Product, which describe the installation, functionality and operational instruction sufficient to allow Licensee to use the Software;
- (c) *"Direct Distribution"* means the direct sale of Licenses and delivery of the Product to Licensee by Licensor;
- (d) *"Fees"* shall mean fees for the License Subscription and/ or fees for the Services as relevant in context of any provision of this Agreement;

- (e) *"Indirect Distribution"* means the sale of Licenses and delivery of the Product to the Licensee by a Reseller, as defined below;
- (f) *"Intellectual Property Rights"* or *"IP"* means all intellectual property rights throughout the world, whether existing under statute, at common law or equity, registered or unregistered, now or hereafter in force or recognized, including, copyrights, trade secrets, trademarks and service marks, patents, petty patents, inventions, designs, logos and trade dress, database rights, mask works, publicity rights, and privacy rights or any right in relation to the Software; and any application or right to apply for any of these rights and all renewals, extensions and restorations;
- (g) *"License"* means the license to use the Products in according with this Agreement, including without limitation in accordance with Section 3.
- (h) *"Nexthink Platform"* means Licensor's core component of the Products, composed of the Nexthink Collector, the Nexthink Engine (including Integration Module), the Nexthink Portal and the Nexthink Finder;
- (i) *"Nexthink Module"* means any optional component of the Product that enhances Nexthink Platform (but excludes any Scripts not provided by Nexthink for use with a Module), that may be licensed separately to Licensee against payment of the relevant Fee; Nexthink Modules cannot be licensed and used without Nexthink Platform;
- (j) *"Nexthink Customer Improvement Program"* means the improvement program put in place by Licensor to improve features of the Product based on the data collected in accordance with section 13 below, and to which the Licensee may voluntarily opt out through a setting modification in the Nexthink Web Console;
- (k) *"Personal Data"* means, unless defined otherwise by any law applicable to the Licensee, all information relating to an identified or identifiable person, including, when applicable, the Licensee itself, as defined within the Swiss Federal Act of 19 June 1992 on Data Protection (FADP). Any reference to the FDAP shall always also include a reference to the Ordinance to the FADP (the OFADP) and any other provision of the substantive Swiss data protection law;
- (l) *"Product(s)"* means Licensor's Platform, Documentation and Software, as well as Nexthink Modules when applicable;
- (m) *"Professional Services"* means consulting services, including project management, assistance with implementation, configuration and training on use of the Products, Services Subscription and any other related work carried out by the Licensor.
- (n) *"Services"* means any Professional Services, Support Services and/ or other services provided by the Licensee related to expertise and knowledge sharing (including any online services).
- (o) *"Services Subscription"* means a subscription to a chosen bundle of consultancy services offered by the Licensor in line with the Services Subscription SOW.
- (p) *"Services Subscription SOW"* means the scope of work describing the different service packages available under Services Subscription (if applicable).
- (q) *"Reseller"* means a third party authorized by Licensor to sell Licenses and distribute the Products under the terms of this Agreement;
- (r) *"Revisions"* means any Software fixes, updates, and upgrades, improvement and new versions of the Software that Licensor provides to Licensee;
- (s) *"Support Services"* means the Support and Maintenance services for the Products as set forth in Section 8 and Exhibit A of this Agreement;

- (t) *“Script”* means a standalone configurable executable program (in Windows PowerShell) that supports the task automation (including any configuration management) and implements a particular operation.
- (u) *“Software”* means the software licensed to the Licensee by the Licensor, directly or through a Reseller, including Nexthink Platform, all Revisions, and any licensed Nexthink Modules.
- (v) *“Territory”* means the country in which the Software is licensed for use.

SECTION 3 GRANT

Conditional upon payment of all applicable Fees and further conditional upon compliance by Licensee with all terms of this Agreement, Licensor grants to Licensee a personal, non-exclusive, non-sub licensable and non-transferable license to: (i) use the Products for Licensee’s own internal business purposes; (ii) access the Products on Licensor’s specific web site for licensing; and (iii) install the Products solely on Licensee’s internal systems, unless otherwise agreed in writing.

For the avoidance of doubt, Licensee may not install Products in cloud environments except where it has been granted explicit written permission by Licensor and confirmed in writing that such installation is done in compliance with security hardening guidelines provided by Licensor.

