

Nomadix[®] Cloud Telephony

Product Terms of Use

These Product Terms of Use (“Terms”) are a part of the Nomadix End User License Agreement (“[EULA](#)”). Both the EULA and these Terms are applicable to the use of the Nomadix Cloud Telephony Product by the entity that has subscribed to and licensed the Product (the “End User”). The End User acknowledges and agrees that the Product is provided by Nomadix as a service and on a subscription basis only as more fully set forth in the Nomadix Product Terms and Conditions found [here](#). Nomadix always retains ownership of and title to the Product. End User acknowledges and agrees that neither End User nor any of its permitted third-party users (e.g., guests, employees, and other ultimate users (together, “Permitted Users”)) offered use of the Product by End User, are purchasing nor shall hold title to the Product.

ANY USE OF THE PRODUCT IS SUBJECT TO AND CONDITIONED UPON AGREEMENT TO AND COMPLIANCE WITH THESE TERMS. BY USING THE PRODUCT, YOU AS END USER SIGNIFY YOUR CONSENT ON YOUR OWN BEHALF AND ON BEHALF OF YOUR PERMITTED USER(S) TO BE BOUND TO THESE TERMS, AND THAT YOU HAVE THE LEGAL CAPACITY TO SO BIND THE PERMITTED USER(S). YOU AGREE AS END USER THAT IT IS YOUR OBLIGATION TO REQUIRE YOUR PERMITTED USERS TO ACCEPT THESE TERMS.

In the event of any conflict between the EULA and these Terms, the provision(s) in these Terms shall prevail.

A. Obligations of the End User

The End User acknowledges and agrees the End User is responsible for ensuring that:

1. The product has been installed, configured, and tested as provided in the Documentation.
2. The computer and device network (“Network”) provided by the End User at the End User’s site has been designed, installed, and configured in full compliance with accepted standards regarding such Networks, including power (and backup power).
3. The provided physical address for the End User’s site is accurate for purposes of E911 registration.
4. Each IP phone will always be powered on, will always have a reliable electrical supply and will always be connected to the Internet via the Network supplied and supported by the Recipient.
5. No modifications are made to the product.
6. E911 Caution labels are placed on or near each IP Phone.
7. Additional Charges for Excessive Usage

The Nomadix Cloud Telephony Product is intended for average business use. Use as a telemarketing or call center solution is specifically excluded. Heavy usage, determined at Nomadix’ sole discretion, may incur additional usage charges. Nomadix may determine that abnormal, unreasonable or impermissible usage is occurring, and may take appropriate steps, including suspension or termination of the Product, even if the number of minutes or bandwidth used is not excessive, when an End User’s usage or connection patterns during more than one month reflect excessive usage, including but not limited to :

- call lengths;
- frequency of call forwarding/transferring;
- short duration calls;

- number of calls made during a month;
- number of calls made to a 3rd party conference calling service during a month;
- number of calls terminated and re-initiated consecutively, which, in the aggregate, result in excessive call lengths during a specific time frame; or
- other calling patterns indicative of an attempt to evade enforcement of these Terms.

In addition, the Product may not, under any circumstances, be used for call centers, continuous or extensive call forwarding, autodialing (including automatic outbound dialing systems or call distribution systems), telemarketing (including without limitation charitable or political solicitation and/or polling), transcription services, fax “blasting”, junk faxing or fax spamming, broadcast fax, ANI or CLI spoofing or other high volume or multi-person calling or faxing purposes.