Licensee may not sell or transfer the Products or reproductions of the Products to third parties. Evaluation copies provided to Licensee may be used only for Licensee’s internal evaluation of the suitability of the Software and in no event for production use.

The right to use, access and install the Products is limited to the component of the Products licensed by Licensee. Furthermore, the Products are licensed under a per Device model and the exercise of the rights granted herein are limited to the quantity of Devices associated to the purchased License(s). Once allocated to a Device, Licenses may not be transferred to another Device, except when the original Device has been decommissioned.

Licensee may not create derivative works from, adapt, translate, reverse engineer, decompile, or disassemble the Software.

Further, Licensee is expressly prohibited from disclosure, copying, renting, sublicensing, leasing, or other distribution of the Software and Documentation in any manner. Licensee may not use the Software to conduct a service bureau or similar business for the benefit of other parties.

Additional rights, and in particular the right to use the Products on behalf of or for the benefit of a third party, may be expressly granted in a separate written agreement to a Licensor’s business partner acting as a Managed Service Provider.

SECTION 4 OWNERSHIP; COPYRIGHT

Title to the Products, and patents, copyrights and all other applicable property rights, shall at all times remain solely and exclusively with Licensor and Licensor’s third -party licensors, and Licensee shall not take any action inconsistent with such title. Any rights not expressly granted to Licensee herein are reserved to Licensor and Licensor’s third party licensors.

Licensee agrees not to remove, suppress or modify in any way any proprietary marking, including any trademark or copyright notice, on or in the Products or which is visible during their operation or which is on any media. Licensee shall incorporate such proprietary markings in any backup copies made of the Products.

SECTION 5 PROVISION AND ACCESS

Upon receipt of a purchase order or any similar ordering document, the Products shall be provided to Licensee, subject to this Agreement, by electronics means and the rights granted under Section 3 shall be activated by the insertion on Licensor's Nextthink Portal of a License activation key provided to Licensee by Licensor.

Upon the provision of each Product, an encrypted file containing information about the Customer ID, the ordering date, the list of licensed Nextthink Modules, and the appliance(s) machine(s) ID and the number of assigned Devices shall be activated. This file will be regularly updated via the online License management and assignment system provided to Licensee to reflect any modification of the License dates, the licensed Nextthink Modules, the number of assigned Devices or any other relevant information relating to Licensee.

Licensee shall be regularly informed of the status of its Licenses; in particular, Licensee shall receive automatic reminders with sufficient advance notice about the License expiration date in cases of Subscription Licenses as defined under Section 7 below, informing Licensee of the Subscription License termination or modification options.

SECTION 6 FEES & PAYMENT

In case of Indirect Distribution, Fees shall be payable via the Reseller.

SECTION 7 DURATION AND TERMINATION

The Products and Services Subscription are Licensable in a subscription model. Under subscription model, the License and/ or Services Subscription is granted for a minimum of an initial duration (as specified on the Nextthink's quotation), for a fixed-term period and subject to early termination rights as noted in this Agreement (the "**Initial Term**"). Upon expiry of the Initial Term, the License(s) and/ or Services Subscription may be renewed for consecutive one year periods by executing a written order ("**Renewal Term**"). The Initial Term and the Renewal Term together shall be referred to as the "**Subscription Term**" or "**Subscription**".

In case of Indirect Distribution, the foregoing cancellation procedure shall apply mutatis mutandis between the Reseller and the Licensee.

When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Licensor shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

Upon termination or cancellation of the License Subscription, Licensee shall cease all use of the Products, and destroy all copies, full or partial, of the Products.

SECTION 8 SUPPORT AND MAINTENANCE SERVICES

In case of Indirect Distribution, the provision of Support Services shall be governed exclusively by the agreement entered into between the Licensee and the Reseller and Licensor shall have no obligation to provide Support Services directly to such Licensees, unless agreed otherwise in writing by Licensor. Terms and conditions regulating the provision of Support Services by Nexthink (where applicable) are governed by Exhibit A, Nexthink Support and Maintenance, which is made a part of and incorporated by reference into this Agreement.

SECTION 9 LIMITED WARRANTY AND CONDITIONS

Licensor warrants that for a period of the Software Subscription ("Warranty Period"), the Software will materially conform to the applicable Documentation. Licensee must make these warranty claims to Licensor within the Warranty Period. Nexthink further warrants that Services will be provided with reasonable skill and care.

NOTWITHSTANDING THE FOREGOING, EVALUATION OR TRIAL SOFTWARE, OPEN SOURCE, NOT-FOR-RESALE LICENSES AND ANY OTHER PRODUCT PROVIDED TO LICENSEE FREE OF CHARGE IS PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND.

EXCEPT AS EXPLICITLY STATED ABOVE, LICENSOR AND ITS THIRD-PARTY LICENSORS MAKE NO OTHER WARRANTY OR CONDITION, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE SOFTWARE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY LICENSOR OR ITS AUTHORIZED REPRESENTATIVE OR RESELLER SHALL CREATE A WARRANTY. LICENSEE'S EXCLUSIVE REMEDY FOR BREACH OF THIS LIMITED WARRANTY SHALL BE (i) FOR LICENSOR TO USE COMMERCIALY REASONABLE EFFORTS TO REMEDY DEFECTS COVERED BY THIS WARRANTY WITHIN A REASONABLE PERIOD OF TIME.

LICENSOR SHALL NOT BE LIABLE FOR ANY WARRANTY OBLIGATIONS AND DOES NOT WARRANT TO LICENSEE OR ACCEPT ANY OTHER OBLIGATIONS IN RESPECT TO ANY THIRD PARTY SOFTWARE, PROGRAM OR HARDWARE THAT MIGHT BE SUPPLIED BY LICENSOR IN THE CONTEXT OF THIS AGREEMENT. ALL WARRANTIES, CONDITIONS OF USE AND LIABILITIES, OF ANY KIND, EXPRESS OR IMPLICIT, IN CONTRACT OR OTHERWISE, IN RESPECT OF THIRD PARTY SOFTWARE PROGRAMS, INCLUDING AND NOT LIMITED TO CONDITIONS OF USE, QUALITIES, PERFORMANCE, SATISFACTORY QUALITY OR SUITABILITY FOR A SPECIFIC PURPOSE ARE EXPRESSLY EXCLUDED FROM THIS WARRANTY.

ADDITIONALLY, THIS LIMITED WARRANTY SHALL NOT APPLY IF (i) THE PRODUCTS ARE NOT USED IN ACCORDANCE WITH THE APPLICABLE DOCUMENTATION; (ii) PRODUCT DEFECT HAS BEEN CAUSED BY LICENSEE'S OWN INFRASTRUCTURE OR EQUIPMENT OR SCRIPTS NOT DEVELOPED BY NEXTHINK; or (iii) LICENSEE HAS MADE MODIFICATIONS TO THE PRODUCTS.

SECTION 10 LIMITATION OF LIABILITY AND INDEMNIFICATION

Nothing in this Section 10 shall limit or exclude Licensor's statutory liability (i) for fraud (ii) willful misconduct or (iii) for death or personal injury or (iv) any other liability which cannot be limited by law.

Subject to paragraph 1, Licensor's total liability in relation to this Agreement towards the Licensee, whether arising under contract, tort, or other cause of action, shall be limited to fees paid to Licensor by Licensee within the 12 months preceding the action giving rise to the claim.

SUBJECT TO PARAGRAPH 1, IN NO EVENT SHALL LICENSOR BE LIABLE FOR LOSS OF USE, INTERRUPTION OF BUSINESS, LOSS OF ACTUAL OR ANTICIPATED PROFIT (INCLUDING WITHOUT LIMITATION, LOSS OF PROFIT ON CONTRACTS), LOSS OF REVENUE, LOSS OF THE USE OF MONEY, LOSS OF ANTICIPATED SAVINGS, LOSS OF OPPORTUNITY, LOSS OF GOODWILL, LOSS OF REPUTATION, LOSS OF OR DAMAGE TO OR CORRUPTION OF DATA, OR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR ANY INDIRECT DAMAGES, EVEN IF LICENSOR IS ADVISED OF OR AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

Licensee is fully and solely responsible and liable for the installation and use of the Products, and for the strict compliance of such installation and use with applicable law, including but not limited to data protection and copyright laws and for compliance with sections 3 (Grant) and 4 (Ownership); Copyright).