B. Acceptable Use and Prohibited Activities

The End User acknowledges and agrees on its own behalf and on behalf of Permitted Users that:

Subscriptions to the Nomadix Cloud Telephony offering may be suspended or terminated by Nomadix in its sole discretion if there is a reasonable suspicion of fraudulent use, violation of restricted activities as provided below by way of example, which examples are not limited, or violation of applicable laws and/or regulations. End User agrees to make good faith efforts to minimize abuse, or fraudulent use and/or prohibited activities including any such fraudulent use or abuse by End User or Permitted Users, and to promptly report directly to Nomadix or through its Reseller any such abuse, or fraudulent use or prohibited activities of which End User becomes aware, and to cooperate in any investigation or prosecution initiated by Nomadix. End User shall use reasonable and good faith efforts to ensure that neither it nor Permitted User engages in the following activities:

1. Attempt or assist another to intentionally and fraudulently access, alter or interfere with the use of the Product;
2. Use or assist others in the use of the Product for purposes of child pornography, or any other activity prohibited by applicable laws.
2. Tamper with or make unauthorized use of the Product;
3. Use or assist others in the use of any unethical or fraudulent scheme, or by or through any other unethical or fraudulent means or devices whatsoever, with intent to avoid payment of, in whole or in part, any charges arising for use of the Product;
4. Use the Product in such a manner so as to unreasonably interfere with the use of the Product by other Permitted Users;
5. Use the Product to convey or harvest information or engage in activity, including but not limited to unsolicited messages or advertising (voice or print), bulk or junk mail (voice or print) i.e. “spamming” or “blasting”, creation of false caller identification and or information or activity that is invasive of another’s privacy, threatening, harassing, libellous, defamatory, deceptive, obscene, salacious or prurient, or to convey information of a nature or in such a manner that renders such conveyance unlawful;
6. Use the Product on any stolen or lost media or platforms or by way of any unauthorized Network;
7. Transmission of any material that contains viruses, time bombs, trojan horses, worms, malware, spyware, ransomware or any other programs that may be harmful, dangerous and/or prohibited by applicable law or regulation;
8. Using or providing for use of methods and/or devices that are designed or likely to take advantage of, bypass, exploit, or otherwise avoid Documentation requirements of the Product(s) or prohibited uses of the Product(s);

9. Auto-dialling or “predictive” dialling (i.e., non-manual dialling or using a software program or other means to continuously dial or place out-bound calls).
10. Use of the Product in excess of what would be expected of a single user as solely determined by Nomadix is prohibited. In such event additional charges shall apply.
11. Use of the Product for purpose prohibited by applicable international, federal, state or local law, rule or regulation (which laws may impose more stringent requirements than the terms described herein), including but not limited to illegal gambling, any form of fraudulent activity, any terroristic threat, or other communication advocating violence or any form of hate crime.
12. Use of the Product to information by deceit, including but not limited to internet scamming, password theft, phishing, security hole scanning and port scanning.
13. Run public internet relay chat services.
14. Generate, or allowing others to generate, calls, Emails or data activity causing Nuisance Calls, AIT (Artificial Inflation of Traffic), SPAM or UCE (Unsolicited Commercial Email), also described as Unsolicited Bulk Email (UBE), unless permitted by law.
15. Unwanted calls which cause annoyance to the receiver or hoax calls of an offensive, spiteful, abusive, indecent, defamatory, obscene, or menacing nature including unauthorized or “spam” calls and “silent” calls as defined by Ofcom in its “Statement of policy on the persistent misuse of an electronic communications service” published 20 December 2016, and any subsequent update.

C. Advance Consent.

Advance consent is hereby provided to Nomadix allowing Nomadix to forward the relevant communication and other information, including personal identification information associated with such misuse to the appropriate authorities. Advance consent is also provided to Nomadix allowing Nomadix to provide information in response to law enforcement and other governmental requests, including, but not limited to, subpoenas, court orders, and requests for wire taps etc. under applicable regulation and law associated with such misuse.

D. END USER AGREES, AND ON BEHALF OF ITS PERMITTED USERS, AGREES TO RELEASE AND HOLD HARMLESS NOMADIX, ITS PARENT, AFFILIATES, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES AND VENDORS FROM ANY AND ALL CLAIMS FOR DAMAGES IN WHATEVER FORM INCLUDING BUT NOT LIMITED TO ANY CLAIMS, INCLUDING THIRD PARTY CLAIMS, FOR CONTRIBUTION, INDEMNITY OR SUBROGATION.