SECTION 11 CONFIDENTIALITY

Licensee acknowledges and agrees that the Software and information provided to Licensee by Licensor which is either marked as being confidential or which, due to the nature of such information or the circumstance under which it was disclosed, ought reasonably to be treated as confidential information of Licensor, all constitute "Confidential Information" and agrees that it shall not use such information except as expressly permitted by this Agreement, nor disclose such information to others except where expressly permitted in writing by Licensor or required by law to do so. Licensee agrees to take any and all necessary precautions to avoid disclosure and misuse of the Confidential Information. Licensee will promptly disclose to Licensee any breach of its obligations under this section and take all necessary actions to remedy such breach. Licensor recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

Licensee warrants that its representatives, agents, employees, and consultants shall comply with the obligations of confidentiality set forth in this Section 11.

The obligations stipulated in this Section 11 shall survive the expiration or termination of this Agreement or any Licenses acquired hereunder, regardless of the reason for termination.

SECTION 12 THIRD PARTY AND OPEN SOURCE SOFTWARE

The Products contain code, objects and other intellectual property developed by and licensed from third party licensors, and incorporated into the Products ("Embedded Third Party Software"). The terms and conditions associated with such software are expressly stated in the Products, and Licensor herewith passes through to Licensee any warranties provided in such terms and conditions. Nothing in this Agreement shall restrict, limit or otherwise affect any rights or obligations that Licensee may have, or conditions to which Licensee may be subject, under any applicable open source licenses to any open source code contained in the Software.

SECTION 13 DATA

Licensee understands that, by installing and/or using the Products, certain information about the Licensee, any users of the Licensee IT environments on which Products are deployed, and such

Licensee IT environments ("Collected Data") is collected by Licensor for the purpose of delivering its *Nexthink Customer Improvement Program*.

Collected Data includes non-personal technical information including (without limitation) the following: 1) items sent to deliver product features through the Nexthink Library including (depending on the purchased modules) used applications, visited web domains, installed packages, devices and engines statistics; 2) items sent for product updates and usage statistics including product versions and usage frequency; 3) items sent for License administration purposes including identifier codes for Licensee's current rights to use Products; and 4) where Licensee is participating in the Nexthink Customer Improvement Program, anonymized and non-anonymized data (excluding any Person Data) related to used product features and Nexthink appliances performance. Further information on the particular Collected Data transferred by Products is contained in the Documentation, as well as information on the location of Opt Out election fields within the Products.

Collected Data is used solely for the purposes of providing the services purchased, supporting the Products and overall improvement of the Products. All Collected Data will be used, processed and stored as confidential information. Licensee and Licensor agree that wherever possible the Collected Data will be anonymous.

Collected Data will be transferred, processed, and stored by Licensor or its Affiliates in Switzerland or the European Union, except for anonymized Customer Improvement Data which might be stored in other countries.

SECTION 14 COMPLIANCE

Licensor may, at its expense and no more than once every twelve (12) months, appoint its own personnel or an independent third party (or both) to verify that Licensee's use, installation, or deployment of the Software and any Services comply with the terms of this Agreement. Any verification may include an onsite audit conducted at Licensee's relevant places of business upon 7 days' prior notice, during regular business hours, and will not unreasonably interfere with Licensee's business activities. If the verification shows that Licensee, its Affiliates or third-party contractors of Licensee or its Affiliates are deploying, installing or using the Software or Services beyond the quantity that was legitimately licensed; or in any way not permitted under this Agreement, so that additional fees apply, Licensee must pay the additional license fees at Licensee's then-current, country-specific list price, within 30 days of invoice date.

SECTION 15 ASSIGNMENT

Neither this Agreement nor any of Licensee's rights, Licenses or obligations hereunder may be assigned or delegated by Licensee to any third party, including without limitation in connection with a merger, acquisition, reorganization, outsourcing, change of control or under any other circumstance without the prior written consent of Licensor.

SECTION 16 FORCE MAJEURE

In accordance with GSAR Clause 552.212-4(f), Licensor shall not be liable for any breach of this Agreement due to any circumstances outside Licensor's reasonable control including, but not limited to, acts of God, fire, acts of Government, war, military operation or riot, accidents, embargo, industrial actions, terrorist threat, hereinafter referred

to as "Force Majeure". In case of Force Majeure, Licensor shall notify the Licensee in writing providing it with all relevant information thereto.

SECTION 17 WAIVER AND SEVERABILITY

The waiver by a Party of one breach or default by another Party under this Agreement will not constitute the waiver of any subsequent breach or default. No waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

If any court or competent jurisdiction determines that any provision of this Agreement is illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect.

SECTION 18 EXPORT AND IMPORT COMPLAINE

In the event Licensee exports the Software from the country in which Licensee first received it, Licensee assumes the responsibility for compliance with all applicable import, export and re-export regulations, including but not limited to any regulations of the Office of Export Administration of the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. Agencies and the export control regulations of the European Union and the Country of Switzerland. Licensee acknowledges and agrees that the Software shall not be used, nor any of the underlying information or technology included therein, transferred in any manner to countries that are presently under embargo by the United States, Switzerland, and/or the European Union. Licensee agrees to comply strictly with all applicable laws and assumes sole responsibility for obtaining licenses to import, export or re-export as may be required.

The Software may use encryption technology that is subject to export licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-744 and Council Regulation (EC) No. 1334/2000, in each case, as may be amended from time to time.

Licensee represents and warrants to Licensor that Licensee will not use the Software or any portion thereof in violation of applicable laws or regulations, and Licensee agrees to indemnify and hold Licensor harmless from and against claims, losses, costs, or liability arising in connection with Licensee's breach of this Section.

SECTION 19 LICENSEE RESPONSIBILITY

Licensee is responsible for all acts and omissions of its Affiliates or any person or entity that Licensee is permitted under this Agreement to allow the use of, or access to, the Software and Services.

SECTION 20 GOVERNING LAW AND JURISDICTION

Save as noted below, this Agreement and the License shall be governed by and interpreted according to the Federal laws of the United States.

SECTION 21 RESERVED

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SECTION 22 ENTIRE AGREEMENT

This Agreement hereby cancels and fully replaces any previous license agreement entered into between Licensor and Licensee, in particular agreements regulating the use of previous versions of the

Products.

This Agreement constitutes the entire understanding between Licensor and Licensee with respect to the subject matter hereof and supersedes any prior representations, statements or warranties given by either Party. Any change to the terms of this Agreement must be in writing and signed by both Parties. Terms and conditions presented in any ordering document or purchase order that differ from, conflict with or are not included in this Agreement, unless signed by a duly authorised representative of the Licensor, shall not become part of this Agreement.

SECTION 23 MARKETING

Subject to the warranties given in rest of this section, Licensee accepts that Nexthink can use the Licensee's trading name, brand name strictly for Nexthink's marketing purposes; e.g., customer testimonials, success stories, presentations, or mentions of Licensee as user of Software to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71. Nexthink warrants that it will not deface, modify or misuse in anyway any brand name or logo of the Licensee. Nexthink further warrants that it will only publish any business case, customer study or testimonial or such similar content with prior written approval of the Licensee.

SECTION 24 THIRD PARTY RIGHTS

Other than the Parties to this Agreement, no other party has the right to enforce rights or obligations under this Agreement upon either Party.

EXHIBIT A

NEXTHINK SUPPORT AND MAINTENANCE AGREEMENT

WHERE LICENSEE HAS PURCHASED THE SUPPORT SERVICES THROUGH A RESELLER SUCH RESELLER WILL BE RESPONSIBLE FOR DELIVERY OF THE SUPPORT SERVICES TO LICENSEE UNLESS NEXTHINK HAS AGREED TO PROVIDE SUPPORT SERVICES DIRECTLY TO THE LICENSEE.

All provisions of this Nexthink Support and Maintenance Agreement are subject to the Nexthink Support Policy, as revised from time to time and available on the website.

SECTION 1 DEFINITIONS

For the purpose of this Agreement, the following terms shall have the following meaning:

- (a) *“Error”* means any failure of the Software to conform in any material respect to its published specifications;
- (b) *“Nexthink Appliances”* means each one of the physical or virtual servers provided by the Licensee to run the Nexthink Engine and/or the Nexthink Portal;
- (c) *“Nexthink Support Policy”* means the published policy of Nexthink with regard to Support of the Software, which details the *End of Life* policy and is subject to change from time to time.
- (d) *“Nexthink Support Portal”* means the online support platform to which Customer is given access following the entry into force of this Agreement that can be found at the following address: <https://support.nexthink.com> ;
- (e) *“EULA”* means the Nexthink Standard License Agreement
- (f) *“Updates”* means new versions of the Software that may be released by Nexthink from time to time in its sole discretion, other than a version that includes substantial new functionality as compared to the version already in use by Customer or which is intended for use with a different operating system or different equipment to that with which the Customer is licensed to use the Products.

Capitalized terms not defined herein shall have the meaning assigned to them in the EULA.

SECTION 2 TERM

For Customers that have been granted the Products **under a Subscription License**, the term of this Agreement shall start simultaneously to the License grant and shall continue for the duration of the License Subscription Term as defined in Section 7 of the EULA.

For Customers that have previously been granted the Products **under a perpetual License**, the term of this Agreement shall start on the date mentioned on the purchase order confirming the subscription

of Support Services and shall continue for the duration of the term purchased (the “Support Term”), which shall in any case not be shorter than a period of twelve (12) months and thereafter as defined in Section 7 of the EULA.

SECTION 3 SUPPORT SERVICES

(A) General description of Support Services

During the term of this Agreement, unless provided herein to the contrary, Nexthink shall provide Customer with the Support Services to the Customer and shall generally consist in supporting the operational activities of Customer to allow the availability and functionality of all Nexthink Products at the agreed levels.

The Support Services are available for all Nexthink Products under the conditions set forth in this Agreement. The Support Services comprise the following components:

1. Recovery in case of failure
2. Software maintenance and Error correction
3. Software Updates
4. Telephone support - Helpdesk
5. Full access to Nexthink Support Portal

(B) Updates

Periodic Updates to Software shall be provided by Nexthink to the Customer electronically. Nexthink shall have sole discretion on when or whether to release Updates. If the Customer’s network configuration prevents Nexthink from electronically updating the Software, Nexthink will notify the Customer whenever a Software Update is available, and shall make the Update available to the Customer for download through Nexthink Support Portal.

SECTION 4 SERVICE LEVEL

(A) Error Correction

Nexthink shall use commercially reasonable efforts either to correct or provide instructions for circumventing any verifiable and reproducible Errors discovered in the Products when properly reported to Nexthink in accordance with the reporting mechanisms defined below.

Customer may report Errors regarding the Software using electronic mail to the Support department at support@nexthink.com or by reporting such Errors directly via the Nexthink Support Portal. Errors may also be reported by phone in emergency cases impacting the Customer’s business process only.

Following the receipt by Nexthink of any Error notification during the support hours, which, for Level 1 Support is available twenty-four (24) hours a day, 365 days per year, and for Level 2 and higher Support is available between 8:00 a.m. and 6:00 p.m. CET/CEST, Monday to Friday, Swiss bank holidays included (the « **Support Hours** »), Nexthink shall acknowledge receipt of such notification by creating a new file in the Nexthink Support Portal in which the following information shall be mentioned: (i) the name of the person to whom the case has been assigned within Nexthink, (ii) the status of the Error, (iii) the Error’s priority level, and, as soon as practicable (iv) the proposed next steps towards Error correction with their targeted timeframe.

Reported Errors have to be reproduced by Nexthink prior to being assigned a priority level:

- Priority 1: Urgent process
The reported Error is a defect of general application that results in Customer being unable to use the Software. Nexthink shall use best efforts to commence remedial action for Priority 1 defects within twelve (12) working hours from the receipt of the Error notification.
- Priority 2: Short Term process
The reported Error is a serious defect that results in significant production reduction or in the disability of a portion of the functionality. Nexthink shall use reasonable commercial efforts to commence remedial action for Priority 2 Errors within forty-eight (48) working hours from the receipt of the Error notification.
- Priority 3: Scheduled process
Any other reported Error. Nexthink shall use reasonable commercial efforts to commence remedial action for Priority 3 Errors within two weeks after receipt of notice of the defect. LICENSEE will be informed about whether the defect/error will be remedied or corrected in a subsequent version of release or in the form of a generally issued defect remedy or correction.

To facilitate Error correction, Customer shall make every reasonable effort to send an example from the run where the Error occurred or shall grant Nexthink a secured access to the Licensed Products together with a listing of the related input, where reasonably appropriate, and a written explanation of where Customer believes the error may lie.

(B) Telephone support – Helpdesk

Nexthink shall provide reasonable telephone technical assistance twenty-four (24) hours per day, 365 days per year, such assistance being limited to: (i) technical problems that are not Errors; and (ii) user manual interpretation.

Should Nexthink identify in the course of the telephone communication that Customer is reporting an Error, Nexthink shall inform the Customer that the correction services cannot be provided by phone and that a new Error file shall be opened within the Nexthink Support Portal in accordance with section 4 (A) above.

(C) Other Support Services

Any other Support Services listed under section 3 above shall be provided to Customer during the Support Hours and Nexthink commits to make commercially reasonable efforts to maintain sufficient qualified personnel at all times to provide such Support Services.

SECTION 5 EXCEPTIONS TO SUPPORT SERVICES

Nexthink shall have no obligation to provide Support Services in relation to queries or Errors arising because of or in relation to any of the following cases:

- i) changes made to Software, except if those changes have been authorised by Nexthink in writing by a duly authorised representative of Nexthink (for eg head or VP of concerned department);
- ii) use of Software not in accordance with documentation;

iii) Errors caused by products or Scripts other than, or those included with, the Software, i.e. the Customer's or end user's own hardware, operating system, scripts, network infrastructure etc.; or

iv) use of versions of the Software which are older than the current and most-recent previous version, as further detailed in the Nexthink Support Policy. A major version is supported up to one year after the release of the next new major version. Nexthink generally supports two major versions at any given time.

Nexthink may charge at its regular billing rates, as communicated to Customer upon request and as may be amended from time to time by Nexthink in its sole discretion, for support provided for Errors or other queries caused by or in relation to the abovementioned exceptions.

SECTION 6 CUSTOMER'S OBLIGATIONS

(A) Customer's cooperation

Nexthink's obligations under this Agreement are subject to Customer providing Nexthink with full, good faith co-operation and such information as may be required by Nexthink in order to render the Support Services. Nexthink will provide Customer with the current problem documentation and support procedures. Customer shall supplement or modify its operating methods as reasonably required to make effective use of the Software and Support Services.

(B) Technical contact

Customer shall designate by written notice to Nexthink a primary and secondary technical contact (Name, Title, email, Cell Phone at minimum) that shall be the sole interface with Nexthink. Customer may designate replacements for the designated individuals, so long as it does so in writing before the newly designated employee seeks Support Services from Nexthink.

Failure to provide such notice may result in Customer's designated individual being denied access to the Support Services until such time as written notice is received by Nexthink.

The written notifications provided in this section 6 may take place via Customer's personal account in the Nexthink Support Portal that is activated upon the entry into force of this Agreement and that can be requested through <https://support.nexthink.com>.

(C) Remote access

In order to facilitate problem reproduction and fixing, and as per its duty to collaborate with Nexthink, Customer acknowledges that Nexthink may require remote access to any of the Nexthink Appliances (as defined in the Nexthink Standard License Agreement) that are part of the Software installation. Such a secured access will be granted and given by Customer to Nexthink's designated technical staff upon request for problem reproduction, diagnosis, test, follow up or anything that might be needed to facilitate identification and speedy resolution of an Error.

This procedure may be used only if the issue cannot be documented and solved locally or on Customer's site. Customer shall not be obliged to fulfill such request, in which case however Nexthink shall no longer be bound by the service levels as defined under section 4 above.

SECTION 7 TERMINATION AND EFFECT OF TERMINATION

For Customers that have been granted the Products **under a Subscription License Agreement**, this Agreement shall be terminated simultaneously to the termination of the Subscription License Agreement entered into between the Parties.

For Customers that have been granted the Products **under a perpetual License Agreement**, this Agreement shall terminate at the end of the Support Term. In case of such termination, occurring during the continuity of the perpetual License, Customer may at a later stage re-subscribe by paying a reinstatement fee corresponding to the Fees due for the period during which Customer was no longer bound by a Maintenance and Support Services agreement while still using the Products under the perpetual License agreement.